

THE INSURANCE CORPORATIONS ACT, 1973

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THE INSURANCE CORPORATIONS ACT, 1973

ACT NO. VI OF 1973

[23rd June, 1973]

An Act to establish a Jiban Bima Corporation and a Sadharan Bima Corporation.

WHEREAS it is expedient to provide for the establishment of a Jiban Bima Corporation and a Sadharan Bima Corporation for the purpose of taking over the undertakings of the Surma Jiban Bima Corporation, the Rupsa Jiban Bima Corporation, the Karnaphuly Bima Corporation and the Teesta Bima Corporation, and for the dissolution of the Bangladesh Jatiya Bima Corporation, and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. (1) This Act may be called the Insurance Corporations Act, 1973.

Short title,
extent and
commencement

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once and shall be deemed to have taken effect on the 14th May, 1973.

2. (1) In this Act, unless there is anything repugnant in the subject or context,-

Definitions

(a) "Board" means the Board of Directors of a Corporation;

(b) "Chairman" means the Chairman of a Corporation;

(c) "Corporation" means a Corporation established by section 4;

(d) "Director" means a Director of a Corporation;

(e) "insurer" means an insurer as defined in the Insurance Act, 1938 (Act IV of 1938), who carries on insurance business in Bangladesh and includes a provident society as defined in section 65 of that Act;

- (f) "Managing Director" means a Managing Director of a Corporation;
- (g) "Order" means the Bangladesh Insurance (Nationalisation) Order, 1972 (P.O. No. 95 of 1972);
- (h) "Prescribed" means prescribed by rules made under this Act.

(2) All other words and expressions used in this Act but not defined and defined in the Insurance Act, 1938 (Act IV of 1938), shall have the meanings respectively assigned to them in that Act.

This Act and rules to override other laws

3. The provisions of this Act and any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Establishment of the Corporations

4. (1) On the commencement of this Act, there shall be established two Corporations to be called the Jiban Bima Corporation and the Sadharan Bima Corporation.

(2) Each Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue and be sued.

Capital

5. The authorised capital of each Corporation shall be Taka ¹[twenty] crore to be subscribed by the Government from time to time according to the requirements of the Corporation and in such form and manner as may be prescribed.

General direction

6. (1) Subject to rules made under this Act, the general direction and administration of the affairs and business of each Corporation shall vest in a Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

¹ The word "twenty" was substituted for the word "five" by section 2 of the Insurance Corporations (Amendment) Ordinance, 1986 (Ordinance No. VIII of 1986).

(2) Each Board in discharging its functions shall act on commercial considerations having due regard to public interest generally.

(3) Each Board shall be guided on questions of policy by such general or special instructions as may be given to it by the Government from time to time and, if any question arises as to whether any question is a question of policy or not, the decision of the Government shall be final.

7. (1) The Board of each Corporation shall consist of the Managing Director and six other Directors to be appointed by the Government, at least three of whom shall be from amongst persons who, in the opinion of the Government, have had the experience and shown capacity in the field of insurance. Board

(2) The Government shall appoint one of the Directors, other than the Managing Director, to be the Chairman of the Board.

(3) The Chairman and other Directors of a Corporation, other than the Managing Director, shall, unless removed earlier, hold office for a term of three years and shall be eligible for re-appointment:

Provided that the Government may at any time remove any Director, including the Chairman, from office and appoint in his stead another person to fill the vacancy.

(4) The Chairman or any other Director may at any time resign his office by notice in writing addressed to the Government:

Provided that no resignation shall take effect until it has been accepted by the Government.

8. (1) The Managing Director shall be appointed by the Government for such period and on such salary, terms and conditions as the Government may determine. Managing Director

(2) The Managing Director shall-

(a) be a Director of the Board;

(b) be a whole time officer and the chief executive of the Corporation;

- (c) exercise such powers, perform such functions and discharge such duties as may be entrusted to him by the Government or as may be prescribed or assigned to him by the Board from time to time; and
- (d) divest himself of any directorship held by him in any other corporation, company or concern otherwise than on behalf of the Corporation.

(3) If, in the opinion of the Government, the Managing Director appointed under sub-section (1) is, for illness or for any other reason, incapable of performing his duties under this Act, the Government may appoint another person to perform the duties of the Managing Director during the period of such incapability, and the person so appointed shall be exempt from the provision of clause (d) of sub-section (2).

Qualifications
and
disqualifications
of Directors

9. No person shall be or shall continue to be a Director of a Corporation who-

- (a) is or at any time has been adjudicated insolvent;
- (b) is found to be a lunatic or of unsound mind;
- (c) is or at any time has been convicted of an offence which, in the opinion of the Government, is an offence involving moral turpitude;
- (d) is a minor;
- (e) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman or, in the case of the Chairman, by the Government;
- (f) is, except in the case of the Managing Director, a salaried official of the Corporation; or
- (g) is not a citizen of Bangladesh or acquires the citizenship of or affirms or acknowledges allegiance to, a foreign State.

Meetings of the
Board

10. (1) The meetings of a Board shall be held at such times and places as may be prescribed:

Provided that a meeting may also be otherwise convened by the Managing Director, if the Chairman so directs.

(2) To constitute a quorum at a meeting of the Board not less than three Directors, shall be present.

(3) At a meeting of a Board each Director shall have one vote, and in the event of equality of votes the Chairman shall have a second or casting vote.

(4) No director shall vote on any matter in which he is directly or indirectly interested.

(5) If for any reason the Chairman of a Board is unable to be present at a meeting a Director elected by the Directors present shall preside over the meeting.

(6) No act or proceeding of a Board shall be invalid merely on the ground of existence of any vacancy in, or any defect in the constitution of, the Board.

11. Each Board may appoint such committee or committees as it thinks fit to assist it in the efficient discharge of its functions. Committees

12. (1) Subject to the rules made under this Act, it shall be the function of- Functions

- (a) the Jiban Bima Corporation to carry on all kinds of life insurance and reinsurance business; and
- (b) the Sadhan Bima Corporation to carry on all kinds of general insurance and reinsurance business, whether in or outside Bangladesh.

(2) Without prejudice to the generality of the foregoing provisions, every Corporation shall, in particular, have power-

- (a) to acquire, hold and dispose of any property for the purpose of its business;
- (b) to transfer the whole or any part of its insurance business carried on outside Bangladesh to any other person or persons, if in the interest of the Corporation it is expedient so to do;

- (c) to carry on any other business which may seem to the Corporation to be capable of being conveniently carried on in connection with its business and calculated directly or indirectly to render profitable the business of the Corporation;
- (d) to do all such things as may be incidental or conducive to the proper exercise of any of the powers of the Corporation.

Head office

13. (1) The head office of each Corporation shall be at such place as the Government may, by notification in the *official Gazette*, specify.

(2) Each Corporation may establish as many other offices in Bangladesh and, with the previous approval of the Government, abroad as it thinks fit.

Transfer of undertakings of existing Bima Corporations

14. (1) On the commencement of this Act, there shall be transferred to and vested in-

- (a) the Jiban Bima Corporation the entire undertakings of the Surma Jiban Bima Corporation and the Rupsa Jiban Bima Corporation established by the Order, hereinafter in this Act referred to as the existing Bima Corporations; and
- (b) the Sadharan Bima Corporation the entire undertakings of the Karnaphuli Bima Corporation and the Teesta Bima Corporation established by the Order, hereinafter in this Act referred to as the existing Bima Corporations.

(2) The undertakings transferred to and vested in a Corporation under sub-section (1) shall be deemed to include all business, assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments, deposits and all other rights and interests in, or arising out of, such property as were immediately before the commencement of this Act in the ownership, possession, power or control of the existing Bima Corporations in relation to the undertakings within or without Bangladesh, and all books of account, registers, records and all other documents of whatever nature relating thereto, and shall be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing Bima Corporations.

(3) If, according to the laws of any country outside Bangladesh, the provisions of this Act by themselves are not effective to transfer or vest any asset situated in that country which forms part of the undertakings of an existing Bima Corporation to, or in, the Corporation concerned, the affairs of the existing Bima Corporations in relation to such assets shall, on and from the commencement of this Act, stand entrusted to the chief executive officer for the time being of the Corporation concerned, and the chief executive officer may exercise all such powers and do all such acts and things as may be exercised or done by the existing Bima Corporations for the purpose of effectively transferring such asset.

(4) The chief executive officer of the Corporation concerned shall, in exercise of the power conferred on him by sub-section (3), take all such steps as may be required by the laws of any such country outside Bangladesh for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset of the existing Bima Corporations.

(5) All contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which an existing Bima Corporation whose undertaking has been transferred to and vested in a Corporation under sub-section (1) is a party or which are in favour of such existing Bima Corporation shall, in so far as they relate to such undertaking of the existing Bima Corporation, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectually as if in the place of the existing Bima Corporation the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation.

(6) Any suit, appeal or other proceeding of whatever nature pending on the date of the commencement of this Act by or against an existing Bima Corporation in relation to any of its undertakings shall be deemed to be suit, appeal or other proceeding pending by or against the Corporation in which the undertaking has vested under sub-section (1), and may be continued or prosecuted and enforced by or against the Corporation.

(7) The Government may, for the purpose of removing any difficulty arising out of, or in connection with, the transfer of any undertaking of an existing Bima Corporation to a Corporation or any matter supplemental or incidental to, or consequential upon, such transfer or any other matter specified in this section, make such order as it considers expedient and any such order shall be deemed to be, and given effect to, as part of the provisions of this Act.

Transfer of certain immovable property by a Corporation

¹[14A. Notwithstanding anything contained in this Act, a Corporation shall, if the Government so directs, transfer any immovable property transferred to and vested in it under this Act to any insurer on a price fixed by the Government.]

Appointment of officers and employees

15. (1) Each Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions on such terms and conditions as it may determine.

(2) A Corporation may employ such officers and other employees of an existing Bima Corporation, whose undertaking has been transferred to and vested in it under sub-section (1) of section 14, as it may specify, and the officers and other employees so employed shall hold their office or service in the Corporation on such terms and conditions as it may determine:

Provided that an officer or other employee may, within such time as may be specified by the Corporation which employs him, exercise his option not to continue in the service of that Corporation.

(3) If any question arises out of the transfer of an officer or other employee of an existing Bima Corporation under sub-section (2), the question shall be referred to the Government whose decision shall be final.

(4) The transfer of service of any officer or other employee from an existing Bima Corporation to a Corporation shall not entitle any such officer or other employee to any compensation and no such claim shall be entertained by any court, tribunal or other authority.

¹ Section 14A was inserted by section 2 of the Insurance Corporations (Amendment) Ordinance, 1984 (Ordinance No. LI of 1984).

(5) Notwithstanding anything contained in any rules, regulations, contract or agreement relating to the terms and conditions of service made or entered into by an existing Bima Corporation, no person shall be entitled to any compensation against the existing Bima Corporation or against any Corporation for the loss of his office or service or for the premature termination of any contract or agreement of management entered into by him with the existing Bima Corporation.

(6) Notwithstanding anything contained in this Act, a Corporation shall not determine the pay scales of the different classes of its officers and other employees without the previous approval of the Government.

16. Each Corporation shall, by such date in each year as may be prescribed, submit to the Government for approval a statement, to be called the annual budget statement, in the prescribed form for every year showing the estimated receipts and expenditure during that year.

Annual budget statement

17. Subject to the provisions of the Insurance Act, 1938 (Act IV of 1938), each Corporation may invest its funds in such manner as its Board may think fit.

Investment

18. Each Corporation may, with the prior approval of the Government, borrow such sums, with or without security, as may be required by it to discharge its functions under this Act.

Borrowings

19. (1) Each Corporation shall maintain proper accounts and shall, at the expiry of each year, prepare in the prescribed form with reference to that year a balance sheet, a profit and loss account and revenue accounts in respect of such class of insurance business together with such other abstracts and statements as may be prescribed.

Accounts and audit

(2) The accounts of each Corporation shall be audited by not less than two auditors, being Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. X of 1961), who shall be appointed by the Government in consultation with the Comptroller and Auditor-General on such terms and conditions as the Government may fix, and shall, in regard to the extent and method of their audit, be guided by such directions as may be given by the Comptroller and Auditor-General.

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(3) Notwithstanding anything contained in sub-section (2), the provisions of sections 12A and 33 of the Insurance Act, 1938 (Act IV of 1938), shall apply to each Corporation.

(4) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet and other accounts of the Corporation and shall examine it together with the account books and vouchers relating thereto; and shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books of accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(5) The auditors shall report to the Government upon the annual balance sheet and accounts, and in their report they shall state whether in their opinion the balance sheet contains all necessary particulars and is properly drawn up so as to exhibit a true and correct view of the state of affairs of the Corporation and, if they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Corporation concerned for the protection of the interest of the Government and of the creditors of the Corporation concerned or upon the sufficiency of the procedure in auditing the affairs of the Corporation concerned, and may, at any time, enlarge or extend the copy of the audit or direct that different procedure in audit shall be adopted or that any other examination shall be made by the auditors or any other person or persons if, in its opinion, the interest of the Government or of the creditor so requires.

Actuarial
valuation

20. The Jiban Bima Corporation shall, once at least in every two years cause an investigation to be made by actuaries into the financial condition of its business, including a valuation of its liabilities in respect thereto, and submit the report of the actuaries to the ¹[Chief Controller of Insurance] and also to the Government.

¹ The words "Chief Controller of Insurance" were substituted for the words "Controller of Insurance" by section 2 of the Insurance Corporations (Amendment) Act, 1996 (Act No. XVI of 1996).

21. (1) Each Corporation shall furnish to the Government such returns, reports and statements as the Government may from time to time require. Returns, etc.

(2) Each Corporation shall furnish to the Government and the ¹[Chief Controller of Insurance], within six months of the close of each year, the audited accounts, statements and abstracts referred to in section 19, together with a report on the working of the Corporation during that year.

(3) The copies of the audited accounts and annual report received by the Government under sub-section (2) shall be published in the *official Gazette* and shall be laid before Parliament.

22. (1) After making provision for bad and doubtful debts, depreciation of assets and any other matter determined by the Board, the Sadharan Bima Corporation may, out of its net annual profits, establish a reserve fund and any surplus remaining thereafter shall be paid to the Government. Profit

(2) If as a result of any investigation undertaken by the Jiban Bima Corporation under section 20 any surplus emerges, ninety-five per cent of such surplus or such higher percentage thereof as the Government may approve shall be allocated to or reserved for the life insurance policy-holders of the Corporation and the remainder shall be paid to the Government.

²[**23.** ³(1) Fifty per cent of all insurance business relating to any public property or to any risk or liability appertaining to any public property shall be placed with the Sadharan Bima Corporation and the remaining fifty per cent of such business may be placed either with that Corporation or with any other insurer in Bangladesh.] Public Property to be insured with the Sadharan Bima Corporation only

¹ The words "Chief Controller of Insurance" were substituted for the words "Controller of Insurance" by section 3 of the Insurance Corporations (Amendment) Act, 1996 (Act No. XVI of 1996).

² Section 23 was substituted by section 3 of the Insurance Corporations (Amendment) Ordinance, 1984 (Ordinance No. LI of 1984).

³ Sub-section (1) was substituted by section 2 of the Insurance Corporations (Amendment) Act, 1990 (Act No. XXIX of 1990).

(2) Any policy of insurance taken or issued in contravention of sub-section (1) shall be void:

Provided that any claim for loss, damage, compensation or refund of premium arising out of, or relating to, such policy shall be binding on the insurer.

(3) In this section, "public property" means-

- (a) any property movable or immovable which belongs to, or the protection of which is the legal responsibility of,-
 - (i) the Government or a local authority; or
 - (ii) any company, firm, undertaking, institution, organisation or other establishment which is managed or controlled by the Government or a local authority or in which the Government, by itself or jointly with a local authority or company managed or controlled by it, holds controlling financial share or interest or which is specified by the Government for the purpose of this section; and
- (b) a project financed out of an external loan or with external aid until it reaches-
 - (i) in the case of an industrial project, the stage at which it is capable of commencing normal production; and
 - (ii) in the case of any other project, the stage at which it is capable of being put to the use for which it is intended.

Re-insurance

¹[23A. (1) Every insurer registered and carrying on insurance business in Bangladesh shall re-insure, on generally acceptable terms and conditions, such portion of his insurance business as he cannot retain on his own account.

(2) Fifty per cent of the re-insurable general insurance business shall be re-insured with the Sadharan Bima Corporation and the remaining fifty per cent of such business may be re-insured either with that Corporation or with any other insurer whether in or outside Bangladesh.

¹ Section 23A was substituted by section 3 of the Insurance Corporations (Amendment) Act, 1990 (Act No. XXIX of 1990).

(3) The whole or any portion of the re-insurable life insurance business may be re-insured with any insurer outside Bangladesh.

(4) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to ten thousand taka.]]

24. The sums assured by all policies issued by a Corporation including any bonuses declared in respect thereof and the sums assured by all policies issued by any existing Bima Corporation the liabilities under which have vested in a Corporation under this Act, and all bonuses declared in respect thereof, whether before or after the commencement of this Act shall be guaranteed as to payment in cash by the Government [:

Guarantee of policies

Provided that this provision shall not apply in the case of any policy issued by a Corporation after the commencement of the Insurance Corporations (Amendment) Act, 1990 (১৯৯০ সনের ২৯ নং আইন)।]

25. No provisions of law relating to the winding up of companies shall apply to a Corporation and a Corporation shall not be wound up save by order of the Government and in such manner as it may direct.

Winding up of the Corporations

26. [Exceptions. Omitted by section 4 of the Insurance Corporations (Amendment) Ordinance, 1984 (LI of 1984).]

27. No suit, prosecution or other legal proceedings shall lie against the Government or any Director, officer or employee of a Corporation for anything which is in good faith done or intended to be done under this Act.

Indemnity

28. The Government may, by general or special order in writing, direct that any power which by or under any of the provisions of this Act is conferred on it shall, subject to such

Delegation of powers

¹ The Colon (:) was substituted for the full-stop (.) and thereafter the proviso was added by section 4 of the Insurance Corporations (Amendment) Act, 1990 (Act No. XXIX of 1990).

conditions, if any, as may be specified in the order, be exercisable also by the ¹[Chief Controller of Insurance].

Act IV of 1938
to apply

29. The provisions of the Insurance Act, 1938 (Act IV of 1938), shall, as far as may be, apply to a Corporation as they apply to any other insurer.

Power to make
rules

30. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the form and manner in which capital of a Corporation may be subscribed;
- (b) the manner of appointment of a Director of a Corporation;
- (c) the terms and conditions of service of the Chairman and other Director of a Corporation;
- (d) the powers, functions and duties of the Chairman and other Director of a Corporation;
- (e) the time and place at which meetings of a Board may be held;
- (f) the form in which the annual report of a Corporation shall be prepared; and
- (g) any other matter which has to be or may be prescribed.

Power to make
regulations

31. (1) Each Corporation may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Act and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) All regulations made under this section shall be published in the *official Gazette* and shall come into force on such publication.

¹ The words "Chief Controller of Insurance" were substituted for the words "Controller of Insurance" by section 4 of the Insurance Corporations (Amendment) Act, 1996 (Act No. XVI of 1996).

32. (1) On the commencement of this Act, the Bangladesh Jatiya Bima Corporation established by the Order, hereinafter in this section referred to as the said Corporation, shall stand dissolved and the entire undertaking of the said Corporation shall stand transferred to, and vested in, the Government.

Dissolution of
the Jatiya Bima
Corporation

(2) The undertaking transferred to and vested in the Government under sub-section (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments, deposits and all other rights and interests in, or arising out of, such property as were immediately before the commencement of this Act in the ownership, possession, power or control of the said Corporation in relation to the undertaking, and all books of account, registers, records and all other documents of whatever nature relating thereto, and shall be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the said Corporation in relation to such undertaking.

(3) All contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which the said Corporation is a party or which are in favour of the said Corporation shall, in so far as they relate to such undertaking of the said Corporation, be of as full force and effect against or in favour of the Government, and may be enforced or acted upon as fully and effectually as if in the place of the said Corporation the Government had been a party thereto or as if they had been entered into or issued in favour of the Government.

(4) Any suit, appeal or other proceedings of whatever nature pending on the date of the commencement of this Act by or against the said Corporation in relation to its undertaking shall be deemed to be suit, appeal or other proceeding pending by or against the Government and may be continued or prosecuted and enforced by or against the Government.

(5) The Government may make such arrangements or take such measures with respect to the officers and other employees of the said Corporation as it thinks fit; and, until the Government

otherwise directs, such officers and employees shall be deemed to be in their respective employment on the same terms and conditions as were in force immediately before the commencement of this Act, and such officers and employees may also be transferred to such Corporation as the Government may specify.

(6) Where an officer or other employee of the said Corporation is transferred to a Corporation under sub-section (5) he shall hold his office or service in that Corporation on such terms and conditions as that Corporation may decide :

Provided that an officer or other employee may, within such time as may be specified by the Corporation to which he is transferred, exercise his option not to continue in the service of that Corporation.

(7) No officer or other employee of the said Corporation shall be entitled to any compensation for any arrangement or measure made or taken by the Government in respect of him or for his transfer to any Corporation or for the loss of his office or service, and no such claim shall be entertained by any Court, tribunal or other authority.

(8) Notwithstanding anything contained in this Act the Government may, by order in writing, transfer to such Corporation as may be specified therein the whole or a part of the undertaking vested in it under sub-section (1); and on such transfer, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments in respect of such undertaking shall be of as full force and effect against or, as the case may be, in favour of the Corporation, and may be enforced or acted upon as fully and effectually as if in the place of the Government the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation; and all suits, appeals or other proceedings pending by or against the Government in relation to such undertaking shall be deemed to be suits, appeals or other proceedings pending by or against the Corporation.

Exemption from
registration

33. The Corporations shall be exempt from registration under the provisions of the Insurance Act, 1938 (Act IV of 1938).

34. (1) The Insurance Corporations Ordinance, 1973 Repeal (Ordinance No. VII of 1973), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken, including any order made, notification issued or direction given under the said Ordinance shall be deemed to have been done, taken, made, issued or given, as the case may be, under the corresponding provision of this Act.

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