

THE INDUSTRIAL RELATIONS ORDINANCE, 1969

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SCHEDULE PUBLIC UTILITY SERVICES

**THE INDUSTRIAL RELATIONS
ORDINANCE, 1969**

(ORDINANCE NO. XXIII OF 1969)

13th November, 1969

to amend and consolidate the law relating to the formation of trade unions, the regulation of relations between employers and workmen and the avoidance and settlement of any difference of dispute arising between them.

WHEREAS it is expedient to amend and consolidate the Law relating to the formation of trade unions, the regulation of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them or matters connected therewith and ancillary thereto.

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity requires Central Legislation in the matter:

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, 1969, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance.

PRELIMINARY

1. Short title, extent, application and commencement.- (1) This Ordinance may be called the Industrial Relations Ordinance, 1969.

(2) It extends to the whole of Bangladesh.

(3) It shall not apply to any person employed in the police or any of the Defence Services of Bangladesh and any services or installations connected with or incidental to the Armed Forces of Bangladesh, including an ordnance factory maintained by the Government; or to any person employed in the administration of the State other than those employed as workmen by the Railways, Posts, Telegraph and Telephone

Departments, or to any person employed in the Security Printing Corporation Bangladesh Ltd.

(4) It shall come into force at once.

2. **Definition.**- In this Ordinance, unless there is any thing repugnant in the subject or context.

(i) "**arbitrator**" means a person appointed as such under this Ordinance;

(ii) "**award**" means the determination by Labour Court, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and includes and interim award;

(iii) Omitted

(iv) Omitted

(v) "**collective bargaining agent**", in relation to an establishment or industry, means the trade union of workmen which, under section 22, is the agent of the workmen in the establishment or, as the case may be, industry in the matter of collective bargaining;

(vi) "**conciliation proceedings**" means any proceedings before a Conciliator;

(vii) "**conciliator**" means a person appointed as such under section 27;

(viii) "**director of labour**" means a person appointed as such by the Government;

(ix) "**employer**" in relation to an establishment, means any person or body of persons, whether incorporated or not, who or which employs workmen in the establishment, under a contract of employment and includes-

(a) an heir, successor or assign, as the case may, be, or such person or body as aforesaid;

(b) any person responsible for the management, supervision and control of the establishment;

(c) in relation to an establishment run by or under the authority of any Ministry or Division of the Government, the authority appointed in this behalf or, where no authority is so appointed, the Head of the Ministry or Division;

(d) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf, or, where no

officer is so appointed, the chief executive officer of that authority;

Special Provision- For the purposes of distinction from the category of "workers" or "workmen", officers and employees of a Ministry or Division of the Government or a local authority who belong to the superior managerial, secretarial, directional, supervisory or agency staff and who have been notified for this purpose in the official Gazette, shall be deemed to fall within the category of "employers"

(e) in relation to any other establishment, the proprietor of such establishment and every director, manager, secretary, agent or other officer or person concerned with the management of the affairs thereof and, in the case of a banking company, also the person who holds a general power of attorney or has authority to sign, endorse or discharge negotiable instruments on behalf of the banking company ;

(ix) "**establishment**" means any office, firm, industrial unit, transport vehicle, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry :

Provided that each class of transport vehicles, such as, "truck/ tank-lorry", "bus/minibus", "taxi" and "baby taxi/tempo" operating in a region of a Transport Committee shall be deemed to be an establishment for the purpose of registration of trade union of workman employed in such transport vehicles;

(x) "**executive**" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution:

(xi) "**illegal lock-out**" means a lock-out declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;

(xii) "**illegal strike**" means a strike declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;

(xiii) "**industrial dispute**" means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen which is connected

with the employment or non-employment or non-employment or the terms of employment or the conditions of work of any person;

(xiv) "**industry**" means any business, trade, manufacture, calling, service, employment or occupation ;

(xv) "**Labour Court**" means a Labour Court establishment under section 35;

(xvi) "**Lock-out**" means the closing of a place of employment or part of such place, or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workmen employed by him, where such closing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen employed to accept certain terms and conditions of or affecting employment;

(xvii) "**organisation**" means any organisation of workers or of employers mere for furthering and defending the interests of workers or of employers;

(xviii) "**officer**" in relation to a trade union, means any member of the executive thereof but does not include an auditor or legal adviser;

(xix) "**prescribed**" means prescribed by rules;

(xx) "**public utility service**" means any of the services specified in the Schedule;

(xxi) "**registered trade union**" means a trade union registered under this Ordinance;

(xxii) "**Registrar**" means a Registrar of Trade Unions appointed under section 12;

(xxiii) "**rule**" means rule made under section 66;

(xxiv) "**settlement**" means a settlement arrived at in the course of a conciliation proceeding, and includes an agreement between an employer and his workmen arrived at otherwise than in the course of any conciliation proceedings, where such agreement is in writing, has been signed by the parties thereto in such a manner as may be prescribed and a copy thereof has been sent to the Government, the Conciliator and such other person as may be prescribed;

(xxiva) "**State-owned manufacturing industry**" means a manufacturing industry owned, or nationalised or taken over by or under any law, by the Government;

(xxv) "**strike**" means a cessation of work by a body or persons employed in any establishment acting in combination or a concerted refusal, or refusal under a common understanding or any number of persons who are or have been so employed to continue to work or to accept employment;

(xxvi) "**trade union**" means any combination of workmen or employers formed primarily for the purpose of regulating the relations between workmen and employers or workmen and workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business and include a federation of two or more trade unions ;

(xxvii) "**Transport vehicles**" shall have the same meaning as in clause (57) of section 2 of the Motor Vehicles Ordinance, 1983 (LV of 1983)

(xxviii) "**Transport Committee**" means a Transport Committee constituted under section 54 of the Moto Vehicles Ordinance, 1983 (LV of 1983)

(xxix) "**Tribunal**" means the Labour Appellate Tribunal constituted under section 38 of this Ordinance;

(xxx) "**worker**" and "workmen" means any person, including an apprentice, not falling within the definition of employer who is employed in an establishment or industry for hire or reward either directly or through a contractor to do any skilled, unskilled, manual, technical or clerical work whether the terms of employment be expressed or implied, and, for the purpose of any proceedings under this Ordinance in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay off or removal has led to that dispute, but does not include a person-

(a) employed as a member of the watch and ward or security staff or confidential assistant, cypher assistant of any establishment;

(b) employed in a managerial or administrative capacity;

(c) who being employed in a supervisory capacity performs, by virtue of the duties attached to his office or by reason of the powers given to him, functions of managerial or administrative nature.

Exception.- Notwithstanding anything contained in sub-clause (a), a person employed as a member of the watch and ward or security staff or confidential assistant or cypher assistant of any establishment shall be entitled to all financial benefits admissible to a worker or workman of similar grade or category.

3. Trade unions and freedom of association.- Subject to the provisions contained in this Ordinance-

(a) Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join associations of their own choosing without previous authorization;

(b) Employers, without distinction whatsoever, shall have the right to establish and, subject only to rules of the organisation concerned, to join associations of their own choosing without previous authorisation ;

(c) Trade unions and employers' associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes;

(d) Workers' and employers' organisations shall have the right to established and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations and confederations of workers' and employers; organisations.

4. Respect for law of the land.- Workers and employers and their respective organisations, in exercising in the rights provided for in section 3, like other persons or organised collectivities, shall respect the law of the land.

5. Application for registration.- Any trade union may, under the signature of its President and the Secretary, apply for registration of the trade union under this Ordinance.

6. Requirements for application.- Every application for registration of a trade union shall be made to the Registrar and shall be accompanied by--

(a) a statement showing--

- (i) the name of the trade union and the address of its Head Office;
 - (ii) date of formation of the Union;
 - (iii) the titles, names, ages, addresses and occupations of the officers of the trade union.
 - (iv) statement of total paid membership;
 - (v) in case of a federation of trade unions, the names, addresses and registration number of member unions;
 - (vi) in case of a trade union of transport vehicle workmen, total number of transport vehicles, the name and addresses of their owners, the route permit number of the vehicles and the number of workers in such vehicles;
- (b) three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting;
- (c) a copy of the resolution by the members of the trade union authorising its President and the Secretary to apply for its registration; and
- (d) in case of a federation of trade unions, a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.

7. Requirements for registration.- (1) A trade union shall not be entitled to registration under this Ordinance unless the constitution thereof provides for the following matters, namely:-

- (a) the name and address of the trade union;
- (b) the objects for which the trade union has been formed;
- (c) the manner in which a worker may become a member of the trade union specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution declaring that he is not a member of any other trade union;
- (cc) The sources of the fund of the trade union and the purposes of which such fund shall be applicable;
- (d) *deleted*
- (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;

- (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union;
- (g) the manner in which the constitution shall be amended, varied or rescinded;
- (h) the safe custody of the funds of trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the officers and members of trade union;
- (i) the manner in which the trade union may be dissolved
- (j) the manner of election of officers by the general body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his election or re-election;
- (k) the procedure for expressing want of confidence in any officer of the trade union; and
- (l) the meetings of the executive and of the general body of the trade union, so that the executive shall meet at least the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.

(2) A trade union of workers shall not be entitled to registration under this Ordinance unless it has a minimum membership of thirty per cent of the total number of workers employed in the establishment or group of establishments in which it is formed;

Provided that more than one establishment are under the same employer, which are allied to or connected with one another for the purpose of carrying on the same industry irrespective of their place of situation, shall be deemed to be one establishment for the purpose of this sub-section :

Provided further that where any doubt or dispute arises as to whether any two or more establishments are under the same employer or whether they are allied to or connected with one another for the purpose of carrying on the same industry, the decision of the Registrar shall be final.

7A. Disqualifications for being an officer of a member of a trade union-(1) Notwithstanding anything contained in the constitution or the rules of a trade union, a person shall not be entitled-

- (a) to be, or to be elected as, an officer of a trade union if he has been convicted of an offence involving moral turpitude or an

offence under clause (d) of sub-section (1) of section 16 or section 61; and

(b) to be a member or officer of a trade union formed in any establishment or group of establishments if he not, or was never, employed or engaged in that establishment or group of establishments or *if he was dismissed from any such establishment; and*

(2) Nothing in clause (b) of sub-section (1) shall apply to any federation of trade unions.

7B. Registered Trade union to maintain register, etc.- Every registered trade union shall maintain in such form as may be prescribed-

(a) a register of members showing particulars of subscriptions paid by each member;

(b) an accounts book showing receipts and expenditure; and

(c) a minute book for recording the proceedings of meetings.

8. Registration.- (1) The Registrar, on being satisfied that the trade union has complied with all the requirements of this Ordinance, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of sixty days from the date of receipt of the application. In case the application is found by the Registrar to be deficient in a material respect or respects he shall communicate in writing his objection to the trade union within a period of 15 days from the receipt of the application and the trade union shall reply thereto within a period of fifteen days from the receipt of the objections.

(2) When the objection raised by the Registrar has been satisfactorily met, the Registrar shall register the trade union as provided in sub-section (1). In case the objections are not satisfactorily met, the Registrar may reject the application.

(3) In case the application has been rejected or the Registrar has, after settlement of the objections delayed disposal of the application beyond the period of sixty days provided in sub-section (1) the trade union may appeal to the labour court who for reasons to be stated in their judgment may pass an order directing the Registrar to register the trade union and to issue a certificate of registration or may dismiss the appeal:

9. Certificate of registration.- The Registrar, on registering a trade union section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade unions has been duly registered under this Ordinance.

10. Cancellation of registration- (1) Subject to the other provisions of this section, the registration of a trade union may be cancelled by the Registrar if the trade union has-

- (a) applied for such cancellation or ceased to exist;
- (b) obtained registration by fraud or by misrepresentation of facts;
- (c) contravened any of the provisions of its constitution;
- (d) committed any unfair labour practice;
- (e) made in its constitution any provision which is inconsistent with this Ordinance or the rules;
- (f) a membership which has fallen short of 30% of the workers of the establishment or group of establishments for which it was formed;
- (g) failed to submit its annual report to the Registrar as required under this Ordinance;
- (h) elected as its officer a person who is disqualified under section 7A from being elected as, or from being such officer; or
- (i) contravened any of the provisions of this Ordinance or the rules.

(2) Where the Registrar is of opinion that the registration of a trade union should be cancelled, he shall submit an application to the Labour Court praying for permission to cancel such registration:

(3) The Registrar shall cancel the Registration of a trade union within seven days from the date of receipt of a permission from the Labour Court.

(4) The registration of a trade union shall not be cancelled on the ground mentioned in clause (d) of sub-section (1) if the unfair labour practice is not committed within three months prior to the date of submission of the application to the Labour Court.

11. Appeal against cancellation- A trade union aggrieved by the order of cancellation of its registration under section 10 may, within sixty days from the date of the order, appeal to the Labour Appellate Tribunal which may uphold or reject the order.

11A. No trade union to function without registration- (1) No trade union which is unregistered or whose registration has been cancelled shall function as a trade union.

(2) No person shall collect any subscription for any fund of a trade union mentioned in sub-section (1).

11B. Restriction on dual membership- No worker shall be entitled to enroll himself as, or to continue to be, a member of more than one trade union at the same time.

112. Registrar of trade unions- For the purpose of this Ordinance, the Government may by notification in the official Gazette, appoint as many persons as it considers necessary to be Registrars of trade unions and, where it appoints more than one Registrar, shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under this Ordinance.

13. Powers and function of Registrar.- The following shall be the powers and functions of the Registrar;

(a) the registration of trade unions under this Ordinance and the maintenance of a register for this purpose;

(b) to lodge complaints with the Labour Courts for action against trade unions for any alleged offence or any unfair labour practice or violation of any provisions of this Ordinance;

(c) the determination of the question as to which one of the trade unions in an establishment or an industry is entitled to be certified as the collective bargaining agent in relation to that establishment or industry; and

(d) such other powers and functions as may be prescribed.

14. Incorporation of registered trade union.- (1) Every registered trade union shall be a body corporate by the name under which it is registered, shall have perpetual succession and a common seal and the power to contract and to acquire, hold and dispose of property, both movable and immovable, and shall by the said name, sue or be sued.

(2) The Societies Registration Act, 1860 (XXI of 1860) the Co-operative Societies Registration Act, 1984 (Ordinance 1 of 1984) and the Companies Act, 1994 (XVIII of 1994) shall not apply to any registered

trade union and the registration of a any trade union under any of these Acts shall be void.

15. Unfair labour practices on the part of employers.- (1) No employer or trade union of employers and no person acting on behalf of either shall-

(a) Impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union; or

(b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not, member or officer of a trade union; or

(c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union; or

(d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a workman or a injure or threaten to injure him in respect of his employment by reason that the workman-

(i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or

(ii) participates in the promotion, formation or activities of a trade union;

(e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;

(f) compel any officer of the collective bargaining agent to sign a memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place physical injury, disconnection of water, power and telephone facilities and such other methods;

(g) interfere with, or in any way influence the balloting provided for in section 22; or

(h) recruit any new workman during the period of strike under section 28 or during the currency of a strike which is not illegal except where the conciliator has, being satisfied that illegal except

where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment of a limited number of workmen in the section the damage is likely to occur.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be, and shall be disqualified from being, a member or officer of a trade union of workmen.

16. Unfair labour practices on the part of workmen.- (1) No workman or trade union of workmen and no person acting on behalf of such trade union shall-

(a) persuade a workman to join or refrain from joining a trade union during working hours; or

(b) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or officer of a trade union; or

(c) induce any person to refrain from becoming, or cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for, such person or any other person; or

(d) compel or attempt to compel the employer to sign a memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods; or

(e) compel or attempt to compel any workman to pay, or refrain from paying, any subscription towards the fund of any trade union by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under section 22 by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

**RIGHT AND PRIVILEGES OF REGISTERED TRADE
UNIONS
AND COLLECTIVE BARGAINING AGENTS**

17. Law of conspiracy limited in application- No officer or member of a registered trade union or a collective bargaining agent as determined by the Registrar shall be liable to punishment under subsection (2) of section 120B of the * Penal Code (Act XLV of 1860) in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in section 7, unless the agreement is an agreement to commit an offence, or otherwise violate any laws other than this ordinance.

18. Immunity from civil suit in certain cases.- (1) No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A trade union shall not be liable in any suit or other legal proceedings in any civil court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade union.

19. Enforceability of agreement.- Notwithstanding any thing contained in any other law for the time being in force, an agreement between the members of a trade union shall not be void, or voidable by reason only that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceeding instituted for the express purpose of enforcing, or recovering damages for the breach of any agreement concerning the conditions on which any member of a trade union shall

or shall not sell their goods, transact business, or work, employer or be employed.

20. Registration of Federation of Trade Union.- (1) Any two or more registered trade unions may, if their respective general bodies so resolved, constitute federation by executing an instrument of federation and apply for the registration of the federating:

Provided that a trade union of workmen shall not join a federation which comprises a trade union of employers, nor shall a trade union of employers join a federation which comprises a trade union of workmen.

(2) An instrument of federation referred to in sub-section (1) shall, among other things, provided for the procedures to be followed by the federated trade unions and the rights and responsibilities of the federation and the federated trade unions.

(3) An application for the registration of a federation of trade unions shall be signed by the Presidents of all the trade unions constituting the federation or by the officers of these trade unions respectively authorised by the trade unions in this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

(4) Subject to sub-sections (1), (2) and (3), the provisions of this Ordinance shall, so far as may be and with the necessary modifications, apply to a federation of trade unions as they apply to a trade union.

21. Returns.- (1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of December, next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December, as may be prescribed.

(2) Together with the general statement, there shall be sent to the Registrar a statement showing all changes of officers made by the trade union during the year to which the general statement refers, together also with a copy of the constitution of the trade union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the constitution of registered trade union and of a resolution of the general body having the effect of a provision of the constitution, shall be sent to the Registrar within 15 days of the making of the alteration or adoption of the resolution.

(4) In case the registered trade union is member of a federation, the name of the federation shall be given in the annual statement.

22. Collective bargaining agent.- (1) Where there is only one registered trade union in an establishment or a group of establishments, that trade union shall, if it has as its members not less than one-third of the total number of workmen employed in such establishment or group of establishments or group of establishments, be deemed to be collective bargaining agent for such establishment or group.

(2) Where there are more registered trade unions than one in an establishment or a group of establishments, the Registrar shall, upon an application made in this behalf by any such trade union which has as its members not less than one-third of the total number of workmen employed in such establishment or group of establishments or by the employer, hold a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group.

(3) Upon receipt of an application under sub-section (2), the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments to which the application relates to indicate, within the time specified in the notice, whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to the establishment or group of establishments.

(4) If a trade union fails to indicate, within the time specified in the notice, its desire to be a contestant in the secret ballot, it shall be presumed that it shall not be a contestant in such ballot.

(5) Every employer shall-

(a) on being so required by the Registrar, submit to the Registrar a list of all workers employed in the establishment, excluding those whose period of employment in the establishment is less than three months or who are casual or *badli* workers, showing in respect of each worker his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his employment, in the establishment, and also as many copies of such list as may be demanded by the Registrar; and

(b) provide such facilities for verification of the list submitted by him as the Registrar may require.

(6) On receipt of the list of workers from the employer, the Registrar shall send a copy of the list to each of the contesting trade unions and shall also affix a copy thereof in a conspicuous part of his office and another copy of the list in a conspicuous part of the establishment concerned, together with a notice inviting objections, if any, to be submitted to him within such time as may be specified by him.

(6A) The objection if any, received by the Registrar within the specified time shall be disposed of by him after such enquiry as he deems necessary.

(6B) The Registrar shall make such amendments, alterations or modifications in the list of workers submitted by the employer as may be required by any decision given by him on objections under sub-section (6A).

(6C) After amendments, alterations or modifications, if any, made under sub-section (6B), or where no objections are received by the Registrar within the specified time, the Registrar shall prepare a list of workers employed in the establishment concerned and send copies thereof of the employer and each of the contesting trade unions at least four days prior to the date fixed for the poll.

(6D) The list of workers prepared under sub-section (6C) shall be deemed to be the list of voters, and every worker whose name appears in that list shall be entitled to vote in the poll to determine the collective bargaining agent.

(7) Every employer shall provide all such facilities in his establishment as may be required by the Registrar for the conduct of the poll but shall not interfere with or in any way, influence, the voting.

(8) No person shall canvas for vote within a radius of fifty yards of the polling stations.

(9) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall-

- (a) fix the date for the poll and intimate the same to each of the contesting trade unions and also to every employer;
- (b) on the date fixed for the poll to place in the polling station set up for the purpose the ballot boxes which shall be sealed in the presence of the representatives of the contesting trade unions as to receive the ballot papers;
- (c) conduct the poll at the polling stations at which the representatives of the contesting trade unions shall have the right to be present;

(d) after the conclusion of the poll and in the presence of such of the representatives of the contesting trade unions as may be present, open the ballot boxes and count the votes; and

(e) After the conclusion of the count, declare the trade union which has received the highest number of votes to be the collective bargaining agent;

Provided that no trade union shall be declared to be the collective bargaining agent for an establishment or group of establishments unless the number of votes received by it is not less than one-third of the total number of workmen employed in such establishment or group.

(10) Where a registered trade union has been declared under clause (e) of sub-section (9) to be the collective bargaining agent for an establishment or group of establishment, no application for the determination of the collective bargaining agent for such establishment or group shall be entertained within a period of two years from the date of such declaration.

(11) A collective bargaining agent may, without prejudice to its own position, impleas as a party to any proceedings under this Ordinance to which it is itself a party any federation of trade unions of which it is a member.

(12) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to-

(a) undertake collective bargaining with the employer or employer on matters connected with employment non-employment, the term of employment or the conditions of work;

(b) represent all or any of the workmen in any proceedings;

(c) give notice of, and declare, a strike in accordance with the provisions of this Ordinance; and

(d) nominate representatives of workmen on the Board of Trustees of Participation Fund established under the Companies Profits (Workers' Participation) Act, 1968 (XII of 1968).¹

(13) The Registrar may, be order in writing, delegate any of his powers under sub-section (9) to any officer subordinate to him.

22A. Collective bargaining agent for institutions with more than one establishment.- (1) Where an employer carrying on an industry has, for the purpose of that industry, more establishments than

one, any registered trade union which fulfills such conditions as may be prescribed in this behalf may make an application in such manner and to such authority as may be prescribed for being declared as the collective bargaining agent in relation to all such establishments and, upon such an application, there shall be determined in the prescribed manner a collective bargaining agent for such establishments.

(2) Where a collective bargaining agent has been determined under sub-section (1) for the establishments referred to therein, the collective bargaining agent determined, if any, under section 22 for anyone or more of such establishments shall not undertake collective bargaining in respect of matters relating to the terms and conditions of employment applicable to workmen employed in any of such establishments.

23. Check-off.- (1) If a collective bargaining agent so requests, the employer of the workmen who are members of a trade union shall deduct from the wages of the workmen such amounts towards their subscription to the funds of the trade union as may be specified, with the approval of each individual workman named in the demand statement furnished by the trade union.

(2) An employer making any deduction from the wages under sub-section (1) shall, within 15 days of the end of the period from the wages for which the deductions have been made deposit the entire amount so deducted by him in the account of the trade union on whose behalf he has made the deductions.

(3) The employer shall provide facilities to the collective bargaining agent for ascertaining whether deductions from the wages of its members are being made under sub-section (1).

JOINT CONSULTATION, CONCILIATION AND MEDIATION

24. Participation Committee.- (1) The Director of Labour or any officer authorised by him in this behalf shall, by an order in writing, require the employer in any establishment in which fifty or more workmen are employed or were employed on any day in the preceding twelve months to constitute in the prescribed manner a Participation committee consisting of representatives of the employer and the workmen so however that the representative of the workmen is not less than the number of the representative of the employer in the Participation Committee.

(2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent, shall nominate the representatives of the workmen in such Participation Committee.

Provided that where there is no collective bargaining agent, representatives of the workmen on Participation Committee shall be chosen in the prescribed manner from amongst the workmen engaged in the establishment for which the Participation Committee is constituted.

25. Functions of the Participation Committee.- (1) The functions of the Participation Committee shall be to inculcate and develop a sense of belonging and workers' commitment and, in particular-

- (a) To endeavour to promote mutual trust, understanding and co-operation between the employer and the workmen;
- (b) To ensure application of labour laws;
- (c) To foster a sense of discipline and to improve and maintain safety, occupational health and working condition;
- (d) To encourage vocational training workers' education and family welfare training;
- (e) To adopt measures for improvement of welfare services for the workers and their families;
- (f) To fulfill production target, reduce production cost and wastes and raise quality of products.

25A. Meetings of the Participation Committee.- (1) The Participation Committee shall meet at least once in every two months to discuss and exchange views and recommend measures for performance of the functions under section 25;

(2) The proceeding of every meeting of the Participation Committee shall be submitted to the Director of Labour and the Conciliator within seven days of the date of the meeting.

26. Negotiations relating to industrial disputes.- (1) If at any time, an employer or a collective bargaining agent finds that an industrial dispute is likely to arise between the employer and any of the workmen, the employer or as the case may be, the collective bargaining agent shall communicate his or its views in writing to the other party.

(2) Within ten days of the receipt of a communication under subsection (1), the party receiving it shall, in consultation with the representatives of the other party, arrange a meeting with the

representatives of the other party, for collective bargaining on the issue raised in the communication with a view to reaching an agreement thereon through the procedure of a dialogue.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause (xxiv) of section 2.

Sec. 27

27A. Conciliation before notice of strike, etc.- Where the parties to an industrial dispute fail to reach a settlement by negotiation under section 26, any of them may report to the Conciliator that the negotiations have failed and request him in writing to conciliate in the dispute and the Conciliator shall, on receipt of such request, proceed to conciliate in the dispute.

28. Notice of strike or lock-out.- If the Conciliator fails to settle the dispute within ten days from the date of receipt of a request made under section 27A. the collective bargaining agent or the employer may, in accordance with the provisions of this Ordinance, serve on the other party to the dispute twenty-one days' notice of strike or lock-out, as the case may be.

Provided that no collective bargaining agent shall serve any notice of strike unless three fourths of its members have given their consent to it through secret ballot specifically held for the purpose.

29. Conciliation after notice of strike or lock-out- Where a party to an industrial dispute serves a notice of strike or lock-out under section 28, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to conciliate or, as the case may be, continue to conciliate in the dispute notwithstanding the notice of strike or lock-out;

Provided that before proceeding to conciliate in the dispute the Conciliator shall satisfy himself as to the validity of the notice of strike and if the notice does not conform to the provisions of this Ordinance or the rules or of the constitution of the trade union concerned, the notice of strike shall not be deemed to have been given under the provisions of this Ordinance, and in such cases, whether the notice relates to a public utility service or not, the conciliator may, at his discretion decide not to proceed with the conciliating :

27. Conciliator.- The government shall, by notification, in the Official Gazette, appoint as many persons as it considers necessary to be Conciliators for the purposes of this Ordinance and shall specify in the notification the area within which, or class of establishments or industries in relation to which, each one of them shall perform his functions.

Provided further that no conciliation proceedings which has been undertaken by the Conciliator under this section shall however be invalid merely on the ground that such notice of strike does not so conform.

30. Proceedings before conciliator.- (1) the Conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(2) The parties to the dispute shall appear before the conciliator in person or shall be represented before him by person nominated by them and authorised to negotiate and enter into an agreement binding on the parties:

Provided that in the case of a dispute in which a State-owned manufacturing industry is involved, the representative of the Ministry of Division administratively concerned with that industry may also appear before the Conciliator.

(3) The Conciliator shall perform such functions in relation to a dispute before him as may be prescribed and may, in particular, suggest to either party to the dispute such concessions or modifications in its demand as are in the opinion of the conciliator likely to promote an amicable settlement of the dispute.

(4) If a settlement of the dispute or of matter in dispute is arrived at in the course of the proceedings before him the conciliator shall send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.

(5) If no settlement is arrived at within the period of the notice of strike or lock-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

31. Arbitration.- (1) If the conciliation fails, the Conciliator shall try to persuade the parties to agree to refer the dispute to an arbitrator, in case the parties agree, they shall make a joint request in writing for reference of the dispute to an Arbitrator agreed upon by them.

(2) The Arbitrator to whom a dispute is referred under sub-section (1) may be a person borne on a panel to be maintained by the Government or any other person agreed upon by parties.

(3) The Arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred to him under sub-section (1) or such further period as may be agreed upon by the parties to the dispute.

(4) After he has made an award, the Arbitrator shall forward copy thereof to the parties and to the Government who shall cause it to be published in the official Gazette.

(5) The award of the Arbitrator shall be final and no appeal shall lie against it. It shall be valid for a period not exceeding two years, as may be fixed by the Arbitrator.

32. Strike and lock-out- (1) If on settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an Arbitrator under section 31, the workmen may go on strike or, as the case may be, the employer may declare a lock out, on the expiry of the period of the notice under section 28 or upon the issuance by the conciliator to the parties to the dispute of a certificate to the effect that the conciliating proceeding have failed, whichever is the later.

(IA) The parties to the dispute may, at any time, either before or after the commencement of a strike or lock-out, make a joint application to the Labour Court for adjudication of the dispute.

(2) If a strike or lock-out lasts for more than 30 days, the Government may, by order in writing, prohibit the strike or lock-out ;

Provided that the Government may, order in writing prohibit a strike or lock-out at any time before the expiry of thirty days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.

(3) In any case in which the Government prohibits strike or lock-out, it shall forthwith refer the dispute to the Labour Court.

(4) The labour court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not exceeding sixty days from the date on which the dispute was referred to it:

Provided that the Labour Court may also make an interim award on any matter of dispute:

Provided also that any delay by the Labour Court in making an award shall not affect the validity of any award made by it.

(5) An award of the Labour Court shall be for such period as may be specified in the award which shall not be more than two years.

32A. omitted.

33. Strike or lock-out in public utility services- (1) In the case of any of the public utility services, the Government may by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out.

(2) The provision of sub-sections (3), (4) and (5) of section 32 shall also apply to an order made under sub-section (1) above as they apply to an order made under sub-section (2) of that section.

34. Application to Labour Court.- Any collective bargaining agent or any employer or workman may apply to the Labour Court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

LABOR COURTS, ETC.

35. Labour Court.- (1) The Government may by notification in the official Gazette, establish as many Labour Courts as it considers more necessary and, where it establishes than one Labour Court, shall specify in the notifications the territorial limits within which each one of them shall exercise jurisdiction under this Ordinance.

(2) A Labour Court shall consist of a Chairman appointed by the Government and two members to advise the Chairman, one to represent the employers and the other to represent the workmen appointed in the manner hereinafter provided

(3) A person shall not be qualified for appointment as Chairman unless he has been or is, or is qualified to be a Judge or Additional Judge of the High Court Division or is a District Judge, or an Additional District Judge.

(4) The Government shall constitute, in the prescribed manner, by notification in the official Gazette, two panels, one of which shall consist of representatives of employers and the other of representatives of the workmen, each panel consisting of not more than five persons:

Provided the Government shall reconstitute such panels after every two years, but the members of the panels, notwithstanding the expiry of the said period of two years, shall continue on the panels till the new panels are constituted and notified in the official Gazette;

(4A) The Chairman shall, for adjudication, enquiry determination or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (4),

and persons so selected, together with the chairman, shall be deemed to have constituted the Labour Court in respect of that industrial dispute:

Provided that the Chairman may select any member from either of the panels as a member of the Labour Court in respect of more than one case pending before the Labour Court;

- (5) A Labour Court shall have exclusive jurisdiction to
 - (a) adjudicate and determine an industrial dispute which has been referred to or brought before it under this Ordinance;
 - (b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government;
 - (c) try offences under this Ordinance and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf;
 - (d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this ordinance or any other law.
- (6) Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (VII of 1923) or the Payment of Wages Act, 1936 (IV of 1936), the Government may, by notification in the official Gazette, appoint a Labour court to be, or confer upon it any power or function of, any authority under any of the said Acts, and upon such notification the Labour Court shall be deemed to be such authority and shall exercise the powers and perform the functions of such authority under the relevant Act.
- (7) If any member of the Labour Court is absent from or is otherwise unable to attend, any sitting of the Court the proceedings of the Court may continue and the decision or award may be given in the absence of such member; and no act, proceeding decision or award of the Court shall be invalid or be called in question merely on any defect in the constitution of the Labour Court.

36. Procedure and powers of Labour Court- (1) Subject to the provisions of this Ordinance, a Labour Court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute, be deemed to be a Civil Court and shall have the same powers as are vested in such Court under the code of Civil Procedure, 1908 (Act V of 1908) including the powers of-

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material object;
- (c) issuing commissions for the examination of witnesses or documents; and
- (d) delivering *ex parte* decision in the event of failure of any party to appear before the court.

(2A) A Labour Court, may if it is satisfied that the dispute has been amicably resolved, allow the withdrawal of a case before it at any stage of the proceeding thereof upon consideration of an application signed by all the parties to the case after giving hearing all or any of them:

(3) A labour Court shall, for the purpose of trying an offence under the Ordinance, have the same powers as are vested in the Court of a Magistrate of the first class under the Code of Criminal Procedure, 1898 (Act V of 1898) and shall, for the purpose of appeal from a sentence passed by it, be deemed to be a Court of Sessions under that Code.

(4) No Court-fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from a Labour Court.

37. Award and decisions of Labour Court- (1) An award or decision of a Labour Court shall be given in writing and delivered in open court and two copies thereof shall be forwarded forthwith to the Government.

(1A) An award or decision of a Labour Court shall, in every case, be delivered; unless the parties to the dispute give their consent in writing to extend the time-limit within sixty days following the date of filing of the case:

Provided that no award or decision of a Labour Court shall be invalid merely on the ground of delay in its delivery.

(2) The Government shall, within a period of one month from the receipt of the copies of the award or decision, publish it in the official Gazette,

(3) Any party aggrieved by an award given under sub-section (1), may prefer an appeal to the Labour Appellate Tribunal within 30 days of the

delivery thereof and the decision of the Tribunal in such appeal shall be final.

(4) All decisions of a Labour Court, other than awards referred to in sub-section (3) of this section, and sentences referred to in sub-section (3) of section 36, shall be final and shall not be called in question in any manner by or before any court or other authority.

38. Labour Appellate Tribunal,- (1) The Government may, by notification in the official Gazette, establish one or more Labour Appellate Tribunals for the purposes of this Ordinance.

(1A) When more than one Labour Appellate Tribunal is established, the Government shall, by notification in the official Gazette, specify the area within which each Tribunal shall exercise jurisdiction.

(2A) The member of the Tribunal shall hold office on such terms and conditions as the Government may determine.

(3) The tribunal may, on appeal, confirm, set aside, vary or modify the award, and shall exercise all the powers conferred by this Ordinance on the Court, save as otherwise provided. The decision of the Tribunal shall be delivered as expeditiously as possible, within a period of 60 days following the filing of the appeal;

Provided that such decision shall not be rendered invalid by reason of any delay in its delivery.

(3A) If an appeal is preferred against an order of reinstatement of a workman by the Labour Court, the Tribunal shall, notwithstanding anything contained in sub-section (3), decide such appeal within a period not beyond 180 days following the filing of the appeal and in the meantime the Tribunal may pass an order staying the operation of the order of the Labour Court and if such appeal is not disposed of within the aforesaid period the order of the Tribunal shall stand vacated after the expiry of the period.

(4) The Tribunal shall follow such procedure as may be prescribed.

(4A) The Tribunal may, on its own motion, and for the purpose of satisfying itself as to the correctness, legality or propriety of the order of the Labour Court, call for the record of any case or proceeding under the Ordinance and may pass such order in relation thereto as it thinks fit:

38(2) The Tribunal shall consist of one member who shall be appointed by the Government, by notification in the official Gazette, from amongst persons who is or has been a judge or an Additional judge of the High Court Division.

Provided that no order under this sub-section shall be passed revising or modifying any order adversely affecting any person without giving such person a reasonable opportunity of being heard.

(5) The Tribunal shall have authority to punish for contempts of its authority, or that of any labour Court subject to its appellate jurisdiction, as if it were a High Court.

(6) Any person convicted and sentenced by the Tribunal under sub-section (5) to imprisonment for any period, or to pay a fine exceeding One thousand Taka, may prefer an appeal to the High Court.

39. Settlements and awards on whom binding.- (1) A Settlement arrived at in the course of a conciliation proceedings (or an award of an Arbitrator published under section 31, or an award or decision of a labour Court delivered under section 37 or the decision of a Tribunal under section 38 shall-

(a) be binding on all parties to the industrial dispute;

(b) be binding on all other parties summoned to appear in any proceedings before a Labour Court as parties to the industrial dispute, unless the Court specifically otherwise directs in respect of any such party;

(c) be binding on the heirs, successors or assigns of the employer in respect of the establishment to which the industrial dispute relates where an employer is one of the parties to the disputes; and

(d) Where a collective bargaining agent is one of the parties to the dispute, be binding on all workmen who were employed in the establishment or industry to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after that date.

(2) A settlement arrived at by agreement between the employer and a trade union otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

40. Effective date of settlement, awards, etc.- (1) a settlement shall become effective-

(a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and

(b) if a date is not so agreed upon, on the date on which the memorandum of the settlement is signed by the parties.

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months of the date on which either party informs the other party in writing of its intention no longer to be bound by the settlement.

(3) An award given under sub-section (1) of section 37 shall, unless an appeal against it is preferred to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Arbitrator, the Labour Court, or, as the case may be, the Tribunal, shall specify dates time-limit by which it shall be implemented in each case.

Provided that if, at any time before the expiry of the said period, any party bound by an award applies to the Labour Court which made the award for reduction of the said period on the ground that the circumstances in which the award was made have materially changed, the Labour Court may, by order made after giving to the other party an opportunity of being heard, terminate the said period on a date specified in the order.

(4) A decision of the Tribunal in appeal under sub-section (3) of section 38 shall be effective from the date of the award.

(5) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3), the award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the award.

41. Commencement and conclusion of proceedings.- (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the conciliator under section 28.

(2) A conciliation proceeding shall be deemed to have concluded-

(a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and

(b) where no settlement is arrived at-

(i) if the dispute is referred to an Arbitrator under section 31, on the date on which the Arbitrator has given his award, or otherwise;

(ii) on the date on which the period of the notice of strike or lock-out expires.

(3) Proceedings before a Labour Court shall be deemed to have commenced,

(a) in relation to an industrial dispute, on the date on which an application has been made under section 32 or section 34, or on the date on which it is referred to the Labour Court by the Government under section 32 or 33; and

(b) in relation to any other matter, on the date on which it is referred to the Labour Court.

(4) Proceedings before a labor court shall be deemed to have concluded on the date on which the award or decision is delivered under sub-section (1) of section 37.

42. Certain matters to be kept confidential.- There shall not be included in any report, award or decision under this Ordinance any information obtained by a Registrar, Conciliator, Labour Court, Arbitrator or Tribunal in the course of any investigation or enquiry as to trade union or as to any individual business (Whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such authority, if the trade union, person, firm, or company in question has made a report in writing to the authority that such information shall be treated as confidential, nor shall such proceedings disclose any such information without the consent in writing of the Secretary of the trade union or the person, firm or company in question as the case may be;

Provided that nothing contained in this section shall apply to disclosure of any such information for the purpose of a prosecution under section 193 of the Penal Code (Act XLV of 1860).

43. Raising of industrial disputes.- No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a collective bargaining agent or an employer.

44. Prohibition on serving notice of strike of lock-out while proceedings pending.- No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceeding or proceedings before sub-section (3) of section 38 are or is pending in respect of any matter constituting such industrial dispute.

45. Power of labour Court and Tribunal to prohibit strike, etc.-

(1) When strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to or is pending before, a Labour Court an application under section 34, the Labour Court may, by an order in writing, prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to a Tribunal under section 38, the Tribunal may, by an order in writing prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

46. Illegal strikes and lock-out.- (1) A strike or lock-out shall be illegal if--

(a) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out or before the date of strike or lock-out specified in such notice, or in contravention of section 44; or

(b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in section 43; or

(c) it is continued in contravention of an order made under section 32, section 33 or section 45 ; or

(d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

(2) A lock-out declared in consequence of an illegal strike and a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

47. Conditions of service to remain unchanged while proceedings pending.- (1) No employer shall, while any conciliation

proceeding or proceedings before an Arbitrator, a Labour Court or Tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any workmen concerned in such dispute, conditions of service applicable to him before the commencement of the conciliation proceedings or of the proceedings before the Arbitrator; the Labour court or of Tribunal, as the case may be, nor shall be-

(a) save with the permission of Conciliator, while any conciliation proceedings are pending; or

(b) save with the permission of the Arbitrator, the Labour court or Tribunal, while any proceedings before the Arbitrator, Labour Court or Tribunal are pending discharge. dismiss or otherwise punish any workman or terminate his service except for misconduct not connected with such dispute.

(2) Notwithstanding anything contained in sub-section (1), an officer of a registered trade union shall not, during the pendency of any proceedings referred to in sub-section (1), be discharged, dismissed or otherwise punished for misconduct, except with the previous permission of the Labour Court.

48. Protection of certain persons.- (1) No person refusing to take part or to continue to take part in any illegal strike or illegal lock-out shall, by reason of such refusal, be subject to expulsion from any trade union or to any fine or penalty or the deprivation of any right or benefit which he or his legal representatives would otherwise have been entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or disadvantage as compared with other members of the trade union.

(2) Any contravention of the provisions of sub-section (1) may be made the subject-matter of an industrial dispute, and nothing in the constitution of a trade union providing the manner in which any dispute between its executive and members shall be settled, shall apply to proceedings for enforcing any right or exemption granted by sub-section (7). In any such proceedings, the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership-order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the Court thinks just.

49. Representation of parties.- (1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Ordinance by an officer of a collective bargaining agent and subject to the provisions of sub-section (2) and sub-section (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorised by him.

(2) No party to an industrial dispute shall be entitled to be represented by legal practitioner in any conciliation proceedings under this Ordinance.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before the Labour Court, or before an Arbitrator, with the permission of the Court or the Arbitrator, as the case may be.

50. Interpretation of settlement and awards.- (1) If any difficulty or doubt arises as to the interpretation of any provisions of an award or settlement, it shall be referred to the Tribunal constituted under this Ordinance.

(2) The Tribunal to which a matter is referred under sub-section (1) shall, after giving the parties an opportunity of being heard, decide the matter, and its decision shall be final and binding on the parties.

51. Recovery of money due from an employer under a settlement or award.- (1) Any money due from an employer under a settlement, or under an award or decision of the Arbitrator, Labour Court or Tribunal may be recovered as arrears of land revenue or as a public demand upon application by the Government if it is moved in that behalf by the person entitled to the money under that settlement, award or decision.

(2) Where any workman is entitled to receive from the employer any benefit, under settlement or under an award or decision of the Arbitrator, Labour Court or Tribunal, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rules made under this Ordinance, be determined and recovered as provided for in sub-section (1) and paid to the workman concerned within a specified date.

52. Collective Bargaining Agent till determination of Collective Bargaining Agent.- Any act or function which is by this Ordinance

required to be performed by or has been conferred upon a collective bargaining agent may, until, a collective bargain agent has been ascertained under the provisions of this Ordinance, be performed by a registered trade union which has been recognised by the employer of employers.

Explanation: For the purposes of this section, a registered trade union means such registered trade union which has a membership of at least one third of the total number of workers of the establishment concerned.

PENALTIES AND PROCEDURE

53. Penalty for unfair labour practices.- (1) Whoever contravenes the provisions of section 15, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand Taka or with both.

(2) Any workman who contravenes the provisions of section 16, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two hundred Taka, or with both.

(3) A trade union or person other than a workman which or who contravenes the provisions of section 16 shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand Taka, or with both.

54. Penalty for committing breach of settlement.- Whoever commits any breach of any term of any settlement, award or decision which is binding on him under this Ordinance shall be punishable-

(a) for the first offence, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred Taka, or with both, and

(b) for each subsequent offence with imprisonment for a term which may extend to two ears, or with fine which may extend to one thousand Taka, or with both.

55. Penalty for failing to implement settlement, etc.- Whoever willfully fails to implement any term of any settlement, award or decision which it is his duty under this Ordinance to implement shall be punishable with imprisonment for a term which may extend to one year, or wit fine which may extend to five hundred Taka, or with both, and, in the case of continuing failure, with a further fine which may extend to

two hundred Taka, for everyday after the first during which the failure continues.

56. Penalty for false statements, etc.- Whoever willfully makes or causes to be made in any application or other document submitted under this ordinance or the rules thereunder, any statement which he knows or has reason to believe to be false, or willfully neglects or fails to maintain or furnish any list, document or information he is required to maintain or furnish, under this Ordinance or the rules thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

57. Penalty for illegal strike or lock-out.- (1) Any workman who commences, continues or otherwise acts in furtherance of , an illegal strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Taka, or with both.

(2) Any employer who commence, continues or otherwise acts in furtherance of an illegal lock-out shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand Taka, or with both, and, in the case of a continuing offence with a further fine which may extend to two hundred Taka, for everyday everyday after the first during which the offence continues.

58. Penalty for instigating illegal strike or lock-out.- Whoever instigates or incites others to take part in, or expends or supplies money or otherwise acts in furtherance or support of an illegal strike or an illegal lock-out, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Taka, or with both.

59. Penalty for taking part in or instigating go-slow.- Whoever takes part in, or instigates or incites others to take part in, or otherwise acts in furtherance of , a go-slow shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

Explanation. In this section "go-slow" means an organised deliberate and purposeful slowing down of normal output of work by a body of

workmen acting in a concerted manner, but does not include the slowing down of normal output of work which is due to mechanical defect, break-down of machinery, failure or defect in power supply or in the supply of normal material and spare parts of machinery.

60. Penalty for discharging officer of trade union in certain circumstances, etc.- Any employee who contravenes the provisions of section 47 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand Taka, or with both.

61. Penalty for embezzlement or mis-appropriation of funds.- Any officer or any employee of a registered trade union, guilty of embezzlement or misappropriation of trade union funds shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine, to fine, which shall not exceed the amount found by the Court to have been embezzled or misappropriated. Upon realisation, the amount of fine may be reimbursed by the Court to the trade union concerned.

61A. Penalty for activities of unregistered trade union.- Whoever takes part in or instigates or incites others to take part in the activities of an unregistered trade union whose registration has been cancelled or collects subscription except enrollment fee, for the fund of any such trade union, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

61B. Penalty for dual membership of trade unions.- Whoever enrolls himself as, or continues to be, a member of more than one trade union at the same time shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

62. Penalty for other offences.- Whoever contravenes, or fails to comply with, any of the provisions of this Ordinance shall, if no other penalty is provided by this Ordinance for such contravention or failure, be punishable with fine which may extend to two hundred and fifty Taka.

62A. Penalty for non-appearance or non-representation before a conciliator.- A person who fails except for reasons satisfactory to the Conciliator, to comply with the provisions of sub-section (2) of section 30 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Taka, or with both.

63. Offences by corporations.- Where the person guilty of any offence under this Ordinance is a company or other body corporate, every Director, Manager, Secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

64. Trial of offences- No court other than a Labour Court or than of a Magistrate of the first class shall try any offence punishable under this Ordinance and no prosecution for an offence punishable under section 53 or section 62A shall be instituted except by or under the authority, or with the previous permission, of the Director of Labour or of an officer authorized by him in this behalf.

MISCELLANEOUS

65. Indemnity.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule.

65A. Registrar, etc, to be public servants.- A Registrar, a Conciliator, the Chairman of a Labour Court and the Member of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Penal code (Act XLV of 1860).

66. Powers to make rules.- (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) Rules made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred Taka

67. Repeal and saving- (1) The following laws are hereby repealed, namely :-

- (a) The East Pakistan Trade Unions Act, 1965 (E.P. Act V of 1965);
- (b) The East Pakistan Labour Disputes Act, 1965 (E.P. Act VI of 1965);
- (c) The West Industrial Disputes Ordinance, 1968 (W.P. Ordinance IV of 1968) ; and
- (d) The West Pakistan Trade Unions Ordinance, 1968 (W.P. Ordinance V of 1968).

(2) Notwithstanding the repeal of any law by sub-section (1), and without prejudice to the provisions of section 24 of the General Clauses Act, 1897 (X of 1897)-

- (a) every trade union existing immediately before the commencement of this Ordinance, which was registered under any such law, shall be deemed to be registered under this Ordinance and its constitution shall, in so far as it is not inconsistent with the provisions of this Ordinance, continue in force until altered or rescinded; and
- (b) anything done, rules made, notification or order issued, officer appointed, court constituted, notice given, proceedings commenced or other actions taken under any law shall be deemed to have been done, made, issued, appointed, constituted, given, commenced or taken, as the case may be, under the corresponding provisions of this Ordinance.

SCHEDULE PUBLIC UTILITY SERVICES

See section 2 (xx)

1. The generation, production, manufacture, or supply of electricity gas oil or water to the public.
2. Any system of public conservancy or sanitation
3. Hospitals and ambulance service.
4. Fire-fighting service.
5. Any postal, telegraph or telephone service.
6. Railways and Airways.
7. Ports.
8. Watch and ward staff and security services maintained in any establishment.

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THE INDUSTRIAL RELATIONS RULES, 1977*The 26th February 1977*

No. S. R. O 97- L/77/S-VII/I (58)/ 179/346.-- In exercise of the powers conferred by section 66 of the Industrial Relations Ordinance, 1969 (Ordinance XXIII of 1969), the Government is pleased to make the following rules, namely:-

**CHAPTER I
GENERAL**

1. Short title and commencement.- (1) These rules may be called the Industrial Relations Rules, 1977.

(2) They shall come into force at once.

2. Definitions.- In these rules, unless there is anything repugnant in the subject or context,-

(a) "**Form**" means a form appended to these rules;

(b) "**Ordinance**" means the Industrial Relations Ordinance, 1969 (Ordinance XXIII of 1969); and

(c) "**Section**" means a section of the Ordinance.

3. Agreement in writing.- (1) An agreement in writing between the employer and his workmen arrived at otherwise than in the course of conciliation proceeding shall be signed by at least two representatives of the employer and of the workmen at a meeting and a copy of such agreement shall be sent to the conciliator concerned, Director of Labour and the Secretary, Labour and Social Welfare Division.

(2) The agreement shall be drawn in *Form A*.

4. Application for registration.- (1) Every application for registration of a trade union made under section 5 shall be in *Form B*

(2) Every Application for registration of a federation of trade unions made under section 20 shall be in *Form C*.

5. Maintenance of registers of members, account books, minute books, etc.- (1) Every Application for membership of trade union shall be in *Form D*.

(2) Every registered trade union shall maintain a register of members in *Form E* showing particulars of subscription paid by each member.

(3) Every federation of trade unions shall maintain a register in *Form F* showing all moneys received by it.

(4) Every registered trade union or federation trade unions shall maintain an account book in *Form G* showing its receipts and expenditure and the account book shall be a bound register and all pages shall be numbered serially.

(4A) Every registered trade union and registered federation of trade union shall maintain the particulars of officers and statement of particulars of paid members in their respective trade union and federation of trade unions in Forms, N, O, P and Q respectively.

(5) The minute book of a registered trade union or federation of trade unions shall be kept in a bound register, every page of which shall be numbered serially, and shall contain the following information, namely:-

(a) date, place and time at which the meeting of the general body or the executive committees of the registered trade union or federation of trade unions are held;

(b) details of all point discussed and all resolutions passed;

(c) in the case of meeting of the general body, the approximate number of members who attended the meeting and, in the case of meeting of the executive committee, the names and signatures of the officers of the executive who attended the meeting.

(6) (a) Proceeding of every meeting shall be recorded in the minute book and signed by the person who presided over the meeting.

(b) All minutes shall be confirmed in the subsequent meeting after reading out loudly and taking consent of all members present.

(7) Every registered trade union or federation of trade unions shall issue printed receipts for all money received and shall maintain printed receipt books, every pages of which shall be numbered serially and an account of all such receipt books shall be maintained.

(8) All expenses to be incurred by a registered trade union or federation of trade unions shall be supported by vouchers in original.

6. Limit of members of the executive.- (1) The number of persons forming the executive in an establishment shall be as under-

Column (1)	Column (2)
Where the total number of persons forming the trade union is not more than 50	Maximum number of persons forming the executive of the trade union shall be 5
Ditto100	Ditto8
Ditto200	Ditto10
Ditto300	Ditto12
Ditto400	Ditto14
Ditto500	Ditto16
Ditto600	Ditto18
Ditto1,000	Ditto20
Ditto5,000	Ditto25
Ditto5,000	Ditto30

(2) The Provisions of sub-rule (1) shall, *mutatis mutandis*, apply to a trade union whose membership extends to more than one establishment:

Provided that there shall be one member amongst the workers employed in every such establishment who may be in addition to the number specified in column (2) of sub-rule (1).

7. Register of trade unions and federation of trade unions.- The Registrar shall maintain a register of trade unions in Form H and that of the federation of trade union in *Form 1*.

8. Certificate of registration.- A certificate of registration of trade union or federation of trade unions shall be issued in *Form J*.

9. Fees.- (1) The fee payable for the registration of a trade union shall be Taka fifty and the fee for the registration of a federation of trade unions shall be Taka one hundred.

(2) The Registrar may supply a certified copy of the constitution of a registered trade union and the certificate of registration of a trade union to a registered trade union or a member thereof or to any representative of the employer on payment of five Taka for the first two hundred words or less and two Taka for every additional hundred words or fraction thereof.

(3) The Registrars may supply a duplicate certificate of registration of registered trade union or federation to the concerned authority on payment of Taka twenty-five only.

(4) The fee payable for registration of amendment in the constitution made by a registered trade union or a federation of trade unions shall be Taka fifty for each amendment, which will be effective after having been approved by the Registrar.

10. Powers and functions of Registrar.- (1) The Registrar or any other officer authorised by him in writing may enter the office of any registered trade union or federation of trade unions or any other premises, which he has reason to believe is being used as an office of a registered trade union or a federation of trade unions, or a federation of trade unions, and make such inspections of the office or premises and of any register or documents and take such evidence of any person as he may deem necessary for carrying out the purposes of the Ordinance.

(2) The Registrar, while inspecting the office of a registered trade union or federation of trade unions may call for any register or document and inspect same.

(3) The Registrar may inspect the account books of a registered trade union or a federation of trade unions and call for any clarification or obtain any information in writing from the officers of the executive of such trade union or federation of trade unions relating to the maintenance of accounts.

(4) Where the outgoing officers of the executive of any registered trade union or federation of trade unions fail or refuses without any reasonable cause, to hand over the records, papers and other documents of the office of the trade union or federation to trade unions or make over the account books and funds of the trade union or federation of trade unions to the newly elected officers of the executive, the Registrar may, on an application made by the Secretary or President of the newly elected executive, by an order in writing, direct the outgoing officers of the executive to hand over such records, papers and other documents or

make over the account books and funds to the newly elected executive within such time as may be specified in such order; and any person aggrieved by such an order of the Registrar may prefer an appeal against such order to the Labour Court within 15 days from the date of such order.

(5) The Registrar or any officer authorised by him in writing may, at any time during working hours, enter the office or premise of any establishment and make such examination of any register and document maintained by the employer in connection with the trade unions and take such evidence of any person as he deems necessary for carrying out the purposes of the Ordinance.

(6) The Registrar or any officer authorised by him in writing shall have the power to seize any record, register or other documents of any registered trade union or federation of trade unions with due acknowledgment as he may consider necessary for carrying out the purposes of the Ordinance.

11. Change of name or address.- Whenever a registered trade union changes the name of the trade union or the address of the Head Office, the Secretary or the President of such trade union shall, within fifteen days of the making of such change, present the certificate of registration to the Registrar for entering the change in the name of the trade union or address of the Head Office in the certificate.

12. Auditors.- The accounts of a registered trade union or a federation of trade unions shall be audited annually by a chartered account within the meaning of the Bangladesh Chartered Accounts Order, 1973, (P.O. No. 2 of 1973):

Provided that when the membership of a trade union did not, at any time during the year concerned, exceed 200 accounts may be audited by one or more independent persons, not being member or members of the trade union, selected for the purpose by the executive or, if it is a member of a federation of trade unions, the federation of trade unions to which it is affiliated;

Provided further that no person who, at any time, during the year concerned, was entrusted with any part of the funds or securities

belonging to the trade union or the federation of trade unions shall be appointed to audit its accounts.

13. Submission of general statement.- The general statement which a registered trade union or federation of trade union is required to send annually to the Registrar under sub-section (1) of section 21, shall be sent in *Form K* on or before the 30th April of the year next following the year in respect of which the statement relates.

CHAPTER II

DETERMINATION OF COLLECTIVE BARGAINING AGENT FOR INSTITUTIONS WITH MORE THAN ONE ESTABLISHMENT

14. Determination of collective bargaining agent.- (1) A registered trade union may make an application under sub-section (1) of section 22A to the Registrar having jurisdiction over the area for being declared as the collective bargaining agent for all the establishments of the industry. It shall also state that it has as its members not less than one-third of the total number of workmen employed in each establishment of the industry. The application shall be signed by the President and the Secretary of the registered trade union. The Registrar shall reject the application if it is found on enquiry that the registered trade union has got as its members less than one-third of the total number of workmen in any of the establishments of the industry for which the application is made for the determination of the collective bargaining agent.

(2) The constitution of every registered trade union making an application under sub-rule (1) or indicating its desire to be a contestant in the secret ballot under clause (a) of sub-rule (3) shall provide scope for membership to the workmen employed in all the establishments of the industry.

(3) Upon receipt of an application under sub-rule (1), the Registrar shall, by notice in writing, call upon every registered trade union in the establishments of the industry to which the application relates-

(a) to indicate whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to such industry; and

(b) if it so desires, to submit to him within the time specified in the notice of list as its members showing in respect of each member, his parentage, age the section or department and the place in which he is employed, his ticket number and the date of his becoming a member and, if the trade union is a federation of trade unions, a list of its affiliated trade unions together with a list of members of each such trade union showing in respect of each such member of the said trade union shoeing in respect of each such member of the said particulars and also the symbol to be affixed on the ballot box.

(4) Every page of the members' list submitted by a registered trade union to the Registrar under clause (b) of sub-rule (3) shall be numbered serially and signed either by the President or the Secretary of the trade union.-

(5) If any registered trade union expresses its unwillingness to contest in the secret ballot or fails to furnish a list of its members within the period specified by the Registrar, the Registrar shall not include such trade union as a party in the ballot.

(6) Every employer shall-

(a) on being so required by the Registrar, submit a list of all workmen employed in the establishments excluding those whose period of employment in the establishment is less than three months and showing in respect of each workmen, his parentage, age the section or department and the place in which he is employed, his ticket number and the date of his employment in the establishment; and

(b) provided such facilities for verification of the lists submitted by him and the trade unions as the Registrar may require.

(7) The Registrar shall, after verification of list submitted by the trade unions, prepare a list of voters in which shall be included the name of every workman whose period of employment is not less than three months and who is a member of any of the contesting trade unions and shall, at least seven days prior to the date fixed for the poll, send to each

of the contesting trade unions a certified copy of the list of voters so prepared.

(8) Every workman who is a member of any of the contrasting trade unions and whose name appears in the list of voters prepared under sub-rule (3) shall be entitled to vote at the poll.

(9) Every employer shall-

(a) provided all such facilities in his establishments as may be required by the Registrar for the smooth conduct of the poll but shall not interfere with, or in any way influence, the voting;

(b) construct polling booths as per specification given by the Registrar or the presiding officer appointed under clause (a) of sub-rule (1) of rule 18; and

(c) supply such stationery articles, ballot papers and ballot boxes as may be required.

(10) No person shall canvass for vote within a radius of fifty yards of the polling station.

15. Workers participating in the ballot to carry identify cards.-

(1) The workers participating in the ballot shall carry tickets or identify cards issued by the employer. The presiding officer appointed by the Registrar under clause (a) of sub-rule (1) of rule 18 may check the identity cards of the voters if he has got doubt about the identity of the workmen.

(2) If the presiding officer is not satisfied with identity of the voter, he may disallow him to vote in the secret ballot and his decision in this respect shall be final.

16. Ballot boxes.- There shall be as many ballot boxes as the number of the contesting trade unions with the symbols elected by them affixed on the ballot boxes. In case more than one trade union select the same symbol to be affixed on the ballot boxes, the Registrar shall decide the matter and his decision shall be final. Additional ballot boxes, if required, shall also be supplied to the presiding officer by the employer.

17. Nomination of representatives.- Each contesting trade union may nominate in writing not more than one representative to remain present in each polling booth at the time of secret ballot.

18. Conduct of poll.- (1) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall-

(a) appoint presiding officers and polling officers for conducting the poll;

(b) fix the date and time for the poll and intimate the same to each of the contesting trade unions and also to the employer.

(2) The presiding officer shall-

(a) conduct the poll at the polling station where the representatives of the contesting trade unions shall have the right to be present;

(b) prior to the start of the poll, seal the ballot boxes and place them in the appropriate places in the presence of the representatives of such contesting trade unions as may be present;

(c) after conclusion of the poll, open and count the ballot papers in the presence of such representatives of the contesting trade unions as may be present.

(3) After the conclusion of the count, the result of the count under clause (c) of sub-rule (2) shall be consolidated by the presiding officer and communicated to the Registrar.

(4) After receipt of the result under sub-rule (2) from the presiding officer, the Registrar shall declare in *Form L* the trade union which has received the highest number of votes to be collective bargaining agent:

Provided that no trade union shall be declared to be the collective bargaining agent for the establishments unless the number of votes received by its is not less than one-third of the total number of workmen employed in each of such establishments.

(5) Where a registered trade union has been declared under sub-rule (4) to be the collective bargaining agent for the establishments, no establishments shall be entertained within a period of two years from the date of such declaration.

CHAPTER III PARTICIPATION COMMITTEE

19. Constitution of Participation Committee.- (1) On receipt of an order under sub-section (1) of section 24, an employer shall forthwith proceed to constitute the participation committee.

(2) The number of members constituting such committee shall not be less than 6 and more than 30 and shall so fixed by the employer in consultation with the collective bargaining agent, if any, and the Director of Labour as to workmen engaged in, and to the section, shop or department of, the establishment:

Provided that the head of the department or section of an establishment, and where there is no such head of department or section- the officer in charge of that department or section shall be the representative of the employer in the committee for that establishment.

20. Nomination of representatives by the collective bargaining agent.- In an establishment where there is a collective bargaining agent shall communicate the names and particulars of the representatives of the workmen on the Participation Committee to the employer within ten days of the date of receipt of a request from him in this behalf.

21. Publication of names of the representatives on the Participation Committee.- Within 7 (seven) days of the receipt of nomination from the collective bargaining agent, the employer shall constitute the participation Committee by a notice to be hung on the notice board and furnish copies thereof to the collective bargaining agent under intimation to the Director of Labour:

Provided that the collective bargaining agent may make fresh nominations in respect of any representatives of the workmen on the participation Committee at any subsequent time where the collective bargaining agent has reason to believe that any such representative has lost his representative character and the employer shall, with seven days of receipt of such nomination, reconstitute the Participation Committee with such new representative.

22. Constitution of Participation Committee where there is no collective bargaining agent.- In an establishment where there is no

collective bargaining agent, the employer within 15 days of receipt of the order under sub-section (1) of Section 24 inform the Director of Labour to this effect and thereafter the Director of Labour shall direct the employer to hold election for choosing workmen's representatives on the Participation Committee within one month from the date of receipt of such direction.

23. Qualifications of candidates for election as a representative of the Participation Committee.- Any workman of not less than 21 years of age and with service of not less than one year in the establishment may be a candidate for election by secret ballot as a representative of the workmen on the Participation Committee:

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

24. Qualification of voters.- All workmen, other than casual and badli workmen, who have put not less than 3 month's service in the establishment shall be entitled to vote in the election of the representatives of the workmen.

25. Procedure for election.- (1) For the purpose of election by secret ballot to choose the representatives of workmen, the employer shall, by notice affixed to the notice board and by giving adequate publicity amongst the workmen, call upon the workmen to elect representatives for the Participation Committee.

(2) Copies of voters' list shall simultaneously be displayed in the notice board and also in other conspicuous places in the establishment. A copy of the voters' list along with the notice under sub-rule (1) shall be forwarded to the Director of Labour who may authorise any of his officer to supervise the election.

(3) The employer shall constitute an Election Committee consisting of equal number of representatives of the employer and the workmen to conduct the election, which shall by notice, copy of which shall be forwarded to the Director of Labour, appoint-

- (a) a day, at least seven days after the date of such notice, for the nomination of candidates;
- (b) a day for the scrutiny of nomination papers;
- (c) a day which shall not be less than four days or more than ten days after the scrutiny day, for the holding of the election by secret ballot.

(4) The notice under sub-rule (3) shall also specify the number or representatives to be chosen from amongst various groups, sections, shops or departments of the establishment.

26. Nominations.- (1) Any voter may, for the purpose of election as representative on the Participation Committee, propose or second the name of any person who is duly qualified to be elected as such representative.

(2) Every proposal shall be made by a separate nomination paper in *Form M* which shall be supplied by the employer, and signed by the proposer, seconder and the candidate.

(3) Every nomination paper shall be delivered on or before the nomination day by the candidate or his proposer or seconder to the employer who shall acknowledge in writing the receipt of the nomination paper.

27. Scrutiny.- (1) The candidates, their proposers and seconders, and any other person authorised in this behalf by such candidate may attend the scrutiny of nomination papers, and the Election Committee shall give them reasonable opportunity for examination papers delivered to it under rule 26.

(2) The Election Committee shall, in the presence of the persons attending the scrutiny under sub-rule (1), examine the nominating papers and dispose of any objection raised by any such person to any nomination.

(3) The Election Committee may reject any nomination paper if it is satisfied that.-

- (a) the candidate is disqualified to be a representative of the workmen under rule 23; or
- (b) any provision of rule 26 has not been complied with.

28. Voting in election.- (1) If the number of candidates who have been validly nominated is equal to the number of representatives to be

elected the Election Committee shall, by a notice, declare such candidates to be elected.

(2) If in any group, section, shop or department, the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held through secret ballot and shall be conducted by the Election Committee.

29. Arrangement for election.- The Election Committee shall be responsible for making all arrangements in connection with the election.

30. Office bearers of the Participation Committee.- (1) The head of the establishment shall be the Chairman of the Participation Committee and shall preside over the meeting of the participation Committee.

(2) The workers' representatives on the Participation Committee shall elect the Vice-Chairman from amongst themselves and he shall preside over the meeting of the Participation Committee in absence of the Chairman.

(3) The Personnel Officer or Labour Welfare Officer, who shall be one of the employer's representatives on the Committee, shall act as Member Secretary and shall be responsible for keeping records of the meetings of the Participation Committee and for convening the meetings.

31. Quorum of meeting.- (1) Proceedings of the meeting of the Participation Committee shall be forwarded to the Director of Labour and the Conciliator by the employer within 7 days of each meeting and the Director of Labour may inspect or call for any record in this regard for his examination.

(2) 50 per cent members from each side on the Committee shall constitute the quorum and any representative failing to attend three consecutive meetings shall lose his membership of the Committee

32. Term of office.- (1) The term of the Participation Committee shall be two years from the date of its constitution.

(2) A member chosen to fill a casual vacancy shall hold office for the remaining term of the Participation Committee.

33. Vacancies.- In the even of workmen's representative ceasing to be employed in the establishment or in the event of his resigning or losing the membership in the Participation Committee, his successor shall be elected from the group, section, shop or department to which the member vacating the seat belonged.

34. Facilities for meetings. etc.- The employer shall provide accommodation for holding meetings of the Participation Committee, He shall also provided all necessary facilities to the Committee and to the members thereof for carrying out the functions of the Participation Committee.

CHAPTER IV JOINT CONSULTATION, MEDIATION AND CONCILIATION

35. Functions of Conciliators.- (1) For the purpose of bringing about a settlement of an industrial dispute, a Conciliator-

(a) may call for an inspect any register, document, certificate or notice which he has reason to believe to be relevant to the dispute and may, in case of failure of the person to produce it in time, seize it; and

(b) may enter the premises occupied by any establishment to which the dispute relates, and require any person whom he finds in the establishments to give such information relating to the dispute as are within his knowledge.

(2) Every Conciliator shall keep records of the conciliation proceedings in such a manner as he deems fit.

(3) Where a notice of strike has been received by the Conciliator, he shall satisfy himself as to its validity before conducting the conciliation proceedings and if the notice of strike does not conform to the provisions of the Ordinance and these rules he may ask the party to the dispute to comply with the provisions of the Ordinance and these rules.

CHAPTER V LABOUR COURTS, ETC.

36. Members of the Labour Courts.- (1) For the purpose of appointment of members of the Labour Courts, the Government shall

call for nominating of representatives of employers and workmen from such organizations of employers and of workmen as may be considered to be representatives of the employers and the workmen for the purpose of constituting two panels, one representing the employers and the other representing the workers for each Court, each panel consisting of not more than five persons.

Provided that the Government shall reconstitute such panels after every two years; but the members of the panels shall, notwithstanding the expiry of the said period of two years, continue on the panels till the new panels are constituted.

(2) Every organisation to whom a request has been made under sub-rule (1) shall furnish to the Government, within 15 days of the date of receipt of such a request, the names and particulars of persons for inclusion in the panel and for appointment as members of the Labour Court.

(3) Where names and particulars called for under sub-rule (1) have not been furnished within the period specified in sub-rule (2), the Government shall be competent to nominate any person in the panel who is, in the opinion of the Government, competent to represent the interests of the employers or the workmen, as the case may be.

(4) A person whose name has been included in the panel shall remain so included for a period of two years from the date on which his name is notified in the official Gazette.

(5) The Chairman shall, for adjudication, enquiry, determination or disposal of a case relating to a specific industrial dispute or trial of an offence or any other matter falling within the jurisdiction of the Labour Court under the Ordinance, select one person from each of the two panels and the persons so selected, together with the Chairman shall be deemed to have constituted a Court in respect of that specific labour dispute.

Provided that the Chairman may select any member from either of the panels as a member of the Labour Court in respect of more than one case pending before the court.

(6) A person whose name has been included in a panel may resign from the panel by a letter addressed to the Chairman who shall forward the same to the Government and such resignation shall take effect from the date of its acceptance by the Government.

37. Removal of members.- The Government may, by notification in the official Gazette, remove any person from the panel if he-

(a) has, in the opinion of the Government lost his representative character;

(b) has been convicted of an offence involving moral turpitude or an offence punishable under the Ordinance;

(c) is adjudged insolvent;

(d) absents himself as a member of a labour Court from three consecutive sittings of the Labour Court without leave from the Chairman.

38. Casual vacancies.- A vacancy caused by death or resignation under sub-rule (6) of rule 36 or removal under rule 37 of a person in a panel may be filled by the Government in the same manner in which the panel was originally constituted under rule 36 and the person so included in the panel shall remain in the panel for the unexpired portion of the period of two years from the date his name is included in the panel by notification in the official Gazette.

39. Leave of absence.- Application for leave of absence of a member of the Labour Court shall be addressed to the Chairman who may grant the leave.

40. Allowances- A member of a Labour Court shall be paid such daily allowance for each day on which he attends the Court and such traveling allowances as may be fixed by the Government.

Provided that no daily or travelling allowance shall be claimed under this rule if a member has drawn or is entitled to draw the same from the organisation he represents or from his employer.

41. Procedure of the Labour Appellate Tribunal.- In hearing an appeal against an award, the Labour Appellate Tribunal shall follow the

same procedure as is followed by an Appellate Court in hearing appeals as under Code of Civil Procedure, 1908 (Act V of 1908).

42. Determination of computed money- Where any workman is entitled to receive from the employer any benefit under a settlement or under an award or decision, he may apply to the Labour Court for computation of the benefit in terms of money. The Labour Court shall determine the amount at which such benefit shall be computed after hearing the parties to the dispute.

43. Penalty for contravention of rule.- Whoever contravenes any of the provisions of these rules shall be punishable with fine which may extend to one hundred Taka.

FROM-A

Form of Agreement

See rule (3)

MEMORANDUM OF AGREEMENT

Name of parties and designation

Representing employers.

(1)

(2)

Representing employees

(1)

(2)

Short recital of the case

Terms of agreement.

(1)

(2)

(3)

(4)

etc.

Signature of parties

Date.....

FROM B

See Rule 4 (1)

Application for Registration of a Trade Union
Dated the.....the 20.....

To
THE REGISTRAR OF TRADE UNIONS,
Government of the People's Republic of Bangladesh

Dear Sir,

1. we hereby apply for the registration of a Trade Unions under the name of
2. The address of the Head Office of the Union is
3. The Union was formed on theday.....20...
4. The particulars required under section 6 (a) (iii) of the Industrial Relations Ordinance, 1969, are given in Schedule I.
5. The statement required under section 6 (a) (iv) showing total paid membership is given in Schedule II.
6. Three copies of the constitution of the trade union conforming to the provisions of section 7 of the Industrial Relations Ordinance, 1969, together with a copy of the resolution mentioned in section 6 (b) are given in Schedule III.
7. A copy of the resolution mentioned in section 6 (c) is given in Schedule IV.

Yours faithfully,

President

Secretary.....

Date

FORM C

Rule 4(2)

Application for registration of a Federation of Trade Unions

Dated.....day of.....20.....

To

THE REGISTRAR OF TRADE UNIONS

Government of the People's Republic of Bangladesh.

1. We hereby apply for the registration of our Federation of Trade Unions under the name of.....
Address of the Head Officer of the Federation is

2.....
Telephone number, if any.....

3. The Federation was formed on theday of20 and had.....registered Trade Union affiliated on the date of application.

4. Particulars of the affiliated registered Trade Unions are given in Schedule I.

5. Resolutions of the general body of the registered Trade Unions affiliated to the Federation expressing their agreements for joining the Federation are given in Schedule II.

6. We have been duly authorised to make this application in a meeting of this Federation and resolution thereof is given in Schedule III.

7. Particulars of the Officers of the Federation are given in Schedule IV.

8. Copies of instruments of Federation executed between the Federation and each of the registered Trade Unions are given in Schedule V.

Yours faithfully,

- 1.
- 2.
- 3.
- 4.
- 5.

Dated.....

FROM D

See rule 5 (1)

Form of Application for Membership

(Name of the Trade Union)

Dated, the.....

To

THE SECRETARY

(Name and address of the Trade Union.)

Dear Sir,

I hereby apply for admission as a member of the
(Name of the Trade Union).....

I have carefully read and understood the provisions of the constitution of the Trade Union/ the provisions of the constitution of the Trade Union have been read to and understood by me and I hereby agree to abide by them.

My particulars are given below:

1. Name with father's/ husband's name
2. Age and mark of identification.
3. Industry/Establishment in which employed
4. Department and ticket No., if any
5. Whether permanent or temporary
6. Date of entry into present employment
7. Whether member of any other Trade Union
8. Address: (i) Local
(ii) Permanent..

.....
Signature/Thumb impression

FROM E
See rule 5 (2)
Membership Register

Name of members	Father's Name/ Husband's name	Address	Designation of Worker/ Token No.	Establishment in which working.	Admission fee, if any	Collection on other accounts if any	Monthly			
							Janu	February	Mar	April
1	2	3	4	5	6	7	8	9	10	11

Monthly Subscriptions/ other collections

May	June	July	August	September	October	November	December	Total	Remarks, if	
12	13	14	15	16	17	18	19	20	21	

Signature of Secretary
Authorised Officer of the Trade Union

FORM F
See Rule 5 (3)
Receipt Book

Name and Address of the Federation of Trade Union

1	2	AMOUNT RECEIVED													
		Jan 3	Feb. 4	Mar 5	April 6	May 7	June 8	July 9	Aug 10	Sept 11	Oct 12	Nov 13	Dec 14	T ot al	

*Signature of Secretary/ Authorised
officer of the Federation*
Date.....

FORM G

See Rule 5 (4)

Name of the Registered Trade Union/ Federation.....

Name of the month of which the account relates.....

Receipts			Expenditure					
Date	Description	Voucher No.	Current	Grand Total.	Date Description	Voucher No.	Current	Grand Total.
1	2	3	4	5	6	7	8	9

.....
*Secretary/ Authorised Officer of the Registered
 Trade Union/ Federation .*
 Date.....

FROM H
See Rule 7
Register of Trade Unions.

Serial No.	Name of union with address	Registration No. and date.	Name of president and Secretary with address.	Name and address of Industry/ establishment with which connected.	Number of members of the trade union	Name and address of the federation of trade union if affiliated	remarks
1	2	3	4	5	6	7	8

FROM I

See Rule 7

Registered of Federation of Trade Union

Serial No.	Registration No. and date	Name of federation with address	Name and address of Industry establishment with which the federation connected.	Name of the President and secretary of the federation with their address	Name of the registered trade unions affiliated to the federation.	Total number of members of each of the affiliated trade union	Remarks.
1	2	3	4	5	6	7	8

No.....

FORM J
(See rule 8)

No.....

It is hereby certified that the (name of the trade union/federation) representing employers/workers employed in (name of the establishment) has been registered under the Industrial Relation Ordinance, 1969 (Ord. XXIII of 1969), this day of.....20.....

Registrar of Trade Union

Date.....

FROM K

See rule 13

Form for Annual Return

(Annual return required to be submitted under section 21 of the Industrial Relations Ordinance, 1979, for the year ending 31st December 19.....)

Name of the trade union

Registered Head Office.....

Registration No..... date.....

Return to be submitted by a federation of trade unions	<ol style="list-style-type: none"> 1. Number of trade unions affiliated at the beginning of the year and the number of members of each of those trade unions. 2. Number of trade unions joined during the year and the number of members of each of those trade unions. 3. Number of trade unions disaffiliated during the year. 4. Number of affiliated trade unions at the end of the year and with their respective membership.
Return to be submitted by a union.	<ol style="list-style-type: none"> 1. Number of members of trade record at the beginning of the year. 2. Number of members admitted during the year.

	<p>3. Number of members who left during the year.</p> <p>4. Total number of members on record at the end of the year. the year: Male - Female-</p> <p>5. Name of the federation of trade unions, if any, to which the trade union is affiliated.</p>
--	--

A copy of the constitution of the trade union, corrected up to the date of dispatch of this return, is appended.

Dated.....

.....Secretary

Statement of Liabilities an Assets on the day of.....

Liabilities		Amount	Assets		Amount
Amount of	of	Tk	In Hands of	of	
General .			Treasurer		
Amount of	of		In Hans of Secretary		
Political Fund			In the Bank		
Loans from.....			Securities as per list		
			below.		
Debts due to.....			Unpaid subscription		
			due to.....		
			Immovable property		
			..		
			Goods, Furniture		
			and machines.....		
			Other Assets (to be		
			specified).		
Total Liabilities			Total Assets		...
....					

List of Securities

Particulars	Nominal	Market value and rate on which accounts have been made up.	In Hands of.

Treasurer

General Fund Account

Income	Amount	Expenditure	Amount
Balance at the beginning of the year.....	Tk.	Salaries, allowances and expenses, of Officers...	
Contributions form members		Allowances and expenses of establishments... Auditors' fees ;.....	
Donations.....		Legal Expenses	
State of periodicals, Rules etc.		Expenses in conduction trade disputes Compensation paid to members for loss arising out of trade disputes.	
Interest on investment		Loans to members.. . . . Funeral, old age, sickness, Employment benefits, etc.	
Income form miscellaneous sources (to be specified).		Cost of publishing periodicals.. . Rents, rates and taxes.. . . . Furniture Stationery Printing Subscription to Federation	

Income form duplication		other expenses (to be specified) Expenses in Annual General Meeting and other entertainment expenses Conveyance Expenses Miscellaneous Expenses Balance at the end of year	
Total		Total	

Political Fund Account

Balance all the beginning of year			Expenses of management (to be specified)
Contributions from members as per member			Balance at the end of year
Total			Total

Auditor's Declaration.

The undersigned, having had access to all books and accounts of the Trade Union and having examined the foregoing statements and verified the same with the account vouchers relating thereto, now sign the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any appended hereto.

.....
Auditor.

The following changes of Officers have been made during the year;

Officers Relinquishing Office

Name	Office	Date of Relinquishing Office
------	--------	------------------------------

Officers Appoint

Name	Age	Office	Address	Occupation	Date of appointment

.....
Secretary

FORM L

See rule 18 (4)

Declaration of Collective Bargaining Agent

.....
(Name of the trade union or federation with its address)

It is hereby declared as collective bargaining agent for.....

(Name of establishments in an industry with address)
.....

.....under rule of the Industrial Relations Rules, 1977, this day
of.....20.....

.....
Registrar of Trade Unions

FROM M
See rule 26 (2)

FORM OF NOMINATION PAPER
Name of Industrial Establishment

Group/Section/Shop/Department.....

I propose.....
(Here enter the name of the workmen's representative eligible for election) as a candidate for election to the Participation Committee.

.....
Signature of Proposer with
Department and Token no.

Date.....

I second the proposal.
I agree to the proposed nomination

.....
*Signature of Seconder with
Department and token no.*

.....
*Signature of Candidate with
Department/Token No.*

.....
.....
Signature of the President
General Secretary

Signature of the

FORM N
Particulars of officers of trade union

See rule 5 (4A)

Sl No	Name	Father's Name Husband	Age	Address with police-station		Post held in the trade union	Name of undertaking where employed	Department section	Designation	Remarks
				Local	Home					
1	2	3	4	5	6	7	8	9	10	11

FORM O
See rule (4A)

Particulars of officers of Federation

Sl. No.	Name	Father's Name	Age.	Address		Post held in the Federation	Occupation	Remarks
				Present	Permanent			
1	2	3	4	5	6	7	8	9

Signature of the President
Signature of the Grand Secretary

FORM P
See rule 5 (4A)
Statement of Paid members of Trade Union

SI. No.	Name	Age	Designation	Name Industry/ Establishment where employed	Token No. if any	Remarks
1	2	3	4	5	6	7

Signature of the President.
Signature of the General Secretary

FORM Q
See rule 5 (4A)

Statement of affiliated registered trade unions

SI. No.	Name of the affiliated trade union with address	Registration No. of the affiliated trade union with dates	Total numbers of the affiliated trade unions	Remarks
1	2	3	4	5

Signature of the President
Signature of the General Secretary

THE SHOPS AND ESTABLISHMENTS ACT, 1965

Act No. VII of 1965

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THE SHOPS AND ESTABLISHMENTS ACT, 1965

Act No. VII of 1965

[1st September, 1965]

An Act to repeal and, with certain amendments, re-enact the East Bengal Shops and Establishments Act, 1951.

WHEREAS it is expedient to repeal and, with certain amendments, re-enact the East Bengal Shops and Establishment Act, 1951 (E B Act No. I of 1952) for regulating the holidays, payment of wages, leave, hours of work and certain other allied matters concerning the workers employed in shops, commercial establishments and industrial establishments not being factories;

It is hereby enacted as follows:-

1. Short title, extent, commencement and application.-(1) This Act, may be called the Shops and Establishments Act, 1965

(2) It extends to the whole of Bangladesh

(3) It shall apply at once to every establishment in the areas in which the East Bengal Shops and Establishments Act, 1951 (Act 1 of 1952) was in force immediately before the commencement of this Act.

(4) It shall apply at once to every establishment in all other areas of Bangladesh in which five or more workers are employed, or were employed on any day of the preceding twelve months.

(5) It shall apply to every other establishment in such other area or areas and on such date as the Government may, by notification in the official Gazette, specify,

(6) Notwithstanding anything contained in the foregoing subsections, this Act shall not apply to-

(i) offices of or under the Government;

(ii) officers of or under the Bangladesh Railway Board, including railway stations;

(iii) offices of or under any local authority, a trust, a corporation or any other public statutory body, which is not run for profit or gain or in the course of its business does not make any profit or gain;

- (iv) shops or stalls in any public exhibition or show in so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition or show;
- (v) shops or stalls in any public fair or bazar held for religious or charitable purpose;
- (vi) hostels and messes not maintained for profit or gain; or
- (vii) establishment for the treatment or care of the sick, infirm, destitute or mentally unfit.

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

(a) '**apprentice**' means a learner who is paid an allowance during the period of his training;

(b) '**child**' means a person who has not completed twelve years of age;

(c) '**closed**' means not open for service to any customer or to any business connected with any establishment;

(d) '**commercial establishment**' means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment employs workers, a unit of a joint stock company, an insurance company, a baking company or a bank, a broker's office or stock exchange, a club, a hotel or a restaurant or an eating house, a cinema of theater, or such other establishment or class thereof as the Government may, by notification in the official Gazette, declare to be a commercial establishment for the purpose of this Act;

(e) '**day**' means a period of twenty-four hours beginning at mid-night: Provided that, in the case of a worker whose hours of work extend beyond mid-night, a day means the period of twenty-four hours beginning from the time of commencement of his work, irrespective of mid-night;

(f) '**Director of Labour**' means an officer so appointed by the Government;

(g) '**employer**' means the owner of a shop, commercial establishment or industrial establishment and includes-

(i) in any shop, commercial establishment or industrial establishment, under the control of any Department of the Government, the authority appointed in this behalf, or where no authority is so appointed, the Head of the Department.

(ii) in any shop, commercial establishment or industrial establishment, carries on by or on behalf of a local authority, the officer appointed in this behalf, or where there is no such officer, the chief executive officers of the authority; or

(iii) in relation to any other shop, commercial establishment or industrial establishment the proprietor of such shop, commercial establishment or industrial establishment and every Director, Manager Secretary, Agent or other officer or person concerned with the management thereof and is responsible to the owner for the supervision and control of such shop, commercial establishment or industrial establishment;

(h) '**establishment**'; where not otherwise specified, means a shop, a commercial establishment, or an industrial establishment;

(i) '**factory**' means a factory as defined in the 2 Factories Act, 1965 (IV of 1965);

(j) '**half day**' means a period of five consecutive hours between the beginnings and closing hours of an establishment;

(k) '**industrial establishment**' means any workshop or other establishment in which articles are produced, adopted or manufactured or where the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance, with a view to their use, transport, sale, delivery or disposal, is carried on and includes any dock, wharf, jetty, or such other class of establishments as the Government may, by notification in the official Gazette, declare to be an industrial establishment for the purpose of this Act but does not include a factory;

(l) '**Prescribed**' means prescribed by rules made under this Act;

(m) '**shop**' means any premises used wholly or in part for the whole-sale or retail-sale of commodities or articles either for cash or credit, or where services are rendered to customers, and includes an office, store room, godown, warehouse or workplace, whether in the same premises or elsewhere, mainly used in connection with such trade or business, and such other premises as the Government may, by

notification in the official Gazette, declare to be a shop for the purpose of this Act;

(n) '**wages**' means wages as defined in the Payment of Wages Act, 1936 (Act IV of 1936)

(o) '**week**' means a period of seven days beginning at mid-night between Friday and Saturday;

(p) '**worker**' means any person including an apprentice employed in any shop, commercial establishment or industrial establishment to do any skilled, unskilled, manual, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does to include any such person-

(i) who is employed in the Police or Armed Forces of Bangladesh or in the services of a Prison;

(ii) who is employed mainly in a managerial or administrative capacity; or

(iii) who, being employed in a supervisory capacity, exercises, either by nature of the duties attached to the office or by reason of power vested in him, functions mainly of managerial or administrative nature;

(q) '**young person**' means a worker who is not a child and has not completed eighteen years of age.

3. Exemption and extension.- (1) The Government may, by notification in the official Gazette, suspend or extend the operation of all or any of the provisions of this Act in respect of any establishment or class of establishments or person or class of persons and in area for such period and subject to such condition as may be imposed:

Provided that the period of such suspension, as may be specified in the notification, shall not exceed one year at time.

(2) The Chief Inspector may, by notification in the official Gazette suspend the operation of all or any of the provisions of this Act in respect of any establishment or class of establishment for such period and subject to such conditions, as may be imposed, on account of any festival or such other occasions as may be prescribed:

Provided that if any worker is required to work in any festival holiday, he shall be allowed two days' compensatory holidays with full wages for each of such festival holidays.

4. Weekly holidays.- (1) Every worker employed in any establishment shall be allowed one and a half day's consecutive holidays in each week.

(2) No deduction on account of such holidays shall be made from the wages of any worker of an establishment.

5. Closure.- (1) Every shop or commercial or industrial establishment shall remain entirely closed, for at least one and a half consecutive days in each week.

(2) The days on which shops or commercial or industrial establishments shall remain entirely closed, shall be fixed for each town or area by the Chief Inspector:

Provided that the Chief Inspector may, from time to time, refix the days for each town or area in the public interest.

(3) No shop shall on any day remain open after the hours of 8 o'clock *post meridiem* :

Provided that any customer who was being or was waiting in the shop to be served at such hour, may be served during the period of thirty minutes immediately following such hour:

Provided further that the Government may, on consideration of special circumstances, alter, by notification in the official Gazette, the closing hours of shop in any area in any season on such conditions as may be imposed.

6. Exemption from closure- (1) The provisions of section 5 shall not apply to-

- (i) docks, wharves or stations and terminal offices of transport services including airports;
- (ii) shops dealing mainly in any vegetable, meat, fish, dairy products, bread, pastries, sweetmeats, and flowers;
- (iii) shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites;
- (iv) shops dealing in articles required for funerals, burials or cremation ;
- (v) shops dealing mainly in tobacco, cigars, cigarettes, birds, pan, liquid refreshments sold retail for consumption in the premises, ice, newspapers or periodicals;

- (vi) petrol pumps for the retail sale of the petrol and automobile service stations not being repair workshops;
- (vii) barbers' and hair dressers' shops;
- (viii) any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light or water to the public;
- (ix) clubs, hotels, restaurants, eating houses, cinemas or theatres: Provided that the Chief Inspector may, by a general or special order, published in the official Gazette, fix the opening or closing hours for any of the foregoing establishments or class of establishments.

(2) Where several trades or business are carried on in the same shop or commercial establishment and, any of them, by its nature, is eligible to exemption under sub-section (1), the exemption will apply only to that particular trade or business.

7. Restriction- After the hour fixed for closure of shop under sub-section (3) of section 5, no goods of the kind sold in any shop, shall be sold in any hotel, restaurant, eating house, cinema, theatre or any other place of public entertainment or amusements, except for consumption in the premises.

8. Daily and weekly hours of work.- (1) Save as otherwise expressly provided in this Act, no worker shall be liable to work in any establishment in excess of nine hours a day and forty-eight hours a week and no young person in excess of seven hours a day and forty two hours a week:

Provided that worker may be required to work overtime in any establishment, but the total number of hours of work including overtime in a week shall not exceed sixty in the case of an adult and fifty-two in the case of a young person.

Provided further that the Chief Inspector may, in special circumstances, grant exemption from the provisions of this section to an establishment or class thereof in respect of the weekly limit of overtime work subject to such conditions as may be imposed.

9. Overtime allowance for overtime work.- A worker shall be paid in respect of overtime work an allowance calculated at double the

ordinary rate of his wages and such ordinary rates of wages shall be calculated in the prescribed manner.

Provided that the ordinary rates of wages, for calculating allowance for overtime work under this section, shall not include any bonus or any other additional payment made in lieu of bonus.

10. Interval for rest of meal.- No worker employed in any establishment shall be liable to work either-

(a) for more than six hours in any one day unless he has been allowed an interval of at least one hour during that day for rest or meal; or

(b) for more than five hours in any one day unless he has been allowed an interval for rest or meal of at least half an hour during that day.

11. Spread-over.- The period of work of a worker shall be so arranged that inclusive of his interval for rest or meal under section 10, it shall not spread over more than twelve hours on any day.

12. Payment of wages.- (1) All wages and other allowances payable to any worker employed in any establishment shall be payable not later than the seventh day of the month immediately succeeding that in respect of which such wages and other allowances are payable.

(2) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936) the provisions of the same Act shall, subject to the provision of sub-section (1) of this section, apply to the payment of wages to workers employed in any establishment, as if the provisions of the said Act have been enacted in this Act.

13. Annual leave with wages.- (1) Every worker who has completed a period of twelve months' continuous service in the establishment, shall be allowed, during the subsequent period of twelve months, leave with full wages for a number of days, calculated at the rate of-

(a) in the case of an adult, one day for every eighteen days of work actually preformed by him during the previous period of twelve months; and

(b) in the case of a young person, one day for every fourteen days of work actually performed by him during the previous period of twelve months:

Provided that a period of such leave shall be inclusive of any holiday which may occur during such period.

(2) If a worker does not, in any period of twelve months, take the leave to which he is entitled under sub-section (1), either in whole or in part, any such leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that a worker shall cease to earn any leave under this section when the earned leave due to him, in case of an adult, amounts to thirty days, and in case of a young person, amounts to forty days:

Provided further that any leave applied for by a worker but refused by him employer shall be added to the credit of such worker beyond the aforesaid limit.

(3) For the purpose of this section a worker shall be deemed to have completed a period of continuous service in an establishment notwithstanding any interruption in service during that period due to-

- (a) any holiday;
- (b) any leave with wages;
- (c) any leave with or without wages due to sickness or accident;
- (d) any maternity leave not exceeding twelve weeks;
- (e) any period of lay-off;
- (f) a strike which is not illegal or a lock-out which is not legal.

Explanation.- For the purpose of clause (e) 'lay-off shall mean the failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stock or the break-down of machinery or for any other reason, to give employment to a worker whose name is borne on the muster-rolls or his shop, commercial establishment of industrial establishment.

14. Festival holiday.- Every worker shall be allowed at least ten days' festival holidays with full wages in a year. The days and dates for such festivals may fixed in such manner as may be prescribed.

15. Casual leave.- Every worker shall be entitled to casual leave with full wages for ten days in a calendar year;

Provided that the casual leave admissible under this section shall not be carried forward beyond that calendar year.

16. Sick leave.- Every worker shall be entitled to sick leave with full wages for a total period of fourteen days in a year; such leave not availed of by any worker during a calendar year may be carried forward, but the total accumulation of such leave shall not exceed twenty-eight days at any one time.

17. Wages during leave or holiday period.- (1) For the leave of holidays allowed to a worker under the provisions of this Act, he shall be paid at the rate equal to the daily average of his full-time earnings including dearness allowances, if any, for the days on which he worked during the month immediately preceding his leave but excluding any overtime allowance and bonus.

(2) A worker who has been allowed annual leave for a period of not less than four days in the case of an adult and five days in the case of a young person, at any time, shall, in so far as it is practicable, be paid his wages for the period of the leave so allowed, before his leave beings.

18. Cleanliness.- Every establishment shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall be cleaned at such time and by such method as may be prescribed.

19. Ventilation.- Every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

20. Lighting.- Every establishment shall be sufficiently lighted during all working hours.

21. Sanitary conveniences, washing facilities and facilities for taking meals.- Every establishment shall provide for the sanitary conveniences, washing facilities and, where so required, facilities for taking meal by the workers in the prescribed manner.

22. Prohibition of employment of children.- No child shall be employed to work in any establishment.

23. Night work of women or young person.- No woman or young person shall be employed in any establishment otherwise than between the hours of 7 a. m. and 8 p. m. except with the permission of the Chief Inspector.

24. Maintenance of records, registers and notices.- Every employer shall, for the purposes of this Act, maintain such records and registers, and furnish such information, as may be prescribed.

25. Chief Inspector and Inspectors.- (1) The Director of Labour shall be the Chief Inspector, who shall, in addition to the powers conferred on the Chief Inspector under this Act, have the powers of an Inspector throughout Bangladesh and shall also have powers of supervision and control over the Inspectors;

Provided that the Chief Inspector may authorise any other officer or officers under him to exercise all or any of his powers for such area or areas as may be specified by him.

(2) The Government may, by notification in the official Gazette, appoint such persons or class of persons, as it thinks fit, to be Inspectors, for the purposes of this Act, within the local limits, as may be assigned to each.

(3) The Chief Inspector and every Inspector shall be deemed to be public servant within the meaning of section 21 of the 2* Penal Code, 1860 (XLV. of 1860).

26. Power of Inspectors.- (1) An Inspector appointed under subsection (2) of section 25, may for the purposes of this Act, and within the local limits for which he is appointed, at all reasonable times, enter into any place which he has reason to believe is, an establishment, with such assistant or assistants, if any, being persons in the service of Bangladesh, and make such inspection or examination of that place or of any prescribed records, registers or other documents maintained therein, and may require such explanation from the employer in respect of any prescribed records, registers or other documents as he considers necessary for the purpose of this Act.

Provided that no person shall be required under this section to answer any question or to make any statement tending to incriminate himself.

(2) All Inspectors appointed under sub-section (2) of section 25, shall be deemed to have been appointed as Inspector under sub-section (3) of section 14 of the payment of Wages Act, 1936 (IV of 1936) within the local limits for which they are appointed, and shall exercise all the functions and powers of an Inspector under that Act in respect of payment of wages to workers employed in any establishment.

(3) An Inspector shall have power to seize in the prescribed manner, any record, register or other document of any establishment, relevant to the enforcement of the provisions of this Act, as he may consider necessary for the purpose of carrying out his functions under this Act.

27. Penalties- (1) Whoever contravenes any of the provisions of section 4, 5, 8, 9, 13, 14, 15, 16 or 24 shall be punishable, for the first offence, with fine, which may extend to two hundred and fifty Taka, and for any subsequent offence, with simple imprisonment which may extend to three months or with fine which may extend to five hundred Taka or with both.

(2) Whoever contravenes any of the provisions of section 10, 11, 17 or 31 and whoever having custody of any prescribed record, register or notice, refuses or without sufficient cause fails to produce it on being so required by an Inspector under section 26, shall be punishable with simple imprisonment which may extend to two months or with fine which may extend to two hundred Taka or with both.

(3) Contravention of any other provisions of this Act shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to one hundred and fifty Taka.

(4) Any person who fails to comply with any lawful direction of the Chief Inspector or of an Inspector, shall be punishable with fine which may extend to two hundred and fifty Taka.

(5) In the case of a continuing of offence, a further penalty, which may extend to one hundred Taka for every day after the first, during which contravention of any provision of this Act or of any lawful order passed the offence thereunder.

28. Penalties for false entries by employer.- An employer who, with intent to deceive, makes or cause or allows to be made in any register, record or notice prescribed to be maintained under this Act or rules made thereunder, an entry which, to his knowledge, is false in any material particulars, or willfully omits or cause or allows to be omitted

from any such register, record notice, an entry which is required to be made thereunder, or maintains or allows to be maintained more than one set of registers, records or notices, except the office copies thereof or sends or cause or allows to be sent to an Inspector any statement, information or notice, prescribed to be sent under the provisions of this Act or rules made thereunder which, to his knowledge, is false in any material particular, shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to five hundred Taka or with both.

29. Cognizance of offence.- (1) No Court shall take cognizance of an offence under this Act except upon complaint made by or with the previous permission, in writing, of the Chief Inspector or an Inspector:

Provided that no case started on complaint made by an Inspector shall be withdrawn with the previous permission of the Chief Inspector.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence under this Act.

30. Indemnity.- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or rules made thereunder.

31. Protection of certain rights and privileges.- Nothing in this Act shall affect any right or privilege to which a worker has been entitled on the date this Act comes into force, under any law for the time being in force or under any award, agreement, settlement, contract, custom or usage, if such right or privilege is more favorable to him.

32. Power to make rules.- (1) The Government may, subject to the condition of previous publication in the official Gazette, make rules for carrying into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any matter which is to be or may be prescribed under this Act.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred Taka.

THE SHOPS AND ESTABLISHMENTS RULES, 1970

[Act No. VII of 1965]

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THE SHOPS AND ESTABLISHMENTS RULES, 1970

1. Short title.- These rules may be called the Shops and Establishments Rules, 1970.

2. Definitions.- In these rules, unless there is anything repugnant in the subject or context

(a) "Act" means the [Shops and establishments Act 1965, (Act No. VII of 1965)];

(b) "Form" means a form appended to these Rules;

(c) "Inspector" means an Inspector appointed under sub-section (2) of section 25 of the Act;

(d) "Section" means section of the Act;

(e) words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

3. Suspension of the provisions of the Act.- The Chief Inspector may, by notification in the official Gazette, suspend the operation of all or any of the provision of the Act, under section 3, on account of public fairs and exhibitions.

4. Manner of calculating the ordinary rate of wages.- For the purposes of section 9 of the Act the ordinary rate of wages per hour payable to persons employed shall be calculated in the following manner, namely-

a) For persons employed on daily wages $\frac{1}{9}$ th of daily wages;

(b) For persons employed on weekly wages $\frac{1}{48}$ th of the weekly wages; or

(c) For persons employed on monthly wages $\frac{1}{28}$ th of the monthly wages.

Note: A month consists of $52 \div 12 = 4\frac{1}{3}$ weeks or $4\frac{1}{3} \times 48$ hours =

208 hours.

5. Festival holidays.- (1) Where there is a [Participation Committee] in any establishment constituted [under section 24 of the Industrial Relations Ordinance, 1969 (Ord. XXIII of 1969)] festival holiday to be allowed to every worker in a year under section 14 shall be fixed by that Committee in accordance with the provisions of the Rules made under the [Industrial Relations Ordinance, 1969 (Ord. XXIII of 1969)].

(2) Where there is no [Participation Committee], festival holidays shall be fixed by the employer in consultation with the recognised trade union of the workers of the establishment.

(3) Where there is no [Participation Committee] or a recognised trade union, the festival holidays shall be fixed in consultation with the registered trade union of the workers of the establishment and where there is no registered trade union, such holidays may be fixed in consultation with the representative of the workers.

(4) The festival holidays shall be fixed within 31st December year and notice thereof shall be forwarded to the Chief Inspector and the Inspector of the locality and the registered trade unions of the workers and another copy shall be pasted at a Notice Board of the establishment.

6. Cleanliness.- (1) Every establishment shall be cleaned every day which shall be carried out outside working hours.

(2) All inside walls of the rooms and the ceilings and passages shall be lime-washed at least once a year.

7. Ventilation.- (1) Every employer shall make arrangement in his establishment for adequate ventilation by natural or artificial means so as to render fumes, dust or any other impurities which may be generated during the course of works harmless.

(2) In case of artificial ventilation in any establishment apparatus required therefore shall be so designed and fitted as to introduce sufficient fresh or purified air into the establishment.

(3) If an establishment is wholly or substantially air conditioned, suitable arrangement shall be made for emergency ventilation therein.

8. Sanitary conveniences, washing facilities for taking meal and drinking water.- (1) In every establishment lavatories, wash-stands and other facilities for the common use of male and female workers shall be

provided separately and shall be cleaned every day and disinfected at least once in a week.

(2) Lavatories, wash-stands and other facilities for female workers shall be so placed or so screened that the interior shall not be visible even when the door is open from any place where male persons have to work pass and the approaches shall be separate and there shall be no common entrance.

(3) All refuse and waste likely to give off obnoxious and harmful smell shall be removed and sufficient receptacles for such refuse and waste shall be provided in suitable places.

(4) Every establishment shall provide for adequate supply of drinking water for its workers.

(5) The supply of drinking water, required under sub-rule (4), if not laid on, shall be contained in suitable vessels which shall be cleansed everyday. Every step shall be taken to preserve the water and the vessel free from contamination.

9. Certificate age of worker.- An Inspector may require an employer under section 22 or under section 23 to produce evidence of age in respect of any worker whom he has reason to suspect to be a child or a young person. Such evidence may be a certificate of age from the Headmaster of a school where the worker concerned had been a student, a secondary school certificate, or a certified extract from the Birth Register or a certificate from the Chairman of a Union Council, Town Committee or a Municipality or a certificate from a registered medical practitioner.

10. Particulars of establishment to be furnished to the Inspector.- Every employer shall furnish true and correct particulars of his establishment in Form 'A' in duplicate to the Inspector. One copy of the Form will be endorsed by the Inspector and returned to the employer for record. Whenever any change in particulars already furnished in Form 'A' occurs, immediate notice of the changes shall be furnished to the Inspector in same manner and form as in the case of particulars first furnished.

11. Entries in registers and their preservation.- (1) All entries in the registers to be maintained under the rules shall be in English, Bengali and the dates, months and years entered in a register shall be in

accordance with English calendar year. Entries shall be made in ink and shall be legible.

(2) All registers, records and notice relating to any calendar year shall be preserved and be available in the establishment for examination by the Inspector till the end of the subsequent two calendar years.

(3) Entries relating to any day, week month or year in any of the prescribed registers shall be immediately made after the close of such date, week, month or year and be signed by the employer.

12. Visit book- (1) Every employer shall maintain a visit book in Form 'B' in duplicate in which an Inspector visiting the establishment may record his remarks regarding any defects that may be detected at the time of inspection. The employer shall also sign the visit book and produce it whenever required to do so by an Inspector. A copy of the Inspector's note in the visit book shall be handed over to the Inspector.

(2) Any information relating to the working of the Act required by an Inspector during the course of inspection shall be supplied forthwith, or if asked for in writing, shall be supplied within fifteen days of its receipt by the employer.

13. Attendance Register.- (1) Every employer shall maintain an attendance register in Form 'C' for recording the hours of work and rest period of the workers each day and the weekly holiday allowed to each worker in the week.

(2) Every employer shall record the period of overtime work done and the wages payable for the overtime work in each worker in the week.

14. Pay Register.- Every employer shall maintain a pay register in Form 'D' and obtain the signature or thumb-impression of the employee receiving payments. The employer shall endorse and certify all payments made in any wage-period.

15. Leave Register.- Every employer shall maintain a leave register in Form 'E' and record the leave allowed to the worker in a year and the amount of leave earned by each worker and carried over at the end of the year. Entries shall be made in the register within seven days from the date of grant of leave and the subsequent entries shall be completed within seven days of resumption of duty.

16. Special Register.- If, on an application made by an employer, the Chief Inspector is satisfied that any special register maintained by an employer gives the particulars required to be maintained under these Rules, he may, by an order in writing, allow the maintenances of such a special register.

17. Mode of inspection- (1) An Inspector shall not, s far as possible, cause any suspension of business within the normal working hours in conducting the inspection.

(2) An Inspector may seize any record, register or register or other documents of an establishment only after issuing receipt for such seizure of record, register or other documents.

18. Penalty.- Whoever contravenes any of the provisions of rules 5 to 15 shall, on conviction, be liable for punishment with a fine not exceeding one hundred Taka.

FORM 'A'

(Under Rule 10)

(To be filled in by Inspector)

Classification..... No.....
 (Particulars of Establishment to be furnished to the inspector under Section 24 and Rule 10.)

Name and address of Establishment

(1) Date of starting the Establishment

(2) Nature of business preformed.....

Name of Employer

Father's Name of Employer

Name of Manager/Person-in-Charge.....

Father's name of Manager/Person-in-Charge

No. of persons employed

Young person		Adult	
Male	Female	Male	Female

Signature of Inspector

Signature of Employer

Date.....

Date.....

FORM 'B'
(Under Rule 12)

Visit Book

Name of address of Establishment	Date and time of inspection.	Remarks of Inspector

.....
Signature of Employer
Date.....

.....
Signature of Inspector
Date.....

FORM 'C'
(Under Rule 13)
Attendance Register

Name of Establishment.....
Address.....

Sl. No.	Name of Worker	Day.....		Date.....		Signature of Thumb impression	Total hours of overtime work in the week	Total amount of overtime payable in the week
		From	To	Period of Overtime work, if any				
		Duty						
		Rest						
		Duty						

N.B Seven such column shall be shown in each sheet for the 7 days of a week

.....
Signature of Employer
Date.....

FROM 'D'
(Under Rule 14)
Pay Register

For.....week/Month
From20.....to20

Name of Establishment.....
Address.....

Name of the worker	Rate of wages per day/week/month				Total hours of overtime	Additional wage for overtime	DEDUCTION								Actual amount paid	Signature or thumb impression with date	Remarks
	Basic		Allowance				Fine		Provident Fund		Advances		Other deductions				
	T	P	T	P			T	P	T	P	T	P	T	P			
	k	s	k	s			k	s	k	s	k	s	k	s			

Signature of Employer
Date.....

FROM 'E'
(Under Rule 15)
Leave Register

Name of Establishment
 Address.....

Name of Worker.....
 From20to20

Date of grant of leave	Earned leave due to the worker	Period of leave granted						Signature of Employer and date	Signature of Worker	Leave due after adjustment		
		Earned Leave		Casual leave		Sick leave				Earned leave	Casual leave	Sick leave
		Number of day	From	Number of day	From	Number of day	From					

THE WORKMEN'S COMPENSATION ACT, 1923**Contents**

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THE WORKMEN'S COMPENSATION ACT, 1923

(Act No. VIII of 1923)

[5th March, 1923]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident

Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident;

It is hereby enacted as follow:

CHAPTER I PRELIMINARY

1. Short title, extent and commencement- (1) This Act may be called the Workmen's Compensation Act, 1923.

(2) It extends to the whole of Bangladesh

(3) It shall come into force on the first day of July, 1924.

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

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(c) "compensation" means compensation as provided for by this Act;

(d) "dependent" means any of the following relatives of a deceased workman, namely:-

(i) a widow, minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependent on the earnings of the workman at the time of his death, a widower, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if

widowed, a minor brother, and unmarried of widowed sister, a widowed daughter-in-law a minor child of a deceased son, a minor child of a deceased daughter where no parent of the child is alive, or, where no parent of the workman is alive, a paternal grand-parent.

(e) "**employer**" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(f) "**managing agent**" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

(ff) '**medical reference**' means, a qualified medical practitioner appointed under section 24A as a medical reference for the purposes of this Act;

(g) "**partial disablement**" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time;

Provided that every injury specified in Schedule 1 shall be deemed to result in permanent partial disablement;

(h) "**Prescribed**" means prescribed by rules made under this Act;

(i) "**qualified medical practitioner**" means any person registered under the Medical Dental Council Act, 1973, or, any person declared by the Government, by notification in the official Gazette, to be a qualified medical practitioner for purposes of this Act;

(k) "**seaman**" means any person forming part of the crew of any ship, but does not include the master of the ship;

(I) "**total disablement**" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred percent.

(m) "**wages**" includes any privilege or benefit which is capable of being estimated in money, other than a traveling allowance or the value of any traveling concession or a contribution paid by the employer of workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "**workman**" means any person (other a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is -

(i) the railway servant as defined in section 3 of the Railways Act, 1890 not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed on monthly wages not exceeding fifteen hundred Taka, in any such capacity as is specified in Schedule II Whether the contract of employment is expressed or implied, oral or in writing; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents or any or them.

(2) The exercise and performance of the powers and duties of a local authority or of any department acting on behalf of the Government shall for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Government, after giving, by notification in the official Gazette, not less than three months' notices of its intention so to do, may, by a like notification, and to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply to such classes of persons:

Provided that in making such addition the Government may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.

CHAPTER II WORKMEN'S COMPENSATION

3. Employers' liability for compensation.- (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable-

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding four days;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to-

- (i) the workman having been at the time thereof under the influence of drink or drugs, or
- (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, of the purpose of securing the safety of workmen, or
- (iii) the willful removal or disregard by disobedience by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

(2) If a workman employed in any employment specified in Part A of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that of employment, or if an workman whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.- For the purposes of this sub-section, a period of service shall be deemed to be continuous which has not included a period of service under any other employer in the same kind of employment.

(3) The Government, after giving, by notification in the official Gazette not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupation diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury:

(a) if he has instituted a claim to compensation in respect of the injury before a Commission; or

(b) if an agreement has been come to between the workman and his employment providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. Amount of compensation.- (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:-

(a) Where death results from the injury, a workman in receipt of monthly wages falling within limits shown in the first column of Schedule IV-the amount shown against such limits in the second column thereof,

(b) Where permanent total disablement results from the injury-

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV- the

amount shown against such limits in the second column thereof, and

- (ii) in the case of a minor two thousand Taka
- (c) Where permanent partial disablement results from the injury-
- (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablements as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and;
- (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Explanation 1--Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation 2. --In case of loss of earning capacity above twenty per cent as per Schedule I, if the employer or the injured workman is not satisfied about the percentage of loss of earning capacity, the case shall be referred to the Medical Board to be constituted by the Government by notification in the official Gazette with members not exceeding two, for different industrial areas, district wise and the decision of such Medical Board shall be final. The expenses of such examination, if any, shall be borne by the employer or the workman, who may seek such opinion of the Medical Board:

Provided that where the party concerned is not satisfied with the opinion of a specialist, under sub-section (7) of section 11, the Government may refer the case to a Medical Board of another district where the required specialist is available or constitute a Special Medical Board for this purpose.

- (d) Where temporary disablement, whether total or partial, results from the injury, a monthly payment payable on the first day of the

month following the month in which it is due after the expiry of a waiting period of four days from the date of the disablement, and thereafter monthly during the disablement or during a period as specified in the last column of Schedule IV whichever period is shorter.

(2) On the ceasing of the disablement before the date of which any monthly payment falls due, there shall be payable in respect of that month a sum proportionate to the duration of the disablement in that month.

5. Method of calculating wages.- In this Act and for the purposes thereof the expression 'monthly wages' means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:-

(a) Where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) Where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be the average monthly amount which during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was not workman so employed, by a workman employed on similar work in the same locality.

(c) In other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

(d) Omitted by Act XV of 1933.

Explanation.- a Period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

6. Review.- (1) Any monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of monthly payments.

7. Commutation of half monthly payments.- Any right to receive monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months on the application of either party to the commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to be the parties or determined by the commissioner, as the cases may be.

8. Distribution of compensation.- (1) No payment of compensation in respect of a workman whose injury has resulted in death and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation unless a workman, during the periods of his employment, nominates in the prescribed manner any of his dependents to receive the amount of compensation in the prescribed manner any of his dependents to receive the amount of compensation in the event of any injury resulting in his death.

Provided that, in the case of a deceased workman, an employer may make to any dependent advances on account of compensation not exceeding an aggregate of Taka five hundred and so much of such aggregate as does not exceed the compensation payable to that dependent shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten Taka which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) On the deposit of any money under sub-section (1) as compensation in respect of a deceased workman the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses to an amount not exceeding fifty Taka or so much of that cost whichever is less and pay the same to the person by whom such expenses were incurred and shall, if he thinks necessary, cause notice to be published or to be served on each dependent in such manner as he thinks fit, calling upon the dependents to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any enquiry which he may deem necessary, that no dependent exists, he shall not less than two years after the date of deposit, transfer the balance of the money to such fund or funds for the benefit of the workman as the Government may, by notification in the official Gazette, specify or establish. The Commissioner shall, on application by the employer, furnish a statement showing in detailed all disbursements made.

(5) Compensation deposited in respect of a deceased workmen shall, subject to any deduction made under the proviso to sub-section (1) or under sub-section (4) be apportioned among the dependents of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependent.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom

the compensation is payable is not a woman, or person under legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependent of the workman or to any other person whom the commissioner thinks best fitted to provide for the welfare of workman.

(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependent or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such order for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependent of any sum already paid to him.

(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that the payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.

9. Compensation not to be assigned, attached or charged.- Save as provided by this Act, no lump sum or monthly payment payable under this Act, shall, in any way, be capable or being assigned or charged or be

liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. Notice and Claim.- (1). No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is referred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim

(a) if the claim is preferred in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or;

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed had knowledge of the accident from any other source at or about the time when it occurred :

Provided, further, that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date of which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting bona-fide on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any officer or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

10A. Power to require form employers statements regarding fatal accidents.- (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable of deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall, in his statement, indicate the grounds on which he disclaimed liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependents of the deceased workman that it is open to the dependents to prefer a claim for compensation, and may give them such other further information as he may think fit.

10B. Reports of fatal accidents.- (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed the person required to give the notice may, instead of sending such report to the Commissioner, send it to the authority to whom he is required to give the notice.

(2) The Government may, by notification in the official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.

10C. Officers authorised may refer cases for payment of compensation- (1) The Chief Inspector and all other Inspectors under section 9 of the Factories Act, 1965 (IV of 1965) shall be the Inspectors under this Act, and may refer, in the prescribed manner, to the Commissioner, cases of workmen who have not been paid due compensation by employers under the provisions of this Act.

(2) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code, 1860 (Act XLV of 1860) and may, at all reasonable hours, enter any premises and may make any such examination of any record, register or other document relevant to the calculation or payment of compensation and take on the spot or otherwise such evidence of any person and exercise such other powers of inspection as he may deem necessary for carrying out the purpose of the Act.

10D. Fixation of abstracts of the Act or rules at the entrances of the premise- There shall be affixed in some conspicuous places near the main entrance of every place where workman are employed, in English and in Bengali such abstracts of this Act and of the rules made thereunder as may be prescribed.

11. Medical Examination- (1) Where a workman has given notice of an accident, the employer shall, before the expiry of three days from the time at which service of the notice has been effected, have the workman examined free of charge by a qualified medical practitioner, and the workman shall submit himself for such examination, and any workman who is in receipt of a monthly payment under this Act, shall, if so required, submit himself for such examination from time to time.

Provided that a workman not examined free of charge as aforesaid may get himself examined by a qualified medical practitioner and the expenses of such medical examination shall be reimbursed to the workman by the employer:

Provided further that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves, without having been so examined, the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman.

(5) Where under sub-section (2) or sub-section (3), a right to compensation is suspended, no compensation shall be payable in respect

of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, than if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner whose instructions he had followed, and compensation, if any, shall be payable accordingly.

(7) Where an employer or an injured workman is not satisfied with the report of the medical examination by a qualified medical practitioner, he may refer the case for re-examination to a medical specialist at least of the rank of an Associate Professor of a Medical College, and the expenses of such examination shall be borne by the employer, or the workman, as the case may be.

12. Contracting.- (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereafter in this section referred to as the contractor) for the execution by or under the contract or of the whole or any part of any work while is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensations shall be calculated with reference to the wages

of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have received compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal. undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

13. Remedies of employer against stranger.- Where a workman has recovered compensation in respect of any injury caused under circumstances creating legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

14. Insolvency of employer.- (1) Where any employer has entered into a contract with any insures in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insures as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insures shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however,

that the insures shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insures to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in-section (1), the contract of the employer with the insures is void or voidable by reason of non-compliance on the part of the employer with any terms of condition of the contract (other than a stipulation for the payment or premium), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insures shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Insolvency (Dacca) Act, 1909 or under section 61 of the Insolvency Act, 1920, or under section 230 of the Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the cases may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section(4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3); but otherwise those provisions shall not apply where the insolvent of the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.-

15. Special provision relating to master and seamen.- This Act shall apply in the case of workmen who are masters of ships or seamen subject to the following modifications, namely:-

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer but where the accident master of the ship as if he were the employer but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a maser or seaman, the claim for compensations shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands , within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Government; Government shall, in any proceedings for enforcing the claim, be admissible in evidence-

(a) if the deposition is authenticated by the signature of the Judge, magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused:

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Bangladesh relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(5) No compensation shall be payable under this act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War pensions and detention Allowances I (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the pensions (Navy, Army, Air force and Mercantile marine) Act, 1939, or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Government.

(6) Failure to give a notice or make a claim or commence proceeding within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if-

(a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and

(b) the Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made, makes provisions for payments, and that the application was rejected or that payments made in pursuance of the application were

discontinued on the ground that the injury was not such an injury, and

(c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the Government was furnished to the person commencing the proceedings.

16. Returns as to compensation.-The Government may, by notification in the official Gazette, direct that every person employing workmen, or that any specified class of such persons, shall send, at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Government may direct.

17. Contracting out.- Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

18. [repealed]

18A. Penalties.- (1) Whoever-

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10; or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A; or

(c) fails to send a report which he is required to send under section 10B; or

(d) fails to make a return which he is required to make under section 16; or

(e) fails to affix the abstracts of this Act and of the rules as required by section 10D.

shall be punishable with fine which may extend to One thousand Taka

(2) No prosecution under this section shall be instituted except by or with the previous sanction of the Chief Inspector of Factory, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of date on which the offence is alleged to have been committed.

CHAPTER III COMMISSIONERS

19. Reference to Commissioners.- (1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement) the question shall, in default of agreement, be settled by a Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. Appointment of Commissioners.- (1) The Government may by notification in the official Gazette, appoint the Chairman of any Labour Court or any other competent persons having the knowledge of and experience in Labour Laws, to be a Commissioner for workmen's compensation for such area or areas as may be specified in the notification.

(2) Where more than one commissioner has been appointed for any local area, the Government may by general or special order, regulate the distribution of business between them.

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under enquiry to assist him in holding the enquiry.

(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Penal Code (XLV of 1860).

21. Venue of proceeding and transfer.- (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall,

subject to the provisions of this Act and to any rules made hereunder, be done by or before a Commissioner for the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is that master of a ship or a seaman, any such matter may be done by or before a Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Commissioner, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependents of a lump sum without giving such party an opportunity of being heard.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

(5) The Government may transfer any matter from any Commissioner appointed by it to any other commissioner appointed by it.

22. Form of application.- No application for the settlement of any matter by a Commissioner, other than on application by a dependent or dependents for compensation shall be made unless and until some

question has arisen between the parties in connection therewith which they have been unable by to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:-

(a) a concise statement of the circumstances in which the application is made and the relief order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;

(c) the names and addresses of the parties; and

(d) except in the case of an application by dependents for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reasons is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

22A. Power of Commissioner to require further deposit in cases of fatal accident.- (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

23. Powers and procedure of Commissioners.- The Commissioner shall have all the powers of a Civil court under the Code of Civil procedure, 1908, (V of 1908) for the purpose of taking evidence

on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of criminal procedure 1898 (V of 1898).

24. Appearance of parties.- Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than appearance of party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner by any other person so authorised.

24A. Reference of disputed medical questions to a medical referee.- (1) If any question arises in any proceeding under this Act pending before the Commissioner as to--

- (a) the nature and extent of the permanent disablement of a workman, or
- (b) the duration of his temporary disablement, or
- (c) whether the incapacity of a workman is due to personal injury by accident, or
- (d) whether a workman has contracted any occupational diseases specified in Schedule III,

the question shall, in default of agreement on the joint application of both parties or on the application of either party in the prescribed manner by the parties, or the party making the application, as the case may be, of the prescribed fees and expenses, be referred by the Commissioner to a medical referee appointed by him in his direction from amongst the medical practitioners included in the list prepared under section 24B:

Provided that where an application is made by only one of the parties, if the Commissioner is of the opinion that the question is one which ought not on account of the exceptional difficulty of the case or for any other sufficient reason be referred to a medical referee, he may after recording his reason in writing reject the application :

Provided further that if the parties themselves jointly select any medical practitioner included in the said list for appointment as the

medical referee, the Commissioner shall, on payment of the prescribed fees and expenses in the prescribed manner, appoint that medical practitioner:

Provided further that a medical practitioner whose services have been used for the medical treatment of an injury by accident to a workman, or of an occupational disease specified in Schedule III contracted by such workman, by or on behalf of such workman or his employer or by or on behalf of any insurers interested in any proceeding under this Act arising out of such injury or disease, shall not act as a medical referee in any proceeding under this Act in respect of such injury or diseases.

(2) The medical referee to whom such a reference is made under sub-section (1) shall, in accordance with the prescribed rules, require the workman to submit to a medical examination by him or under his personal direction and shall personally or with such medical assistance as he may deem necessary examine the workman medically and send to the Commissioner who has made the reference a report in respect of the question specifically mentioned in the order of reference.

(3) If a workman refuses to submit himself for medical examination by or under the personal direction of the medical referee to whom a reference has been made under this section, or if a workman in any way obstructs the medical examination by or under the personal direction of the medical referee the workman's right to compensation under this Act and his right to continue any proceeding under this Act shall be suspended until such examination has taken place.

(4) If any proceedings under this Act in which evidence is recorded the report of the medical referee shall as between the parties to the proceedings be conclusive proof of the facts related therein within the meaning of section 4 of the Evidence Act, 1872 (Act 1 of 1872):

Provided that such report shall not so be regarded as conclusive proof of the facts related therein if in the particular proceedings the Commissioner, either of his own motion or on application being made to him by either party, for reasons to be recorded by him in writing deem it expedient in the interests of justice to allow the parties to adduce further evidence on such facts.

24B. List of qualified medical practitioners for appointment as medical referees.-- The Government shall prepare a list of qualified medical practitioners who may be appointed as medical referees under section 24A and shall publish the said list in the Official Gazette.

25. Method of recording evidence.-- The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as early as may be word for word.

26. Costs.-- All costs, incidental to any proceedings before a Commissioner shall, subject to rules made under this Act be in the discretion of the Commissioner.

27. Power to submit cases.-- A Commissioner may, if he thinks fit, submit any question of law for the decision of the Labour Appellate Tribunal and, if he does so, shall decide the question in conformity with such decision.

28. Registration of agreements.-- (1) Where the amount of any lump sum payable as compensation has been settled by agreement whether by way of redemption of a monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that-

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

- (b) omitted
- (c) the Commissioner may at any time rectify the register;
- (d) where it appears to the Commissioner that an agreement is to the payment of a lump sum whether by way of redemption of a monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1), shall be enforceable under this Act notwithstanding anything contained in the Contract Act, 1872, or in any other law for the time being in force.

29. Effect of failure to register agreement.- Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

30. Appeals.- (1) An appeal shall lie to the Labour Appellate Tribunal from the following orders of a Commissioner, namely-

- (a) an order awarding as compensation a lump sum whether by way or redemption of a monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a monthly payment;
- (c) an order providing for the distribution of compensation among the dependents of a deceased workman, or disallowing any claim of a person alleging himself to be such dependent;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(f) an order under section (7) of section 8;

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b) unless the amount in dispute in the appeal is not less than one thousand Taka.

(2) The period of limitation for an appeal under this section shall be sixty days.

The provisions of section 5 of the Limitation Act, 1908, shall be applicable to appeals under this section.

30A. Withholding of certain payments pending decision of appeal.- Where an employer makes an appeal under clause (a) of subsection (1) of section 30, the Commissioner may, and if so directed by the Labour Appellate Tribunal shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

31. Recovery.- Any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, shall be recoverable as arrear of land revenue.

31A. Application of section 36 of Act XVIII of 1879 to touts in office of the Commissioner.- (1) The provisions of section 36 of the Touts Act, 1897, shall subject to the provisions of this section, be applicable, so far as may be, to the framing and publication of a list of touts, to the exclusion of touts included in the list from the precincts of the court of the Commissioner and to the arrest, detention, trial and punishment of such touts.

(2) A Commissioner shall, for the purposes of the said section 36, be deemed to be an authority referred to in sub-section (1) of that section.

(3) For the purposes of this section 'tout' means-

(a) a 'tout' as defined in clause (a) of section 3 of ³ the Touts Act, 1897; or

(b) a person who habitually frequents the precincts of the court of a Commissioner--

(i) in the purpose of procuring work as an agent under section 24, or

(ii) otherwise than as a party to or a witness in any proceedings before the Commissioner or as a *bonafide* agent appointed under section 24.

CHAPTER IV RULES

32. Power of the Government to make rules.- (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11,

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependents of a deceased workman and for the transfer of money so invested from one Commissioner to another;

- (ee) for prescribing the matter in which any balance of money may, under sub-section section (4) of section 8, be transferred to a fund or funds for the benefit of the workman and for the establishment and administration of such fund or funds;
- (f) for the representation in proceedings before Commissioners of parties who are minor or are unable to make an appearance.
- (ff) for prescribing the procedure relating to the reference of medical questions to medical referees under sub-section (1) of section 24A;
- (ffi) for regulating the procedure relating to the medical examination of a workman by or under the personal direction of a medical referee and the submission of the report of such medical referee, under sub-section (2) of section 24A;
- (ff2) for prescribing and determining the fees and expenses payable in connection with references of medical questions to medical referees and sub-section (1) of section 24A;
- (g) for prescribing the form and manner in which memorandum of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part of monthly payments pending decision on applications for review of the same ;
- (i) for regulating the scales of costs which may be allowed in proceedings under this Act;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a commissioner under this Act.
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books under sub-section (2) section 10, and the form of such notice-books;
- (m) for prescribing the form of statement to be submitted by employers under section 10A;
 - (n) for prescribing the case in which the report referred to in section 10B may be sent to an authority other than the Commissioner; and
 - (o) for prescribing the abstracts of this Act and of the Rules required by section 10D.

33. Repealed

34. Publication of rules.- (1) The power to make rules conferred by section 32 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft or rules proposed to be made under section 32 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the official Gazette and, on such publication, shall have effect as if enacted this Act.

35. Rules to give effect to arrangement with other countries for the transfer of money paid as compensation.- (1) The Government may, by notification in the official Gazette, make rules for the transfer to any other country of money deposited with a Commissioner under this Act which has been awarded to, or may be due to, any person residing or about to reside in such part or country and for the receipt, distribution and administration in Bangladesh of any money deposited under the law relating to workmen's compensation in any other country, which has been awarded to, or may be due to, any person residing or about to reside in Bangladesh;

Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.

SCHEDULE-1*See section 2 (1) and 4**List of injuries deemed to result in permanent partial disablement.*

Sl. No	Description of injuries	Percentage of loss of earning capacity
1.	Loss of both hands of amputation at higher sites	100
2	Loss of a hand and a foot	100
3	Loss of sight of both eyes to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
4	Double amputation throughout leg or thigh, or amputation of leg or thigh on one side and loss of either foot	80
5	Very sever facial disfigurement	70
6	Absolute deafness	70
Amputation cases-upper limbs (either arm)		
7.	Amputation through shoulder joint	80
8.	Amputation below shoulder with Stump less than 8 from tip of acromion	70
9.	Amputation from 8 from tip of acromion to less than 4 ¹ / ₂ below tip of olecranon	60
10.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 ¹ / ₂ below tip of olecranon	60
11.	Loss of thumb	30
12.	Loss of thumb and its metacarpal bone	30
13.	Loss of four fingers of one hand	50
14.	Loss of three fingers of one hand	30
15.	Loss of two fingers one hand	10
16.	Loss of terminal phalanx of thumb	10

Amputation cases-lower limbs		
17.	Amputation of both feet resulting in endearing Stumps	80
18.	Amputation through both feet proximal to the metatarso phalangeal joint	70
19.	Losses of all toes of both feet throughout the metatarso phalangeal joint	30
20.	Loss of all toes of both feet proximal to the proximal inter phalangeal joint	20
21.	Loss of all toes of both feet distal to the proximal inter phalangeal joint	10
22.	Amputation at hip	80
23.	Amputation below hip with stump not exceeding 5 in length measured from tip or great trochanter but not beyond middle thigh	70
24.	Amputation below hip with stump not exceeding 5 in length measured from tip of great trochanter	60
25.	Amputation below middle thigh to 3½ below knee.	50
26.	Amputation below with stump exceeding 3½ but not exceeding 5	40
27.	Amputation below knee with stump exceeding	20
28.	Amputation of one foot resulting in endbearing stump	20
29.	Amputation through one foot proximal to the metatarso phalangeal joining	20
30.	Loss of all toes of one foot through the metatarso phalangeal joint	10
Other injuries		
31.	Loss of one eye, without complications, the other beings see book	40
32.	Loss of vision of one eye without complication of disfigurement of eye ball, the other being normal	20
Fingers of right or left hand.		
Index finger		
33.	Whole	14

34.	Two phalanges	11
35.	One phalanx	9
36.	Guillotine amputation of tip without loss of bone	5
Middle finger		
37.	Whole	12
38.	Two phalanges	9
39.	One phalanx	7
40.	Guillotine amputation of tip without loss of bone	5
Ring or little finger		
41.	Whole	7
42.	Two phalanges	6
43.	One phalanx	5
44.	Guillotine amputation of tip without loss of bone.	5
Toes of right or left foot.		
45.	Through metatarso- Phalangeal joint	10
46.	Part, with some loss of bone	3
Any other toe		
47.	Through metatarso- Phalangeal joint	3
48.	Part, with some loss of bone	2
Two toes of foot excluding great toe.		
49.	Through metatarso-phalangeal joint	5
50.	Part, with some loss of bone	2
Three toes of one foot, excluding great toe		
51.	Through metatarso-phalangeal joint	6
52.	Part, with some loss of bone	3
Four toes of one foot, excluding great toe		
53.	Through metatarso-phalangeal joint	9
54.	Part, with some loss of bone	5

SCHEDULE II

See section 2 (1) (n)

List of person who, subject to the provision of section 2 (1) (n) are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is-

(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity; or

(ii) employed in any premises wherein, or within the precincts whereof, on any day of the preceding twelve months ten or more persons have been employed in any manufacturing process, as defined in clause (h) of section 2 of the Factories Act, 1965 (IV of 1965), or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used but not person employed solely in a clerical capacity in any room or place where no manufacturing process is being carried on; or

(iii) employed in any place to which section 3 of the Factories Act, 1965 (IV of 1965) has been applied or for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of any article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, five or more persons have been so employed; or

(iv) employed in the manufacture or handling of explosives in any premises wherein or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or

(v) employed, in any mine as defined in clause (f) of section 3 of the Mines Act, 1923 (IV of 1923), in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground:

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its

lowest point does not exceed twenty feet shall be deemed not to be mine for the purpose of this clause; or

(vi) employed as the master seaman, sailor or otherwise on any ship or any inland vessel which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(vii) employed for the purpose of loading, unloading, fueling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Ports Act, 1908 (XV of 1908), of goods which have been discharged from or are to be loaded into any vessel; or

(vii-a) employed in loading and unloading of goods in the mechanically propelled vehicles in the Chittagong and Chalna Ports; or

(viii) employed in the construction, repair or demolition of-

(a) any building or structure; or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(c) any road, bridge, or tunnel; or

(d) any wharf, quay, sea-wall or other marine work including any mooring ships; or

(ix) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same; or

(x) employed, otherwise than in clerical capacity, in the construction, working repair or demolition of any aerial ropeway, canal pipe-line, or sewer; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon a railway as defined in clause (4) of section 3 and sub-section (1) of section 148 of the Railways Act, 1890 (IX of 1890), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Posts and Telegraphs Department; or

(xiii-a) employed as treasurer clerks performing outdoor duties in the Posts, Telegraph and Telephone Department; or

- (xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or
- (xv) employed in any occupation involving blasting operations; or
- (xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than twenty-five persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or
- (xix) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or
- (xx) employed in lighthouse as defined in clause (d) of section 2 of the Lighthouse Act, 1927 (XVII of 1927); or
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fire; or
- (xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or
- (xxv) employed as a driver; or
- (xxvi) employed in the handling or transport of goods in, or within the precincts of,
 - (a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed; or
 - (b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or X-ray apparatus, or contact with radioactive substances.

Explanation-- In this Schedule the preceding twelve months relates in any particular case to the twelve months ending with the day on which the accident in such case occurred; or

(xxviii) employed as drivers, cleaners, conductors and checkers by Road Transport Service as defined in sub-section (7) of section 2 of the Road Transport Workers Ordinance, 1961 (XXVIII of 1961); or
(xxix) employed in the service of watch and ward.

SCHEDULE III

(See Section 3)

List of occupational diseases

Occupational disease.	Employment.
PART-A	
Anthrax	Any employment
	(a) involving the handling of wool, hair, bristles, animal carcasses, or residues thereof; or
	(b) in connection with animals infected with anthrax; or
	(c) involving the loading, unloading or any merchandise.
Compressed air illness or its sequelae.	Any process carried on in compressed air.
Poisoning by lead tetraethyl	Any process involving exposure to the fumes.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.
Poisoning by manganese.	The use of handling of, or exposure to the fumes, dust or vapour of manganese or a compound of manganese or substance containing manganese.
Poisoning by carbon bisulphide.	The use of handling of, or exposure to the fumes, dust or vapour of carbon bisulphide

	or a compound of carbon bisulphide or a substance containing carbon bisulphide.
Poisoning by tetrachlorethane.	The use of handling of, or exposure to the fumes, dust or vapour containing tetrachlorethane.
Poisoning by insecticides or Pesticides.	The spraying of insecticides or pesticides.
PART B	
Infection by leptospira icterohaemorrhagia.	Employment in rat infested work places.
Poisoning by Dinitrophenol or a homologue.	The use or handling of, or exposure to the fumes of, or vapour containing dinitrophenol or homologue.
Poisoning by tricresyl Phosphate.	The use of handling of, or exposure to the fumes of, or vapour containing tricresyl phosphate.
Chrome ulceration or its sequelae.	The use or handling of chromic acid, chromates or bichromate of ammonium, potassium, sodium or zinc, or any preparation or solution containing any of these substances.
Contact produced by exposure to the glare of, or rays from molten glass or molten or red hot metal.	Frequent or prolonged exposure to the glare of, or rays from, molten glass or red hot metal.
Poisoning by beryllium.	The use or handling of, or exposure to the fumes, dust or vapour of beryllium or a compound or beryllium or a substance containing beryllium.

Carcinoma of the mucous membrane of the nose or associated air sinuses or Primary carcinoma of a bronchus or of a lung.	Any occupation in a factory where nickel is produced by decomposition of a gaseous nickel compound which involves work in or about a building or buildings where that process any other industrial process ancillary or incidental thereto is carried on.
Primary neoplasm of the epithelial lining of the urinary bladder (papilloma) of the bladder.)	(a) work in a building in which any of the followings substances if produced for commercial purposes: (i) alpha-naphthylamine, beta naphthylamine or benidine or any of their salts; (ii) auramine or magenta; (b) the use or handling of any of the substances mentioned in sub-paragraph (i) of paragraph (a) or work in a process in which any such substance is used or handled or is liberated.
Lead poisoning or its sequelae excluding poisoning by lead tetraethyl	Any process involving the use of lead or its preparation or compounds except lead tetraethyl.
Phosphorous poisoning or its sequelae.	Any process involving the use of phosphorous or its preparations or compounds.
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues of the sequelae of such poisoning.	Handling benzene or any of its homologues any process in the manufacture or involving use of benzene or any of its homologues
Arsenical poisoning or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.

Pathological manifestations due to- (a) radium and other radio-active substances (b) X-rays	Any process involving exposure to the action of radium, radio-active substances, or.
Primary epitheliomatous cancer of the skin,	X-ray Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Silicosis	Any employment involving exposure to the inhalation of dust containing silica.
Coal miner's	Any employment in coal mining
Pneumeconiosis Asbestosis.	Any employment in- (1) the production of (i) fibre cement material; or (ii) asbestos mill board. (2) the processing of ores containing asbestos.
Bagassosis.	Any employment in the production of bagasse mill board or other articles form bagasse.
Byssinosis.	Any employment in cotton-rooms, blowing-rooms or carding rooms in such factories where spinning of raw cotton is carried on.
Writer's cramp.	Hand-writing for prolonged periods
Twister's cramp	The twisting of cotton or woollen (including worsted) yarn.
Miner's nystagmus.	Work in poorly illuminated mines.
Dermatitis	(1) Any occupation where organic or inorganic chemicals are used or handled. (2) Any occupation where any materials are handled manually.
Fibrosis of lung	Arises out of jute and cotton fibres.

SCHEDULE IV

[See Section 4]

Compensation payable in certain cases

Monthly wages of the workman injured.		Amount of compensation for		Monthly payment as compensation for temporary disablement.
	But not	Death	Permanent/total disablement.	<p>Compensation shall be paid for the period of disablement or for one year whichever period is shorter. Such compensation shall be paid at the rate of full monthly wages for the first two months, two-thirds the monthly wages for the next two months and at the rate of half of the monthly wages for the subsequent months.</p> <p>In case of chronic occupational diseases, half of the monthly wages during the period of disablement for a maximum period of two years shall be paid.</p>
more than	more than	Tk	Tk.	
0 to	100	8,000	10,000	
101	200	12,000	16,000	
201	300	14,000	19,000	
301	400	16,000	21,000	
401	500	18,000	26,000	
501 and	above	21,000	30,000	

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THE WORKMEN'S COMPENSATION RULES, 1924

[26th June, 1924]

[Rules framed by the Government under section 32 of the Workmen's Compensation Act, 1923 (VIII of 1923.) Notification No L-1182 dated 26th June, 1924]

1. Short title.- These rules may be called the Workmen's Compensation Rules, 1924.

2. Definitions.-In these rules, unless there is anything repugnant in the subject or context,-

- (a) "the Act" means the Workmen's Compensation Act, 1923;
- (b) "Form" means a form appended to these rules;
- (c) "section" means a section of the Act.

PART I

Review of monthly payments and commutation thereof

3. When application may be made without medical certificate.-Application for review of a monthly payment under section 6 may be made without being accompanied by a medical certificate-

- (a) by the employer, on the ground that since the right to compensation was determined the workman's wages have increased;
- (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished;
- (c) by the workman, on the ground that the employer, having commenced to pay compensation has ceased to pay the same, notwithstanding the fact that there has been no change in the workman's condition such as to warrant such cessation;
- (d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud by fraud or undue influence or other improper means;
- (e) either by the employer or by the workman on the ground that in the determination of compensation there is mistake or error apparent on the face of the record.

4. Procedure on application for review.- If, on examining an application for review by an employer in which the reduction or discontinuance of monthly payment is sought, it appears to the Commissioner that there is reasonable ground for believing that the employer has right to such reduction or discontinuance, he may at any time issue an order withholding the monthly payments in whole in whole or in part pending his decision on the application.

5. Procedure on application for commutation.- (1) Where application is made to the Commissioner under section 7 for the redemption of a right to receive monthly payments by the payment of a lump sum, the commissioner shall form an estimate of the probable payments which would be payable for the period during which he estimates that the disablement will continue, less one-half per cent. of that total for each month comprised in that period:

Provided that fraction of a Taka included in the sum so computed shall be disregarded.

(2) When in any case to which sub-rule (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

PART II

Deposit of Compensation

6. Deposit under section 8(1).- An employer depositing compensation with the Commissioner under sub-section (1) of section 8 in respect of a workman whose injury has resulted in shall furnish therewith a statement in *Form A*, and shall be given a receipt section 8, the employer shall furnish a statement in *Form AA*, and shall be given a receipt in *Form B*.

(2) If when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not dependant of the deceased

workman or, as the case may be that no one of such persons is a dependant.

(3) The statement of disbursements to be furnished, on application by the employer under sub-section (4) of section 8 shall be in *Form C*.

7. Publication of lists of deposits.- The Commissioner shall cause to be displayed in a sub-section (1) of section 8, together with the names and addresses of the depositors and of the workmen in respect of whose death or injury the deposits have been made.

8. Application by dependants for deposit of compensation.- (1) A dependant of a deceased workman any apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in *Form G*.

(2) If compensation has not been deposited the Commissioner shall dispose of such application in accordance with the provisions of Part V of these rules:

Provided that-

- (a) the Commissioner may, at any time before issues are framed; cause notice to be given in such manner as he thinks fit to all or any dependants of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf;
- (b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub- section (1) of section 8, nothing in sub- rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join the application.

9. Deposit under section 8(2).- An employer depositing compensation in accordance with sub-section (2) of section 8, shall

furnish therewith a statement in *Form D*, and shall be given a receipt in *Form E*.

10. Investment of money.- Money in the hands of Commissioner may be invested for the benefit of the dependants of a deceased workman in Government securities or Post Office Cash Certificates or may be deposited in a Post Office Savings Bank.

PART III

Report of Accidents

11. Report of fatal accidents.- The report required by section 10B shall, subject to such rules, if any, as may be made by the Government, be in *Form EE*.

12. Right of employer to present memorandum which information received.- (1) Any employer who has received information of an accident may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum, supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investigation or inquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under sub-rule (1) shall, subject to the payment of such fee as may be prescribed, be recorded by the Commissioner.

PART IV

Medical Examination

13. Workman not to be required to submit to medical examination save in accordance with rules.- A workman who required by sub-section (1) of section 11 of submit himself for medical examination shall be bound to do so in accordance with the rules contained in this Part and not otherwise.

14. Examination when workman and medical practitioner both on premises.- When such workman is present on the employer's

premise and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for examination forthwith.

15. Examination in other cases.- In case to which rule 14 does not apply the employer may -

- (a) Send the medical practitioner to the place where the workman is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or
- (b) Send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employ's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified.

Provided that-

- (i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 p.m. and 6 a. m., and
- (ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

16. Restriction on number of examinations.- A workman who is in receipt of a monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first months following the accident, or more than once in any subsequent month.

17. Examination after suspension of right to compensation.- If a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer, and at a time to be fixed by the employer not being, save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

18. Examination of women.- (1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female-practitioner.

PART V

Procedure

19. Introductory.- Save as otherwise provided in these rules, the procedure to be followed by commissioners in the disposal of cases under the Act or these rules and by the parties in such cases shall be regulated in accordance with the rules contained in this Part.

20. Applications.- (1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorised by him in this behalf and, if so sent or presented, unless the Commissioner otherwise directs, be made in duplicate in the appropriate Form, if any, and shall be signed by the applicant.

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

21. Production of documents.- (1) When the application for relief is based upon a document, the document shall be appended to the application.

(2) Any other document which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2) as the case may be shall not, without the sanction of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

22. Application presented to wrong Commissioner.- (1) If it appears to the Commissioner on receiving the application that it should be presented to another Commissioner, he shall return it to the applicant after endorsing upon it the date of the presentation and return, the reason for retiring it and the designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 26,) accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of parties will not thereby be prejudiced.

23. Examination of applicant.- (1) On receiving an application of the nature referred to in section 22, Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1) shall be recorded in the manner provided for the recording of evidence in section 25.

24. Summary dismissal of application.- (1) The Commissioner may, after considering the application and the result of any examination of the applicant under rule 23, summarily dismiss the application if, for reasons to be recorded he is of opinion that there are no sufficient grounds for proceeding thereon.

(2) the dismissal of the application under sub-rule (1) shall not of itself preclude the applicant from presenting a fresh application for the settlement of the same matter.

25. Preliminary inquiry into application.- If the application is not dismissed under rule 24, the Commissioner may, for reasons to be recorded, call upon the applicant to produce evidence in support of the

application before calling upon any other party, and, if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

26. Notice to opposite party.- If the Commissioner does not dismiss the application under rule 24 or rule 25, he shall send to the party from whom the applicant claims relief (hereinafter referred to as opposite party) a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

27. Appearance and examination of opposite party. - (1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim, raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim, and shall reduce the result of the examination to writing.

28. Framing of issues.- (1) After considering any written statement and the result of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion concern points of fact and those which concern points of law.

29. Power to postpone trial of issue of fact where issues of law arise.- When issues both of law and of fact arise in the same case, and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and, for that purpose may, if he thinks fit, postpone the settlement of the issues of facts until after the issues of law have been determined.

30. Diary.- The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

31. Reasons for postponement to be recorded.- If the Commissioner finds it impossible to dispose of an application at one hearing, he shall record the reasons which necessitate a postponement.

32. Judgment.- (1) The Commissioner, in passing orders, shall record concisely in a judgment his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

33. Summoning of witnesses.- If an application is presented by any party to proceedings for the citation of witnesses, the Commissioner shall on payment of the prescribed expenses and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

34. Exemption from payment of costs.- If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

35. Right of entry for local inspection.- A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings:

Provided that Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some

person directly responsible to him for the management of the establishment.

36. Procedure in connection with local inspection.- (1) If the Commissioner proposes to conduct a local inspection with a view to examination on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under sub-section (2) of section 10, or to the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any party who desires to see the same, and, on payment of the prescribed fee, shall supply any party with a copy thereof.

(5) The memorandum shall form part of the record.

37. Power of summary examination.- (1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may examine summarily any person likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1),

(3) Statements made by person examined under sub-rule (1), if reduced to writing, shall not be signed by the person making the statement, nor shall they, except as hereinafter provided, be incorporated in the record or utilized by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1) makes, in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that cases direct that the

parties be furnished with the relevant part of such statement for the purposes of examining or cross examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under-sub-rule (4) shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the commissioner may incorporate in the record any statement made under sub-rule (1), and may utilize such statement for the purpose of justifying his acceptance of, or refusal to accept, the agreement reached.

38. Agreement to abide by Commissioner's decision.- (1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the commissioner's decision, the first party shall not remain under an obligation so to abide.

39. Procedure where indemnity claimed under section 12(2).-

(1) Where the opposite party claims that if compensation is recovered against him, he will be entitled under sub-section (2) of section 12 to be indemnified by a person not being a party to the case, he shall, when first called upon to answer the application, present a notice of such claim to the Commissioner accompanied by the prescribed fee, and the Commissioner shall thereupon issue notice to such person in *Form J*.

(2) If any person served with a notice under sub-rule (1) desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings; in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him:

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to the aforesaid opposite party, hear such person, and may set aside or vary any

award made against such person under this rule upon such terms as may be just.

(3) If any person served with a notice under sub-rule (1), whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the prescribed fee and the Commissioner shall thereupon issue notice to such person in *Form JJ*.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation, or the claim under sub-rule (3) to be indemnified he shall appear before the commissioner on the date fixed in the notice in *Form JJ* or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings, in default of so appearing he shall be deemed to admit the validity of any award made against the organist the original opposite party or the person served with a notice under sub-rule (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him:

Proved that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3) the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such persons whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any, whom he is liable to indemnify.

40. Procedure in connected case.- (1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned be heard simultaneously.

(2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded of one case, and the Commissioner shall certify under his hand on the records of any such other case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present of cross-examining the witnesses.

41. Certain provisions of Code of Civil Procedure, 1908 to apply.- Save as otherwise expressly provided in the Act or these rules the following provisions of the First Schedule to the Code of Civil Procedure, 1908 namely those contained in Order V, Rules 9 to 13 and 15 to 30; Order IX, Order XIII, Rules 3 to 10; Order XVI, Rules 2 to 21; Order XVII and Order XXIII, Rules 1 and 2, shall apply to proceedings before Commissioners, in so far as they may be applicable thereto:

Provided that-

(a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them which such alterations not affecting the substances as may be necessary or proper to adapt them to the matter before him;

(b) the Commissioner may, for sufficient reason, proceed otherwise than in accordance with the said provisions, if he is satisfied that the interests of the parties will not thereby be prejudiced.

42. Provision regarding signature of forms.- Any form other than a receipt for compensation, which is by these rules required to be, signed by a commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

43. Apportionment of compensation among dependants.- The provisions of this Part, except those contained in rules 26, 27 and 39 shall, as far as may be applied, in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

PART VI

Transfer

44. Transfer for report.- (1) A Commissioner transferring any matter to another Commissioner for report in accordance with sub-section (2) of section 21 shall, along with the documents referred, to in that sub-section, transmit to such other Commissioner a concise statement, in the form of questions for answer, of the matter on which report is required.

(2) A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

45. Transmission of money.- Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order, or by messenger, as the Commissioner transmitting the money may direct.

PART VII

Appointment of Representatives

46. When representative must be appointed.- Where any party to a proceedings is under the age of 15 years or is unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purposes of the proceeding.

47. When new representative to be appointed.- If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by that representative or if a person appointed to act as representative dies or becomes incapable of acting or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

PART VIII

Record of Memoranda of Agreement

48. Form of memorandum.- Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall, unless the Commissioner otherwise directs, be in duplicate, and shall be in as close

conformity as the circumstances of the case admit with *Form K* or *Form L* or *Form M* as the case may be.

49. Procedure where Commissioner does not consider that he should refuse to record memorandum.- (1) On receiving a memorandum of agreement, the Commissioner, shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice writing in *Form N* to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed.

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded.

Provided that the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision therefore, any if any party desiring the memorandum to be recorded is not present, he shall send information to that party in *Form O*.

50. Procedure where Commissioner considers he should refuse to record memorandum.- (1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same, he shall fix a date for hearing the party or parties desiring the memorandum to be recorded and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in form for *Form Q*, as the case may be, and the date fixed in such notice shall be not less than seven days after the date of the issue of the same.

(3) If, on the date fixed under sub-rule (1) the party or parties desiring the memorandum to be recorded show adequate case for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses the memorandum, he shall send notice in *Form O* to any party who did not receive information under sub-rule (1).

51. Procedure on refusal to record memorandum.- (1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

52. Registration of memorandum accepted for record.- In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in *Form R* and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely:

"This memorandum of agreement bearing Serial No.....of 20.....in the register has been.....recorded thisday of.

(Signature)
Commissioner

FROM A
[See rule 6]

DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Tk. is hereby presented for deposit in respect of injuries resulting in the death of the workmen, whose particulars are given below, which occurred on.....

Name.....

Father's name.....

(Husband's name is case of married woman and widow).

Caste.....

Local address.....

Permanent address.....

His/her monthly wages are estimated at Tk.....He/she was over/under the age of 15 years at the time of his/her death.

2. The said workmen had, prior to the date of his/ her death received the following payments, namely:-

Tk.....on.....Tk.....on.....Tk.

Tk.....on.....Tk.....on.....Tk.

Tk.....on.....Tk.....on.....Tk.

amounting in all to Tk.....

3. An advance of Tk.....has been made on account of compensating to.....being his/her dependant.

4. I do not desire to be made a party to the proceedings for distributions of the aforesaid compensation

Date.....20....

.....
Employer

FORM AA
[See Rule 6(4)]

BEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENT TO WOMEN OR PERSON UNDER LEGAL DISABILITY.

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Tk.....is hereby presented for presented for deposit in respect of injuries sustained by.....residing at.....on.....200..., resulting in the loss of temporary disablement, His monthly wages are estimated at Tk He/ She was over/ under the age of 15 years at the time of the accident.

2. The said injured workman has prior to the date of the deposit received the following monthly payments, namely-

Tk.....on..... Tk.....on.....Tk
Tk.....on..... Tk.....on.....Tk.
Tk.....on.....Tk.....on.....Tk.

.....
Employer

Date.....20...

FROM B
[See rule 9]

RECEIPT FOR COMPENSATION

[Section 8 (1) of the Workmen's Compensation Act, 1923.]

Boll No. Receipt No..... Register No.....

Depositor.....

Deceased or injured workmen.....

Date of deposit.....200....

Sum deposited Tk.....

.....
Commissioner

FORM C

[See rule 6]

STATEMENT OF DISBURSEMENTS

[Section 8 (4) of the Workmen's Compensating Act, 1923]

Serial No.

Depositor.....

Date

Amount deposited.....

Amount deducted and repaid to the employer under the proviso to section 8 (1).

Funeral Expenses paid

Compensation paid to the following dependants.--

Name..... Relationship

Total

.....
Commissioner

Dated.....200.....

FORM D

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENTS, OTHER THAN TO A WOMAN OR PERSON UNDER LEAL DISABILITY

[Section 8 (2) of the Workmen's Compensation Act, 1923]

Compensation amounting to Tk..... is hereby presented for deposit in respect of Permanent/temporary injuries sustained by..... residing at..... which occurred on.....200

.....
Employer

Dated.....20...

FORM E

[See rule 9]

RECEIPT FOR COMPENSATION

[Section 8 (2) of the Workmen's Compensation Act, 1923

Book No. Receipt No. Register No.

Depositor.....

In favour of

Date of deposit20...

Sum deposited Tk.....

.....
Commissioner

FORM EE

[See Rule]

REPORT OF FATAL ACCIDENTS

To.....

.....

Sir,

I have the honour to submit the following report of an accident which occurred on..... (date), at.....(here enter details of premises).....and which resulted in the death of the workmen/workmen of whom particulars are given in the statement annexed.

2. The circumstances attending the death of the workmen/workmen were a under .

- (a) Time of the accident:
- (b) Place where the accident occurred:
- (b) Manner in which deceased was/ were employed at the time:
- (e) Any other relevant particulars

I have, etc.,

Signature and designating of person making the report

Statement				
Name	sex	Age	Name of employment	Full postal address

FROM F
[See rule 20]

APPLICATION FOR COMPENSATION BY WORKMAN

To the Commissioner for Workmen's Compensation,
.....residing at.....applicant.

versus

.....residing at.....opposite party.

It is hereby submitted that--

(1) the applicant, a workman employed by (a contractor with) the opposite party on theday of.....20.....received personal injury by accident arising out of and in the course of his employment.

The case of the injury was (here insert briefly in ordinary language the cause of the injury).....

.....
(2) the applicant sustained the following injuries, namely:-

.....
(3) the monthly wages of the applicant amount to Tk.....the applicant is over/under the age 15 years.

(4) (a) Notice of the accident was served on the day of.....
(b) Notice served as soon as practicable
(c) Notice of the accident was not served (in due time) by reason of.....

(5) the applicant is accordingly entitled to receive--
(a) monthly payments of Tk.....from theday of20.....to.....
(b) a lump sum payment of Tk.....

(6) the applicant has take the following steps, to secure a settlement by agreement namely.....but it has proved impossible to settle the question in dispute because.....

You are therefore requested to determine the following questions in dispute, namely-

- (a) whether the applicant is a workman within the meaning of the Act :
- (b) whether the accident arose out of in the course of the applicants' employment;
- (c) whether the amount of compensation claimed is due, or any part of that amount;
- (d) whether the opposite party is liable to pay such compensation as is due;
- (e) etc., (as required)

Dated.....200....

.....
Applicant

FORM G

[See rule 20]

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION

To the Commissioner for Workmen's Compensation.

.....residing at.....applicant

VERSUS

.....residing at.....opposite party

It is hereby submitted that--

(1)a workman employed by (a contractor with) the opposite party on the.....day of.....20.....received personal injury by accident arising out of and in the course of his employment resulting in his death on the.....day of.....20.....The cause of the injury was (here inset briefly in ordinary language the cause of the injury

(2) The applicant(s) is a/are dependants(s) of the deceased workman being his

(3) The monthly wages of the deceased amount to Tk.....

The deceased was over/under the age of 15 years at the time of his death.

*4 (a) Notice of the accident was served on theday of.....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of...

(5) The deceased before his death received as compensation the total sum of Tk.....

(6) The applicant(s) is/are accordingly entitled to receive a lump sum payment of Tk....

You are therefore requested to award to the applicant the said compensation or any other compensation to which he may be entitled.

.....Applicant.

Dated.....20.....

FORM H

[See rule 20]

APPLICATION FOR COMMUTATION

(Under section 7 of the Workmen's Compensation Act, 1923).

To the Commissioner for Workman's Compensation,
residing at.....applicant,
versus
residing atopposite party

It is hereby submitted that--

- (1) The applicant/opposite party has been in receipt of monthly payments fromto.....inin respect of temporary disablement by accident arising out of and in the course of his employment.
- (2) The applicant is desirous that the right to receive monthly payments should be redeemed.
- (3) (a) The opposite party is unwilling to the redemption f the right to receive monthly payments.
 (b) The parties have been unable to agree regarding the sum for which the right to receive monthly payments should be redeemed.

You are therefore requested to pass orders-

- (a) directing that the right to receive monthly payments should be redeemed.
- (b) fixing a sum for the redemption of the right to receive monthly payments.

Dated.....20...

.....Applicant

FORM-J

[See rule 39]

NOTICE

Whereas a claim for compensation has been made by.....applicant, againstand the saidhas claimed that you are liable under section 12 (2) of the workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before me on.....and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party. In default of your appearance you will be deemed to admit the validity of any award made against the opposite party and your liability to indemnify to indemnify the opposite party for any compensation recovered from him.

Dated.....20.....

.....Applicant

FORM JJ

[See rule 39]

Notice Whereas a claim for compensation has been made by.... applicant, against.....and the said.....has claimed that.....is liable under section 12 (2) of the Workmen's Compensation Act, 1923, claim, and whereas the said.....on notice served has claimed that you.....stand to him in the relation of a contractor from whom the applicant.....could have recovered compensation you are hereby informed that you may appear before me on.....and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party...In default of your appearance you will be deemed to admit the validity of any award made against the opposite party.....and your liability to indemnify the opposite party.....for any compensation recovered from him.

Dated.....20.....

.....
Commissioner.

FROM K

[See rule 48]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the.....day of.....20.... personal injury was caused to, residing at.....by accident arising out of and in the course of employment in.....The said injury has resulted in temporary disablement to the said workman whereby it is estimated that he will be prevented from earning more than of his previous/any wages for period of.....months. The said workman has been in receipt of monthly payments which have continued from theday of20....until the ...day of20.....amounting to Tk.....in all. the said workman's monthly wages are estimated at Tk. The workman is over the age of 15 years/will reach the age of 15 years on....It is further submitted that...the employer of the said workman has agreed to pay, and the said workman has agreed to accept the sum of Tk...in full settlement of all and every claim under the Workman's Compensation Act, 1923, in respect of all disablement of a temporary nature arising out of the said accident, whether now or hereafter to become manifest. It is therefore requested that this memorandum be duly recorded.

Date

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Tk.....Workman.

Dated.....20....

The money has been paid and this receipt signed in my presence.

.....
Witness.

FORM M
[See rule 48]
MEMORANDUM OF AGREEMENT

It is hereby submitted that on theday of.....20.....personal injury was caused toresiding atby accident arising out of and in the course of employment in.....the said injury has resulted in temporary disablement to the said workman, who is at present in receipt of wages amounting to Tk. per month/no wages.

The said workman's monthly wages prior to the accident are estimated at Tk.....The workman is subject to a legal disability by reason of.....

It is further submitted thatthe employer of the workman has agreed to pay andon behalf of the said workman has agreed to accept monthly payments at the rate of Tk.....for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the monthly payments may be varied in accordance with the provisions of the said Act on account of an alteration in the earnings of the said workman during disablement. It is further stipulated that all rights of commutation under section 7 of the said Act are unaffected by this agreement. It is therefore requested that this memorandum be duly recorded.

Dated20... Signature of employer.....

Witness.....

Witness Signature of workman....

Note.- An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended.

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Tk..... Workman

Dated.....20.....

The money has been paid and this receipt signed in my presence.

Note- This form may be varied to suit special case e. g. injury by occupational disease, etc.

FROM-N

[See rule 49]

Whereas an agreement to pay compensation is said to have been reached betweenandand whereashas/have applied for registration of the agreement under section 28 of the into consideration on2000, and that any objections of the registration of the said agreement should be made on that date. In the absence of valid objections, it is may intention to proceed to the registration of the agreement.

Dated20....

.....
Commissioner.

FROM O

[See rules 49 and 50]

Take notice that registration of the agreement to pay compensation to pay compensations said to have been reached between you..... and.....on the.....20....has been refused for the following reasons, namely:-

Dated20.....

.....
Commissioner:

FORM P

[See rule 50]

Whereas an agreement to pay compensation is said to have been reached betweenandand where as.....has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought out to be registered for the following reasons, namely :-

an oppportunity will be afforded to you of showing causes on.....20....why the said agreement should be registered. It no adequate cause is shown on that date registration of the agreement will be refused.

Dated....20....

.....
Commissioner

FORM Q

[See rule 50]

Whereas and agreement to pay compensation is said to have been reached betweenandand whereashas/have applied for registration of the agreement under said agreement ought not to be registered for the following reasons, namely.....an opportunity will be afforded to the said of showing cause on.....20..... why the said agreement should be registered. Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the

.....
Commissioner

Dated.....20.....

FORM R

[See rule 52]

REGISTER OF AGREEMENTS FOR THE YEAR 20...

Serial number	Date of agreement	Date of registration	Employer	Workman	Initials of Commissioner	Reference to orders rectifying the register

FORM TT
(Rule 56)

ACCOUNTS REGISTER OF WORKMEN'S FUND FOR THE MONTH OF

SI No	Name of Depositor	Date of deposit	Amount deposited u/s 1(4)		Deduction if any under the Act		Amount transferred to the Fund		Date of Transfer	Amount paid to workman as per rule 54		No. & date of cheque on which payment made	Balance left in the Fund		Signature of the Commissioner	
			Tk	Ps	Tk	Ps	Tk	Ps		Tk.	Ps.		Tk.	Ps.		

The Workmen's Compensation Rules, 1924

FORM V

(Rule 12A)

Report on non-payment of compensation to a workman by an employer

To

The Commissioner, Workmen's Compensation
.....

Sir,

in accordance with section 10C of the Workmen's Compensation Act, 1923 as amended, I have the honour to submit the following report on non-payment of compensation to a workman by his employer under the said Act:

1. Name, address and other particulars of the workman who has not been paid due compensation.
2. Name, address and other particulars of the employer who has not paid the compensation
3. Nature of accident and percentage of loss of efficiency.
4. Approximate amount of compensation due to the workman according to law.
5. Whether any amount has been paid or not, if paid how much?
6. Views of the Reporting Officer as to why and due compensation has not been paid.
7. Remarks.

Signature of the Reporting Officer

Designation.....

seal

Dated.....

The20.....

FORM X

(Rule 57)

Abstracts of the Act and Rules made thereunder

1. An employer is liable to pay compensation to a workman in respect of an injury resulting in partial or total disablement received by him in course of his employment. No compensation is however payable for any disablement which does not exceed a period of at least four days. Compensation is also payable on account of contracting any of the occupational diseases as specified in parts A and B Schedule III to the Act. The amount of compensation shall be payable in accordance with the provisions of section 4 of the Act.

2. Monthly payments payable under the Act may, after its review by the Commissioner, either be continued, increased, decreased or ended, as the case may or it may be redeemed by the payment of a lump sum of such an amount as may be agreed to by the parties or determined by the Commissioner.

3. No payment or compensation shall be made otherwise than by deposit with the Commissioner and no such payment made directly by an employer shall be deemed to be a payment of compensation. The compensation money in respect of a deceased workman shall be paid by the Commissioner to the dependants of the deceased after deducting funeral costs, if any, not exceeding Rs. 25. If no dependant of the deceased workmen exists, the Commissioner shall transfer the compensation money to the Workmen's Benefit Fund operated in accordance with sub-section (4) of section 8 of the Act. The fund shall be spent on education, marriages and maternity benefit and similar other benefits for the members of the workman's family. Compensation payable under the Act shall not be assigned, attached or charged under any other law for the time being in force.

4. No claim for compensation shall be entertained unless notice of the accident has been given in Form EE and unless the claim has been preferred before the Commission in Form F within a year of the occurrence of the accident.

5. Report of fatal accidents shall be sent by the employer to the Commissioner within seven days of such accident. In case no such accident is reported by the employer the Commissioner may call for a statement giving the circumstances attending the death of the workman within thirty days from the date of receipt of notice from the Commissioner.

6. Cases of workmen, who have not been paid any compensation as provided under the Act, may be referred to the Commissioner by the Labour Commissioner, the Chief Inspector of Factories, the Additional Labour Commissioner, the Deputy Labour Commissioner, the Inspector of Factories the Assistant Labour Commissioner and the Labour Office.

7. Within three days of occurrence of an accident the workman involved shall be examined by a qualified medical practitioner at the expense of the employer. A workman in receipt of a monthly payment under the Act, shall also be medically examined from time to time and the costs for such medical examination shall be borne by the employer.

8. A workman in the immediate employment of a contractor, shall be paid compensation by the Principal who engages the contractor for execution of his work and the Principal shall be entitled to the indemnified by the contractor.

9. If any compensation has been paid by some person other than the person who was under legal liability to pay damages in respect of an injury caused to a workman, then the person so liable to pay damages, shall indemnify the person who has been called upon to pay an indemnity under section 12 of the Act.

10. When an employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or in the case of winding up the company, the rights of the employer against the insurers in respect to that liability shall be transferred to and vested in the workman.

11. The Act is also applicable to the Master of Ships or Seamen.

12. In accordance with notification No. 1189L, dated the 28th March 1935, Annual Returns in the scheduled Form shall be furnished by every employer to the Commissioner, showing the number of injuries in respect of which compensation has been paid and the amount of such compensation.

13. Any contract or agreement whereby a workman relinquishes any right of compensation from the employer will be considered as null and void.

14. Failure to maintain a notice book under section 10(3) or to send to the Commissioner a statement under section 10A (1) or a report under section 10B or a return under section 16 or to affix these abstracts, shall be punishable with fine which may extend to one hundred taka.

Commissioner, Workmen's Compensation

15. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is under this Act required to be dealt with by the Commissioner.

16. Where any agreement arrived at for payment of a lump sum as compensation by way of redemption of a monthly payment or otherwise, a memorandum thereof shall be sent to the Commissioner and the Commissioner may refuse to record the memorandum of the agreement, if he is satisfied that the agreement has been obtained by fraud, or undue influence or other improper means. For failure to submit a memorandum or agreement to the Commissioner, the employer shall be liable to pay the full amount of compensating payable under Act.

17. Appeal against the order of the Commissioner lies to the High Court Division of certain questions specified in section 30 of the Act and pending decision of the appeal, the Commissioner may withhold payment of Compensation in deposit with him.

18. Any amount payable by any person under this Act may be recovered as an arrear of land revenue by the Commissioner.

THE PAYMENT OF WAGES ACT, 1936

(Act IV of 1936)

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THE PAYMENT OF WAGES ACT, 1936

(Act IV of 1936)

[23rd April, 1936]

An Act to regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry:

It is hereby enacted as follows:

1. Short title, commencement and applications.- (1) This Act may be called the Payment of Wages Act, 1936.

(2) It extends to the whole of Bangladesh

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon the railway by the railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration.

(5) The Government may, after giving three months notice of its intention of so doing, by notification in the official Gazette, extend the provisions of the Act, or any of them to the payment of wages to any class of persons employed in any industrial establishment or any in class or group of industrial establishments.

(6) This Act shall apply to the payment of wages payable to any person including an apprentice employed in any shop, commercial establishment or industrial establishment to do any skilled, unskilled, manual, technical, trade promotional or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person-

(a) Who is employed in a managerial or administrative capacity;
or

(b) Who, being employed in a supervisory capacity performs, either by nature of the duties attached to the office or by reason of power vested in him, functions of managerial or administrative nature.

2. Definitions.- In this Act, unless there is anything repugnant in this subject on context-

(i) "**factory**" means a factory as defined in clause 2 clause (f) of section 2 of the Factories Act, 1965.

(ii) "**industrial establishment**" means any-

(a) tram way or motor omnibus service;

(b) dock, wharf or jetty;

(c) inland ship as defined in the Inland Shipping Ordinance, 1976(LXXII of 1976 (d) mine, quarry or oil-field;

(e) Plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their uses, transport or sale;

(g) airlines.

(h) any contractor's establishment for the purpose of trade and business including the sub-contractors, concerning construction, reconstruction, repair, alteration or demolition of any building, road, tunnel, drain, canal or bridge or concerning carrying, loading or unloading of cargo;

(iii) "**Plantation**" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee, or tea, and on the which twenty-five or more persons are employed for that purpose;

(iv) "**Prescribed**" means prescribed by rules made under this Act;

(v) "**railway administration**" has the meaning assigned to it in clause (6) of section 3 of the Railways Act, 1890 (IX of 1890); and

(vi) "**Wages**" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include-

(a) the value of any house accommodation, supply of light, water, medical attendance or other amenity or of any service excluded by general or special order of the Government;

- (b) any contribution paid by the employment to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;
- (e) any gratuity payable on discharge.

3. Responsibility for payment of wages.- Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (I) of section 6 of the Factories act, 1965,

(b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment.

(c) upon railway (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned, the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

4. Fixation of Wage-periods- (1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wages-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

5. Time of payment of wages.- (1) The wages of every person employed upon or in-

(a) any factory or industrial establishment upon or in which less than one thousand person are employed, shall be paid before the expiry of the seventh day,

(b) the railway, or any other factory or industrial establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The Government may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon the railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such person or class of such persons.

(4) All payments of wages shall be made on a working day.

6. Wages to be paid in current coin or currency notes.-All wages shall be paid in current coin or currency notes or in bank cheque.

7. Deductions which may be made from wages.- (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Railways Act, 1890 (IX of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation- Every payment made by the employed person to the employer or his agent shall, for the purposes of this act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:-

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house-accommodation supplied by the employer;

(e) deductions for such amenities and services supplied by the employer as the Government may, by general or special order, authorise;

Explanation- The word "services" in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (f) deductions for recovery of advances or for adjustment of overpayments of wages;
- (g) deductions of income-tax payable by the employed person;
- (h) deductions required to be made by order of a Court or other authority competent to make such order;
- (i) deduction for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (XIX) of 1925) applies or any recognised provident fund as defined in section 58A of the *Income-Tax Act, 1922* or any provident fund approved in this behalf by the Government, during the continuance of such approval;
- (j) deductions for payments to co-operative societies approved by the Government or to a scheme of insurance maintained by the Bangladesh Post Office; and
- (k) deductions made with the written authorisation of the employed person, in furtherance of any War Savings Scheme, approved by the Government, for the purchase of securities of the Government of Bangladesh or the Government of the United Kingdom.

8. Fines.- (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the Government or of prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon the railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to ten Poisa in the Taka of the wages payable to him in respect of the wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by installments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the person employed in the factory or establishment as are approved by the prescribed authority.

Explanation- When the persons employed upon or in the railway factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. Deductions for absence from duty.- (1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places, where by the terms of his employment he is required to work, such absence being for the whole or any part of the period during which he is required to work.

(2) The amount of such deduction shall, in case, bear to the wages payable to the employed person in respect of the wage-period for which the deduction made a larger proportion than the period for which he was absent bears to the total period, within such wage period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the Government, if ten or more employed persons acting concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may, by any such terms, be due to the employer in lieu of due notice.

Explanation- For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refused, in pursuance of a

stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

10. Deduction for damage or loss.- (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a Register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. Deductions for services rendered. -- A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as the Government may impose.

12. Deductions for recovery of advances.- Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:-

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for traveling expenses;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the Government regulating the extent to which such advances may be given and the installments by which they may be recovered.

13. Deductions for payments to co-operative societies and insurance schemes.- Deductions under clause (j) and clause (k) of sub-section (2) of section 7 shall be subject to such conditions as the Government may impose.

14. Inspectors.- (1) An Inspector of Factories appointed under sub-section (2) of section 9 of the Factories Act, 1948, shall be an Inspector for the purposes of the Act in respect of all factories within the local limits assigned to him.

(2) The Government may appoint Inspectors for the purposes of this Act in respect of all persons employed upon the railway (otherwise than in a factory) to whom this Act applies.

(3) The Government may, by notification in the 3 official Gazette, appoint such other person as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) an Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Penal Code (XLV of 1860).

15. Claims out of deductions from wages or delay in payment of wages and penalty for malicious or vexation claims.- (1) The Government may, by notification in the official Gazette, appoint the Chairman of a Labour Court or any District Judge to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in the payment of wages, of persons employed or paid on that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and after such further enquiry (if any as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of 25 % of the wages of the employed person as compensation:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to--

- (a) a bonafide error or bonafide dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for the accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty Taka be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered as a public demand within the date specified by the authority, if the person entitled to such wages makes an application in this behalf to the authority concerned.

16. Single application in respect of claims from an unpaid group.- (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) single application may be presented under section 15 on behalf or in respect of any number of employed person belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be on hundred take per head

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of person belonging to the same unpaid group, as a single application presented under sub-section (2) of this section and the provisions of that sub-section shall apply accordingly.

17. Appeal.- (1) An Appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, before the Labour Appellate Tribunal-

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred Taka, or

(b) by an employed person, if the total amount of wages claimed to have been withheld from his or from the unpaid group to which he belonged exceeds fifty Taka, or

(c) by any person directed to pay a penalty under 5 (sub-section (4) of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (4) of section 15 shall be final.

18. Powers of authorities appointed under section 15.- Every authority appointed under sub-section (1) of section 15 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

19. Power to recover from employer in certain cases.- When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer)

responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

20. Penalty for offences under the Act.-- (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred Taka or with simple imprisonment which may extend to six months, or with both.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred Taka.

21. Procedure in trial of offences.-- (1) No Court, other than the authority appointed under sub-section (1) of section 15, shall try any person for an offence punishable under this Act.

(2) The authority empowered under section 15 or the Labour Appellate Tribunal, as the case may be, shall-

(a) before proceeding with the trial of any person for an offence punishable under sub-section (1) of section 20, determine in a summary way the question, if raised by any party, whether the default was due to-

(i) a bonafide error or bonafide dispute as to the amount payable to the employed person, or

(ii) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable though exercising reasonable diligence, to make prompt payment, or

(iii) the failure of the employed person to apply for or accept payment.

(b) subject to clause (a), take cognizance of an offence under this Act upon a complaint of facts constituting such offence.

(3) No Court shall take cognizance of a contravention of section 4 or section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act:

Provided that, no case, laying before a Court shall be withdrawn without the prior permission of the Chief Inspector of Factories.

(4) In imposing any fine for an offence under sub-section (1) of section 20, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

22. Bar of suits.- No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed-

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owned to the plaintiff; or

(d) could have been recovered by an application under section 15.

23. Contracting out.- Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

24. Repealed.

25. Display by notice of abstracts of the Act.- The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as any be prescribed.

26. Rule-making power. (1) The Government may rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may-

(a) require the maintenance of such records, roisters, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the forms thereof;

(b) require to display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(c) provided for the regular inspection of the wrights, measures and weighing machines used by the employers in checking or ascertaining the wages of persons employed by them;

(d) prescribe the manner of giving notice of the days on which wages will be paid;

(e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;

(f) prescribe the procedure for the imposition of fines under section 8 and for making of the deductions referred to in section 10;

(g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;

(h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended ;

(i) prescribe the extent to which advances may be made and the instalments by which they be recovered with reference to clause (b) of section 12;

(j) regulate the scales of costs which may be allowed in proceedings under this Act;

(k) prescribe the amount of Court-fees payable in respect of any proceedings under this Act; and

(l) prescribe the abstracts to be contained in the notices required by section 25.

(4) In making any rule under this section the Government may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred Taka.

(5) All rules made under this section shall be subject to the condition of previous publication and the date to be specified under clause (3) of section 23 of the General Clause Act, 1897 (X of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

THE PAYMENT OF WAGES RULES, 1937,

1. Title.- These rules may be called the Payment of Wages Rules, 1937.

2. Definitions.- In these rules, unless there is anything repugnant in the subject or context-

(a) "**the Act**" means the Payment of Wages Act, 1936 (IV of 1936);

(b) "**the authority**" means the authority appointed under sub-section (1) of section 15 of the Act;

(c) "**the Chief Inspector of Factories**" means the Chief Inspector appointed under sub-section (1) of section 9 of the Factories Act, 1965 (IV of 1965) ;

(d) "**the court**" means the court mentioned in sub-section (1) of section 17 of the Act;

(e) "**deduction for breach of contract**" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

(f) "**deduction for damage or loss**" means a deduction made in accordance with the provisions of clause (c) of subsection (2) of section 7;

(g) "**Form**" means a form appended to these rules;

(h) "**Inspector**" means the Inspector authorised by or under section 14 of the Act;

(i) "**person employed**" excludes all person to the payment of whose wages the Act does not apply;

(j) "**section**" means a section of the Act ;

(k) "**paymaster**" means an employer or other person responsible under section 3 of the Act for the payment of wages;

(l) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. Register of Fines.- (1) In any factory in respect of which the employer has obtained approval under sub-section (1) of section 8 of a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form 1.

(2) At the beginning of the Register of Fines shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, an entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. Register of deductions for damage or loss.- In every factory in which deductions for damages or loss are made the paymaster shall maintain the register required by sub-section (2) of section 10 in *Form II*.

5. Register of Wages.- A Register of Wages shall be maintained in every factory and may be kept in such form as the paymaster finds convenient but shall include the following particulars:

- (a) the gross wages earned by each person employed for each wage period;
- (b) all deductions made from these wages, with an indication in each case of the clause of sub-section (2) of section 7, under which the deduction is made;
- (c) the wages actually paid to each person employed for each wage period.

6. Maintenance of Registers.- The registers required by the rules 3, 4, 5, and 17 shall be maintained in Bengali and shall be preserved for twelve months after the date of the last entry made in them.

7. Weights and Measures.- (1) All weights, measures, or weighing machines which are used for checking, or ascertaining the wages of persons employed in any factory shall be examined at least biennially by any Inspector who may prohibit the use of any weight, measure, or weighing machine which he finds to register incorrectly.

(2) If the Inspector considers that any action should be taken under Standards of Weights and Measures Ordinance, 1982 (Ordinance XII of 1982), or the Penal Code (Act XLV of 1860), he may seize the article in question and shall record his opinion send it to the District Magistrate for such action as he may think fit.

8. Notice of dates of payment.- The paymaster shall display in conspicuous place at or near the main entrance of the factory a notice, in

Bengalis, specifying for not less than one month in advance, the days on which wages are to be paid.

9. Prescribed authority.- The Chief Inspector of Factories shall be the authority competent to approve, under sub-section (1) of section (8), acts and omissions in respect of which fines may be imposed and under sub-section (8) of section 8, the purposes on which the proceeds of fines shall be expended.

10. Application in respect of fines.- Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories--

- (a) a list, in Bengali, in duplicate, clearly defining such act and omissions;
- (b) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list, in duplicate, showing those appointments, in his factory of which the incumbents may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

11. Approval of list of acts and omissions.- The authority appointed under rule 9 on receipt of the list prescribed in clause (a) of rule 10 may, after such enquiry as he considers necessary, pass orders either-

- (a) disapproving the list,
- (b) approving the list either in its original form or amended by him in which case such list shall be considered to be approved list.

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing why that list as submitted by him should be approved.

12. Posting of list of acts and omissions.- The employer shall display at or near the main entrance of the factory a copy in Bengali of the list approved under rule 11.

13. Persons authorized to impose fines.- No fine may be imposed by any person other than an employer, or a person holding an appointment named in the list submitted under clause (b) of rule 10.

14. Procedure in imposing fines and deductions.- Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and if any such employed person has any explanation to offer in this behalf, he shall hear the employed person in the presence of at least one other person.

15. Information to paymaster.- The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars, so that the register prescribed in rule 3 or rule 4 may be duly completed.

16. Deductions for breach of contracts.- (1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless--

(a) there is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of this notice does not exceed fifteen days or the wage period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in Bengali at or near the main entrance of the factory and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed or near the main entrance of the factory giving the names of the person from whom the deduction is proposed to be made, the number of day's wages to be deducted and the conditions (if any) on which the deduction will be remitted;

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory, it shall be sufficient, in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections effected.

(3) No deduction for breach of contract shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2) no deduction for breach of contract shall be made from any person who has complied with these conditions.

17. Advances.- (1) An advance of wages not already earned shall not without the previous permission of an Inspector, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period an amount equivalent to the wages he is likely to earn during the subsequent calendar month.

(2) The advance may be recovered in installments by deductions from wages ordinarily spread over not more than twelve months. No installment shall exceed one-third, or where the wages for any wage-period are not more than twenty Taka, one-fourth of the wages for the wage-period in respect of which the deduction is made.

(3) The amounts of all advances and the repayments thereof shall be entered in a register in *Form III*.

18. Annual Return.- In respect of every factory in which during the calendar year any fines have been imposed or any deductions for breach of contract or for damages or loss have been made from wages, a return shall be sent in *Form IV* so as to reach the Chief Inspector of Factories not later than the 15th of February following the end of the calendar year to which it relates.

19. Costs.- (1) Where the Authority or the Court, as the case may be, directs that any costs shall not follow the event, he shall state his reasons for so doing in writing.

(2) The cost which may be awarded shall include-

(a) the charges necessarily incurred on account of court fees;

(b) the charges necessarily incurred on subsistence money to witnesses; and

(c) pleader's fees which shall ordinarily be Taka forty provided that the Authority or the Court, as the case may be, in any proceedings, may reduce the fee to a sum not less than Taka twenty or increase it to a sum not exceeding Taka sixty.

(3) When a party engages more pleaders than one to defend a case, he shall be allowed one set of costs only.

20. Fees for obtaining copies the authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be:

Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, grant copies free of cost.

21. **Fee payable in respect of Proceedings-** The fee payable in respect of proceedings under Act shall be:

- (i) For every certificate of authorisation: Taka Four.
- (ii) For every application to summon a witness:
 - (a) For the first witness mentioned in the application: Taka Two.
 - (b) For each subsequent witness in the application: Taka Two.
- (iii) For every application made by or on behalf of an individual person before the authority: Taka Two.
- (iv) For every other application made by or one behalf on an unpaid group before the Authority one taka for each member of the group subject to a maximum of Taka Twenty.
- (v) For every appeal lodged with the Court: Taka Twenty.

Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit this fee:

Provided further that no fee shall be chargeable in respect of an application presented by as Inspector.

22. **Deposition of amount directed to be paid.-** (1) Any amount directed to be paid under section 15 may be deposited with the Authority along with a statement in Form V.

(2) When any deposit is made under sub-rule (1), the Authority shall grant a receipt for the amount so deposited in Form VI and this receipt shall be a sufficient discharge in respect of any amount deposited with him.

(3) Any sum deposited with the Authority under sub-rule (1), or recovered under sub-section 5 of section 15 shall, on application, be paid by the authority to the person entitled thereto.

23. **Abstracts.-** The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in *Form VII*.

24. **Penalties.-** Any breach of rules 3, 4, 5, 6, 8, 12, 15, and 18 of these rules shall be punishable with fine which may extend to two hundred Taka.

FORM III
 (Rule 17 (3) of the Payment of Wages Rules, 1937)
Register of Advances made to employed persons

Factory.....

Serial No.	Name	Token or ticket number and father's or husband's name	Department	Date and amount of advance made.	Date and amount of each instalment by which the advance is repaid.	Remarks.
1	2	3	4	5	6	7

FROM IV
 (Rule 18 of the Payment of Wages Rules, 1937).

Deductions from Wages

Return for the year ending 31st December, 20.....

Ref. No.

1. Name of factory and postal address.....

2. Total number of persons employed (Average No. of persons employed daily.)

Adults

Children.....

3. Total wages paid.....

(Including deductions under clause (a) to (j) of sub-section 7 but not other deductions.)

4. Number of cases and/amounts realised as--
 (total)

No. of cases. Amounts--

(a) Fines.....

(b) Deduction for damage or loss.....

(c) deductions for breach of contract.....

5. Disbursements from the fine fund--

Amount purpose
Taka

Dated.....2004

Signature.....

Designation.....

FROM V

Form for deposit

(Rule 22 (1) of the Payment of Wages Rules, 1937)

The sum of (Tk Tk.....) is hereby presented for deposit in accordance with the direction issued on.....(date) in the matter of an application No.....of 19.....filed by..... (Applicant) against(Opposite Party).
.....

Date.....

.....
Signature of the depositor

FORM VI

Receipt

(Rule 22 (2) of the Payment of Wages Rules, 1937)

- Name of depositor
- Name of payee.....
- No. of application.....of 19.....
- Name of Application.....
- Name of opposite Party
- Date of direction
- Amount deposited: Taka.....
- Date of deposit.....

Authority
Payment of Wages Act

FROM VII

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936 AND THE RULES MADE HEREUNDER.

(Rule 23 of the Payment of Wage Rules, 1937)