

Legal Update 2020

Legal Updates On Laws Passed By The Parliament And Relevant Authorities

Bangladesh Bank (Amendment) Act, 2020:

The national parliament has passed the Bangladesh Bank (Amendment) Act, 2020, raising the age limit for appointing a governor for the central bank to 67 years from 65. According to the Act, the initiative has been taken to abolish the provision related to the age ceiling for Bangladesh Bank governor for the public interest in Clause 5 of Article 10 of the Bangladesh Bank Order.

Carriage by Air (Montreal Convention 1999) Act 2020:

Carriage by Air (Montreal Convention 1999) Act 2020 has been enacted in order to incorporate the provisions of Unification of Certain Rules Relating to International Carriage by Air signed in Montreal on 28 May, 1999 (Montreal Convention) into the domestic legal framework. This Act aims at ensuring the rights of passengers and the security of baggage carried by the airlines operating flights to and from Bangladesh. Under this new law, the passengers shall be entitled to compensation from the airlines in case of death or injury and for damage to their baggage, the amount of which is to be calculated as per the Special Drawing Rights (SDR) provisions in line with the Montreal Convention. In case of death of passengers, their successors may apply for compensation and such compensation shall be divided proportionately if there is more than one successor.

The Bangladesh Tariff Commission (Amendment) Bill, 2020:

The Bangladesh Tariff Commission (Amendment) Act, 2020 has been passed in the parliament on 28th January 2020 with a view to cope Bangladesh trade with the increasing international trade. According to the Act, the commission will take necessary steps for protecting the local industries as per anti-dumping, countervailing and safeguard measures, observation and revision of the international and internal market price of the essentials and to carry out research and study for the interest of the local industries and commerce. There are four major changes in the existing Bangladesh Tariff Commission Act, 1992 to update it as there were some limitations in the existing law. The Bangladesh Tariff Commission has been

renamed as the Bangladesh Trade and Tariff Commission. Section 7 of the Bangladesh Tariff Commission Act, 1992 has also been changed widening the purview and the scope of activities of the commission.

The Companies (1st Amendment) Act, 2020 :

The Companies (Amendment) Act, 2020 was passed in the Parliament by amending the Companies Act, 1994 with the consent of the President. It withdrew a provision which made it mandatory for a company to have a seal to get registered. The obligation to use common seal / common seal / official seal has been abolished in the Companies Act. The Company may authorize in writing any person in general or in any particular case anywhere in or outside Bangladesh to execute documents as its attorney and it will be acceptable for the company to sign any attorney document.

The Companies (2nd Amendment) Act, 2020:

The Companies (2nd Amendment) Act, 2020 was passed in Bangladesh Parliament with a provision allowing formation of a one-man company (OPC) to attract further investment, develop entrepreneurship and improve the overall environment regarding ease of doing business. Even though the provisions in the Act do not incorporate any bar for a foreigner in forming an OPC, the particulars in the prescribed form of memorandum require NID of the shareholder, which will not be available for a foreigner, and thus a foreigner may not be able to form an OPC. The memorandum of an OPC must state the name of the nominee (with consent) who would become the shareholder of the company upon death or incapacity of the shareholder. In case the paid-up capital exceeds BDT 50 Million, the OPC has to be converted to other forms of companies.

Bangladesh Finance Act 2020:

The Finance Act 2020 was approved by parliament on 30 June 2020. The corporate income tax rate for non-publicly traded companies including associations of persons is reduced from 35.0% to 32.5%. A 2.5% surcharge is introduced on all types of tobacco-manufacturing companies. The allowed deduction of promotional expenses is reduced from 1.25% to 0.50%

of declared business turnover. The allowed deduction of overseas travel expenditure is reduced from 1.25% to 0.50% of declared business turnover. It is provided that tax must be withheld (deducted) at a rate of 10% on fees, service charges, commissions, or remunerations remitted from abroad for providing any service rendered in Bangladesh rendering any service or performing any task by a resident person in favor of a foreign person or allowing the use of any online platform for advertisement or any other purposes. Minimum tax rate provisions are amended.

The Bangladesh Energy Regulatory Commission (Amendment) Act, 2020:

The Bangladesh Energy Regulatory Commission (Amendment) Bill, 2020 was placed in Parliament on Tuesday to empower the BERC to make any change in tariff more than one time per financial year. The amendment replaced section 34(5) of the previous Act of 2003, which means the prices of power, gas, diesel, petrol and other energy material can now be changed more than once a year.

Marine Fisheries Act, 2020

The Parliament passed a bill titled "Marine Fisheries Bill, 2020" with a provision for maximum three-year imprisonment or Tk 5 crore fine or both for fishing illegally within Bangladesh's maritime boundary by any foreign national. According to the proposed law, the government will define the shape of the fishing boat or trawlers. These trawlers will have to take licenses before fishing. The bill has also defined the import of commercial trawlers, its specification, and safety measurements. The proposed law has also enabled judicial magistrates or mobile courts to punish violators. For obstructing any official job, damaging fishing trawlers, and destroying proof, the punishment will be a maximum of two years of imprisonment or a Tk 10 lakh fine depending on the nature of the crime. Fishing during a restricted time or in a restricted area, and fishing without approval for going to sea, will be considered as punishable offenses under the proposed law.

Value Added Tax & Supplementary Duty Amendment Ordinance 2020:

The Ordinance was promulgated on 20th May 2020. A new provision in Article 64 of the Value Added Tax & Supplementary Duty Act 2012 is incorporated where the NBR can extend time for submission of VAT return with exemption from payment of penalty and interest during any natural disaster, pandemic and emergency situation.

Income-Tax (Amendment) Ordinance 2020:

The Ordinance was promulgated on 20th May 2020. The Ordinance incorporates a new provision in article 184 of the existing Income-Tax Ordinance 1984 with a view to exempting the penalty, interest and liability during the evolving crisis caused by coronavirus, other epidemic and pandemic, war, and any natural disasters and extend the time limits to such extent as the Board may think fit.