

Finance Institutions Act, 1993 Published in Bangladesh Gazette Extraordinary Dated 30th September, 1993
Act No.27 of 1993

An Act made to provide for the granting of licences to financial institutions, their control
and

to

make

other

incidental

provisions

relating

thereto

Whereas it is expedient to provide for the granting of licences to financial institutions, their
control

and

to

make

other

incidental

provisions

relating

thereto;

Now, therefore, it is enacted as follows:-

Chapter I

Preliminary

1. Short title and commencement.- (1) This Act may be called the Financial Institutions Act, 1993.

(2)

It

shall

be

deemed

to

have

come

into

force

on

first

Bhadra,

1400/

6th

August,

1993,

respectively.

2. Definitions.- Unless there is anything repugnant in the subject or context, in this Act- a) "financing business" means building

construction;

or

ii) carry out the business of underwriting, receiving, investing and reinvesting

shares,

stocks,

bonds,

debentures

issued

by

the

Government

or

any

statutory

organization

or

stocks

or

securities

or

other

marketable

securities;

or

iii) carry out instalment transactions including the lease of machinery

and

equipments;

or

iv) finance venture capital; and shall include merchant banks, investment companies, mutual associations, mutual companies,

leasing

companies

or

building

societies;

c) "credit" means any financial loan on the basis of interest or any loan repayable at

a

premium,

but

shall

not

include

loans

granted

under

the

condition

to

issue

a

debenture

or

other

security

to

a

company

or

other

statutory

organization;

d) "creditor" means any person entitled to have returned money deposited by him or any

other

person;

e) "credit facilities" means- i) the promise of a financial institution to grant advances and other facilities

or

to

bear

liabilities

on

behalf

of

a

borrower;

ii) the bearing, on behalf of a borrower, of his other liabilities by a financial

institution;

f) "company" means any company registered under the Companies Act, 1913 (VII of

1913);

g) "Companies Act" means the Companies Act, 1913 (VII of 1913); h) "auditor" means any person who, subject to t appointed

to

audit

the

accounts

and

transactions

of

financial

institutions;

i) "director" shall also include such persons as perform by order or direction any duty

of

a

director

of

a

financial

institution

and

shall

also

include

alternate

and

deputy

directors;

j) "regulation" means any regulation made under this Act; k) "Bangladesh Bank" means the Bangladesh Bank established in Bangladesh

Bank

Order,

1972

(PO

No.126

of

1972);

l) "investment company" means a company primarily or wholly engaged in the business of buying

and

selling

of

securities

of

other

companies,

and

shall

include

companies

which

have

at

any

time

invested

eighty

per

cent

of

its

paid-up

capital

in

other

companies,

but

shall

not

include

any

banking

or

insurance

company

or

organization

which

is

a

member

of

the

stock

exchange;

m) "building society" means a society which collects savings and grants loans for the

construction

of

buildings

and

the

buying

of

properties;

n) "person" means any company, institution or organization; o) "banking company" means any banking company established under the Companies

Act,

1991

(Act

No.14

of

1991);

p) "merchant bank" means a bank which assumes the responsibility for the securities

of

other

organizations

or

companies

and

gives

advice

on

the

amalgamation,

or

other

commercial

enterprises,

of

such

customers;

qu) "mutual association" means a savings association which does not issue capital, stocks

and

the

depositors

and

borrowers

of

which

are

its

owners

and

controllers;

r) "mutual company" means an organization which is devoid of capital and the net profit

of

which

is
distributed
among
the
owners
and
borrowers
in
proportion
to
the
business

activities;

s) "leasing company" means a company which leases machines and implements as
its

business

or

part

of

its

business

or

finances

such

leasing.

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

have

effect.

Chapter II

Licensing of financial institutions

4. Licensing of financial institutions.- (1) No person shall carry on any financial business without

a

licence

to

run

a

financial

institution

issued

by

the

Bangladesh

Bank.

(2)

Every

financial

institution

in

existence

on

the

commencement

of

this

Act

shall,

before

the

expiry

of

six

months

from

such

commencement,

apply

in

writing

to

the

Bangladesh

Bank

for

a

licence

under

this

section:

Provided

that

nothing

in

sub-section

(1)

shall

be

deemed

to

prohibit

a

financial

institution

in

existence

on

the

commencement

of

this

Act

from

carrying

on

business,

if-

a) its application under this section is under consideration, or b) it has not, by a notice, been informed by the Bangladesh Bank that it has not

be

granted

to

it.

(3) Before granting a licence under this section, the Bangladesh Bank may require to be satisfied

with

regard

to

a

proposed

financial

institution

in

respect

of

the

following

matters,

namely:-

a) the financial situation; b) the characteristics of the management; c) the sufficiency of the capital structure and the conditions

as

it

thinks

fit;

(5) The Bangladesh Bank may at any time, after giving opportunity for a hearing, alter any condition

of

a

licence

to

run

a

financial

institution

and

may

add

new

conditions.

5. Investigations on suspect persons employed in the financing business.- The Bangladesh

Bank

may,

if

it

appears

to

it

or

if

it

has

reason

to

believe

that

any

person

carries

on

the

business

of

financing

in

contravention

of

the

provisions

of

section

4,-

a) order any information, document, file, book, account and record in possession, in the

custody

or

under

the

control

of

the

said

person

to

be

submitted

to

it;

b) confer on any person the power to enter and search any premises of such person

and

to

seize

the

documents,

files,

books

and

accounts

and

records

concerned.

6. Minimum capital.- (1) The Bangladesh Bank shall prescribe the minimum capital of every financial

institution.

(2) No financial institution shall be granted a licence under this Act, if the amount of its issued capital

and

paid-up

capital

is

less

than

the

minimum

capital

prescribed

under

sub-section

(1)

and

existing

licences,

if

any,

shall

be

cancelled.

7. Restrictions on the opening of branches.- (1) No financial institution may, without the prior consent

in

writing

of

the

Bangladesh

Bank,

open

at

any

place

in

or

outside

of

Bangladesh

a
branch
or
office,
nor
change
the
location
of
an
existing
branch
or
office.

(2)
The
Bangladesh
Bank
shall
approve
of
or
reject
an
application
of
a
financial

institution

for

the

opening

of

a

branch

or

office

under

sub-section

(1)

on

consideration

of

the

matters

mentioned

in

section

4

(3)

and

the

decision

of

the

Bangladesh

Bank

in
this
matter
shall
be
final.

8. Cancellation of a licence.- (1) The Bangladesh Bank may cancel the licence of a financial institution

granted
under
this
Act
on
account
of
the
following
reasons,
namely:-

a) if it does not carry on the business for which it had been established; b) if the financial institution goes into liquidation; c) if it ceases to carry on business for a period of more than three months; d) if it carries on its business in a manner detrimental to the interests of the depositors;

e) if its assets are not sufficient to pay the claims of its depositors; f) if it carries on business maintaining an amount of assets less than the amount of its liabilities; g) if it fails to maintain the minimum capital; h) if the conditions of the licence are contravened; i) if the financial institution or any of its directors is convicted of an offence under this Act;

the
amount
of
the
minimum
capital;
g) if the conditions of the licence are contravened; h) if the financial institution or any of its directors is convicted of an offence under this Act;

Act.

(2) Notwithstanding anything contained in sub-section (1), no licence of a financial institution shall

be

cancelled

without

granting,

through

no

more

than

fifteen

days'

notice

in

writing

before

the

cancellation

of

the

licence

of

the

financial

institution,

an

opportunity

to

show

the

reasons

for

which

its

licence

should

not

be

cancelled.

(3) Where the licence of a financial institution has been cancelled, the financial institution concerned

shall

be

immediately

informed

and

a

notice

of

the

cancellation

shall

be

published

in

the

Gazette.

(4) Beginning from the date on which a notice under sub-section (3) has been published, the financial

institution

concerned

shall

cease

to

carry

out

any

financial

transaction

except,

subject

to

the

consent

of

the

Bangladesh

Bank,

such

measures

as

may

be

required

to

conveniently

suspend

its

business.

(5) The provision of sub-section (4) shall not be prejudicial to the rights or claims of any person

on

any

financial

institution

or

the

rights

or

claims

of

any

financial

institution

or

any

person.

Chapter III

Reserve

fund,

dividends,

balance-sheet

9. Reserve fund.- Every financial institution shall maintain a reserve fund in such manner as may

be

prescribed

by

regulations.

10. Restriction on the payment of dividends.- No financial institution shall pay any dividend on

its

shares,

unless

all

its

capitalised

expenses

including

preliminary

expenses,

organisation

expenses, commission for share selling and brokerage, losses and other items have been completely

written

off.

11. Display of balance-sheet.- Every financial institution shall display a copy of its last audited balance-sheet

together

with

the

names

of

its

directors

all

year

through

in

a

conspicuous

place

in

each

of

its

offices

and

branches

and

shall,

within

six

months

before

the

end

of

the

year

concerned,

publish

the

said

balance-sheet

in
at
least
one
daily
newspaper.

12. Supply of information.- The Bangladesh Bank may direct any financial institution to supply any

information

and

every

financial

institution

shall

be

bound

to

supply

the

information

so

directed

within

such

period

and

in

such

manner

as
the
Bangladesh
Bank
may
determine.

Chapter IV Business rules

13. Acknowledgement of receipt of deposits.- Where a financial institution receives from any person

a
deposit,
it
shall,
as
a
proof
of
having
received

the
money,
immediately
make
out
a
receipt
to
such
person.

14. Restrictions regarding credit facilities, etc. .- No financial institution shall-
a) accept any such deposit as is repayable on demand through cheque, draft or
order

of
the

depositor;

b) deal in gold or any foreign coins; c) grant credit facilities in excess of thirty per cent or, subject to the consent of the Government of Bangladesh

Bank,

of

hundred

per

cent

of

its

capital

to

any

particular

person,

firm,

corporation

or

company

or

any

such

company,

person

or

group

as

controls

or

exerts

influence

on

such

person,

,firm,

corporation

or

company;

d) grant credits in excess of 50 per cent of its credit facilities or in excess of such percentage

of

its

credit

facilities

as

the

Bangladesh

Bank

may

determine

from

time

to

time;

e) grant any unsecured advance, credit or credit facilities to any firm in which any of its

directors,

individually

or

jointly,

is

interested

directors

unless

the

total

amount

of

such

facilities

does

not

exceed

10

per

cent

of

its

paid-up

share

capital

and

reserves;

f) grant, in the manner mentioned in clause e), advances, credits or credit facilities in

excess

of

Taka

500

000

to

any

person

or

group

of

persons

other

than

those

stated

in

the

said

clause.

Explanation.- In this sub-section, "director" includes also the wife, husband, father, mother,

son,

daughter,

son-in-law,

daughter-in-law,

father-in-law

and

mother-in-law

of

a

director.

(2) "Unsecured advance", "unsecured credit" or "unsecured credit facilities" as mentioned in sub-section

(1)

(e)

mean

any

advance,

credit

or

credit

facilities

granted

without

security

or

surety,

and

shall

include,

in

the
case
of
advances,
credits
or
credit
facilities
granted
against
securities
or
sureties,
that
part
of
the
credit
which
exceeds
the
market
value
of
the
securities
or
sureties
and,

in
the
case
that,
in
the
opinion
of
the
Bangladesh
Bank,
securities
or
sureties
have
no
market
value,
the
amount
settled
by
the
said

Bank.

(3) No financial institution shall grant any advance or credit allowing its own shares as securities or

grant

credits

or

advances

to

any

other

institution

for

the

purpose

of

buying

and

selling

its

own

shares.

(4) Where there arises any loss as a result of the granting of any unsecured advance, credit or credit

facilities

in

contravention

of

the

provisions

of

sub-section

(1),

all

the

directors

of

the
financial
institution
shall,
jointly
and
individually,
be
responsible
for
the
compensation.

15. Restrictions regarding the business of financial institutions.- (1) No financial institution shall,

alone
or
in
a
body,
be
engaged
in
any
wholesale
or
retail
business
including
export

and
import
trade
otherwise
than
for
the
purpose
of
carrying
on
its
financing
business.

(2)
No
financial
institution
shall
carry
on
any
business
other
than
the
business
of
financing

and

such

business

as

has

been

mentioned

in

this

Act.

16. Restrictions on investments.- No financial institution shall expend or use more than 25 per cent

of

its

paid-up

capital

and

reserves

for

the

acquisition

or

holding

of

any

kind

of

shares

of

financial,
commercial,
agricultural
or
industrial
institutions
or
of
any
similar
institution
and
shall,
as
fast
as
possible,
sell
to
the
institutions
concerned
the
shares
acquired
in
the
interest
of

realizing

the

credits

granted

by

it:

Provided

that

any

financial

institution

may,

subject

to

its

application

and

on

consent

of

the

Bank,

expend

or

use

up

to

50

per

cent

of

its

paid-up

capital

and

reserves

for

the

acquisition

and

holding

of

the

abovementioned

kind

of

shares.

17. Restriction on the possession of immovable property.- No financial institution may acquire

or

possess

immovable

properties

exceeding

in

value

25

per

cent

of

its

paid-up

capital

and

reserves:

Provided

that

nothing

contained

in

this

section

shall

be

applicable

in

the

case

of

immovable

property

required

for

the

granting

of

facilities

to
employees
of
the
financial
institution
and
in
the
case
of
property
acquired
in
the
interest
of
realizing
unrealized
credits
granted
by
it.

18. Power of the Bangladesh Bank to regulate certain matters.- The Bangladesh Bank may
by
order
regulate
the
following
matters,

namely:-

a) the highest rate of interest to be paid by financial institutions on various kinds of deposits,

b) the highest amount of credit to be taken by financial institutions from any person, c) the last date for repayment financial

institutions

and

the

manner

in

which

to

calculate

such

rate,

e) the upper limit of credits granted by financial institutions in favour of any person, f) the reserves to be maintained monetary

policy.

Chapter V

Maintenance of minimum liquid assets

19. Maintenance of liquid assets.- (1) Every financial institution shall maintain such liquid assets

as

the

Bangladesh

Bank

may

determine

from

time

to

time.

(2)

For

the

purposes

of

this

section,

"liquid

assets"

means-

a) notes and coins current in Bangladesh, b) net balances of the banks of Bangladesh, c) the amount of call money
Inspection

20. Inspection- (1) Notwithstanding anything to the contrary contained in the Companies Act,
the

Bangladesh

Bank

may

at
any
time,
by
one
or
more
of
its
officers,
carry
out
an
inspection
of
any
financial
institution
and
its
ledgers
and
accounts.

(2)
The
Bangladesh
Bank
may
at

any

time,

if

it

has

reason

to

believe

that

any

financial

institution

is

engaged

in

such

business

as

is

detrimental

to

the

interests

of

its

depositors

and

debtors,

or

that

its

assets

are

not

sufficient

to

pay

the

claims

of

the

public,

or

that

it

is

involved

in

any

activities

incompatible

with

the

provisions

of

this

Act,

carry

out,
by
one
or
more
of
its
officers,
an
examination,
not
being
prejudicial
to
the
provision
of
sub-section
(1),
of
the
ledgers,
account-books
and
other
documents
of
such
financial

institution.

(3)

For

the

purpose

of

applying

the

powers

under

the

sub-sections

(1)

and

(2),

the

Bangladesh

Bank

may

appoint

any

auditioner

besides

the

auditioner

or

auditors

appointed

by

the

financial

institution

under

section

144

of

the

Companies

Act.

(4)

Every

financial

institution

affected

by

an

inspection

or

examination

under

this

section

shall

co-operate

with

the

officers

of
the
Bangladesh
Bank
entitled
to
have
access
to
its
ledgers,
account-books
and
other
documents
and
shall
be
bound
to
furnish,
in
the
interest
of
carrying
out
the
examination,

any

information

and

opportunity:

Provided

that

such

ledgers,

account-books

and

other

documents

shall

not

be

submitted

at

such

time

or

in

such

place

as

may

obstruct

the

normal

daily
activities
of
the
financial
institution
concerned.

21. Information on inability to meet demands.- If any financial institution has reason to be doubtful

about
its
ability
to
meet
the
demands
of
its
customers
or
if
any
financial
institution
is
forced
to
suspend
the
demands

of
any
of
its
customers,
it
shall
inform
the
Bangladesh
Bank
about
the
matter.

22. Measures to be taken by the Bangladesh Bank in the case of failures of a financial institution.-

(1)
If
any
financial
institution
informs
the
Bangladesh
Bank
about
its
inability
to
meet

its
demands
in
accordance
with
the
provisions
of
section
21
or
if
the
Bangladesh
Bank
has,
on
an
inspection
under
section
20,
reason
to
believe
that
a
financial
institution

carries
on
its
business
in
a
manner
which
is
detrimental
to
the
interests
of
its
depositors,
or
that
it
has
become
financially
insolvent
or
that
a
financial
institution
is

in
a
situation
to
be
almost
unable
to
pay
its
dues,
or
that
a
financial
institution
has
contravened,
or
failed
to
comply
with,
the
conditions
of
a
licence
granted

to
it,
the
Bangladesh
Bank
may,
after
giving
reasonable
opportunity
to
the
financial
institution
concerned
to
submit
a
statement,
take,
by
order,
all
or
any
of
the
following
measures,

which

such

institution

shall

be

bound

to

observe,

namely:-

a) it may direct the actions to be done or not to be done in connection with its financing

business;

b) it may direct the appointment, at its expense, of any person for the proper management

of

its

business;

c) it may assume the responsibility for the control and management of its business or

direct

any

other

person

therefore.

(2) The Bangladesh Bank may, by itself or in view of an application, alter or withdraw any measure

taken

under

sub-section

(1)

and

may

impose

such

conditions

on

such

alteration

or

withdrawal

as

may

be

required.

(3) Notwithstanding anything contained in this section, the Bangladesh Bank may apply to the High

Court

Division

for

the

winding-up

of

any

financial

institution

for

the

reasons

mentioned

in

this

section.

(4) Where the Bangladesh Bank assumes the responsibility for the control of a financial

institution,

it

shall

control

it

so

long

as

it

is

not

satisfied

that

it

is

no

longer

necessary

to

control

its

business

in

order

to

protect

the

interests

of

its
depositors,
and
such
institution
shall
be
bound
to
grant
the
Bangladesh
Bank
every
facility
required
in
order
to
facilitate
such
control
or
general
management
of
the
financial
institution.

(5) The Bangladesh Bank shall determine the remuneration to be paid to any person appointed

to
control
or
manage
a
financial
institution
under
this
section
or
the
other
conditions
etc.
of
his
work,
and
the
financial
institution
shall
bear
the
expenses
thereof
and
such

other
expenses
as
may
arise
through
its
control.

Chapter VII

Submission of statement of accounts and audit of accounts

23. Submission of statement of accounts to the Bank.- The directors of every financial institution

shall
submit
to
the
Bangladesh
Bank
a
copy
of
the
profit
and

loss

account

and

balancesheet

prepared

in

accordance

with

the

Companies

Act.

24. Appointment of an auditor and duties of the auditor.- (1) Notwithstanding anything contained

in

the

Companies

Act,

every

financial

institution

shall

annually,

subject

to

the

consent

of

the

Bangladesh

Bank,

appoint

one

auditor.

(2)

If

a

financial

institution

fails

to

appoint

an

auditor,

or

if

it

is,

in

the

opinion

of

the

Bangladesh

Bank,

necessary

to

appoint

an

additional

auditor

together

with

the

auditor

appointed

under

sub-section

(1),

the

Bangladesh

Bank

may

appoint

an

auditor

for

such

institution

and

shall

fix

the

remuneration

due

to

him.

(3)

An
auditor
appointed
under
this
section
shall
have
the
duty
to
audit
the
accounts
of
the
year
for
which
he
has
been
appointed
and
to
prepare
a
report
on

the
basis
thereof.

(4)

The
Bangladesh

Bank

may,

in

addition

to

those

stated

in

sub-section

(3),

impose

such

other

duties

on

the

auditor

as

it

may

determine,

and

the
auditor
shall
receive
an
additional
remuneration
for
the
discharge
of
such
additional
duties.

(5)

The
report
of
the
auditor
prepared
under
this
section
shall
be
attached
to
the

balancesheet

and

profit

and

loss

account

and

a

copy

thereof

shall

be

send

to

the

Bangladesh

Bank.

(6)

Where

an

auditor

discharging

his

duty

as

an

auditor

of

a

financial

institution

is

satisfied

to

the

effect

that-

a) the provisions of this Act have been seriously contravened or have not been complied

with

or

that

a

financial

institution

has

committed

a

criminal

offense

of

fraud

or

dishonesty;

b) on account of losses the capital of a financial institution has fallen under eighty five

per

cent;

c) there has occurred any serious irregularity including that the payment of the creditors'

demands

is

no

longer

guaranteed;

or

d) that there exists any doubt as to the sufficiency of the assets to meet the demands

of

the

creditors;

he shall without any delay inform the Bangladesh Bank on the said matters.

25. Managing directors etc. not being qualified.- (1) No person who is, or at any time has been,

adjudicated

insolvent,

or

has

suspended

payment

of

his

creditors,

or

has

compounded

with

his

creditors,

or

who

has
been
convicted
by
a
criminal
court
of
an
offence
involving
moral
turpitude
may
be
or
continue
to
be
director
of
a
financial
institution
or
be
appointed
for
the

management

of

a

financial

institution.

(2)

No

director

of

a

financial

institution

declared

suspended

under

this

Act

or

person

directly

involved in the management of such financial institution may, without the prior approval of the Bangladesh

Bank,

be

appointed

to

the

office

of

a

director
of
another
financial
institution
or
to
any
office
which
may
be
connected
with
the
management
of
another
financial
institution.

(3)
Notwithstanding
anything
contained
in
any
other
law

for
the
time
being
in
force,
no
person
who
is
director
of
any
other
financial
institution,
of
a
banking
company
or
of
a
insurance
company
shall
be
qualified
to

be

director

of

a

financial

institution.

26. Removal of a chairman, principal executive officer, board of directors or of any director.-

(1)

Where

the

Bangladesh

Bank

is

satisfied

that

it

is

necessary

to

remove

a

chairman

or

director

or

principal

executive

officer

of

a
financial
institution
in
order
to
prevent
its
affairs
being
conducted
in
a
manner
prejudicial
to
the
interests
of
the
financial
institution
or
its
depositors
or
to
secure
in

the
public
interest
the
proper
management
of
the
financial
institution,
it
may,
after
committing
its
reasons
to
writing,
issue
a
direction
that
such
chairman,
director
or
principal
officer
be

removed

from

his

office.

(2)

Before

issuing

a

direction

undere

sub-section

(1),

the

person

affected

shall

be

given

reasonable

opportunity

to

make

a

representation.

Chapter VIII

Moratorium in respect of financial institutions, reconstruction etc.

27. Moratorium, reconstruction and amalgamation.- (1) Where it appears to the Bangladesh Bank

that

there

are

reasons

to

make,

in

the

interest

of

the

depositors,

an

order

of

moratorium

in

respect

of

a

financial

institution,

it

may

make

an

order

of

moratorium

suspending

the

business

of

such financial institution for a period of no more than six months:

Provided

that

the

Bangladesh

Bank

may

extend

such

period

for

a

further

period

of

no

more
than
six
months.

(2)

If
during
the
period
the
order
given
under
sub-section

(1)

is
in
force
the
Bangladesh
Bank
is
satisfied
that
in
the
public
interest
or

in
the
interest
of
the
depositors
or
in
order
to
secure
the
proper
management
of
the
financial
institution
or
in
the
interest
of
the
finance
system
of
the
country

as

a

whole

it

is

necessary

so

to

do,

it

may

prepare

a

scheme

for

the

reconstruction

of

the

financial

institution,

or

for

the

amalgamation

of

the

financial

institution

with
another
financial
institution,
henceforth
in
this
chapter
referred
to
as
the
transferee
institution.

(3)

The
aforesaid
scheme
may
contain
all
or
any
of
the
following
items,
namely:-

a) the name, registration, capital, assets, power, rights, interests, authorities, facilities,

liabilities

and

duties

of

the

financial

institution

on

its

reconstruction

or,

as

the

case

may

be,

of

the

transferee

institution;

b) in the case of amalgamation of the financial institution, the transfer to the transferee

institution

of

the

business,

properties,

assets

and

liabilities

of

the

financial

institution

on

such

conditions

as

are

specified

in

the

scheme;

c) any change in the Board of Directors, or the appointment of a new Board of Directors,

of

the

financial

institution

on

its

reconstruction

or,

as

the

case

may

be,

of

the
transferee
institution
and
the
authority
by
whom,
the
manner
in
which,
and
the
conditions
on
which,
such
change
shall
be
made
and
in
the
case
of
appointment
of

a

new

Board

of

Directors,

the

period

for

which

the

appointment

shall

be

made;

d) the alteration of the memorandum and the articles of association of the financial institution

on

its

reconstruction

or,

as

the

case

may

be,

of

the

transferee

institution

for

the

purpose

of

altering

the

capital

thereof

or

for

such

other

purposes

as

may

be

necessary

to

give

effect

to

the

reconstruction

or

amalgamation;

e) the continuation by or against the financial institution on its reconstruction or, as the

case

may

be,

the

transferee
institution,
of
all
actions
and
proceedings
filed
by
or
against
the
financial
institution
concerned
and
pending
immediately
before
the
date
of
the
order
of
moratorium
under
sub-section
(1);

f) the reduction of the interests or rights which the members, depositors and other creditors

of

the

financial

institution

have

before

its

reconstruction

or

amalgamation

to

such

extent

as

the

Bangladesh

Bank

considers

necessary

in

the

public

interest,

or

in

the

interest

of

the

members,

depositors

and

other

creditors

of

the

financial

institution,

or

for

the

maintenance

of

the

business

of

the

financial

institution;

g) payment in cash to the depositors and other creditors in full satisfaction of their claims-

i) in respect of their interests or rights in or against the financial institution

before

its

reconstruction

or

amalgamation;

or

ii) where their interests or rights in or against the financial institution have

been

reduced

under

clause

f),

in

respect

of

such

interests

or

rights

as

so

reduced;

h) the allotment of shares in the financial institution on its reconstruction or, as the case

may

be,

in

the

transferee

institution

to

the

members

of

the

financial

institution
for all the shares of the financial institution held by them before its reconstruction or
amalgamation

or

where

has

been

made

a

reconstruction

in

accordance

with

clause

f),

for

those

reduced

shares

and

where

cash

is

claimed

instead

of

shares

or

where

it

is
not
possible
to
allot
shares
to
any
member,
the
payment
in
cash
to
those
members
in
full
satisfaction
of
their
claims-
i) in respect of their interest in shares in the financial institution before
its
reconstruction
or
amalgamation;
or
ii) where such interest has been reduced under clause f), in respect of
their
interest

in

those

reduced

shares;

i) the continuance of the services of all the employees of the financial institution on its

reconstruction

or,

as

the

case

may

be,

in

the

transferee

institution

at

the

same

remuneration

and

on

the

same

conditions,

which

they

were

getting

or

under

which

they

were

employed

before

an

order

of

moratorium

under

sub-section

(1)

has

been

given:

Provided that before the expiry of the period of three years from the date on which a scheme

under

this

section

is

sanctioned

by

the

Government-

i) the financial institution on its reconstruction shall determine for its employees

the

same

remuneration

and

the

same

benefits

as

are,

at

the

time

of

such

determination,

enjoyed

by

employees

of

corresponding

rank

of

a

comparable

financial

institution,

and

in

respect

of

settling

whether

financial

institutions

are

comparable

or

whether

employees

are

holding

corresponding

ranks

the

decision

of

the

Bangladesh

Bank

shall

be

final;

ii) the transferee institution shall determine for the employees of the former

financial

institution

the

same

remuneration

and

the

same

benefits

as

are

applicable

to

its

own

employees

subject

to

the

qualifications

and

experience

of

the

said

employees

being

comparable

to

those

of

its

own

employees,

and

if

any

doubt

or

difference

arises

as

to

qualification

or

experience,

that

doubt

or

difference

shall,

before

the

expiry

of

a

period

of

three

years

from

the

date

on

which

the

remuneration

and

other

benefits

have

been

determined,

be

referred

to

the

Bangladesh

Bank

whose

decision

thereon

shall

be

final;

j) notwithstanding anything contained in clause h), where any of the employees are specifically

mentioned

in

the

scheme,

or

where

any

of

the
employees
have,
at
any
time
before
the
expiry
of
one
month
following
the
date
on
which
the
scheme
is
sanctioned
by
the
Government,
expressed
their
intention
of
not

becoming
employees
of
the
financial
institution
on
its
reconstruction
or
of
the
transferee
institution,
the
payment
to
such
employees
of
compensation,
pension,
gratuity,
provident
fund
and
other
retirement
benefits;

k) any other rule or condition for the reconstruction or amalgamation of the financial institution;

l) incidental, consequential and supplemental matters required to carry out the reconstruction

or

amalgamation.

(5) The Bangladesh Bank shall send a copy of the scheme prepared under this section in draft to

the

financial

institution,

the

transferee

institution

and

any

other

financial

institution

concerned,

for

suggestions

and

objections

within

such

period

as

it

may

specify.

(6) The Bangladesh Bank may make such modifications in the draft scheme as it may consider necessary

after

considering

the

suggestions

and

objections

received

in

the

light

of

the

invitation

under

sub-section

(5).

(7) The Bangladesh Bank shall, after proceeding in accordance with sub-section (5) and (6), place

the

scheme

before

the

Government

for

its

sanction,

and

the

Government

shall

sanction

the

scheme

without

any

modifications

or

with

such

modifications

as

it

may

consider

necessary,

and

the

scheme

as

sanctioned

by

the

Government

shall

come

into

force

on

such

date

as

the

Government

may

specify

on

this

behalf:

Provided that different dates may be specified for the commencement of different provisions of the

scheme.

(8) Upon the coming into force of the scheme or any provision thereof, the scheme or such provision

shall

be

binding

on

any

of

the

following

persons

and

institutions,

namely:-

a) the financial institution, the transferee institution and any other financial institution concerned

with

the

amalgamation;

b) the members, depositors and other creditors of the financial institution concerned;

c) the said financial institution and the employees of the transferee institution; d) any trustee involved in the management kept

by

the

said

financial

institution

or

the

transferee

institution

or

any

person

having

any

right

or

liability

in

relation

to

that

financial

institution

or

transferee

institution.

(9) The properties, assets and liabilities of the financial institution shall, from the date on which the

scheme

comes

into

force

and

to

such

extent

as

may

be

stated

in

the

scheme,

be

properties,

assets

and

liabilities

of

the

transferee

institution.

(10) If any difficulty arises in giving effect to the provisions of the scheme, the Government may by

order

do

anything

not

inconsistent

with

such

provisions

which

appears

to

it

necessary

for

the

purpose

of

removing

that

difficulty.

(11) Where a scheme for amalgamation of a financial institution under this section has been approved,

any

business

acquired

by

the

transferee

institution

under

the

scheme

or

under

any

provision

thereof

shall,

after

coming

into

operation

of

the

scheme

or

such

provision,

be

carried

on

in

accordance

with

the

law

governing

the

activities

of

the

transferee

institution:

Provided that, in order to give full force to the scheme, the Government may, on the recommendation

of
the
Bangladesh
Bank,
by
notification
in
the
official
Gazette,
exempt
for
a
period
of
no
more
than
seven
years
that
business
from
the
application
of
any
provision
of

that

law.

(12) Nothing in this section shall prevent the amalgamation by a single scheme of several financial

institutions

in

respect

of

each

of

which

an

order

of

moratorium

has

been

made.

(13) The provisions of this section and of any scheme made under it shall have effect notwithstanding

anything

contained

in

any

other

provision

of

this

Act

or

any

other

Act

or

any

agreement

or

any

other

kind

of

instrument

for

the

time

being

in

force.

28. Amalgamation of financial institutions.- (1) No financial institution may, without the prior approval

of

the

Bangladesh

Bank,

be

amalgamated

with

any

other

financial

institution

or
acquire
the
majority
of
shares
in
any
other
financial
institution.

(2)

The
Bangladesh
Bank
may,
in
the
interest
of
considering
an
application
for
prior
approval
under
sub-section

(1),
call
for
any
information
from
the
applicant,
and
it
shall
not
cancel
an
application
without
giving
reasonable
opportunity
for
a
hearing
to
the
applicant.

29. Winding up of financial institutions by the High Court Division.- Notwithstanding anything

contained
in
the

Companies

Act,

the

High

Court

Division

may,

on

the

basis

of

an

application

of

the

Bangladesh

Bank,

order

the

winding

up

of

a

financial

institution,

if-

a) the licence of the financial institution has been cancelled; b) the financial institution is unable to pay its debts; c) of

this

Act.
Offences and punishments

30. Punishment for carrying on the business of financing without holding a licence.-
Whoever

carries

on

the

business

of

financing

without

holding

a

licence

under

this

Act

or

continues

to

carry

on

the

business

of

financing

after

the
annulment
of
his
licence
shall
be
punishable
with
imprisonment
for
a
term
which
may
extend
to
two
years,
or
with
a
fine
which
may
extend
to
five
hundred

thousand

Takas,

or

both.

31. Punishment for not cooperating in an investigation under section 5.- (1) If any suspect engaged

in

the

business

of

financing

at

the

time

of

an

investigation

under

section

5

intentionally

refuses

to

produce

any

informations,

documents,

files,

books,

accounts

or

records

required

for

the

investigation

to

the

officer

conducting

the

investigation

or

refuses

to

cooperate

in

the

investigation,

he

shall

be

punishable

with

imprisonment

for

a

term

which

may

extend

to

one

year,

or

with

a

fine

which

may

extend

to

two

hundred

thousand

Takas,

or

both.

(2)

If

any

person

accused

under

sub-section

(1)

disregards

an
order
to
deposit
at
a
court
any
informations
or
records
mentioned
in
the
said
sub-section,
he
shall
be
punishable
with
the
punishments
mentioned
in
the
said
sub-section.

32. Punishment for giving false informations in order to receive a licence.- Whoever

intentionally

gives

false

or

erroneous

informations

in

an

application

for

a

licence

under

this

Act

shall

be

punishable

with

imprisonment

for

a

term

which

may

extend

to

three

years,

or

with

a

fine

which

may

extend

to

one

million

Takas,

or

both.

33. Punishment for not complying with the conditions of a licence.- If any person fails to comply

with

any

condition

of

a

licence

granted

under

this

Act,

he

shall

be

punishable

with

a

fine

which

may

extend

to

one

million

Takas,

and

if

he

fails

to

comply

with

the

conditions

concerned

after

having

been

adjudicated

culpable,

with

a

fine

amounting

to

one

hundred

thousand

Takas

for

every

day

during

which

the

offence

continues.

34. Punishment for contravention of the provisions of section 7.- If any financial institution carries

on

the

business

of

financing

in

its

branches

in

contravention

of

the

provisions

of

section

7,

it
shall
be
punishable
with
a
fine
amounting
to
one
hundred
thousand
Takas
for
every
day
during
which
the
offence
continues.

35. Punishment for contravention of the provisions of section 14.- If any financial institution grants

credit
facilities
in
contravention
of
the

provisions

of

section

14,

it

shall

be

punishable

with

a

fine

which

may

extend

to

two

million

Takas.

36. Punishment for failure to maintain liquid assets.- If any financial institution fails to maintain

liquid

assets

in

accordance

with

the

provisions

of

section

19,

it
shall
be
punishable
with
a
fine
at
the
rate
of
one
per
cent
for
every
day
during
which
the
offence
continues.

37. Punishment for failure to produce account books etc. during an investigation under section

20.-

If
any
financial
institution

fails

to

produce

any

account

books,

accounts,

informations

or

any

other

necessary

documents

during

an

inspection

under

section

20,

it

shall

be

punishable

with

a

fine

which

may

extend

to

five

hundred

thousand

Takas.

38. Punishment for disregarding the regulations of the Bangladesh Bank.- If any financial institution

disregards

the

measures

taken

by

the

Bangladesh

Bank

under

section

22,

it

shall

be

punishable

with

a

fine

amounting

to

two

million

Takas.

39. Punishment for persons who, being disqualified in accordance with section 25, are connected

with

financial

institutions.-

If

any

person

who

is

disqualified

in

accordance

with

the

provisions

of

sub-section

(1)

and

(2)

of

section

25

is

connected

with

any

financial

institution

in

contravention

of

the

said

provisions,

he

shall

be

punishable

with

a

fine

which

may

extend

to

one

million

Takas,

or

with

imprisonment

for

a

term

which

may

extend

to

three

years,

or

both,

and

if

any

person

becomes

director

of

any

financial

institution

in

contravention

of

sub-section

(3)

of

the

said

section,

he

shall

be

punishable

with

a

fine

amounting

to

one

hundred

thousand

Takas.

40. Punishment for falsely introducing oneself as a financial institution.- If any institution, not

holding

a

licence

under

this

Act,

introduces

itself,

and

carries

on

business,

as

a

financial

institution

holding

a

licence,

each

owner,

shareholder,

director,

manager,

secretary

or

other

officer

or

agent

of

the

said

institution

shall

be

punishable

with

a

fine

which

may

extend

to

one

million

Takas,

or

with

imprisonment

for

a

term

which

may

extend

to

three

years,

or

both,

unless

he

can

prove

that

the

said

contravention

did

occur

without

his

knowledge,

or

that

he

tried

to

the

best

of

his

abilities

to

prevent

the

said

contravention,

or

that

he

was

in

no

way

involved

in

the

said

contravention.

41. Punishment for adding anything untrue in account books etc. of financial institutions.-

(1)

If

any

director,

manager,
auditor,
responsible
person,
officer
or
employee
of
a
financial
institution
intentionally
adds,
or
abets
to
add,
anything
untrue
in
the
account
books,
accounts,
reports,
business
papers
or
other

documents,

heretoeafter

referred

to

as

the

said

documents,

of

the

said

institution,

or

conceals

or

destroys

anyhthing

in

the

said

documents,

he

shall

be

punishable

with

a

fine

which

may

extend

to

one

million

Takas,

or

with

imprisonment

for

a

term

which

may

extend

to

three

years,

or

both.

(2)

If

any

person

intentionally

gives

any

false

information

in

any

statement,

report

or

other

document

called

for

or

submitted

in

accordance

with

the

requirements

of,

or

under,

or

for

the

purpose

of,

any

provision

of

this

Act

or

intentionally

holds

back

any

necessary

information

in

any

such

statement,

report

or

document,

he

shall

be

punishable

with

the

punishments

mentioned

in

sub-section

(1).

42. Punishment for offences for which no punishment has been provided for.- Whoever does,

or

desists

from
doing,
anything
which
comprises
non-compliance
with
any
provision
of
this
Act
or
with
any
order
or
direction
passed
thereunder
and
for
which
no
punishment
has
been
expressly
provided

in
this
Act
shall
be
punishable
with
a
fine
which
may
extend
to
one
hundred
thousand
Takas.

43. Power of the Bangladesh Bank to impose fines.- (1) If any person has committed a punishable

offence
under
the
sections

31,

33,

34,

35,

36,

37,

38,

39

and

42,

the

Bangladesh

Bank

may,

not

filing

a

suit

against

him,

give

him

opportunity

to

show

the

reason

for

which

he

should

not

be

punished

with

a

fine

and

may,

if

it

is

not

satisfied

with

his

explanation

or

if

he

has

not

given

any

explanation,

punish

him

with

a

fine

which

may

extend

to

the
highest
amount
fixed
by
the
said
Bank.

(2)
If
the
person
concerned
pays
the
fine
within
fourteen
days
from
the
date
on
which
it
had
been
imposed
under

sub-section

(1),

no

legal

proceeding

shall

be

taken

against

him

for

the

offence

committed

by

him:

but

if

he

fails

to

pay

the

fine

within

the

said

period,

the

Bangladesh

Bank

shall

file

a

suit

at

a

court

against

the

person

concerned

for

the

offence

committed

by

him.

Chapter IX
Miscellaneous

44. Cognizance of offence.- (1) No court other than a sessions court shall try any offence under

this

Act.

(2)

No

court

shall

take

cognizance

of

any

offence

under

this

Act

without

a

complaint

in

writing

by

the

Bangladesh

Bank

or

by

an

officer

authorized

in

this

behalf

by

the

Bangladesh

Bank.

45. Publication of list of financial institutions.- (1) The Bangladesh Bank shall, immediately after

the

granting

of

a

licence

to

a

financial

institution,

publish

by

notification

the

name

and

address

of

the

said

institution.

(2)

The

Bangladesh

Bank

shall

annually

before

the

month

of

July

supply

to

the

Government

a

list

of

the

financial

institutions

which

have

received

a

licence

under

this

Act.

46. Alteration of memorandum of a financial institution.- (1) Notwithstanding anything contained

in

the

Companies

Act,

no

application

for

the

confirmation

of

the

alteration

of

the

memorandum

of

a

financial

institution

shall

be

maintainable

unless

the

Bangladesh

Bank

certifies

that

there

is

no

objection

to

such

alteration.

(2)

If

any

financial

institution

contravenes

the

provision

of

sub-section

(1),

it

shall

be

punishable

with

a

fine

amounting

to

fifty

thousand

Takas

for

every

day,

beginning

with

the

date

on

which

the

contravention

occurred.

47. Actions taken in good faith.- No suit or other legal proceeding shall lie against the Government

or

the

Bangladesh

Bank

or

against

any

of

its

officers

or

employees

for

anything

which

is

in

good

faith

done

or

intended

to

be

done

under

this

Act,

or

for

any

damage

caused

or

likely

to

be

caused

by

anything

intended

to

be

done

in

good

faith.

48. Power to exempt in certain cases.- The Bangladesh Bank may, after consultation with the Government,

declare,

by

notification

in

the

official

Gazette,

that

any

or

all

of

the

provisions

of

this

Act

shall

not

apply

to
any
financial
institution
or
to
any
particular
financial
institution
either
generally
or
for
such
period
as
may
be
specified
in
the
notification.

49. Power to make rules.- (1) For the purpose of this Act, the Bangladesh Bank may, after consultation

with
the
Government
and
by

notification

in

the

official

Gazette,

make

rules.

(2)

In

particular,

and

without

prejudice

to

the

generality

of

the

foregoing

power,

by

such

rules-

a) may be determined the fees which are to be determined under this Act; b) may be controlled the advertisement of

Chapter

V

of

the

Bangladesh

Bank

Order,

1972

(PO

No.127

of

1972)

shall

be

abolished.

51. Repeals and savings.- (1) The Financial Institution Ordinance, 1993 (Ordinance No.6, 1993)

stands

herewith

repealed.

(2)

Notwithstanding

such

repeal,

any

action

done

or

any

measure

taken

under

the

repealed

ordinance

shall

be

deemed

to

have

been

done

or

taken

under

this

Act.