

**PART-TWO**

**LABOUR & INDUSTRIAL LAW**



**THE FACTORIES ACT, 1965**

(Act No. IV of 1965)

*September 1, 1965*

An Act to repeal and with certain amendments, re-enact the Factories Act, 1934 (XXV of 1934).

Whereas it is expedient to repeal and, with certain amendments, re-enact the Factories Act, 1934 (Act XXV of 1934) for regulating working conditions in factories and for matters connected therewith :

It is hereby enacted as follows :

**CHAPTER I  
PRELIMINARY**

**1. Short title, extent and commencement.**—(1) This Act may be called the Factories Act, 1965.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

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

(a) 'adolescent' means a person who has completed sixteen years but has not completed eighteen years of age;

(b) 'adult' means a person who has completed eighteen years of age;

(c) 'child' means a person who has not completed sixteen years of age;

(d) 'day' means a period of twenty-four hours beginning at midnight;

(e) 'explosive substance' includes any materials for making any explosive substance;

(f) 'factory' means any premises including the precincts thereof whereon ten or more workers are working or were working on any day of the preceding twelve months and in any part of which a manufacturing

process is being carried on with or without the aid of power, but does not include a mine subject to the operation of the Mines Act, 1923 (IV of 1923).

- (g) 'machinery' includes prime movers, transmission machinery and other appliances whereby power is generated, transformed, transmitted or applied;
- (h) 'manufacturing process' means any process—
- (i) for making, altering, repairing, ornamenting, painting and washing, finishing, or packing, or otherwise treating any articles or substance with a view to its use, sale, transport, delivery, display or disposal, or
  - (ii) for pumping oil, gas water, sewage or other fluids or slurries, or
  - (iii) for generating, transforming or transmitting power or gas, or
  - (iv) for constructing, reconstructing, repairing, refitting, finishing or breaking up of ships or vessels, or
  - (v) for printing by letter press, lithography, photogravure or other similar work or book-binding which is carried on by way of trade or for purposes for gain or incidental to another business so carried on;
- (i) 'occupier' in relation to a factory means the person who has ultimate control over the affairs of the factory; Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory.
- (j) 'prescribed' means prescribed by rules made by the Government under this Act;
- (k) 'prime mover' means any engine, motor or other appliance which generates or otherwise provides power;
- (l) 'relay' means, where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets;

- (m) 'shift' means, where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such periods;
- (n) 'transmission machinery' means any shaft, wheel, drum pulley, system of pulleys, couplings clutch driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or plant;
- (o) 'week' means a period of seven days beginning with the preceding mid-night of the day specified as the weekly holiday;
- (p) 'worker' means a person employed directly or through any agency, whether for wages or not, in any manufacturing process or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to or connected with, the manufacturing process or the subject of the manufacturing process, but does not include any person solely employed in clerical capacity in any room or place where no manufacturing process is carried on;
- (q) 'young person' means a person, who is either a child or an adolescent;
- (r) 'power' means electrical energy and any other form of energy which is mechanically transmitted and is not generated by human or animal agency; and
- (s) 'wages' means wages as defined in the Payment of Wages Act, 1936 (VI of 1936).

**3. Power to apply the provisions of this Act to certain places.**—(1) The Government may, by notification in the official Gazette; declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether with or without the use of power whenever five or more workers are working therein or have worked therein on any day of the twelve months immediately preceding.

(2) A notification under sub-section (1) may be made in respect of any one of such place or in respect of any class of such places or generally in respect of all such places.

(3) Notwithstanding anything contained in clause (f) of section 2, a place to which all or any of the provisions of this Act are, for the time being, applicable in pursuance of a declaration under sub-section (1), shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.

**4. Power to declare departments to be separate factories.**—The Government may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

**5. Power to exempt.**—The Government may, by notification in the official Gazette, exempt any factory or any class or description of factories from all or any of the provisions of this Act for such period as it may think fit in the public interest;

Provided that no such exemption shall be made for a period exceeding six months at a time.

**6. Notice to Inspector before commencement of work.**—(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory send to the Chief Inspector a written notice containing—

- (a) name and situation of the factory;
- (b) name and address of the occupier;
- (c) address to which communications relating to the factory may be sent;
- (d) nature of the manufacturing process—
  - (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act.
  - (ii) to be carried on in the factory during the next twelve months in the case of all factories;
- (e) nature and quantity of power to be used;

- (f) name of the Manager of the factory for the purposes of this Act;
- (g) number of workers likely to be employed in the factory;
- (h) average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act; and
- (i) such other particulars as may be prescribed.

(2) In respect of all factories which come within the scope of this Act for the first time, the occupier shall send a written notice to the Chief Inspector containing particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process, which is ordinarily carried on for less than one hundred and eighty working days in the year, resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days before the date of the commencement of work.

(4) Whenever another person is appointed as Manager, the occupier shall send to the Chief Inspector a written notice of the change, within seven days from the date on which such person assumes charge.

(5) During any period for which no person has been designated does not manage the factory, any person found acting as Manager or if no such person is found, the occupier himself shall be deemed to be the Manager of the factory for the purposes of this Act.

**7. Seasonal factory.**—The Government may, by notification in the official Gazette, declare any factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

**8. Approval of plans and fees for licensing and registration.**—(1) The Government may—

- (a) require that previous permission in writing be obtained in the prescribed manner from the Chief Inspector for the construction or extension of any factory or class or description of factory or class or description of factories;
- (b) require registration and licensing of factories or any class or description of factories and payment of fees for such registration and licensing or for the renewal of licences, in the prescribed manner.

(2) If, in accordance with the provisions of sub-section (1) an application for permission accompanied by the plans and specifications is sent to the Chief Inspector and no order is communicated to the applicant within two months from the date of its receipt by the Chief Inspector, the permission applied for in the said application shall be deemed to have been granted.

(3) Where the Chief Inspector refuses to grant permission to the site construction or extension of a factory or to registration and licensing of a factory the applicant may, within sixty days of the date of such refusal, appeal to the Government.

*Explanation*—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or, within such limits as may be prescribed, of the addition of any plant or machinery.



**CHAPTER II**  
**CHIEF INSPECTOR, INSPECTORS AND**  
**CERTIFYING SURGEONS**

**9. Chief Inspector and Inspectors.**—(1) The Government may, by notification in the official Gazette, appoint any person to 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 the country and shall also have powers of supervision and control over the Inspectors appointed under sub-section (2) :

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 as it thinks fit, to be Inspectors for the purposes of this act within such local limits as it may assign to them respectively.

(3) The Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(4) Every Deputy Commissioner shall be an Inspector for his district.

(5) No person shall be appointed to be an Inspector under sub-section (2) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly, interested in a factory or in any process or business carried on therein or any patent or machinery connected therein.

(6) In any area where there are more Inspectors than one, the Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent.

(7) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of a section 21 of the Penal Code (Act XLV of 1860) and the Inspectors appointed under sub-section (3) shall be officially subordinate to such authority as the prescribed notices are to be sent.

(8) The Chief Inspector and every Inspector shall be deemed to be public servant within the meaning of section 21 of the

Penal Code, (Act XLV of 1860) and the Inspectors appointed under sub-section (3) shall be officially subordinate to such authority as the Government may specify in this behalf.

**10. Powers of Inspector.**—(1) For carrying out the purposes of this Act, an Inspector may, within the local limits for which he is appointed—

- (a) enter with such assistants, being persons in the service of Bangladesh or of any municipal or other local authority, as he thinks fit, inspect and examine any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provisions of section 3;
- (b) require the production of the registers, certificates, notices and documents kept in pursuance of this Act, and inspect, examine and copy any of them;
- (c) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act and other laws for the time being in force relating to health and hygiene, in respect to a factory and any person employed in a factory are complied with;
- (d) require any person whom he finds in a factory to give such information as it is in his knowledge relating to the actual occupier of the factory;
- (e) examine, in respect of matters pertaining to this Act, every person whom he finds in a factory, or whom he has reasonable cause to be or to have been within the preceding two months employed in a factory;  
 Provided that no person shall be required to answer any question or to give any evidence tending to incriminate himself; and
- (f) require every person so examined to sign the record of such examination by way of verification.

(2) The occupier of every factory, his agents and servants, shall furnish the means required by an Inspector as necessary for an entry, inspection, examination, enquiry, the taking of samples, or otherwise for the exercise of his powers under this Act, in relation to that factory.

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

**11. Certifying Surgeons.**—(1) The Government may appoint such registered medical practitioners as it deems fit to be Certifying Surgeons, for the purposes of this Act within such local limits or for such factory or class or description of factories as may be assigned to them respectively.

(2) No person shall be appointed to be a Certifying Surgeon, or having been so appointed, continue to exercise such powers who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any patent or machinery connected therewith or is otherwise in the employment of the factory.

(3) The Certifying Surgeon shall carry out such duties as may be prescribed in connection with—

- (a) examination and certification of young persons under this Act;
- (b) examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;
- (c) such medical supervision as may be prescribed for any factory or class or description of factory where—
  - (i) cases of illness having occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on or other conditions of work prevailing therein;
  - (ii) by reason of any change in the manufacturing process carried on or in the substance used therein or by reason of the adoption of any new manufacturing process or any new substance for use in a manufacturing process, there is likelihood of injury to the health of the workers employed in that manufacturing process; and
  - (iii) young persons are or are about to be employed in any work which is likely to cause injury to their health.

## CHAPTER III

### HEALTH AND HYGIENE

**12. Cleanliness.**—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular,—

- (a) accumulation of dirt and refuse shall be moved daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages and disposed of in a suitable manner;
- (b) the floor of every work-room shall be cleaned at least once in every week by washing, using disinfectant where necessary or by some other effective method;
- (c) where the floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
- (d) all inside walls and partitions, all ceilings, or tops of rooms, and walls, side and tops or passages and staircases shall—
  - (i) where they are painted or varnished, be repainted or revarnished at least once in every five years;
  - (ii) where they are painted or varnished and have smooth impervious surfaces, be cleaned at least once in every fourteen months, by such methods as may be prescribed;
  - (iii) in any other case, be kept white-washed or colour-washed and the white-washing or colour-washing shall be carried out at least once in every fourteen months; and
- (e) the dates on which the process required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Government may, by an order exempt such factory or class or description of

factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

**13. Disposal of wastes and effluents**—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangement made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

**14. Ventilation and temperature.**—(1) Effective and suitable provisions shall be made in every factory for securing and maintaining in every work-room—

- (a) adequate ventilation by the circulation of fresh air; and
- (b) such temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health, and in particular,—

- (i) the walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

- (ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperature, such adequate measures as are practicable, shall be taken to protect the workers therefrom by separating the process which produces such temperature from the work-room by insulating the hot parts or by other effective means.

(2) The Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Government that in any factory or class or description of factories excessively high temperature can be reduced by such methods as white-washing, spraying

or insulating and screening outside walls or roofs or windows or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of those or other methods to be adopted in the factory.

**15. Dust and fume.**—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, effective measures shall be taken to prevent its accumulation in any work-room and its inhalation by workers, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into open air, and no internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the workers employed in the work-room.

**16. Artificial humidification.**—(1) The Government may, in respect of all factories in which humidity of the air is artificially increased, make rules—

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed test determining the humidity of the air to be correctly carried out and recorded; and
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the work-rooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be

effectively purified under sub-section (2) is not effectively purified, he may serve on the Manager of the factory an order in writing, specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

**17. Overcrowding.**—(1) No work-room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of the provisions of sub-section (1), there shall be provided for every workers employed in a work-room.—

(a) at least three hundred fifty cubic feet of space in the case of a factory in existence on the date of the commencement of this Act, and

(b) at least five hundred cubic feet of space in the case of a factory built after the commencement of this Act.

**Explanation**—For the purpose of this sub-section no account shall be taken of a space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each work-room of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may, by order in writing, exempt, subject to such conditions as he may think fit to impose, any work-room from the provisions of this section if he is satisfied that compliance therewith in respect of such room is not necessary for the purpose of health of the workers employed therein.

**18. Lighting.**—(1) In every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the work-room shall be kept clean on both the outer and inner surfaces and free from obstruction as far as

possible under the rules framed under sub-section (3) of section 14.

(3) In every factory effective provisions shall, so far as is practicable, be made for the prevention of—

- (a) glare either directly from any source of light or by reflection from a smooth or polished surface, and
- (b) the formation of shadows to such an extent as to cause eye strain or risk of accident to any worker.

(4) The Government may prescribe standards of sufficient and suitable lighting for factories or any class or description of factories or for any manufacturing process.

**19. Drinking water.**—(1) In every factory effective arrangement shall be made to provide and maintain at a suitable point conveniently situated for all workers employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by the majority of the workers and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling the drinking water during the hot weather by effective means and for distribution thereof.

(4) The Government may, in respect of all factories or any class or description factories, make rules for securing compliance with the provisions of this section.

**20. Latrines and urinals.**—(1) In every factory—

- (a) sufficient latrines and urinals of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are in the factory;
- (b) enclosed latrines and urinals shall be provided separately for male and female workers;
- (c) such latrines and urinals shall be adequately lighted and ventilated and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector,



communicate with any work-room except through an intervening open space or ventilated passage;

- (d) all such latrines and urinals shall be maintained in a clean and sanitary condition at all times with suitable detergents or disinfectants or with both;
- (e) the floors and internal walls of the latrines and urinals and the sanitary blocks shall, up to a height of three feet, be finished to provide a smooth polished impervious surface.

(2) The Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein and such further matters in respect of sanitation in the factories.

**21. Spittoons.**—(1) In every factory there shall be provided, at convenient places, a sufficient number of spittoons which shall be maintained in a clean and hygienic condition.

(2) The Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and such further matters as may be deemed necessary relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose. A notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whosoever spits in contravention of sub-section (3) shall be punishable with a fine not exceeding Taka two.

## CHAPTER-IV

### SAFETY

**22. Precautions in case of fire.**—(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed.

(2) If it appears to the Inspector that any factory is not provided with the means of escape prescribed under subsection (1), he may serve on the Manager of the factory an order in writing specifying the measures which, in his opinion, should be adopted before a date specified in the order.

(3) In every factory the doors affording exit from any room shall not be locked or fastened so that they can be easily and immediately opened from inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards or where the door is between two rooms, in the direction of the nearest exit from the building and no such door shall be locked or obstructed while work is being carried on in the room.

(4) In every factory every window, door, or other exit affording means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(5) In every factory there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein.

(6) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the factory.

(7) In every factory wherein more than ten workers are ordinarily employed in any place above the ground floor, or explosive or highly inflammable materials are used or stored, effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(8) The Government may make rules prescribing in respect of any factory, or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

**23. Fencing of machinery.**—(1) In every factory the following shall be securely fenced by the safeguards of substantial construction which shall be kept in a position while the part of machinery required to be fenced are in motion or in use, namely—

- (a) every moving part of a prime mover, and every fly wheel connected to a prime mover;
- (b) the head-race and tail-race of every water wheel and water turbine;
- (c) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (d) unless they are in such position or of such construction as to be as safe to every person employed in the factory as they would be if they were securely fenced—
  - (i) every part of an electric generator, a motor or rotary convertor;
  - (ii) every part of transmission machinery; and
  - (iii) every dangerous part of any machinery :

Provided that, for the purpose of determining whether any part of machinery is in such a position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 24.

(2) Without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced, to prevent such contact.

(3) The Government may exempt, subject to such conditions as may be imposed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

(4) The Government may, by rules, prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof.

**24. Work on or near machinery in motion.**—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 23 while the machinery is in motion, or as a result of such examination to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker, wearing tight-fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of machinery while that part is in motion, or to work between moving parts or between fixed and moving parts of any machinery which is in motion.

(3) The Government may, by notification in the official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person, of specified parts of machinery when those parts are in motion.

**25. Employment of young persons on dangerous machines.**—(1) No young person shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has thorough knowledge and experience of the machine.

(2) This section shall apply to such machines as may be notified by the Government to be of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

**26. Striking gear and devices for cutting off power.**

—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and

such gear or appliances shall be so constructed, placed and maintained to prevent the belt from cropping back on the first pulleys;

- (b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

(3) In respect of factories in operation before the commencement of this Act the provisions of sub-section (2) shall apply only to work-rooms in which electricity is used for power.

**27. Self-acting machines.**—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or otherwise be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

**28. Causing of new machinery.**—(1) In all machinery driven by power and installed in any factory after the commencement of this Act—

- (a) every set screw, belt or key or any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and
- (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a

factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred or with both.

(3) The Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

**29. Prohibition of employment of women and children near cotton-openers.**—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may, in any particular case, specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

**30. Cranes and other lifting machinery.**—(1) The following provisions shall apply in respect of cranes and all other lifting machinery, other than hoists and lifts, in any factory—

- (a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—
  - (i) of good construction, sound material and adequate strength;
  - (ii) properly maintained;
  - (iii) thoroughly examined by a competent person at least once in every period of twenty months, and a register shall be kept containing the prescribed particulars of every such examination;
- (b) no such machinery shall be loaded beyond the safe working load which shall be plainly marked thereon; and
- (c) while any person is employed or working on or near the wheel-tract of a traveling crane in any place where he

would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

- (a) prescribing requirements to be complied with in addition to those set out in this section; or
- (b) exempting from compliance with all or any of the requirements of this section, where, in its opinion, such compliance is unnecessary or impracticable.

**31. Hoists and lifts.**—(1) In every factory—

- (a) every hoist and lift shall be—
  - (i) of good mechanical construction, sound material and adequate strength;
  - (ii) properly maintained and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination.
- (b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;
- (c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;
- (d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;
- (e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely—

- (a) where the cage is supported by rope or chain there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;
- (b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;
- (c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The Government may, if in respect of any class or description of hoist or lift it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

**32. Revolving machinery.**—(1) In every room in a factory in which the process of grinding is carried on, there shall be permanently affixed to, or placed near, each machine in use a notice indicating the maximum safe working peripheral speed of every grind stone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every



revolving vessel, cage, basket, flywheel, pulley disc or similar appliance driven by power is not exceeded.

**33. Pressure plant.**—(1) If in any factory any part of the plant or machinery used in manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may, in its opinion, be necessary in any factory or class or description of factories.

**34. Floors, stairs and means of access.**—In every factory—

- (a) all floors, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails; and
- (b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is, at any time, required to work.

**35. Pits, sumps, opening in floors, etc.**—(1) In every factory, every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The Government may, by order in writing, exempt, subject to such conditions as may be imposed, any factory or class or description of factories in respect of any vessel, sump, tank pit or opening from compliance with the provisions of this section

**36. Excessive weights.**—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescent and children employed in

factories or in any class or description of factories or in carrying on any specified process.

**37. Protection of eyes.**—The Government may, in respect of any manufacturing process carried on in any factory, by rules, require that effective screens of suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of a process which involves—

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light or heat.

**38. Powers to require specifications of defective parts or tests of stability.**—If it appears to the Inspector that any building or part of a building, or any part of the way machinery or plant in a factory, is in such a condition that it may be dangerous to human life or safety, he may serve on the Manager of the factory an order in writing, requiring him before a specified date—

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such buildings, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof.

**39. Safety of building and machinery.**—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve to the Manager of the factory, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the Manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

**40. Power to make rules to supplement this Chapter.—**

The Government may make rules requiring that—

(1) in any factory or in any class or description of factories, such further devices and measures for securing the safety of the persons employed therein as it may deem necessary, shall be adopted; and

(2) work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building created or taken into use as a factory until a certificate of stability in the prescribed form and signed by a person possessing the prescribed qualifications, has been sent to the Chief Inspector.

**41. Precautions against dangerous fumes.—**(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risks of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1) and where the fumes present are likely to be inflammable, lamp or light other than of flame proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless

either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall, in every factory, be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed, in every factory shall be trained and practiced in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory, any boiler furnace, boiler, flue, chamber, tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Government may make rules prescribing the maximum dimensions of the manholes referred to in sub-section (1) and may, by order in writing, exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

**42. Explosive or inflammable dust, gas, etc.—**(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under

pressure greater than atmospheric pressure, that part shall not be opened except in accordance with that following provisions, namely—

- (a) before the fastening of any joint of any pipe connected with the part of the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part of any such pipe shall be effectively stopped by a stop-valve or other means;
- (b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;
- (c) where any such fastening, as aforesaid, has been loosened or removed, effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured; or, as the case may be, securely replaced;

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel, which contains, or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Government may, by rules, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

## CHAPTER V

### WELFARE

**43. Washing facilities.**—(1) In every factory—

- (a) adequate and suitable facilities for washing and bathing shall be provided and maintained for the use of the workers therein;
- (b) separate and adequately screened facilities shall be provided for the use of male and female workers; and
- (c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

**44. First-aid appliances.**—(1) There shall, in every factory or section of factory be provided and maintained, so as to be readily accessible during the working hours, first-aid boxes or cupboards equipped with the prescribed contents and the number of such boxes or cupboard shall not be less than one for every one hundred fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards shall be kept in charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) A notice shall be affixed in every work-room stating the name of person in charge of the first-aid box or cupboard provided in respect of that room and such person shall wear a badge so as to facilitate identification.

(4) In every factory wherein five hundred or more workers are employed, there shall be provided and maintained an ambulance room or dispensary of the prescribed size containing the prescribed equipment or similar facilities, in the charge of such medical and nursing staff as may be prescribed.

**45. Canteens.**—(1) The Government may make rules requiring that, in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which such canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuff to be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen; and
- (e) the delegation to the Chief Inspector, subject to such conditions as may be specified, of the power to make rules in respect of matters referred to in clause (c).

**46. Shelters, etc.**—(1) In every factory wherein more than one hundred workers are ordinarily employed, adequate and suitable shelters or rest rooms, and a suitable lunch room with provision for drinking water where workers can eat meals brought by them shall be provided and maintained for the use of the workers :

Provided that any canteen maintained in accordance with the provisions of section 45 shall be regarded as part of the requirements of this sub-section :

Provided further that where lunch room exists, no workers shall eat any food in the work room.

(2) The shelters, rest rooms or lunch rooms provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Government may—

- (a) prescribe the standards in respect of construction, accommodation furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;
- (b) prescribe the type of shelter for persons, the nature of whose work require them to be exposed to the sun and the elements during the greater part of their work;
- (c) by notification in the official Gazette exempt any factory or class or description of factories from the requirement of this section.

**47. Rooms for children.**—(1) In every factory, wherein more than fifty women workers are ordinarily employed, there

shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, be adequately lighted and ventilated and maintained in a clean and sanitary condition, and shall be under the charge of women trained or experienced in the care of children and infants.

(3) The Government may make rules—

- (a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;
- (b) requiring the provisions, in factories to which this section applies, of additional facilities for the care of children belonging to women workers including suitable provision of facilities for washing and changing their clothing;
- (c) requiring the provision, in any factory, of free milk or refreshment or both for such children;
- (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

**48. Welfare officers.**—(1) In every factory wherein five hundred or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

**49. Power to make rules to supplement this Chapter.**—

The Government may make rules—

- (a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be specified, any factory or class or description of factories from compliance with any of the provisions of this Chapter; and
- (b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management in the welfare arrangement of the workers.



## CHAPTER VI

### WORKING HOURS OF ADULTS

**50. Weekly hours.**—(1) No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

(2) Subject to the provisions of section 58, an adult worker may work for more than nine hours in a day or forty-eight hours in a week;

Provided that the total hours of work of an adult worker shall not exceed sixty hours in any week and on the average fifty-six hours per week in any year.

**51. Weekly holiday.**—(1) No adult worker shall be required or allowed to work in a factory on Sunday or Friday as the case may be, unless—

- (a) he has had or will have a holiday for a whole day, on one of the three days immediately before or after that Sunday or Friday, as the case may be; and
- (b) the manager of the factory has, before that Sunday or Friday, or the substituted day, whichever is earlier—
  - (i) given a notice to the Inspector of his intention to require the worker to work on the Sunday or Friday, as the case may be, and of the day which is to be substituted; and
  - (ii) displayed a notice to that effect in the factory;

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notice given under sub-section (1) may be cancelled by a notice given to the Inspector and a notice displayed in the factory not later than the day before the Sunday or Friday, or the substituted day to be cancelled, whichever is earlier.

(3) Where, in accordance with the provision of sub-section (1) any worker works, on a Sunday or Friday and has had a holiday on one of the three days immediately before it, that Sunday or Friday as the case may be, shall for the purpose of calculating his weekly hours of work, be included in the preceding week.

**52. Compensatory weekly holiday**—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 51; a worker is deprived of any of the weekly holidays provided for in sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so deprived of.

(2) The Government may make rules prescribing the manner in which the compensatory holidays under sub-section (1), shall be allowed.

**53. Daily hours.**—No adult worker shall be required or allowed to work in a factory for more than nine hours in any day :

Provided that, subject to the provisions of sections 50, 54, 55 and 58, an adult worker may work in a factory for more than nine hours, but not exceeding ten hours in any day.

**54. Intervals for rest or meal.**—No adult worker in a factory 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;
- (b) for more than five hours in any one day unless he has been allowed an interval of at least one hour during that day for rest or meal;
- (c) for more than eight and half hours unless he has had an interval under clause (a) or two such intervals under clause (b) during that day for rest or meal.

**55. Spread over.**—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his interval for rest or meal under section 54 shall not spread over more than ten and a half hours or where the factory is declared to be a seasonal one, eleven and a half hours in any day save with the permission of the Chief Inspector and subject to such conditions as he may impose, either generally or in the case of any particular factory.

**56. Night shift.**—Where an adult worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of section 51 a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning from the end of his shift; and

(b) the following day for him shall be deemed to be the period of twenty-four consecutive hours beginning from the end of his shift and the hours he has worked after midnight shall be counted towards the previous day.

**57. Prohibition of overlapping shift.**—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Government may make rules exempting, subject to such conditions as may be imposed, any factory or class or description of factories from the operation of the provisions of sub-section (1).

**58. Extra allowance for overtime.**—(1) Where a worker works in a factory for more than nine hours in any day or more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to allowance at the rate of twice his ordinary rate of wages :

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

(2) Where any worker in a factory are paid on a piece rate basis the Government, in consultation with the employer concerned and the representatives of the workers, may, for the purposes of this section fix time rates as nearly as possible equivalent to the average rates of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) The Government may prescribe the registers to be maintained in a factory for the purpose of securing compliance with the provisions of this section.

**59. Restriction on double employment.**—No adult worker shall be employed or allowed to be employed for work in more than one factory on any day, except on permission in writing from the Chief Inspector on such terms and conditions he may impose.

**60. Notice of periods of work for adults and preparation thereof.**—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 109, a notice of periods of work for adults showing clearly the periods which adult workers may be required to work.

(2) The periods shown in the notice shall be fixed beforehand in accordance with provisions of this section and shall be such that workers working during such periods would not be working in contravention of the provisions of sections 50, 51, 53, 54 and 55.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work, and indicate the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the period during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not or are not intended to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are or are intended to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts, whereunder the periods during which any relay of the group may be required to work on the

relay which will be working at any time of the day shall be known for any day.

(8) A copy of the notice shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, or if the factory begins work after the commencement of this Act, before the day on which it begins work for approval of the periods of work by the Inspector.

The Inspector shall return a copy of the notice to the manager within one week of its receipt indicating modification, if any, the manager shall immediately comply with the modifications, if made and shall preserve the approval in the records of the factory.

(9) Any proposed change in the system of work in a factory which will necessitate a change in the notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made.

(10) The Government may make rules prescribing the form and the manner in which it shall be maintained.

**61. Register of adult workers and supply of ticket and cards.**—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours showing—

(a) the name of each adult worker in the factory;

(b) the nature of his work;

(c) the group, if any, in which he is included;

(d) where his group works on shifts, the relay to which he is allotted; and

(e) such other particulars as may be prescribed :

Provided that if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of all or any of the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall, to the corresponding extent, be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The Government may make rules prescribing the form of the register of adult workers, the manager in which it shall be maintained and the period for which it shall be preserved.

(3) Tickets or cards shall be supplied to the workers by the occupier or the manager of a factory in the following manner—

(a) every permanent worker shall be provided with a permanent Departmental ticket showing his number;

(b) every 'badli' worker shall be provided with a 'badli card' on which shall be entered the days on which he has worked and which shall be surrendered if he obtains permanent employment;

(c) every temporary worker shall be provided with a 'temporary ticket' which shall be surrendered on his leaving the job or getting a permanent employment;

(d) every 'casual' worker shall be provided with a 'casual card', on which shall be entered the days on which he has worked in the factory; and

(e) every apprentice shall be provided with an 'apprentice card' which shall be surrendered if he obtains permanent employment or if he leaves his training.

**Explanation**—The different classes of workers in this sub-section shall have the same meaning as in Employment of Labour (Standing Orders) Act, 1965.

(4) Every worker shall, on being required to do so, by the Inspector or any person authorised by the occupier or manager of the factory, produce his ticket or card for inspection.

**62. Hours of work to correspond with notice under section 60 and register under section 61.**—No adult worker shall be required or allowed to work otherwise than in accordance with the notice under sub-section (1) of section 60 and the entries made beforehand against his name in the register maintained under section 61.

**63. Power to make rules exempting from restrictions.**—(1) The Government may make rules specifying the persons who hold position of supervision or management or are employed in work of, confidential nature in a factory, and the provisions of this Chapter except clause (b) of, and the

proviso to, sub-section (1) of section 65, shall not apply to any person so specified.

(2) The Government may make rules to exempt to such extent and subject to such conditions as may be specified, the adult workers—

(a) engaged on urgent repairs, from the operation of provisions of sections 50, 51, 53, 54 and 55;

(b) engaged in work of a preparatory or complimentary nature which must necessarily be carried on outside the limits laid down for the general working of the factory, from the operation of the provisions of sections 50, 53, 54 and 55;

(c) engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under section 54, from operation of provisions of sections 50, 53, 54, and 55;

(d) engaged in any work which for technical reasons must be carried on continuously throughout the day, from the operation of the provisions of sections 50, 51, 54 and 55;

(e) engaged in making or supplying articles of prime necessity which must be made or supplied everyday from the operation of the provisions of section 51;

(f) engaged in manufacturing process which cannot be carried on except during fixed seasons from the operation of the provisions of section 51;

(g) engaged in manufacturing process which cannot be carried on except, at times dependent on the irregular action of natural forces, from the operation of the provisions of section 51 and 54;

(h) engaged in engine rooms or boiler houses or in attending to power plant or transmission machinery from the operation of the provisions of section 51; and

(i) engaged in the printing of newspapers, are held up on account of the breakdown of machinery from the operation of the provisions of section 50, 53 and 55.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption

subject to such conditions, as may be imposed from the operations of the provisions of section 60.

(4) In making rules under this section, the Government shall not exceed except, in respect of clause (a) of sub-section (2), the following limits of work inclusive of overtime—

- (i) ten hours of work in any day;
- (ii) twelve hours of overtime work in any week;
- (iii) twelve hours of spread over inclusive of intervals for rest or meal in any one day :

Provided that subject to the previous approval of the Chief Inspector the daily maximum specified in section 53 may be exceeded in order to facilitate the change of shifts.

(5) Rules made under this section shall remain in force for such period, not exceeding three years, as may be specified therein.

**64. Power to make exemption order.**—(1) Where the Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 60 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Government or, subject to the control of the Government, the Chief Inspector, may by written order, exempt on such conditions as it or he may deem expedient, any or all of the adult workers in any factory, or group, or class of factories from the operation of any or all of the provisions of sections 50, 51, 54 and 60 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 63.

(4) An order under sub-section (2) shall remain in force for such periods not exceeding two months from the date on which notice thereof is given to the manager of the factory:



Provided that if in the opinion of the Government, the public interest so requires, it may from time to time, by notification in the official Gazette, extend the operation of any such order for such further periods, not exceeding six months at any one time, as may be specified in the notification.

**65. Further restrictions on the employment of women.**—(1) The provisions of this Chapter, shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely—

(a) no exemption from the provisions of section 53 shall be granted in respect of any woman; and

(b) no women shall be allowed to work in a factory except between 7 a.m. and 8 p.m.:

Provided that the Government may, by notification in the official Gazette, in respect of any class or classes of factories and for the whole year or any part thereof, vary the limits laid down in clause (b) to any span of ten and a half hours between 5 a.m. and 8-30 p.m.

(2) The Government may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as may be specified therein, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to, or deterioration in any raw-materials.

(3) Rules made under sub-section (2) shall remain in force for such period, not exceeding three years, as may be specified therein.

## CHAPTER VII

### EMPLOYMENT OF YOUNG PERSONS

**66. Prohibition of employment of children.**—No child who has not completed fourteen years of age shall be required or allowed to work in any factory.

**67. Non-adult workers to carry tokens.**—A child who has completed fourteen years of age or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted to him under section 68 is in the custody of the manager of the factory;

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

**68. Certificates of fitness.**—(1) A Certifying Surgeon shall, on the application of any young person or his parent or guardian, accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory or on the application of the manager of the factory in which any person wishes to work, examine such person and ascertain his fitness for work in such factory.

(2) The Certifying Surgeon may, after examination, grant to such young person in the prescribed form or renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, has attained the prescribed physical standards and is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his sixteenth year and is fit for a full day's work in a factory :

Provided that unless the Certifying Surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for the period of twelve months from the date thereof;

(b) may be made subject to re-examination of the young persons before the expiry of a period of twelve months, or subject to conditions in regards to the nature of the work in which the young person may be employed.

(4) A Certifying Surgeon, shall revoke any certificate granted or renewed under sub-section (2) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a Certifying Surgeon refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal therefore, state his reasons in writing for such refusal.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person or his parents or guardian.

**69. Effect of certificate of fitness granted to adolescents.**—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 68, and who, while at work in a factory, carries a token giving reference to the certificate, shall, subject to the provisions of sub-section (1) of section 70, be deemed to be an adult for all the purposes of Chapters VI and VIII.

(2) An adolescent, who has not been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 68, shall, notwithstanding his age be deemed to be a child for the purposes of this Act.

**70. Working hours for children.**—(1) No child or adolescent shall be required or allowed to work in any factory—

(a) for more than five hours in any day; and

(b) between the hours of 7 p.m. and 7 a.m.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread-over more than seven and a half hours each.

(3) A child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(4) The provisions of section 51 shall apply also to child workers, no exemption from the provisions of that section shall be granted in respect of any child.

(5) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

**71. Notice of periods of work for children.**—(1) In every factory in which children are employed, there shall be displayed in the manner laid down in sub-section (2) of section 109, a notice of periods of work for children, showing clearly the periods within which children may be required or allowed to work.

(2) The periods shown in the notice under sub-section (1) shall be fixed beforehand in the manner laid down for adult workers in section 60 and shall be such that children working on those periods would not be working in contravention of section 70.

(3) The provisions of sub-sections (8), (9) and (10) of section 60 shall apply also to the notice under sub-section (1).

(4) The Government may make rules prescribing the form of the notice under sub-section (1) and the manner in which it shall be maintained.

**72. Register of child workers.**—(1) The manager or every factory in which children are employed shall maintain a register of child workers to be available to the Inspector at all times during working hours showing—

(a) the name and date of birth of each child and adolescent worker in the factory;

(b) the nature of his work;

(c) the group, if any, in which he is included;

(d) where his group works on shifts, the relay to which he is allotted;

(e) the number of his certificate of fitness granted under section 68 and the date of its renewal; and

(f) such other particulars as may be prescribed.

(2) The Government may make rules prescribing the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

**73. Hours of work to correspond with notice under section 71 and register under section 72.**—No child shall be required or allowed to work otherwise than in accordance with the notice under sub-section (1) of section 71 and the entries made beforehand against his name in the register maintained under section 72.

**74. Power to require medical examination.**—Where an Inspector is of opinion—

(a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or

(b) that a child or adolescent working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person or that such child or adolescent, as the case may be, shall be examined by a Certifying Surgeon and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 68 or has been certified by the Certifying Surgeon examining him not to be a child or adolescent.

**75. Power to make rules**—The Government may make rules—

(a) prescribing the form of certificates of fitness to be granted under section 68, providing for grant of duplicates in

the event of loss of the original certificates and renewals thereof and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescent working in factories; and

(c) regulating the procedure of Certifying Surgeon under this Chapter and specifying other duties, which they may be required to perform in connection with the employment of children and adolescent in factories and fixing the fees which may be charged for such duties.

**76. Provisions of this Chapter not in derogation of Act XXVI of 1938.**—The provisions of this Chapter shall be in addition to and not in derogation of, the provisions of the Employment of Children Act, 1938.

## CHAPTER VIII

### LEAVE AND HOLIDAYS WITH WAGES

**77. Application of the Chapter.**—Nothing in this Chapter shall affect any right or privilege to which a worker has been entitled on the date this Act comes into force, under any existing law or under any award.

**78. Annual leave with wages.**—(1) Every worker who has completed one year of continuous service in a factory, shall be allowed during the subsequent period of twelve months' leave with wages for a number of days calculated at the rate of—

- (i) if an adult, one day for every twenty two days of work performed by him during the previous period of twelve months :
- (ii) if a child, one day for every fifteen days of work performed by him during the previous period of twelve months.

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

(2) If a worker does not, in any such 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, if an adult, shall cease to earn any leave under this section when the earned leave due to him amounts to twenty days and if a child shall cease to earn any such leave when earned leave due to him amounts to thirty days :

Provided further that any leave applied for by a worker but refused by the occupier or manager or his authorised officer for any reason 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 law-off arising due to 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 in the muster rolls of his factory;
- (f) a strike which is not illegal or a lock-out which is not legal.

**79. Festival holidays.**—(1) Every worker shall be allowed at least ten days' festival holidays with wages in a year. The days and dates for such festivals shall be fixed by the occupier or manager in such a manner as may be prescribed.

(2) A worker may be required to work on any festival holiday, but two days additional compensatory holidays with full pay and substitute holiday shall be provided for him in accordance with the provisions of section 51.

**80. Casual leave and sick leave.**—(1) Every worker shall be entitled to casual leave with full wages for ten days in a year :

(2) Every worker shall be entitled to fourteen days' sick leave on half-average wages in a year :

Provided that sick leave or casual leave admissible under this section shall not be accumulated and carried forward to the succeeding year.

**81. Wages during leave or holiday periods.**—For the leave or holidays allowed to a worker under the provision of this Act, he shall be paid—

- (a) in case of leave with full wages, at the rate equal to the daily average of his full time earnings, including dearness allowance, if any, for the days on which he worked during the month immediately preceding his



leave, but excluding any over-time earnings and bonus; and

- (b) in case of leave with half-average wages at the rate equal to half the daily average of his earnings calculated in the manner provided in clause (a).

**82. Payment in advance in certain case.**— Any worker who has been allowed leave for not less than four days in the case of an adult, and five days in the case of a child, under section 78 shall, before his leave begins, be paid, the wages due for the period of the leave allowed.

**83. Power of Inspector to act for workers.**— Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be, but has not been paid under this Chapter by an occupier or manager:

**84. Power to make rules.**— (1) The Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to generality of the foregoing power, rules made under this section may provide for maintaining by Managers of factories of registers showing such particulars as may be specified and requiring such registers to be preserved and made available for examination by Inspectors.

**85. Power to exempt factories.**— Where the Government is satisfied that the leave rules applicable to the workers in a factory provide benefits which, in its opinion, are on the whole not less favourable than those provided for in this Chapter, it may, by order in writing exempt a factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.

## **CHAPTER IX**

### **SPECIAL PROVISIONS**

**86. Power to exempt public institution:—** The Government may exempt, subject to such conditions as it may impose, any workshop, or workplace where a manufacturing process is carried on, which is attached to a public institution and maintained for the purpose of education, training or reformation, from all or any of the provisions of this Act :

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays unless the person having the control of the institution submits for the approval of the Government a scheme for the regulation of the hours of employment, intervals for rest and meals and holidays of the persons employed in or attending the institutions and the Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

**87. Dangerous operations.—** Where the Government is satisfied that any operation carried on in a factory exposes any person employed in it to a serious risk of bodily injury, poisoning, or disease, it may make rules applicable to such factory or class of factories in which such operation is carried on—

(a) specifying the operation and declaring it to be hazardous;

(b) prohibiting or restricting the employment of women, adolescents or children in the operation;

(c) providing for the periodical medical examination of persons employed in the operation and prohibiting the employment of persons not certified as fit for such employment;

(d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on; and

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

**88. Notice of certain accidents.**—Where in any factory an accident occur which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours immediately following the accident or which is of such a nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to the Inspector in such form and within such time, as may be prescribed.

**89. Notice of dangerous occurrences.**—The Government may, by notification in the official Gazette, extend the provisions of section 88 to special class of accidents, such as explosion, fire, collapse of buildings, accidents to machinery or plant occurring in a factory, although no death or bodily injury has been caused to any person.

**90. Notice of certain disease.**—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to the Inspector in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is, or has been employed in a factory and who is, or is believed by such medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner shall, without delay, send a report in writing to the Chief Inspector stating—

(a) the name and full postal address of the patient;

(b) the disease from which he believes the patient to be suffering;

(c) the name and address of the factory in which the patient is or was last employed.

(3) The Government may add to or subtract from the Schedule any disease by notification in the official Gazette.

**91. Power to direct enquiry into cases of accident or disease.**—(1) The Government may, if it considers it expedient so to do appoint a competent person under intimation to all concerned to enquire into the causes of any accident occurring in a factory, or into any case where a disease

specified in the Schedule has been, or is suspected to have been, contacted in a factory and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.

(2) The person appointed to hold an enquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the enquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the enquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Penal Code, 1860 (XLV of 1860).

(3) The person holding an enquiry under this section shall make a report to the Government stating the causes of the accident or as the case may be, disease, and any attendant circumstances, and adding thereto any observations which he, or any of the assessors, may think fit to make.

(4) The Government may, if it thinks fit, cause to be published any report made under this section or any extract therefrom.

(5) The Government may, make rules for regulating the procedure of enquiries under this section.

**92. Power to take samples.**—(1) An Inspector may, at any time during the normal working hours of a factory, after informing occupier or the manager of the factory or other person for the time being purporting to be the manager of the factory, take, in the manner hereinafter provided, a sufficient sample of any substance used or intended to be used in the factory, such use being in the opinion of the Inspector—

(a) in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) likely to cause bodily injury to or injury to the health of, workers in factory.

(2) Where the Inspector takes sample under sub-section(1), he shall, in the presence of the person informed under the sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them and shall permit such person to add his own seal and mark thereon.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon; and

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document, purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

## CHAPTER X

### PENALTIES AND PROCEDURE

**93. General penalty for offences.**—Save as is otherwise expressly provided in this Act and subject to the provisions of section 94, if in, or in respect of, any factory, there is any contravention of any of the provisions of this Act or any rules made thereunder, or of any order in writing given thereunder, the occupier and the manager of the factory shall each be guilty of an offence punishable with fine which may extend to Taka one thousand and, if the contravention is continued after conviction, with a further fine which may extend to Taka seventy-five for every day of the period during which the contravention continues.

**94. Liability of owner of premises in certain circumstances.**—(1) Where in any premises separate building ~~are leased to different occupiers for use as separate factories,~~ the owner of the premises shall be responsible for the provision and maintenance of common facilities and services such as approach roads, drainage, water supply lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

(i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;

(iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;

- (iv) precautions in case of fire;
- (v) maintenance of hoists and lifts; and
- (vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories :

Provided that the owner shall be responsible also for complying with the requirements relating to the provisions and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the Government, the powers to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 45 or 47.

(7) Where, in any premises, portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 15 and 16,

(ii) Chapter IV, except sections 24, 25, 29, 36, 37 and 41:

Provided that in respect of the provisions of sections 23, 26 and 34 the owner's liability shall be only in so far as such provisions relate to things under his control;

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him:

(iii) Section 43.

(8) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of carrying out the provisions of sub-section (7).

(9) In respect of subsections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.

**95. Enhanced penalty after previous convictions.**—If any person, who has been convicted of any offence punishable under section 93 is again convicted of an offence involving a contravention of the same provision, he shall be punished, on a subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to Taka one thousand or with both :

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the subsequent offence.

**96. Penalty for obstructing Inspector.**—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by the Inspector any register or other document in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined, by an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred or with both.

**97. Penalty for wrongful disclosure of information.**—Whoever, except in so far as it may be necessary for the purpose of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of any analysis made under section 92 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred or with both.

**98. Restriction on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose other than in connection with the administration of this Act any information relating to any manufacturing or commercial secret which may come to his knowledge in the course of his official duties.



(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purpose of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Taka one thousand or with both.

**99. Offences by workers.**—(1) Subject to the provisions of section 111, if any worker employed in any factory contravenes any provision of this Act or any rules or orders made thereunder imposing any duty or liability on workers, he shall be punishable with fine which may extend to Taka fifty.

(2) Where a worker is convicted of an offence punishable under sub-section (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable measures for its prevention.

**100. Penalty for using false certificates of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 68, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or allows another person to attempt such a use, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to take fifty or with both.

**101. Penalty for double employment of a child.**—If a child works in a factory on any day on which he has already been working in another factory the parent or guardian of the child or the person having custody or control over him, or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to Taka fifty unless it appears to the Court that the child so worked without the

consent, connivance or willful default of such parent, or guardian or person.

**102. Offences by a firm, company, etc.**—(1) Where a person guilty of an offence punishable under this Chapter for which the occupier of a factory is punishable—

- (a) is a firm or other body of individuals every partner or member thereof; or
- (b) is a company other than a private company every director thereof; or
- (c) is a private company, every shareholder thereof shall be deemed to be guilty of such offence :

Provided that where any such firm, body or company gives notice to the Inspector nominating one of its partners, members, directors or in the case of a private company, shareholders, who is a resident of Bangladesh to be the occupier of the factory for the purposes of this Chapter, such partner, member, director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be such occupier until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner, member, director or shareholder.

(2) Where a person guilty of an offence punishable under section 94 for which the owner of a premises or building is punishable is a firm, body of individuals or company, reference in this section to an occupier shall be deemed to be a reference to an owner and the provisions of this section shall apply accordingly.

**103. Exemption of occupier or manager from liability in certain cases.**—(1) Where the occupier or manager of a factory is charged with an offence under this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge.

(2) If, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court that he has used due diligence to prevent the commission of the offence and that

the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be punished for the offence as if he were the occupier or manager and the occupier or manager shall be discharged from any liability for the offence.

(3) Where it is made to appear to the satisfaction of the Inspector at any time before the institution of proceeding for an offence under this Act—

- (a) that the occupier or manager of the factory has used all due diligence to prevent the commission of the offence;
- (b) that it had been committed without the knowledge, consent or connivance and in contravention of the orders, of the occupier or manager; and
- (c) that it has been committed by any other person, the Inspector shall proceed against that other person who shall be punishable for the offence as if he were the occupier or manager.

**104. Power of the Court to make orders—**(1) The occupier or manager of the factory, as the case may be, shall not, during the period specified therein or extended period, if any, be liable under this Act for continuation of the offence for which he has been convicted.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not, during the period specified therein or extended period, if any, be liable under this Act for continuation of the offence for which he has been convicted.

(3) If the order of the Court under sub-section (1) is not fully complied with during the aforesaid period, the occupier or manager, as the case may be, shall, on the expiry of such period, be deemed to have committed further offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Taka one hundred for every day after the expiry of the said period during which the order has not been complied with, or with both.

**105. Presumption as to employment.—**Every person, who is found in a factory at any time, except during intervals

for meals or rest, when work is going on or the machinery is in motion, shall, until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder, to be, at that time employed in the factory.

**106. Onus as to age.**—(1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under or over such age, the burden of proving that such person is not under or over such age shall be on the accused.

(2) A declaration in writing by a Certifying Surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the workers.

**107. Cognizance of offences.**—(1) No Court shall take cognizance of an offence under this Act except upon complaint made by, or under the authority of or with the previous permission in writing of, an Inspector :

Provided that no case lying before a Court shall be withdrawn without the prior permission of the Chief Inspector of Factories.

(2) No Court inferior to that of a Magistrate of the First Class shall try an offence under this Act or any rules or order made thereunder.

## **CHAPTER XI SUPPLEMENT**

**108. Appeals.**—(1) Where an order in writing of an Inspector has been served under this Act on the manager of a factory, such manager or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the Appellate Authority which may, subject to rules made in this behalf, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf, the Appellate Authority may, and, if the appellant so requires, shall, hear an appeal under sub-section (1) with the aid of two assessors, one of whom shall be appointed by the Appellate Authority and the other by such body representing the industry concerned as may be prescribed :

Provided that no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal the Appellate Authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the Appellate Authority may, in any case think it fit to impose, the Appellate Authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

(4) The Government may make rules for the purpose of this section and such rules may specify the classes of appeals which shall not be heard with the aid of assessors.

(5) In this section "Appellate Authority" means the Government or such Authority as the Government may appoint in this behalf.

**109. Display of notices.**—(1) In addition to the notices required to be displayed in any factory by this Act or the rules made thereunder, there shall be displayed in every factory the official address of the Inspector and the Certifying Surgeon

and a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed.

(2) All notices required to be displayed in a factory by or under this Act shall be—

- (a) written in Bengali;
- (b) displayed at a conspicuous and convenient place at or near the main entrance to the factory; and
- (c) maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

**110. Service of notices and returns.**—The Government may make rules—

(a) prescribing the manner of the service of orders under this Act, and

(b) requiring owners, occupiers or managers of factories to submit such return, occasional or periodical, as it may consider necessary for the purposes of this Act.

**111. Obligation of workers.**—(1) No workers in a factory shall—

(a) wilfully interfere with or misuse any appliance convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) wilfully and without reasonable cause do anything which is likely to endanger himself or other;

(c) wilfully neglect to make use of any appliance or other things provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any provision of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka one hundred, or with both.

**112. General power to make rules.**—The Government may make rules providing for any matter which under any of the provisions of this Act is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

**113. No charge for facilities and convenience.**—Subject to the provisions of section 45, no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided or an equipment or appliances to be supplied by the occupier under this Act.

**114. Publication of rules.**—(1) All rules made under this Act shall be subject to the condition of previous publication of the draft thereof with a notice specifying a date not later than three months from the date of such publication on or after which the draft will be taken into consideration.

(2) All such rules shall be published in the official Gazette and shall come into force on the date of such publication.

(3) Rules made under this Act may provide that a contravention thereof shall be punishable with fine not exceeding Taka two hundred and fifty.

**115. Protection to persons acting under this Act.**—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.

**116. (Repealed).**—Repealed by the East Pakistan Repealing and Amending Ordinance, 1966 (E. P. Ord. XIII of 1966).

## THE SCHEDULE

(See Sections 90 and 91)

### List of notifiable diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetraethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.

5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by Nitrous fumes.
8. Carbon bi-sulphide poisoning.
9. Benzene poisoning including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by Halogens or Halogen derivatives of the Hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
  - (a) Radium or other radio-active substances.
  - (b) X-rays.
15. Primary squithalimatous cancer of the skin.
16. Toxic anaemia.



# INDUSTRIAL RELATIONS ORDINANCE, 1969.

(Ordinance No. XXIII of 1969)

An Ordinance 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 or disputes arising between them.

## **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 Ordinance 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.

(4) It shall come into force at once.

**2. Definition.**— In this Ordinance, unless there is anything repugnant in the subject or context —

(1) "Arbitrator" means a person appointed as such under this Ordinance;

(2) "Award" means the determination by a Labour Court, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and includes an interim award. (Clause III & IV Omitted by Ord. XIX of 1970);

(3) "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.;

(4) "Conciliation proceedings" means any proceedings before a Conciliator;

(5) "Conciliator" means a person appointed as such under section 27;

(6) "Director of Labour" means a person appointed as such by the Government; (Clause included vide Act XXIX of 1980)

(7) "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 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.

(8) "Establishment" means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;

(9) "Executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;

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

(11) "Illegal Strike" means a strike declared, commenced or continued, otherwise than in accordance with the provisions of this Ordinance;

(12) "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 the terms of employment or the conditions of work of any person;

(13) "Industry" means any business, trade, manufacture, calling, service, employment or occupation;

(14) "Labour Court" means a Labour Court established under section 35;

(15) "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;

(16) "Organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers;

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

(18) "Prescribed" means prescribed by rules;

(19) "Public Utility Service" means any of the services specified in the Schedule;

(20) "Registered Trade Union" means a trade union registered under this Ordinance;

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

(22) "Rule" means rule made under section 66;

(23) "Settlements" means a settlement arrived at in the course of conciliation proceeding and includes an agreement between an employer and his workmen arrived at otherwise than in the course of any conciliation proceeding, where such agreement is in writing, has been signed by the parties there to in such 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;

(24) "State-owned manufacturing industry" means a manufacturing industry owned or nationalised or taken over by or under any law, by the Government; (Added Vide Act XXIX of 1980)

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

(26) "Trade Union" means any combination of workers or employers formed primarily for the purpose of regulating the relation 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 includes a federation of two or more trade unions;

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

(28) "Workers" 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. (Subs. vide Act. XXIX of 1980)

**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 authorisation;
- (b) employers, 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 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 establish and join federations and confederations and any such organisation, federation

or confederation shall have the right to affiliate with international organisation and confederations of worker's and employers' organisations.

**4. Workers and employers and their respective organisation.**—In exercising 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 chairman and the secretary, apply for registration of the trade union under this Ordinance.

**6. Requirements for application.**—Every application for registration of 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 federation of trade unions, the names, addresses and registration number of member unions.
- (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 chairman 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 of 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 subjects 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) Omitted vide Act XXIX of 1980;
- (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 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.

**7A. Disqualifications for being an officer or a member of a trade union.**—(1) Notwithstanding anything contained in the constitution or the rules of a trade union.—

(a) a person shall not be entitled—

(i) to be, or to be elected as an officer of a trade union if he has been convicted of an offence under clause(d) of sub-section(I) of section 16 or section 61;

(ii) to be a member or officer of a trade union formed in any establishment or group of establishments if he is not actually employed or engaged in that establishment or group of establishments; and

(b) a member or officer of a trade union who is not actually employed or engaged in the establishment or group of establishments for which such trade union has been formed shall, on the commencement of the Industrial Relations (Amendment) Act, 1980 cease to be member or officer of that trade union.

(2) Nothing in sub-clause (ii) of clause (a) and clause (b) 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 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 objections raised by the Registrar have 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 under section 7, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Ordinance.

**10. Cancellation of registration.**—(1) The registration of a trade union may be cancelled by the Registrar if the Registrar is satisfied on enquiry that 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 this Ordinance or the rules :
- (d) contravened any of the provisions of its constitution;

- (e) committed any unfair labour practice at any time with in three months prior to the date of passing of the order of such cancellation;
- (f) made in its constitution any provision which is inconsistent with this ordinance or the rules; or
- (g) a membership which has fallen short of 36% of the workers of the establishment or group of establishments for which it was formed; and
- (i) Where any person who is disqualified under section 7A from being elected as, or from being, an officer of a trade union, is elected as an officer of a registered trade union, the registration of that union shall be cancelled by the Registrar. (Amendment vide Act XXIX of 1980.)

**11. Appeal against cancellation.**—(1) Any trade union aggrieved by an order or decision of the Registrar issued or given under section 10 may within two months from the date of the order or, as the case may be, appeal to the Labour Court which may uphold or reject the order or decision, (Sub. vide Act XXIX of 1980)

(2) Any trade union aggrieved by the decision of the Labour Court given under sub-section (1) may, within two months from the date of the decision, appeal to the Labour Appellate Tribunal which may uphold or reject the decision. (Added vide Act XXIX of 1980)

**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.

**12. Registrar of trade union.**—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 function under this Ordinance.

**13. Powers and functions 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 provision of this ordinance;
- (c) the determination of the question as to which one of the trade unions in establishment or an industry is entitled to be certified as the collective bargaining agent in relation to the 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 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, 1960 (XXI of 1960) the Co-operative Societies Act, 1940 (Een, Act XXI of 1940) and the Companies Act, 1913 (VII of 1913), shall not apply to any registered trade union and the registration of 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, a 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 injure or threaten to injure him in respect of his employment by reason that the workmen.—
  - (i) is or proposes to become, or seeks to persuade any other person to become a member or officer of 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 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.
- (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 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 where 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 or a trade union of workmen.

**16. Unfair labour practices on the part of workmen.—**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 paying, any subscription toward 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 or bribery through its executive or through any person acting on its behalf.

#### **RIGHTS 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 collective bargaining agent as determined by the Registrar shall be liable to punishment under sub-section (2) of section 120-B 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 law 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 instruction given by the executive of the trade union.

**19. Enforceability of agreement.**—Notwithstanding anything 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 proceedings instituted for the express purpose of enforcing, or recovering damages for the breach for any agreement concerning the conditions on which any member of a trade union shall not sell their goods, transact business, or work, employ or be employed.

**20. Registration of federation of trade union.**—(1) Any two or more registered trade union may, if their respective general bodies so resolve, constitute a federation by executing

an instrument of federation and apply for the registration of federation;

Provided that a trade union of workmen shall not join a federation which comprises a trade 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, provide for the procedures to be followed by federated trade unions and the rights and responsibilities of the federation and the federated unions.

(3) An application for the registration of a federation of trade unions shall be signed by 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 instruments of federation referred to in sub-section (1).

(4) Subject to sub-section (1), (2) and (3), 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 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 provision of the constitution shall be sent

to the Registrar within 15 days of the making of the alteration or adoption of resolution.

(4) In case the registered trade union is member of a federation the name of that 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, 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 member 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 the secret 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 badliworkers, 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 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 objections, 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 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 to 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 canvass for vote within a radius of fifty yards of the polling station.

(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 station 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 establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group shall 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, implead as a party, to 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 employers on matters connected with employment, non-employment, the terms 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 any welfare institution or provident Funds, and of the Workers Participation Fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968)

(13) The Registrar may, by 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 industry has, for the purpose of that industry, more establishments than one, any registered trade union which fulfils such conditions as may be prescribed in this behalf may make an application in such conditions in such manner and to such authority as may be prescribed in 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 any one or more of such establishments shall not undertake collective bargaining in respect of matters relating to the terms and conditions of

employment application 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 member 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 workmen named in the demand statement furnished by the union.

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

#### **PARTICIPATION COMMITTEE, 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 representatives of the workmen is not less than the number of the representatives 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 nominates the representatives of the workmen in such Participation Committee.

Provided that where there is no collective bargaining agent, representatives of the workmen on a 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) adopt measure for improvement of welfare services for the workers and their families;
- (f) to fulfil production target, reduce production cost and wastes and raise quality of product.

**25A. Meeting of the participation committee.**—(1) The Participation Committee shall meet at least in every two months to discuss and exchange views and recommend measures for performance of the functions under section 25.

(2) The proceedings 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. Negotiation to industrial disputes.**—(1) If, at any time, an employer of 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 sub-section (1) the party receiving at 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 issues 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 copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause XXIV of section 2.

**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 the class of establishments or industries in relation to which, each one of them shall perform his functions.

**27A. Conciliation before notice of strike.**—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 27-A, 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 member have given their consent to it through a secret ballot specifically held for the purpose. Added vide Act XXXX of 1980)

**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 provision 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 conciliation :

Provided further that no conciliation proceeding which has been undertaken by the Conciliator under this section shall however be invalid merely on the ground the such notice of strike does not so conform." (Added vide Act XXIX of 1980)

**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; or by persons 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 or Division administratively concerned with that industry may also appear before the Conciliator." (Added by Act XXIX of 1980)

(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 any 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 the 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 the 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 a 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 or as may be fixed by the Arbitrator.

**32. Strike and lock-out.**—(1) If no 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 parties to the dispute of a certificate to the effect that the conciliation proceedings have failed, which ever is the later. (Added by Act XXIX of 1980)

(1A) 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 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 a 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.

**33. Strike or Lock-out in Public Utility Services.**—(1) In the case of any of the public 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 provisions 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 workmen 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.

**35. Labour Court.**—(1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and where it establishes more than one Labour Court, shall specify in the notification the

territorial limits within which 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 be appointed in the prescribed manner to advise the Chairman, one to represent the employers and the other to represent the workmen.

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

(4) The members shall be appointed in consultation with the employers and workmen in such manner and on such terms and conditions as may be prescribed.

(5) A Labour Court shall—

- (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 laws 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 power 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, sitting of the Court, the proceeding of the Court may continue, and 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 the ground of such absence.

**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 under the Code of Criminal Procedure, 1898.

(2) A 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, 1968 (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.

(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. Awards and decision 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 forth with to the Government.

(A) 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. (IA Added by Act XXIX of 1980).

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

(3) Any party aggrieved by an award given under sub-section (1) may prefer an appeal to 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 Labour Court, other than awards referred to in sub-section (3) of this section and sentence referred to in sub-section (3) of section 35, 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 tribunal shall consist of one member to be appointed by Government by notification in the official Gazette.

(2) The member of the tribunal shall be a person who is or has been a Judge or an Additional Judge of High Court and shall be appointed on such terms and conditions as the Government may determine.

(3) The tribunal may, on appeal, confirm, set aside very or modify the award and shall exercise all 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 reason of any delay in its delivery.

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

(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, 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 Taka 50 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 assignees 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 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 proceedings shall be binding on the parties to the agreement.

**40. Effective date of settlement award, etc.**—(1) A settlement shall become effective— a) if a date is agreed upon by the parties to the dispute to which 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 on 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 from 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 from which the award on various demands shall be effective and the limits 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, applied to the Labour Court which made the award to reduction or the 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 sub-section (3) of section 38 shall be effective from the date the award.

(5) Notwithstanding the expiry of the period for which an award is to be effective under sub-section 3, 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
  - (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 31, 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 Labour 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 a 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 request 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 or 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 proceedings or proceedings before an arbitrator or a Labour Court or an appeal to the Tribunal under sub-section (3) of section 38 are or is pending in respect of any matter constituting such industrial dispute.

**45. Powers of Labour Court and Tribunal to prohibit strike etc.**—(1) When a 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, or application under section 34 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 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 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 proceedings or proceedings before an Arbitrator, a Labour Court or Tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any workman concerned in such dispute, the conditions of service applicable to him before the commencement of the conciliation proceedings before the Arbitrator, the Labour Court or Tribunal, as the case may be, nor shall he—

(a) save with the permission of the Conciliator, while any conciliation proceedings are pending, (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 except for misconduct 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 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 to 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 member shall be settled, shall apply to proceedings for

enforcing any right or exemption granted by sub section (1)—In any such proceeding, 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 a legal practitioner in any conciliation proceeding 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 Arbitrators, 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 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 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.** Any act or function is, by this Ordinance, required to be performed by or has been conferred upon a collective bargaining agent may, until a collective bargaining agent has been ascertained under the provisions of this Ordinance, be performed by a registered trade union which has been recognised by the employer or employers.

### 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 Taka five thousand or with both.

(2) Any workman who contravenes the provisions of section 15 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to Taka Two hundred 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 Taka two thousand 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 Taka five hundred, or with both;

- (b) for each subsequent offence with imprisonment for term which may extend to two years or with fine which may extend to Taka one thousand, 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 with fine which may extend to Taka five hundred or with both, and, in the case of continuing failure, with a further fine which may extend to Taka two hundred for every day after the first during which the failure continues.

**56. Penalty for false statements, etc.—**Whoever wilfully 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 wilfully neglects or fails to maintain or furnishes any list, document or information he is required to maintain or furnish under this Ordinance of the rules thereunder, shall be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Taka five hundred 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 Taka two hundred or with both.

(2) Any employer who commences, 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 Taka five thousand or with both, and in the case of a continuing offence, with a further fine which may extend to Taka two hundred for every day 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 which may extend to six months or with fine, which may extend to Taka one thousand 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 any extend to Taka five hundred or with both.

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

**61. Penalty for embezzlement or misappropriation of fund.**—Any officer or any other 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, which shall not exceed the amount found by the court to have been embezzled or misappropriated. Upon realisation, the amount of fine may be re-embursed by the court to the trade union concerned.

**61A. Penalty for activities of unregistered trade union.**—Whoever takes part in or instigates or incities others to take part in, the activities of an unregistered trade union or of a trade union whose registration has been cancelled or collectes subscription except enrolement 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 Taka five hundred, or with both.

**61B. Penalty for dual membership of trade unions.**—Whoever enrolls himself as, or continue 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 Taka five hundred, 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 Taka two hundred and fifty.

**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 provision of sub-section of section 30 shall be punishable with fine which may extend to six months, or with fine which may extend to five hundred Taka or with both. (62A added vide Act XXIX of 1980)

**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 there of shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due dilligence to prevent the commission of the offence, be deemed to be guilty of such offence.

**64. Trail of offences.**—No Court other than a Labour Court or that of a Magistrate of the First Class shall try any offence punishable under this Ordinance, "and no prosecution for an offence under section 53 or section 62A shall be instituted except by or under the authority, or with the previous permission, of Director of Labour or of an officer authorised by him in this behalf." (64 "Added by Act XXIX of 1980).

### 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, and

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

**67. Repeal and savings.**—(1) The following laws are hereby Sepealed namely—

- (a) The Trade Unions Act, 1965 (E. P. Act V of 1965)
- (b) The Labour Disputes Act, 1965 (E. P. Act VI of 1964).
- (c) The Industrial Disputes Ordinance, 1968 (W. P. Ordinance IV of 1968).
- (d) The Trade Unions Ordinance, 1968 (W. P. Ordinance V of 1968).
- (e) The Industrial Relations (Regulation) Ordinance, 1975 (LIV of 1975).

(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 :-- (As per section 2 (XIX))

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, confidential assistant, Cypher assistant and security services maintained in any establishment, &
9. Person employed in a managerial or administrative capacity.
10. Person employed in the capacity of Supervisor.



## THE EMPLOYMENT OF LABOUR (STANDING ORDERS) ACT, 1965

(Act VIII of 1965)

*An Act to repeal and with certain amendments, re-enact the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960.*

**Whereas** it is expedient to repeal and, with certain amendments, re-enact the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960 (Ordinance No. III of 1960) for regulating conditions of service of workers employed in Shops and Commercial and Industrial Establishments and for matters connected therein;

It is hereby enacted as follows—

**1. Short title, extent, commencement and application.**—(1) this Act may be called the Employment of Labour (Standing Orders) Act, 1965.

(2) It extends to the whole of (Bangladesh).

(3) It shall come into force at once.

(4) It shall apply to—

- (a) every shop or commercial establishment to which the Shops Establishments Act, 1965 applies;
- (b) every industrial establishment in the areas in which the Shops and Establishments Act, 1964 applies;
- (c) every industrial establishment in all other areas of Bangladesh, in which five or more workers are employed, or were employed on any day of the preceding

provided that the provisions of this Act shall not apply to any shop or commercial or industrial establishment, owned and directly managed by the Government and the persons employed therein are governed by the Government Servants' Conduct Rules.

**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) 'badli' means a worker who is appointed in the post of a permanent worker or of a probationer who is temporarily absent;
- (c) 'casual worker' means a worker whose employment is of a casual nature;
- (d) 'commercial establishment' means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, 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 banking company or a bank, a brokers office or stock exchange, a club, a hotel or a restaurant or an eating house, cinema or 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) 'Director of Labour' means an officer so appointed by the Government;
- (f) 'discharge' means the termination of services of a worker by the employer for reasons of physical or mental incapacity or continued ill health of the worker or such other similar reasons not amounting to misconduct;
- (g) 'dismissal' means the termination of services of a worker by the employer for misconduct;
- (h) 'employer' means a person, a body of persons or body corporate, company or institutions owning or managing a shop, commercial establishment or industrial establishment, or their heirs, successors or assigns, as the case may be, and includes—
  - (i) in a factory, any person working as manager of the factory.

- (ii) in any shop, commercial establishment or industrial establishment, carried on by or behalf on a local authority, the officer appointed, the chief executive officer of that authority, and
  - (iii) in relation to any other shop, commercial establishment or industrial establishment, every Director, Manager, Secretary, Agent or other officer or person concerned with management thereof and responsible to the owner for the supervision and control of such shop, commercial establishment or industrial establishment;
- (i) 'go-slow' means organized deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner, and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.
- (j) 'industrial establishment' means any workshop or other establishment in which articles are produced, adapted 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 or such other class of establishments including water transport vessels or any class thereof which the Government may, by notification in the official Gazette, declare to be an industrial establishment for the purpose of this Act, and includes-
- (i) any motor omnibus service, any dock, wharf or jetty.
  - (ii) any mine, quarry, gas-field or oil-field.
  - (ii) any plantation, or
  - (vi) a factory as defined in the Factories Act, 1965.
- (k) '**Labour Court**' means a Court constituted under the Industrial Relations Ordinance, 1969;

- (l) 'lay-off' means 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 breakdown of machinery or for any other reason, to give employment to a worker whose name is borne on the musterrolls of his shop, commercial establishment or industrial establishment;
- (m) 'permanent worker' means a worker who has been engaged on a permanent basis or who has satisfactorily completed the period of his probation in the shop or the commercial or industrial establishment;
- (n) 'plantation' means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea and includes agricultural farms under sugar mill for growing sugarcane, employing twenty-five or more persons for that purpose;
- (o) 'public servant' shall have the same meaning as in section 21 of the Penal Code, 1860.
- (p) 'probationer' means a worker who is provisionally employed to fill a permanent vacancy in a post and has not completed the period of his probation;
- (q) 'retrenchment' means the termination by the employer of services of workers, not as a measure of punishment inflicted by way of disciplinary action, but on the ground of redundancy;
- (r) 'shop' means a shop as defined in the East Bengal Shops and Establishments Act, 1951;
- (s) 'temporary worker' means a worker who has been engaged for work which is essentially of temporary nature and is likely to be finished within a limited period;
- (t) 'trade union' means a trade union registered under the IRO, 1969.
- (u) 'wage' means wages as defined in the Payment of Wages Act, 1936;

- (v) 'worker' means 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 expressed or implied, but does not include any such person-
- (i) who is employed mainly in a managerial or administrative capacity; or
  - (ii) who, being employed in a supervisory capacity, exercises, either by nature of the duties attached to officer or by reason of power vested in him, functions mainly of managerial or administrative nature.

**3. Conditions of employment.**—(1) In every shop or commercial or industrial establishment, employment of workers and other matters incidental thereto shall be regulated in accordance with the provisions of this Act;

**Provided** that any shop or commercial or industrial establishment may have its own rules regulating employment of workers or any class thereof, but no such rules shall be less favourable to any worker than the provisions of this Act.

(2) The service rules regulating employment of workers or any class thereof in any shop or commercial or industrial establishment as mentioned in the proviso to sub-section (1) shall be submitted by the employer of such shop or commercial or industrial establishment to the Inspector appointed under section 30 for approval and such service rules shall not be put into effect until such approval of the Inspector has been obtained.

(3) Any person aggrieved by the order of the Inspector may within thirty days of the issue of such order, appeal to the Chief Inspector who may either confirm, modify or set aside the order of the Inspector.

(4) A second appeal from the order of the Chief Inspector shall lie to the Government if made within thirty days of the issue of the order of the Chief Inspector and the decision of the Government shall be final.

#### 4. Classification of workers and period of probation.—

(1) A worker employed in any shop or commercial or industrial establishment shall be classified in any of the following classes according to the nature and condition of work and in the manner provided in this Act—

- (a) apprentices.
- (b) badlis.
- (c) casual.
- (d) permanent.
- (e) probationer and
- (f) temporary.

(2) The period of probation for a worker whose function is of clerical nature, shall be six months and for other workers such period shall be three months, including breaks due to leave, illegal lock-out or strike (not being an illegal strike) in the shop or commercial or industrial establishment :

**Provided** that in the case of a skilled worker, the period of probation may be extended by an additional period of three months if, for any circumstances, it has not been possible to determine the quality of his work within three months' period of his probation.

(3) If any worker, whose service has been terminated during his probationary period, including the extended period of three months in case of a skilled worker as mentioned in subsection (2), is again appointed by the same employer within a period of three years, he shall, unless appointed on a permanent basis, be deemed to be a probationer and the period or periods of his earlier probation shall be counted for determining his total period of probation.

(4) If a permanent worker is employed as a probationer in a new post, he may, at any time during the probationary period, be reverted to his old permanent post.

**5. Leave and holidays.**—(1) Workers employed in shops or commercial or industrial establishments shall be entitled to leave and holidays with wages as provided in the East Bengal Shops and Establishments Act, 1951, the Factories Act, 1965,

or in any other law for the time being in force, as the case may be, and other holidays which the Government may specially declare to be holidays for workers by notification in the official Gazette.

(2) A worker who desires to obtain leave of absence shall apply to the employer for the same, in writing, stating his leave-address therein, and the employer or his authorised officer shall issue orders on the application within a week of its submission to two days prior to the commencement of leave applied for, whichever is earlier :

Provided that if, due to emergent reasons, the leave applied for is to commence on the date of application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons thereof shall be recorded in writing in a register to be maintained by the employer for the purpose. If the worker, after proceeding on leave, desires an extension thereof, he shall, if such leave is due to him, apply sufficiently in advance before the expiry of the leave to the employer who shall, as far as practicable, send a written reply either granting or refusing extension of leave to the worker to his leave-address. .

(3) If the worker remains absent beyond the period of leave originally granted or subsequently extended, he shall be liable to lose his lien to his appointment unless he returns within ten days of the expiry of his leave and explains to the satisfaction of the employer his inability to return earlier :

**Provided** that in case any worker loses his lien to his appointment under this section, he shall not be deprived of the benefits and privileges which already accrued to him under the law due to his past services and, in addition, he shall also be kept on the badli list, if any :

**Provided** further that if such a worker fails to explain to the satisfaction of the employer the reason of his failure to return at the expire of the leave, the employer may, on consideration of extenuating circumstances, if any, suspend him, as a measure of punishment, for a period not exceeding

seven days from the date of his return and the worker shall not be entitled to wages for such periods of unauthorised absence and of suspension; but he shall not lose the lien to his appointment.

(4) If the services of a worker, to whom any annual leave is due under the provisions of the East Bengal Shops and Establishments Act, 1951, the Factories Act, 1965, or of any other law for the time being in force, as the case may be, is dispensed with whether as a result of retrenchment, discharge, dismissal, termination, retirement or by reason of his resignation before he has availed of any such leave, the employer shall pay his wages in lieu of the unavailed leave, at the rate he is entitled to the payment of wages during the period of leave in accordance with the provisions of those laws and such payments shall be made before the expiry of the second working day after the day on which his employment is dispensed with.

**6. Stoppage of work—**(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery, or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the shop or the commercial or industrial establishment, wholly or partly, for any period.

(2) In the event of such stoppage occurring at any time beyond working hours, the employer shall notify the workers affected, by notices posted, in the case of a factory, on the notice board in the section or department concerned and, in other cases, at a conspicuous place before the work is due to begin next, indicating as to when the work will be resumed and whether such workers are to remain at their place of work at any time before the actual resumption.

(3) In the event of such stoppage occurring at any time during working hours, the workers affected shall be notified, as soon as practicable, by notices posted, in the case of a factory on the notice board in the section or department concerned, and, in other cases, at a conspicuous place, indicating as to when the work will be resumed and whether such workers are to leave or remain at their place of work.



(4) In the case of detention of workers following such stoppage—

- (a) the workers so detained may not be paid for the period of such detention if it does not exceed one hour;
- (b) the workers so detained shall be paid wages for the whole period of such detention if it exceeds one hour.

(5) If the period of stoppage of work does not exceed one working day, a worker, unless entitled to wages under clause (b) of sub-section (4) for detention beyond one hour, may not be paid any wages; but if the period of stoppage of work continues for more than a working day, a worker affected (other than a casual or *badli* worker), shall be paid wages for the day or days by which it will exceed one working day, and if the stoppage of work extends beyond three working days, the workers may be laid-off in accordance with the provisions of section 9 and such lay-off shall be effective from the day of stoppage of work and any wage paid to a worker for the first three days may be adjusted against the compensation payable for such subsequent lay-off :

**Provided** that for the piece-rate workers affected, their average daily earnings in the previous month shall be taken to be the daily wage for the purposes of the foregoing sub-sections.

(6) The employer may, in the event of a strike by any section or department of a shop or commercial or industrial establishment, close down either wholly or partly such section or department or any other section or department affected by such closing down and the workers affected may not be paid any wages for such closure :

**Provided** that the fact of such closure shall be notified by the employer, as soon as practicable, by notice posted, in the case of a factory, on the notice board in the section or department concerned and in the time-keeper's offices, if any, and in any other case, in a conspicuous place and the fact of resumption of work, following such closure shall likewise be notified.

**7. Calculation of 'one year' or 'six months' of continuous service.**—For the purpose of this Act, a worker

who, during the preceding twelve calendar months, has actually worked in a shop or commercial or industrial establishment for not less than two hundred and forty days and one hundred and forty days, as the case may be, shall be deemed to have completed 'one year' or 'six months' respectively, of continuous service in the shop or the commercial or industrial establishment.

**Explanation.**—In computing the number of days on which a worker actually worked in a shop or commercial or industrial establishment the days on which—

- (a) he has been laid-off under an agreement or as permitted under this Act or under any other law applicable to the shop or the commercial or industrial establishment the total number of days during which he has been so laid-off;
- (b) he has been on leave with or without wages due to sickness or accident;
- (c) in the case of a female, she has been on maternity leave not exceeding twelve weeks;

shall be counted.

**8. Restrictions of application of sections 6, 9, 10 and 11.**—Notwithstanding anything contained elsewhere in this Act—

- (a) the provision of sections 6, 9, 10 and 11 shall not apply to any shop, commercial or industrial establishment in which five or more worker are not employed, or were not employed on any day of the preceding twelve months;
- (b) the provisions of section 9 to 11, both inclusive, shall not apply to a shop, commercial or industrial establishment which is of seasonal character or in which work is performed only intermittently, irrespective of the number of workers employed therein;

**Provided** that if a question arises whether a shop or commercial or industrial establishment is of seasonal character or whether work is performed therein intermittently, the decision of the Government shall be final:

**Provided** further that it will not be necessary for an employer to follow the provisions of sections 9 to 11, in respect of any lay-off due to stoppage of work extending beyond three days as provided in sub-section (5) of section 6, in a shop, commercial or industrial establishment to which clause (b) of this section applies.

**9. Right of laid-off workers for compensation.—(1)** Whenever a worker (other than a *badli* or casual worker), whose name is borne on the muster-rolls of a shop or commercial or industrial establishment and who has completed not less than one year of continuous service under the employer is laid-off, he shall be paid by the employer, for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to half of the total of the basic wages and dearness allowance, and the full amount of housing allowance, if any, that would have been payable to him had he not been so laid-off :

**Provided** that a *badli* worker whose name is borne on the muster-rolls of the shop or commercial or industrial establishment shall cease to be regarded as such for the purpose of this section, if he has completed one year of continuous service in the shop or the commercial or industrial establishment :

**Provided** further that no worker shall, unless there is an agreement to the contrary between him and the employer, be entitled to the payment of compensation in the aforesaid manner for more than forty-five days during any calendar year.

(2) Notwithstanding anything contained in the proviso to sub-section (1) if during a calendar year a worker is laid-off for more than forty-five days, whether continuously or intermittently, and the lay-off after the expiry of the first forty-five days comprises period or periods of fifteen days or more, the worker shall, unless there is an agreement to the contrary between him and the employer, be paid for all the days comprised in every subsequent period of lay-off for fifteen days or more, compensation which shall be equal to one-fourth of the total of the basic wages and dearness allowance, and the

full amount of housing allowance if any, that would have been payable to him had he not been so laid-off.

(3) In any case where, during a calendar year, a worker is to be laid-off after the first forty-five days as aforesaid, for any continuous period of fifteen days or more, the employer may, instead of laying-off such a worker, retrench him under section 12.

**10. Muster-roll for laid-off workers.**—Notwithstanding that the workers or any section thereof employed in a shop or commercial or industrial establishment have been laid-off, it shall be the duty of every employer to maintain a muster-roll, and to provide for the making of entries therein by or for the laid-off workers who may present themselves for work at the shop or the commercial or industrial establishment at the appointed time during normal working hours.

**11. Workers not entitled to compensation in certain cases.**—Notwithstanding anything contained elsewhere in this Act, no compensation shall be payable to a worker who has been laid-off—

- (a) if he refuses to accept, on the same wages, any alternative employment not requiring any special skill or previous experience, in the same shop or the commercial or industrial establishment from which he has been laid off, or in any other shop or commercial or industrial establishment belonging to the same employer and situated in the same town or villa or situated within a radius of five miles from the shop or the commercial or industrial establishment;
- (b) if he does not present himself for work at the shop or the commercial or industrial establishment at the appointed time during normal working hours at least once a day if so required by the employer; or
- (c) if such lay-off is due to a strike in another part of the shop or the commercial or industrial establishment.

**Explanation.**—For the purpose of clause (b), every laid-off worker who presents himself for work at the shop or the commercial or industrial establishment, as the case may be, at

the time appointed for the purpose during normal working hours on any days and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this section; and if the worker instead of being given employment at the commencement of any shift for any day, is asked to present himself for the purpose during the second half of the shift for the day, and if he so presents himself, he shall be deemed to have been laid-off only for one-half of that day, the other half being treated as on duty, irrespective of the fact whether he is given work or not.

**12. Conditions of retrenchment.**—No worker employed in any shop or commercial or industrial establishment who has been in continuous service for not less than one year under an employer shall be retrenched by the employer unless—

- (a) the worker has been given one month's notice in writing, indicating the reasons for retrenchment or the worker has been paid in lieu of such notice, wages for the period of notice;
- (b) a copy of the notice in respect of the retrenchment is sent to the Chief Inspector or any other officer authorised by him; and
- (c) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent of thirty days' wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher :

Provided that in case of retrenchment of a worker under sub-section (3) of section 9, no notice as mentioned in clause (a) will be necessary; but the worker shall be paid fifteen days' wages in addition to the compensation or gratuity, as the may be, which may be payable to him under clause (c).

**Explanation.** For the purpose of calculation of compensation under this section, wages shall mean the average of the basic wages plus dearness allowance, if any, paid to the worker during the period of twelve months immediately preceding the date of retrenchment.

**13. Procedure for retrenchment.**—Where any worker is to be retrenched and he belongs to a particular category of workers, the employer shall, in the absence of any agreement between him and the worker in this behalf, ordinarily retrench the worker who was the last person to be employed in that category, unless, for reasons to be recorded in writing, the employer retrenches any other worker.

**14. Re-employment of retrenched workers**—Where any number of workers are retrenched, and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workers belonging to the particular category concerned by sending a notice to their last known addresses, to offer themselves for employment and the retrenched workers who so offer themselves for reemployment shall have preference over other persons, each having priority according to the length of his service under the employer.

**15. Fine.**—A worker may be fined in accordance with the provisions of the Payment of Wages Act, 1936.

**16. Discharge from service.**—A worker may be discharged from service for reasons of physical or mental incapacity or continued ill-health or such other reasons not amounting to misconduct :

**Provided** that a worker having completed not less than one year of continuous service, so discharged, shall be paid by the employer compensation at the rate of thirty days wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher.

*Explanation.*—For the purpose of calculation of wages under this section, wages shall mean the average of the basic wages and dearness allowance, if any, paid to the worker during the period twelve months immediately preceding the date of discharge.

**17. Dismissal from service**—(1) Notwithstanding anything regarding lay-off, retrenchment, discharge and termination of service as provided elsewhere in this Act, a worker may—

- (a) be dismissed without prior notice or pay in lieu thereof or any compensation if he is convicted for an offence; or
- (b) be dismissed without prior notice or pay in lieu thereof, if he is found guilty of misconduct under section 18 :

**Provided** that the worker who is so dismissed shall, if his continuous service is not less than one year, be paid by the employer compensation at the rate of fourteen days wages for every completed year of service, or for any part thereof in excess of six months or gratuity, if any, whichever is higher.

*Explanation*—For the purpose of calculation of compensation under this sub-section, 'wages' shall mean the average of basic wages and dearness allowance, if any, paid to the worker during the period of twelve months immediately preceding the date of his dismissal.

(2) Any worker found guilty of misconduct but not dismissed under the provisions of sub-section (1) in consideration of any extenuating circumstances, may be discharged, or suspended, as a measure of punishment, without wages as well as subsistence allowance, for a period not exceeding seven days and such period may be within or in addition to the period of suspension of the worker for enquiry under sub-section (2) of section 18, if any, or he may be otherwise punished less severely.

(3) The following acts and omissions shall be treated as misconduct—

- (a) willful insubordination or disobedience, whether alone or in combination with others, to any lawful or reasonable order of a superior;
- (b) theft, fraud or dishonesty in connection with the employer's business or property;
- (c) taking or giving bribes or any illegal gratification in connection with his or any other worker's employment under the employer;
- (d) habitual absence without leave or absence without leave for more than ten days;
- (e) habitual late attendance;

- (f) habitual breach of any law or rule or regulation applicable to the shop or commercial or industrial establishment;
- (g) riotous or disorderly behaviour in the shop or commercial or industrial establishment, or any act subversive of discipline;
- (h) habitual negligence or neglect of work;
- (i) frequent repetition of any act or omission for which a fine may be imposed;
- (j) resorting to illegal strike or 'go-slow' or inciting others to resort to illegal strike or 'go-slow';
- (k) falsifying, tampering with, damaging or causing loss of employer's official records.

**18. Procedure for punishment.**—(1) No order for discharge or dismissal of a worker shall be made unless—

- (a) the allegations against him are recorded in writing;
- (b) he is given a copy thereof and not less than three days' time to explain;
- (c) he is given a personal hearing of such a prayer is made; and
- (d) the employer or the manager approves of such order.

(2) A worker charged for misconduct may be suspended pending enquiry into the charges against him and unless the matter is pending before any Court, the period of such suspension shall not exceed sixty days:

**Provided** that during the period of such suspension, a worker shall be paid by his employer a subsistence allowance, equivalent to half of his average including dearness allowance, if any.

(3) An order of suspension shall be in writing and may take effect immediately on delivery to the worker.

(4) (a) If, on enquiry, a worker is found guilty of any of the charges alleged and is punished under sub-section (1) of section 17, he shall not be entitled to his wages for any period of suspension for enquiry but shall be entitled to the subsistence allowance under the proviso to sub-section (2).



(b) If the worker is found not guilty, he shall be deemed to have been on duty for the period of suspension for enquiry, if any and shall be entitled to his wages for such period of suspension and the subsistence allowance shall be adjusted accordingly.

(c) In cases of punishment, a copy of the order inflicting such punishment shall be supplied to the worker concerned.

(5) If a worker refuses to accept any notice, letter, charge-sheet, order or any other document addressed to him by the employer, it shall be deemed that such notice, letter, charge-sheet, order or the document has been delivered to him if a copy of the same has been exhibited on the notice board and another copy has been sent to the address of the worker as available from the records of the employer, by registered post.

(6) In awarding punishment under this Act the employer shall take into account the gravity of the misconduct, the previous record, if any, of the worker and any other extenuating or aggravating circumstances that may exist.

(7) Notwithstanding anything contained in the foregoing sub-sections or elsewhere in this Act, an employer, in cases of 'go-slow' or illegal strike, may discharge or dismiss one or more workers or inflict such other punishment on him or them, individually or collectively, by notice posted on the notice board, after obtaining permission from the Labour Court.

**19. Termination of employment.**—(1) For terminating the employment of a permanent worker by the employer, otherwise than in the manner provided elsewhere in this Act, one hundred twenty days notice in the case of monthly rated workers and sixty days' notice in the case of other workers, in writing, shall be given by the employer :

**Provided** that wages for sixty days or sixty days, as the case may be, may be paid in lieu of such notice :

**Provided** further that the worker whose employment is so terminated, shall be paid by the employer compensation at the rate of thirty days wages for every completed year of service or for any part thereof in excess of six months, in addition to any other benefit to which he may be entitled under this Act or any other law for the time being in force.

*Explanation.*—For the purpose of calculation of wages under this sub-section, wages shall mean the average of the basic wages and dearness allowance, if any, paid to the worker during the period of twelve months immediately preceding the date of termination.

(2) If a permanent worker desires to terminate his employment, one month's notice in the case of monthly rated workers, and fourteen days' notice in the case of other workers in writing, shall be given by him to his employer :

**Provided** that a worker who terminates his employment under this sub-section shall not be entitled to the payment of any compensation mentioned in sub-section (1); but he shall be entitled to other benefits, if any, under this Act or under any other law for the time being in force.

(3) For terminating the employment of a temporary worker by the employer, otherwise than in the manner provided elsewhere in this Act, and if it is not due to the completion, cessation, abolition or discontinuance of the temporary work which he was appointed to perform, one month's notice in the case of monthly rated workers and fourteen days' notice in other cases, in writing shall be given by the employer :

**Provided** that wages for one month or fourteen days as the case may be, may be paid in lieu of such notice.

**20. Provident Fund**—No worker, who is a member of any Provident Fund, shall be deprived due, to retrenchment, dismissal, discharge or termination of service, of the benefit of the Provident Fund including the employers' contribution thereto, if he is entitled to it under the rules of that Fund.

**21. Certificate of service.**—Every worker (other than a casual or *badli* worker) shall be entitled to a certificate of service at the time of his retrenchment, discharge, dismissal, retirement or termination of service.

**22. Protection of existing conditions of employment.**—Nothing in this Act shall affect any law, usage or any award, agreement or settlement, in force immediately before the commencement of this Act, if such law, custom, usage, award, agreement or settlement ensures conditions of

employment more favourable to the workers than those provided in this Act.

**23. Power to exempt.**—The Government may, by notification in the official Gazette, exempt, on such conditions as may be imposed, any shop or commercial or industrial establishment or any class thereof from the operation of all or any of the provisions of this Act.

**24. Eviction from residential accommodation.**—(1) A worker occupying a residential accommodation provided by his employer, who has been retrenched, discharged, dismissed or whose services have been terminated, shall vacate such residential accommodation within a period of fifteen days from the date of his retrenchment, discharge, dismissal or termination of service, as the case may be, unless a case in respect of such retrenchment, discharge, dismissal or termination of service is pending before any Court.

(2) On default of a worker in vacating the residential accommodation under sub-section (1), the employer may lodge a complaint to a Magistrate of the first class, having jurisdiction.

(3) The Magistrate, on hearing the parties, may notwithstanding anything contained in any other law for the time being in force, summarily decide the case and may pass an order of eviction giving the worker reasonable time to quit.

(4) The Magistrate may also pass an order directing a police-officer to evict such a worker, if necessary, by force, in case he fails to quit the residential accommodation within the time allowed under sub-section (3).

(5) The police-officer, while acting under an order of the Magistrate under sub-section (4), shall notify the occupants of the premises in question of the contents of the Magistrate's order and his intention to enter into such premises and shall allow at least two hours' time to the occupants to vacate the premises and shall give all reasonable facilities to the children before applying any force for taking over the possession of such premises.

**25. Grievance procedure.**—(1) Any individual worker including a person who has been dismissed, discharged, retrenched, laid-off or otherwise removed from employment who has a grievance in respect of any matter covered under this Act and intends to seek redress thereof under this section, shall observe the following procedure :

- (a) the worker concerned shall submit his grievance to his employer, in writing, by registered post within fifteen days of the occurrence of the cause of such grievance and the employer shall within fifteen days of receipt of such grievance, enquire into the matter, give the worker concerned an opportunity of being heard and communicate his decision, in writing, to the said worker;
- (b) if the employer fails to give a decision under clause (a) or if the worker is dissatisfied with such decision, he may make a complaint to the Labour Court having jurisdiction, within thirty days from the last date under clause (a) or within thirty days from the date of the decision, as the case may be unless the grievance has already been raised or has otherwise been taken cognizance of as labour dispute under the provisions of the Industrial Disputes Ordinance, 1959 :

**Provided** that no complaint shall lie against an order of termination of employment of a worker under section 19, unless the services of the worker concerned is alleged to have been terminated for his trade union activities or unless the worker concerned has been deprived of the benefit specified in that section.

- (c) on receipt of any complaint under clause (b), the Court after notice and given the parties hearing, may decide the matter;
- (d) in deciding the matter, the Court may pass such orders including orders regarding cost, as it may deem just and proper and it may, in appropriate cases, require, by such order, the reinstatement of the complainant thereof and such order shall be final.

**Provided** that any complaint under this section shall not amount to prosecution under section 27 of this Act;

- (e) no Court fee shall be payable for filing or exhibiting of any complaint or document of any kind in the Court.

**26. Penalty for non-compliance of Court's order under section 25.**—(1) Whoever refuses or fails to comply with an order passed by the Court under section 25, may be punished with simple imprisonment for a term not exceeding three months or with fine not exceeding Taka one thousand or with both.

(2) No Court shall take cognizance of an offence under sub-section (1) except on complaint made by the aggrieved person.

**27. Penalties and procedure.**—(1) An employer who contravenes any provision of this Act, as applicable to his shop or commercial or industrial establishment, shall, for the first offence, be punishable with fine not exceeding Taka five hundred and in the case of a continuing offence, with a further fine which may extend to Taka fifty for every day after the first during which the offence continues and for each of the subsequent offences with a fine which may extend to Taka five hundred or with simple imprisonment not exceeding one month or with both and in the case of a continuing offence arising out of such subsequent offence with further fine which may extend to Taka fifty for every day after the first during which such offence continues.

(2) Whoever contravenes any of the provisions of this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable, for the first offence, with a fine which may extend to Taka two hundred and for each subsequent offence with a fine which may extend to Taka two hundred or with simple imprisonment not exceeding one month or with both.

(3) No prosecution for an offence punishable under this section, shall be instituted except by, or under the authority of, or with the previous permission, in writing, of the Chief Inspector or his authorised officers.

(4) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this section as well as under section 26.

**28. Display of notice of abstracts of the Act**—An abstract of the provisions of this Act and rules made thereunder as well as the rules of service regulating employment as mentioned in the proviso to section 3, if any, shall be prominently posted and kept in a legible condition by the employer in Bengal, and English on special boards to be maintained for the purpose, in conspicuous places of the shop or commercial or industrial establishment;

**Provided** that this section shall not apply to any shop or commercial or industrial establishment where the total number of workers employed is less than seven.

**29. Liability of employer.**—The employer of every shop or commercial or industrial establishment shall personally be held responsible for proper and faithful observance of the provisions of this Act.

**30. Chief Inspector and Inspectors.**—(1) The Chief Inspector of Factories and Establishments 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 person 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 limit as may be assigned to each.

(3) An Inspector may, at all reasonable hours, enter any premises and make such examination of any record, register or other document relevant to the enforcement of the provisions of this Act and take, on the spot or otherwise, such evidence of any person and may require the owner or the occupant of such premises to render all reasonable assistance which may be necessary for carrying out the purposes of this Act.

(4) 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.

**31. Powers to make rules.**—(1) The Government may, subject to the conditions 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 not exceeding Taka one hundred.

**32.** *(Repealed.) Rep. by the Repealing and Amending Ordinance, 1966 (Ord. XIII of 1966).*

### THE SHOPS AND ESTABLISHMENTS ACT, 1965

[Act No. VII of 1965]

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

**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 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 sub-sections, this Act shall not apply to—

- (i) offices of or under the Government;
- (ii) offices 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 insofar 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 bazaar held for religious or charitable purpose;
- (vi) hostels and messes not maintained for profit or gain;
- (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 agency, 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 banking company or a bank, a broker's office or stock exchange, a club, a hotel or a restaurant or an eating house, a cinema or theatre, 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 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 carried 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 officer of that 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 Factories Act, 1965 (IV of 1965);
- (j) 'half day' means a period of five consecutive hours between the beginning 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) 'wage' 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 midnight 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 not 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 conditions as may be imposed :

**Provided** that the period of such suspension, as may be specified in the notification, shall not exceed one year at a 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 establishments 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 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 notifications in the official Gazette, the closing hours of shops 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, biris, 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 shops 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 amusement, 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 a 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 or 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 performed 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 his 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 of his shop, commercial establishment or 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 be 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 or 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, insofar as it is practicable, be paid his wages for the period of the leave so allowed, before his leave begins.

**18. Cleanliness.**—Every establishment shall be kept clean and free from effuvia 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 method 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 for 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 Penal Code, 1860 (XLV of 1860).

**26. Power of Inspectors.**—(1) An Inspector appointed under sub-section (2) of section 25, may, for the purpose of this Act, and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or 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 Inspectors under sub-section (3) of s. 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 sections 4, 5, 8, 9, 12, 14, 15, 16, or 24 shall be punishable, for the first offences, with fine, which may extend to taka two hundred and fifty, and for any subsequent offence, with simple imprisonment which may extend to three months or with fine which may extend to Taka five hundred or with both.

(2) Whoever contravenes any of the provisions of sections 10, 11, 17 or 31 and whoever having custody of any prescribed record, register or notice, refuses or without sufficient cause fails to produce to 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 taka two hundred or with both.

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

(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 taka two hundred and fifty.

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

**28. Penalties for false entries by employer.**—An employer who with intent to deceive, makes or causes 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 particular, or wilfully omits or causes or allows to be omitted from any such register, record or 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 causes 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 taka five hundred 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 without 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 persons 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 favourable 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.

**33. Repeal and savings—**(1) The East Bengal Shops and Establishments Act, 1951 is hereby repealed.

(2) Notwithstanding the repeal, anything done, action taken, rules framed or notification or order issued under the said Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under the corresponding provisions of this Act.

(3) Any reference to the East Bengal Shops and Establishments Act, 1951, in any other law for the time being in force shall be construed to have a reference to this Act.