

Government of the People's Republic of Bangladesh
Public Private Partnership Authority
Prime Minister's Office

NOTIFICATION

Dated the ----- --June, 2016

S.R.O.No.-----Law/2016- In exercise of the powers conferred by section 49 of the Bangladesh Public-Private Partnership Act, 2015 (Act No. XVIII of 2015), the PPP Authority is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (2) of section 1 of the Act:

THE BANGLADESH PUBLIC-PRIVATE PARTNERSHIP ACT, 2015
Act No. XVIII of 2015

[Dhaka, 01 Ashwin, 1422/16 September, 2015]

An Act to provide for the legal framework for creation of public-private partnerships by involving private sector participation along with public sector and attracting local and foreign investment upon connecting Bangladesh with the global economy to ensure extensive investment in infrastructure in different sectors in order to fulfill the basic needs of the people of Bangladesh and to expedite socio-economic development in the interest of improvement of their living standard, and for establishment of a reliable Authority in this behalf and the matters ancillary thereto

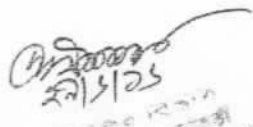
WHEREAS it is expedient and necessary to provide for the legal framework for creation of public-private partnerships by involving private sector participation along with public sector and attracting local and foreign investment upon connecting Bangladesh with the global economy to ensure extensive investment in infrastructure in different sectors in order to fulfill the basic needs of the people of Bangladesh and to expedite socio-economic development in the interest of improvement of their living standard, and for establishment of a reliable Authority in this behalf and the matters ancillary thereto;

THEREFORE, it is hereby enacted as follows:-

CHAPTER I
PRELIMINARY

1. Short title and commencement.- (1) This Act may be called the Bangladesh Public-Private Partnership Act, 2015.

(2) It shall come into force at once.



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

- (1) **"infrastructure"** means any new or existing physical or non-physical infrastructure in the public sector through which public goods or public services or both are created or provided;
- (2) **"partnership contract"** or **"PPP contract"** means any contract signed between the contracting authority and the project company pursuant to section 23 of this Act for the establishment of the public-private partnership;
- (3) **"public goods"** means any kind of goods which is directly or indirectly produced, generated or provided using any public sector infrastructure for the general public;
- (4) **"public service"** means any service which is directly or indirectly produced, generated or provided using any public sector infrastructure for the general public;
- (5) **"Chairperson"** means the Chairperson of the Board of Governors;
- (6) **"contracting authority"** means-
 - (a) any Ministry or Division, or any office or directorate or department under the Ministry or Division, or corporation or statutory body, local government, or any similar organization; or
 - (b) the PPP Authority, in the case where the PPP Authority is assigned with the responsibility of completing all the activities from taking up the PPP Project to signing of the contract;
- (7) **"fund"** means the fund of the PPP Authority specified in section 37 of this Act;
- (8) **"prescribed"** means prescribed by regulations or orders;
- (9) **"negotiation"** means negotiation described in section 21;
- (10) **"PPP Authority"** means the **"Public Private Partnership Authority"** established under section 4 of this Act;
- (11) **"PPP project"** means any public sector project which is undertaken for implementation through public-private partnership;
- (12) **"project"** means any such action or program or a combination of both by means of which the following plans or activities are undertaken, such as:-
 - (a) construction or operation of any new infrastructure or a plan to do both;

- (b) plan to reconstruct any existing infrastructure;
 - (c) plan to carry out the activities specified in sub-sections (a) and (b); or
 - (d) delivery of all those goods or services which are not related to any infrastructure facility;
- (13) **"project company"** means any company incorporated pursuant to section 22 and shall also include a private partner;
 - (14) **"incentive"** means any general or special benefit or subsidy provided or declared by the Government, from time to time, in order to encourage private investment in PPP projects, and shall also include any financial and policy benefits;
 - (15) **"Chief Executive Officer"** means the Chief Executive Officer of the PPP Authority;
 - (16) **"regulations"** means regulations made under this Act;
 - (17) **"implementation"** means implementation, operation and maintenance of PPP projects;
 - (18) **"rules"** means rules made under this Act;
 - (19) **"reconstruction"** includes re-building, rehabilitation, modernization, renovation, expansion, enhancement, alteration or operation of any existing infrastructure;
 - (20) **"investment"** means financing by a private partner for implementation of the PPP project under the PPP contract;
 - (21) **"private partner"** means a party to the PPP contract other than the contracting authority, and shall also include the project company or its equity provider;
 - (22) **"private organization"** means any natural person or any local or foreign company, association, legal entity, group of individuals, consortium, foundation or trust;
 - (23) **"Board of Governors"** means the Board of Governors of the PPP Authority;
 - (24) **"Vice-Chairperson"** means the Vice-Chairperson of the Board of Governors;
 - (25) **"Cabinet Committee"** means the Cabinet Committee on Economic Affairs formed pursuant to rule 18 of the Rules of Business, 1996;



- (26) "member" means any member of the Board of Governors; and
- (27) "Public-Private Partnership" or "Partnership" or "PPP" means a PPP contractual arrangement between the contracting authority and any private partner pursuant to which the private partner-
- (a) assumes the obligation/responsibility for carrying out any public work or providing any service on behalf of the contracting authority;
 - (b) in exchange for carrying out the public work or providing any service on behalf of the contracting authority, receives-
 - (i) consideration for the work or services from public funds;
 - (ii) charges/levy or fees from the users or service recipients; or
 - (iii) a consolidated profit through receiving consideration, charges or fees for the said work or services ; and
 - (c) accepts the risk arising from carrying out the work in accordance with the terms and conditions of the aforesaid PPP contractual arrangement or providing any service on behalf of the contracting authority.

3. **Overriding effect of the Act.-** Notwithstanding anything contained contrary in any other law for the time being in force, the provisions of this Act shall prevail.

CHAPTER II

ESTABLISHMENT OF THE PPP AUTHORITY

4. **Establishment of the Public Private Partnership Authority.-** (1) As soon as may be after the commencement of this Act, there shall be established an Authority to be called the Public-Private Partnership Authority which shall be known as the PPP Authority.

(2) The PPP Authority shall be a statutory body having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The PPP Authority shall be impartial and independent in exercising its financial and administrative powers and in carrying out its functions.

5. **Office of the PPP Authority, etc.-** (1) The head office of the PPP Authority shall be in Dhaka.

(2) The PPP Authority may establish its branch offices in any place in Bangladesh or abroad in the interest of its efficient performance.



6. Management and Administration.- (1) The overall management and administration of the PPP Authority shall be vested in the Board of Governors and the Board of Governors may exercise and perform all of its powers and functions.

7. Board of Governors.- (1) There shall be a Board of Governors of the PPP Authority headed by the Prime Minister and it shall comprise the following members, namely :-

- | | |
|--|-------------------|
| (a) the Prime Minister, who shall also be its Chairperson; | |
| (b) Minister, Ministry of Finance, who shall also be its Vice-Chairperson; | |
| (c) a Minister nominated by the Prime Minister- | Member; |
| (d) the Minister or State Minister of the Ministry concerned with the Project- | Member; |
| (e) Principal Secretary to the Prime Minister and Chairman, PPP Authority- | Member-Secretary. |

(2) The PPP Authority may, with the prior approval of the Chairperson of the Board of Governors, invite any Minister who is not related to the project or any individual who has experience in the relevant matter, to any meeting of the Board of Governors, if necessary.

8. Meetings of the Board of Governors, etc.- (1) Subject to the other provisions of this section, the Board of Governors may determine the procedures of its meetings.

(2) Meetings of the Board of Governors shall be held at such date, time and place as may be determined by the Chairperson or, in his absence, by the Vice-chairperson, and at least 6 (six) meetings shall be held in a year; however, in consideration of the importance of a project, subject to approval being noted in the file, one or more meetings may be held in a month and any PPP related decision may be taken.

(3) The Chairperson shall preside over all meetings of the Board of Governors, and in his absence or with his consent, the Vice-Chairperson shall preside over that meeting.

(4) Any activity or proceedings of the Board of Governors shall not be invalid or be called in question merely on the ground of existence of any vacancy in, or defect in the constitution of, the Board of Governors.

(5) The Chief Executive Officer shall be present in every meeting of the Board of Governors, in order to provide assistance on any matters including PPP related matters to the Board of Governors.

9. Power and functions of the PPP Authority.- (1) The power and functions of the PPP Authority shall be as follows:-

[Handwritten signature]

- (a) promulgating, approving, publishing in the Gazettes and issuing PPP related policies, regulations, directions, and guidelines;
- (b) providing decisions on the financial participation and provision of incentives for PPP projects by Government;
- (c) providing necessary direction to the contracting authority;
- (d) resolving any constraints or difficulty in implementation of PPP projects;
- (e) providing opinion on matters relating to PPP projects;
- (f) framing technical and best practice requirements, pre-qualification and bid documents;
- (g) development of model PPP contracts and obtaining vetting;
- (h) giving consent on PPP project matters;
- (i) determining the process for selection of private partners;
- (j) approving the selected bidder for PPP projects;
- (k) approving the termination of PPP contracts, where applicable;
- (l) approving model PPP contracts;
- (m) assisting in PPP project activities;
- (n) executing and signing PPP contracts, from time to time, for projects assigned to the PPP Authority;
- (o) determining and approving the organogram of the officers and employees;
- (p) approving a separate salary structure for the officers and employees and making payments accordingly;
- (q) determining the terms of reference and appointment process, appointing and fixing the fees of advisors or specialists or both;
- (r) arranging and approving study tours, training, seminars etc. on PPP matters at home and abroad;
- (s) ensuring implementation of the PPP related rules, regulations and directions;
- (t) reviewing and monitoring the PPP programmes;
- (u) supervising and coordinating the progress of PPP projects;



- (v) conducting and monitoring the selection process of the private partner;
- (w) making panels of advisors or specialists or both for PPP projects and processing the selection of advisors or specialists or both from the said panels in the prescribed manner; and
- (x) executing any other PPP related work.

(2) The PPP Authority shall do such other PPP related acts as may be assigned to it by the Government.

10. Chairman and Chief Executive Officer.- (1) The Principal Secretary to the Prime Minister shall be the ex-officio Chairman of the PPP Authority.

(2) The responsibilities of the Chairman of the PPP Authority shall be as follows:-

- (a) taking steps to call meetings in accordance with the provision of section 8(2) in consultation with the Chairperson of the Board of Governors;
- (b) determining the agenda of the Board of Governors' meeting in consultation with the Chairperson of the Board of Governors; and
- (c) carrying out the responsibilities of the Member-Secretary of the Board of Governors.

(3) The Chairman of the PPP Authority shall receive honorarium and allowance at a rate prescribed by the Authority for attending the Board of Governors' meetings and carrying out other responsibilities.

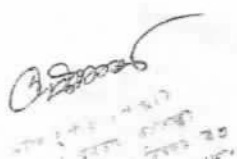
(4) There shall be a Chief Executive Officer of the PPP Authority and-

- (a) he shall be appointed by the Board of Governors;
- (b) his terms of employment shall be determined by the Board of Governors; and
- (c) he shall have grade 1 rank.

(5) The Chief Executive Officer shall be the full time principal executive officer of the PPP Authority and the powers of the PPP Authority as prescribed by this Act shall be exercised by him, subject to the approval of the Board of Governors.

(6) The Chief Executive Officer may brief the Chairperson and Vice-Chairperson of the Board of Governors, and the Chairman of the Authority for effective implementation of the functions of the PPP Authority, convening urgent meetings and other related matters, as necessary.

(7) The Chairman of the PPP Authority shall directly, and the Chief Executive Officer shall through the Chairman be accountable to the Board of Governors for all actions.



8

(8) When the office of the Chief Executive Officer is vacant, or the Chief Executive Officer is unable to perform his functions on account of absence, illness or any other cause, any person or officer nominated by the Board of Governors shall perform the duties of the Chief Executive Officer until the newly appointed Chief Executive Officer takes over charge of the vacant office or the Chief Executive Officer resumes the functions of his office.

11. Officers and employees of the PPP Authority.- The PPP Authority may, for the efficient performance of its functions, appoint the necessary number of officers and other employees in accordance with the organogram approved by the Board of Governors and the terms and conditions of their employment shall be prescribed by regulations.

12. Obtaining opinion and assistance of the PPP Authority.- The contracting authority shall obtain the opinion and assistance of the PPP Authority on the following matters:-

- (a) PPP Project proposals to be presented before the Cabinet Committee for in-principle approval;
- (b) approval of bid documents relating to PPP;
- (c) negotiation activities;
- (d) the PPP contract to be presented for final approval;
- (e) proposal for amendment of the PPP Contract following its execution; and
- (f) any other matter or proposal for carrying out the purposes of this Act.

CHAPTER III TAKING UP AND APPROVAL OF THE PPP PROJECT

13. Taking up of the PPP project.- (1) The contracting authority or, as the case may be, the PPP Authority may undertake a PPP project to be implemented on a PPP basis by identifying any of the projects from within or outside the annual development program.

(2) The Board of Governors may, where necessary, give directions to the contracting authority for implementing any project within or outside the annual development program on a PPP basis.

14. Approval of a PPP project.- The in-principle and final approval for a PPP project shall be granted by the Cabinet Committee.

15. National priority projects.- (1) The contracting authority or, as the case may be, the PPP Authority may, subject to the approval of the Cabinet Committee, declare any project as a national priority project as necessitated to accelerate the socio economic development of the country or for mitigating the effects of any major adversity faced by the general public on an urgent basis.


A small, illegible stamp or signature is present at the bottom center of the page.

(2) Notwithstanding anything contained contrary in this Act, for the purposes of sub-section (1), the contracting authority or, as the case may be, the PPP Authority may, subject to the approval of the Cabinet Committee, constitute inter-ministerial committees or sub-committees for approval of national priority projects, selection of private partners, negotiation, etc.

(3) The terms of reference, procedures and holding of the meetings of the committees constituted under sub-section (2) along with matters related to the approval of national priority projects, private partner selection, negotiation, etc., shall be prescribed by rules.

16. Financial participation of the Government in PPP projects.- The Government may provide financing against the following activities of PPP projects, such as:-

- (a) technical assistance financing;
- (b) viability gap financing;
- (c) financing against equity and loan;
- (d) financing against linked component;
- (e) financing against such other activities as may be determined by the PPP Authority.

17. Power of the Government to provide incentives.- Upon recommendation of the Board of Governors, the Government may, by general or special order in the official Gazette, declare incentives in order to encourage private sector investment in PPP projects.

18. Power and functions of the contracting authority.- (1) The contracting authority may, subject to the provisions of this Act and the rules and regulations made thereunder, enter into a partnership contract for establishing a partnership with the private partner for construction of any infrastructure or reconstruction of any existing infrastructure of its own sector through the implementation of a PPP project.

(2) The contracting authority may delegate its responsibilities to any individual or organization in order to ensure effective execution of PPP projects.

(3) The contracting authority shall submit reports to the PPP Authority on the progress and activities of projects, in such manner and interval as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3), the PPP Authority may, at any time, require any report, information or data from the contracting authority and provide necessary direction to the contracting authority.

CHAPTER IV SELECTION OF THE PRIVATE PARTNER

19. Private partner selection process.- (1) No contracting authority shall undertake the private partner selection process for PPP projects without in-principle approval.

[Handwritten signature]
2019/04/17
2019/04/17
2019/04/17

(2) The contracting authority or, as the case may be, the PPP Authority, shall be able to select a private partner in accordance with the regulations as approved by the Board of Governors.

20. Unsolicited proposal.- (1) Any private organization may, in accordance with the guidelines approved by the Board of Governors submit to the contracting authority or, as the case may be, the PPP Authority, any type of PPP project proposal comprising the proposal for the construction of any infrastructure or the reconstruction of any existing infrastructure of the public sector and its operation.

(2) An unsolicited proposal shall be evaluated in accordance with the method prescribed by the guidelines approved by the Board of Governors.

Explanation: For the purpose of this section, "unsolicited proposal" means any written proposal submitted by any private individual or organization on its own initiative, which has not been submitted pursuant to any formal government request.

21. Negotiation.- Only those terms shall be negotiated which are capable of negotiation, and shall exclude all those terms of the partnership contract which are not open for negotiation.

22. Incorporation of a project company.- (1) After being finally selected, the private partner shall, either prior to or after execution of the PPP contract, incorporate a company limited by shares in accordance with provisions of the existing laws related to company formation.

(2) All the rights and obligations of the private partner shall be assigned to the project company after signing the PPP contract.

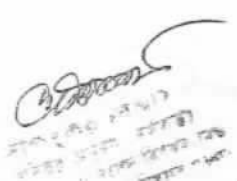
(3) The private partner shall obtain the prior permission of the contracting authority if any material change is required to be made to the memorandum and articles of association or by-laws or constitutional documents of the project company.

23. Execution of the PPP contract.- The contracting authority shall execute the PPP contract with the finally selected private partner, based on the agreed terms and conditions.

CHAPTER V CORRUPTION AND CONFLICT OF INTEREST

24. Cases against corruption related offences.- (1) If any person engaged in the selection process of private partner and implementation process of a PPP project becomes, while carrying out the said process or implementing the project, involved, directly or indirectly, in any corrupt practice, fraudulent practice, collusive practice or coercive practice, then such person shall be liable to corruption or, as the case may be, misconduct or to both, and he may be prosecuted against for corruption including issuance of departmental proceeding in accordance with service rules relating to conduct and discipline.

(2) If any organization is involved in any corrupt practice, fraudulent practice, collusive practice or coercive practice mentioned in sub-section (1), its pre-qualification, bid or PPP

A handwritten signature in black ink is written over a circular official stamp. The stamp contains text in Devanagari script, which is partially obscured by the signature.

contract, as the case may be, shall have to be cancelled, including declaring it to be ineligible, either permanently or temporarily.

Explanation: For the purpose of this section, the expressions "corrupt practice", "fraudulent practice", "coercive practice" and "collusive practice" shall have the same meaning as the terms defined in rule 127 of the Public Procurement Rules, 2008 made under the Public Procurement Act, 2006 (Act No. 24 of 2006).

25. Conflict of interest.- If it becomes apparent to any person involved in evaluation of bids in the selection process of the private partner that he has a direct or indirect conflict of interest with any organization or person associated with any project or any linked project, he shall withdraw himself from such process as soon as he becomes aware of such conflict of interest; and if he does not voluntarily withdraw himself, it shall be deemed to be a "collusive practice" as defined under Section 24.

Explanation: For the purpose of this section, "conflict of interest" shall mean any such direct or indirect, financial or commercial relation or interest of any person or that person's wife or husband or son or daughter with any project or any linked project or any organization or business as a result of which, such person's decision in the evaluation of the bids for the selection process of the private partner may be influenced or there is a possibility of it being so influenced.

CHAPTER VI TERMS AND CONDITIONS OF PARTNERSHIP CONTRACTS

26. Terms and conditions of partnership contract.- (1) Subject to this Act, the regulations made thereunder and the terms and conditions agreed upon, the contracting authority shall prepare the PPP contract.

(2) The legal relationship between the contracting authority and the selected private partner, allocation of risk and their rights and obligations shall be determined by the terms and conditions of the partnership contract.

(3) Without limiting the scope of sub-sections (1) and (2), the PPP contract may provide for any or all of the following matters, such as:-

- (a) modality of the project;
- (b) term of the PPP contract;
- (c) public goods and public services;
- (d) technical specification and compliance standard;
- (e) environmental and security requirements;
- (f) performance indicators and date of completion;

- (g) expenditure recovery mechanism through collecting levy and strategy for its adjustment;
- (h) construction and operation bond;
- (i) insurance;
- (j) acceptance test and method;
- (k) rights and obligations of the parties to the PPP contract and risk allocation;
- (l) modality and amount of government financial participation;
- (m) transfer of assets (if any) at the end of the PPP contract;
- (n) post transfer confirmation letter and method;
- (o) submission of report;
- (p) supervision strategy of the contracting authority;
- (q) ownership of assets;
- (r) immediate steps during natural disaster;
- (s) governing law;
- (t) provision for arbitration;
- (u) rights over project area; and
- (v) security interest.

(4) Notwithstanding anything contained contrary in any other law for the time being in force or any document having the force of law, the partnership contract may be developed in the language agreed upon by the parties.

27. Governing Law.- The partnership contract shall be governed by the existing laws of Bangladesh unless otherwise provided in the PPP contract.

28. Right to entry.- (1) The private partner or the project company or any of its officers and employees authorized in this behalf by the contracting authority may, for carrying out the purposes of this Act and in the interest of implementation of the project, exercise any of the following powers, such as:-

- (a) to enter upon any land of the project area, to inspect any article situated therein and to collect, solicit or review any relevant record or data; and

[Handwritten signature]
 ১৯/০৫/১৯৯৭
 ১৯/০৫/১৯৯৭
 ১৯/০৫/১৯৯৭

(b) to search, collect samples, survey, construct, excavate and conduct any other necessary work in the project area and other land within it.

(2) In order to exercise the right of entry pursuant to sub-section (1), prior notice of at least 5 (five) working days' shall have to be given to the owner or the occupier of the land.

(3) The project company shall be liable to compensate for the damage, if any, caused to any land on account of any act done pursuant to sub-section (1) at such rate and in such manner as may be agreed upon.

29. Fixation, imposition and adjustment of levy.- (1) Notwithstanding anything contained contrary in any other law for the time being in force or any document having the force of law, the private partner or the project company shall have the right to impose a levy in accordance with the partnership contract in consideration of the supply of public goods and public services.

(2) The method and formula for fixation and adjustment of levy shall be specified in the PPP contract.

Explanation: For the purpose of this section, "levy" means the payment recovered by the project company in exchange of supplying public goods and public services in accordance with the partnership agreement; and it shall also include tariff, toll, fee or charge.

30. Dispute resolution.- (1) If any dispute arises in relation to the application or interpretation of any provision of the PPP contract or both, the parties shall resolve it in accordance with the following procedures mutually agreed upon under the PPP contract:-

(a) through mutual agreement between the contracting parties; or

(b) if the dispute is not resolved under clause (a), through a neutral expert mediator;
or

(c) if the dispute is not resolved under clause (b), through arbitration between the PPP contracting parties.

(2) Notwithstanding anything contained contrary in any other law for the time being in force or any document having the force of law, national or international rules and regulations may be stipulated in the PPP contract for the purpose of resolution of disputes in the manner specified in sub-section (1), and the venue for arbitration shall be in Dhaka; however in special circumstances, subject to mutual agreement, it may be in any other country.

(3) Notwithstanding anything contained contrary in any other law for the time being in force or any document having the force of law, neither party shall have recourse to national or international courts, without endeavouring to resolve under sub-section (1) any dispute arising in relation to application of the provisions of the PPP contract.

[Handwritten signature]
18/05/2017

(4) The decision taken under an arbitration arrangement pursuant to this section shall be final.

31. Social issues to be considered.- No condition shall be incorporated into the PPP contract which is inconsistent with the provisions relating to standard wages of workers and social benefits, health and safety of the general public and prohibition of child labour.

CHAPTER VII MISCELLANEOUS

32. Complaint, review and objection procedures.- (1) If any person or private organization, bidder or selected bidder is aggrieved by any order or decision given by the contracting authority or any of its officers, the person or private organization or bidder or selected bidder may make an application to the authority or its officers giving the order, within such time and in such manner as may be prescribed for a review of the said order or decision.

(2) In the event that the person or organization, bidder or selected bidder is aggrieved by the decision of the review given pursuant to sub-section (1) or the said authority or officer fails to provide any decision within a period of 30 (thirty) working days of receiving the application for review, the person or organization or bidder or selected bidder may submit an objection to the prescribed appellate authority or officer within such time and in such manner as may be prescribed.

(3) The appellate authority or officer shall resolve the objection within such time and in such manner as may be prescribed, and its order shall be deemed to be final.

(4) No person shall file a case in any court to obtain a civil remedy, without exhausting the options available under this section.

33. Resolution of complaints of users of public goods and public services.- The contracting authority may, at any time during the PPP contract, instruct the project company to introduce the necessary procedures for the resolution of claims or complaints made by the users of the public goods or public services, supplied or provided by the project company.

34. Confidentiality.- (1) Unless otherwise provided in this Act or the Right to Information Act, 2009 (Act No. 20 of 2009), the contracting authority or the PPP Authority shall keep confidential, all papers, information, documents relating to pre-qualification, the bidding process and negotiation process and approval in the prescribed manner.

(2) No commercial or financial information shall be revealed to any third party, without any court order or the consent of the parties.

35. Recovery of price, arrears and fees.- In the event that any dues such as:- price, arrears, fees, fine or damages, from any person or the project company is outstanding, the contracting authority shall be able to recover it as a public demand in accordance with the provisions of the Public Demands Recovery Act, 1913 (No. III of 1913).

36. Power of PPP Authority for removal of difficulty.- If any difficulty arises in giving effect to any provision of this Act or rules made thereunder for its ambiguity, the PPP Authority may, by notification in the official Gazette, keeping consistency with other provisions of this



Act, issue directions to be followed in this regard with clarification or explanation of such provision.

37. Fund, etc.- (1) The PPP Authority shall have a fund to which money shall be credited from the following sources, namely:-

- (a) grants made by the Government;
- (b) grants made by the local authority and other statutory organizations;
- (c) loans taken from internal sources;
- (d) grants made by, and loans taken from, foreign governments, organizations or international organizations;
- (e) service charge and success fee received from private organizations; and
- (f) money received from any other legal sources.

(2) The money of the fund shall be kept in a scheduled bank with approval of the Board of Governors.

(3) The fund shall be operated in such manner as the Board of Governors may determine.

(4) All the liabilities including the expenditure incurred for performing any function under this Act shall be met from the fund.

Explanation.- For the purposes of this section, "scheduled bank" means the scheduled bank as defined in article 2(j) of the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972).

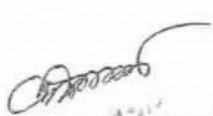
38. Obtaining loan and investment.- (1) The PPP Authority may, for the execution of its functions, obtain loans from national and international sources, upon recommendation of the Board of Governors and with approval of the Government, and it shall be liable to repay the loans in accordance with the applicable terms and conditions.

(2) Subject to approval of the Board of Governors, money from the fund may be invested in the sectors approved by the Government.

39. Annual budget statement.- The PPP Authority shall, by such date each year as may be specified by the Government, submit to the Government for approval the annual budget statement for the next financial year, and the sum to be required from the Government by the PPP Authority during that financial year shall be estimated in it.

40. Accounts and audit.- (1) The PPP Authority shall properly maintain its accounts and prepare statements of annual accounts.

(2) The Chief Executive Officer shall, within three months of expiry of each financial year, present the internal audit report at the meeting of Board of Governors.



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

(4) For the purposes of audit under sub-section (3), the Comptroller and Auditor-General or any person authorized by him in this behalf shall have access to all records, documents, cash or deposit, securities, store and other properties of the Authority and may examine any member and the Chief Executive Officer of the Authority and other officers or employees of the PPP Authority.

41. **Public servant.**- The Chief Executive Officer, advisors, officers and employees of the Authority while performing functions or intending to perform functions according to the provisions of this Act or rules or regulations made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Penal Code, 1860 (Act XLV of 1860).

42. **Delegation of power.**- (1) The Board of Governors may, by special or general order, subject to such conditions as may be determined, delegate any of its powers to the Chief Executive Officer, any member or any other person or officer.

(2) Similarly, the Chief Executive Officer may delegate to any person or officer any of the powers conferred upon him, except the powers delegated to him under sub-section (1).

43. **Annual reports, etc.**- The PPP Authority shall submit an annual report describing the activities conducted by it in each financial year, to the President and one copy of the same to the Bangladesh Parliament, within 31 January of the following financial year.

44. **Power to make rules.**- (1) For the purpose of this Act, the Government may, by notification in the official Gazette, make rules.

(2) Until rules are made under sub-section (1), the PPP Office may, if necessary, by general or special order, keeping consistency with this Act, provide necessary guidance in relation to undertaking and carrying out any activity.

45. **Power to make regulations.**- (1) For the purposes of this Act, the PPP Authority may, by notification in the official Gazette, make regulations.

(2) Specially and without prejudice to the generality of the foregoing provisions, such regulations may provide for any or all of the following matters:

- (a) determining the procedures of the meetings of the Board of Governors, etc.;
- (b) determining the honorarium and allowance of the Chairman of the PPP Authority;
- (c) determining the terms of employment of the Chief Executive Officer;

- (d) determining the terms of employment of the officers and employees of the PPP Authority;
- (e) determining the process for selection of the private partner;
- (f) determining matters relating to right of entry;
- (g) determining the process for complaint, review and objection;
- (h) determining the procedures for operation of the fund of the Authority;
- (i) determining matters relating to delegation of power.

46. **Power of the PPP Authority to issue PPP policy.**- After this Act is published in the official Gazette, the PPP Authority may, by notification in the official Gazette, issue a national PPP policy for Public-Private Partnership.

47. **Repeal and savings of the existing policy.**- (1) The existing Policy and Strategy for Public Private Partnership (PPP), 2010, hereinafter referred to as the repealed policy, shall be repealed as soon as this Act comes into force.

(2) Notwithstanding such repeal under sub-section (1),—

- (a) in the event that a partnership contract had been executed under the repealed Policy, the repealed policy shall be deemed to be applicable for the duration of the said contract as stipulated therein;
- (b) all acts done or measures taken under the repealed policy shall be deemed to have been done or taken under this Act; and
- (c) if any activity undertaken under the repealed policy is not complete, it shall have to be completed in such a manner as if the said Policy had not been repealed.

48. **Custody of the assets, etc. of the existing Public Private Partnership (PPP) Office.**- As soon as this Act comes into force, -

- (a) all movable and immovable property, cash and bank balance of the existing Public Private Partnership (PPP) Office shall be transferred to and vested in the PPP Authority;
- (b) all debts, responsibilities, development projects, if any, of the existing Public Private Partnership (PPP) Office shall be deemed to be the debts, responsibilities and projects of the PPP Authority;
- (c) all rights, powers, authority, investments, funds and interest of the existing Public Private Partnership (PPP) Office shall be deemed to be the rights, powers, authority, investments, funds and interest of the PPP Authority;

Signature

- (d) all agreements, documents and approvals of the existing Public Private Partnership (PPP) Office shall be deemed to be agreements, documents and approvals of the PPP Authority; and
- (e) all officers and employees of the existing Public Private Partnership (PPP) Office shall, from the date on which this Act comes into force, be deemed to be the officers and employees of the PPP Authority with all their employment rights and benefits; and until their terms of employment are determined under the provisions of this Act, shall continue to be employed by the PPP Authority under the same terms of employment.

49. **Publication of English text.**- (1) After this Act or the rules or regulations made thereunder are published in the official Gazette, the PPP Authority may, by notification in the official Gazette, publish an authentic English text of this Act or the rules or regulations made there under.

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

On behalf of the PPP Authority

Chairman/ Chief Executive Officer
PPP Authority



ATTEST
SECRETARY
PPP AUTHORITY