

Legal Updates 2022

1. Bangladesh Patent Act, 2022

The enactment of this Act is an attempt to replace the patent-related provisions of the Patents and Designs Act 1911 and make the conditions more time-befitting and ensure compliance with the Trade-related Aspects of Intellectual Property (TRIPS) Agreement. According to the Act, the validity period of patents shall be extended from 16 years to 20 years. The Act also qualifies any technological products to be patentable. At the same time, it excludes inventions, scientific theories and mathematical methods, business methods, rules or methods of performing purely mental work or sport, and any such computer programme from patent protection.

2. Trade Organization Act, 2022

A new act in Bangladesh has replaced the Trade Organizations Ordinance of 1961. The main goal of the new act is to regulate and license different types of trade organizations in the country. The previous ordinance had 23 sections, while the new act has 33 sections. Notable changes include the provision for foreign traders to form joint trade bodies in Bangladesh (per Section 3(2)(i)) and the ability for similar types of trade organizations to form federations (Section 8). The act also includes provisions for women entrepreneurs. Section 22 specifies that an individual cannot be a trade organization member under a different business category than their trade license and prohibits membership if the trade organization is located in a district other than the one stated in their trade license. It should be noted that in Bangladesh, a trade license is required for conducting business, and a district refers to a specific area of the country.

3. Bangladesh Oil, Gas, and Mineral Corporation Act, 2022

On November 20th, 2022, the Bangladesh Oil, Gas, and Mineral Corporation Act replaced the previous ordinance from 1985. The Act designates the Corporation's

Chairman, Directors, executives, and staff as "Public Servants" while performing their duties. Additionally, the Act empowers the Authority to sell or transfer a corporation's stake with the government's approval. The Act is the nineteenth legislation of 2022. It establishes the 'Bangladesh Oil, Gas, and Mineral Corporation as a corporate entity capable of buying, possessing, and selling movable and immovable property, as well as suing and being sued.

4. Mongla Port Authority Act 2022 & Chittagong Port Authority Act, 2022

The Mongla Port Authority Ordinance from 1976 and the Chittagong Port Authority Ordinance from 1976 have been replaced by the Mongla Port Authority Act and the Chittagong Port Authority Act of 2022, respectively. These are the seventh and eighth laws enacted in 2022.

The new Acts include stricter punishments for polluting the environment under Section 41 of both Acts. Additionally, the Port Authorities now have the discretion to grant waivers of up to USD 1,250 for rent, fees, tolls, and other charges to port users. Under the new Acts, vessel management must clean up any waste created in the port area or face penalties imposed by the Port Authority for pollution. The statutes also permit the Port Authorities to sell goods under their control for a fixed period to recover unpaid rentals, penalties, taxes, tolls, and demurrages. The new Acts aim to ensure substantial compliance with environmental standards and prevent pollution.

5. Public Debt Act, 2022

The Public Debt Act of 1944 has been replaced by the Public Debt Act 2022, now Law Number 17 of 2022. This new law consists of 40 sections, including a section on Punishment (specifically, excerpt 36 of the Public Debt Act, 2022), and defines acceptable clauses. In contrast to the previous law, the new Act specifies penalties for violating it. For instance, if a saver provides false information to purchase savings certificates, they may face up to six months of imprisonment, Tk-100000 in fines, or both. Additionally, the new Act provides a provision for a Shariah-based deposit system to run alongside a standard deposit system. Under this new law, the court can

only consider complaints from the Bangladesh Bank or the National Savings Directorate (specifically, section 29). Lastly, if an investor fails to withdraw interest from their savings certificates within six years, the government will not be held liable.

6. Bangladesh Atomic Energy Commission (Amendment) Act, 2022

Only sections 9 and 11 of the Bangladesh Atomic Energy Commission Act, 2017 have been amended by this Act. The amended law now requires that the Commission have two Deputy-Secretary-level positions - finance advisor and Secretary, which the public administration ministry will fill. Cabinet Division orders published on October 23, 2019, mandate that any posts with titles such as assistant secretary, deputy secretary, Additional Secretary, or Secretary in any office under any church or division must be modified. The Secretary will hold the working executive (administration) position, while the financial advisor (finance) will have the operating executive function, according to the new Act.

7. International Centre for Diarrhoeal Disease Research, Bangladesh Act 2022

According to a directive from the highest court, the parliament has decided to end the 1978 International Centre for Diarrhoeal Research, Bangladesh Ordinance, which was established during the military regime. The Act authorized the centre to import and export biological materials and pharmaceuticals exclusively for research. The Act also stipulated the creation of a 15-member board to oversee the centre's operations.

8. Evidence (Amendment) Act 2022

The Act has been updated to accommodate the increasing use of digital evidence and to prevent the questioning of rape victims' character during trials. This is a significant step forward and expands the definition of evidence. The updated

legislation allows the prosecution and defense to present digital evidence in court to support their arguments.

9. The Labour Rules, 2015 (Amendment)

Recently, the Ministry of Labour and Employment in Bangladesh amended the Bangladesh Labour Rules of 2015 through S.R.O. 284-Ain/2022, dated August 25, 2022. The changes include basic wages for workers can be at least 50% of total wages if the government still needs to establish a separate minimum wage. The amendments mandates equal pay for outsourced workers, with wages at least those of permanent workers or employees of similar rank. The amendments require clarification regarding the classification of workers, which may lead to litigation risks for businesses. The disciplinary inquiry process should be completed within 60 days of the show-cause notice issuance. However, the timeframe may need to be revised in light of the required processes and the time allocated for the accused employee to respond.

The amendments also provide a vivid explanation of a safer workplace for women, with provisions addressing sexual harassment and maternity benefits. Rule 361A complements section 332 of the Bangladesh Labour Act, 2006, and defines sexual harassment with 12 types of acts. A committee of five members, with a woman as head, must be established to prevent sexual harassment. There must also be guidelines to prevent sexual harassment in the institute and a complaint box at the office. Rule 38 has been updated to allow for modification of the number of days that have passed after the allotted eight weeks if a woman gives birth after the allotted eight weeks but before her projected delivery date. A woman is entitled to four weeks of leave for medical reasons if she miscarries before the scheduled start of her maternity leave. The procedure for calculating maternity benefits is specified in new regulation 39A, which permits legal deductions for her provident fund contributions. Rule 78(1)(D)(viii) was amended to address the arrangement of the health centre, and rule 103(1) said the employer has to ensure the necessary transport with security for a woman who is to work between 10 pm to 6 am.

10. Bangladesh Drone Law (Amendment), 2022

In Bangladesh, the Drone Law has been updated multiple times, with the latest amendment in 2022. Using drones for recreational purposes is permissible, while professional use requires approval from the government as long as the regulations are followed. These regulations include not posing a threat to aviation safety or property, having a minimum age requirement of 18, adhering to restrictions on height, area, and duration, and submitting certain documents such as liability insurance coverage proof, the operator's details, and a copy of the drone's operating limitations. Additionally, using drones that weigh over 5kg requires permission from the Civil Aviation Department.

11. Bangladesh Telecommunication Regulation (Licensing), 2022

The Bangladesh Telecommunication Regulatory Commission (BTRC) has introduced a new licensing regulation called "Bangladesh Telecommunication Regulation (Licensing), 2022". This regulation allows service providers to obtain licenses for various telecommunication services. The BTRC will offer licenses to service providers through available allocations and tenders.

The new regulation replaces the previous one issued in 2004. It permits eight telecommunication services, including internet services, V-SAT services, radio communication, amateur radio, telecommunication transmission services, national internet exchange services, and vehicle tracking services, to obtain licenses through open application.

Additionally, 12 services, such as cellular mobile telecommunication services, mobile number portability services, tower sharing license services, submarine cables, international terrestrial cable services, broadband wireless access services, voice over internet protocol services, satellite services, international gateway services, international internet gateway services, interconnection exchange services, and

public-switched telephone network services, can obtain licenses through a tender process.

The BTRC has established rules and prescribed forms for a license application for tender processes, as well as committee formation to scrutinize applications, processes, and issuing and renewing licenses. According to Schedule V of the Regulation, the BTRC will also issue registration certificates for call centres, value-added telecommunication services, application-to-person SMS services, mobile number portability, tower-sharing license services, and others.

The main objective of this regulation is to encourage the provision of advanced services and cutting-edge technology and for service providers to provide more user-friendly services to their customers.

12. Anti-discrimination Bill, 2022

During its most recent session, the Parliamentary Committee on Law, Justice, and Parliamentary Affairs is currently reviewing the Anti-Discrimination Bill 2022, proposed by the Bangladesh National Parliament. The law minister introduced the proposed law intending to avoid all types of discrimination following the constitution. The draft law references various international conventions that have worked towards eliminating inequalities worldwide. The bill outlines specific acts that are considered discriminatory if committed directly or indirectly based on religion, caste, ethnicity, language, age, gender, physical and mental state, place of birth, birth, occupation, or social standing.

13. EPZ Labour Rules, 2022

The EPZ Labour Rules 2022 based on section 203 of the Bangladesh Export Processing Zone (EPZ) Labour Act 2019 and created by the government, outlines essential laws and regulations for zone areas. One new provision states that if an employer fails to provide a confirmation letter within six months, the employee will be considered permanently employed. Additionally, employees must request leave for three to seven days and provide their address for their absence. If they wish to

extend their leave, they must notify their employer in writing. Employers must respond in the same manner. When considering a decrease in staff, the employer must prioritize employees who joined earlier. The rule also outlines how earned leave is calculated for Zone employees and includes guidelines for maternity benefits, leave, and punishment for conviction, worker safety, risk management, and essential medical services.

14. Electricity Rules, 2022

The government has introduced new regulations called the Electricity Rules 2022, based on the Electricity Act 2018. These rules cover various aspects, such as the establishment and responsibilities of the electricity licensing board, the process of granting licenses to electricians and supervisors, conducting exams, and licensing electrical contractors, among others. According to the new rule, the electrical licensing board, consisting of 12 members, is responsible for administering tests and issuing licenses to contractors, supervisors, and electricians and can revoke such privileges.

15. The Finance Act, 2022

Parliament passed the Finance Bill 2022, including provisions like amnesty for offshore movable assets and a cap of Taka 3.6 million for cash transactions by corporate taxpayers. The new national budget has faced criticism for prioritizing growth over welfare during the crisis. Corporate taxpayers can enjoy a 2.5% tax cut in the next fiscal year if they limit cash transactions. A 7% tax is required for a Bangladeshi passport holder to repatriate cash or assets. The tax amnesty allows owners to become tax-compliant without facing fines or penalties for a limited time. The tax-free ceiling for individual taxpayers remains at Taka 300,000. As initially proposed, the import of lifts or elevators will not have a 15% VAT. VAT on mediation services will be 5% in the upcoming fiscal year.

16. Bangladesh Atomic Energy Commission (Amendment) Bill 2022

The Bangladesh Atomic Energy Commission (Amendment) Bill 2022 has been passed to promote the peaceful use, advancement, and expansion of nuclear power, as well as research, following international conventions. The bill outlines the creation of two deputy-secretary level positions - finance advisor and secretary - to be appointed by the public administration ministry. Additionally, a Cabinet Division directive issued on October 23, 2019, mandated that any assistant secretary, deputy secretary, additional secretary, or secretary positions in any office under any ministry or division must be renamed. As per the amendment, the secretary position will now be referred to as working executive (administration), while the finance advisor position will be called working executive (finance).

17. Pandemic-related updates

Travelers heading to Bangladesh must complete an online health declaration form before their trip, according to a recent mandate from the Disease Control Section of the Bangladesh Health Department. Previously, travelers had to manually fill out a Health Declaration Form upon arrival, which caused long queues. The Director General of Health Services has implemented an online protocol for completing and submitting the HDF to streamline the process. Starting 7 April 2022, passengers must complete the HDF within 72 hours of departure and obtain a printed Health Declaration Card with a QR code. Airlines will check for this card before boarding. Upon arrival, passengers must show a printed or electronic version of their Health Declaration Card to the relevant officer.

18. Banking and Finance:

Bangladesh Bank's Financial Institutions and Markets Department issued Circular No. 6 on April 18, 2022, regarding the "Rationalization of the Rate of Interest/Profit on Deposits and on Loans/Leases/Investments for Non-Bank Financial Institutions"

was directed towards all non-bank financial institutions (NBFIs) operating in Bangladesh and aimed to regulate the interest rates for deposits and loans.

The circular was prompted by an analysis that revealed some NBFIs offer deposit interest rates higher than the market rate, which leads to higher lending rates, lowering borrowers' capacity and increasing loan defaults. These practices negatively impact overall production and the economy.

Bangladesh Bank has set a maximum interest/profit rate of 7% for deposits and 11% for loans/leases/investments to create a more favorable investment environment. Warranties refer to money deposited by individuals or corporations to NBFIs, and loans/leases/investments refer to when NBFIs lend or invest money to an individual or corporate entity.

This circular will take effect on July 1, 2022, and will not apply to transactions completed before its implementation.

19. International and Foreign Affairs:

- ***Bangladesh and Serbia signed two instruments to mark the 50 years of the establishment of diplomatic relations:*** Bangladesh and Serbia marked their 50-year diplomatic relations with a meeting between their foreign ministers. They signed a Memorandum of Understanding on Foreign Office Consultations and an agreement on Visa Waiver for official and diplomatic passports holders. The ministers also discussed initiatives to strengthen their partnership, including plans to improve visa procedures for Bangladeshi workers and students in Serbia and to organize a Summer Camp for diplomats. They also talked about increasing bilateral trade and investment opportunities.
- ***Bangladesh ratified the Marrakesh Treaty:*** On September 26, 2022, Bangladesh ratified the Marrakesh Treaty. The treaty aims to simplify access to printed works in accessible formats like Braille and digital audio files for individuals with disabilities. It requires its

member states to establish limits and exceptions to their national copyright laws and provides guidelines for the international exchange of copies in accessible formats.

- ***Bangladesh and Brunei signed four agreements to enhance their bilateral relations:*** In October 2022, Bangladesh and Brunei signed four agreements to enhance their bilateral relations. One of these agreements is the Aviation Services Agreement. At the same time, the other three are the "MoU on the Employment and Recruitment of Bangladeshi Workers", "MOU on the Field of Liquefied Natural Gas (LNG) and Other Petroleum Products", and "MoU on the Recognition of Certificate issued Under the Terms of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as Amended.
- ***Bangladesh was elected to the UN Human Rights Council with the highest number of votes:*** Bangladesh has been elected as a UN Human Rights Council member with the highest number of votes in the Asia Pacific Group. This is the fifth time since 2009 that Bangladesh has been elected to the Council, demonstrating international confidence in its contribution to the United Nations Human Rights mechanisms. Other elected members from the Asia Pacific Group include Maldives, Viet Nam, and Kyrgyzstan. As a member of the Council, Bangladesh will be able to contribute to the United Nations' norm-setting exercises in human rights.
- ***Bilateral meeting between the Foreign Minister of Bangladesh and Foreign Minister of Bahrain held in Manama:*** Bangladesh Foreign Minister Dr. A K Abdul Momen met with Bahrain Foreign Minister Dr. Abdullatiff bin Rashid Al-Zayani in Manama on 18 November 2022. They discussed socio-economic development, recruitment of skilled workers, mutual exchange of land, and cooperation in trade, investment, economy, culture, and tourism. They also talked about easing visa restrictions for expatriates due to

COVID. Bahrain's Foreign Minister accepted an invitation to visit Bangladesh, and Dr. Momen will attend the Manama dialogue in November 2022.

- ***Bangladesh and India signed seven agreements:*** In September 2022, Bangladesh and India signed seven agreements that cover connectivity, energy, water resources, trade, border management, security, and development partnership.
- ***“Show Bangladesh, Know Bangladesh”, A Month-Long ‘Branding Bangladesh Program’ during the Month of Victory - December 2022 arranged by Bangladesh Deputy High Commission in Karachi:*** The "Show Bangladesh, Know Bangladesh" program showcased the country's achievements in development, culture, and traditions to visitors from Pakistan. The Deputy High Commissioner highlighted Bangladesh's ranking as the fifth-fastest-growing economy in the world and its goal to become a developed and Smart Bangladesh by 2041. Visitors expressed interest in learning more about Bangladesh's policies and issues.