

THE EMPLOYMENT OF LABOUR (STANDING ORDERS) ACT, 1965

[ACT VIII OF 1965]

[1st September, 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 and Establishments Act, 1965 (Act No VII of 1965) applies;

(b) every industrial establishment in the areas in which the Shops and Establishments Act 1965 (Act No VII of 1965) applies; and

(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 twelve months:

Provided that the provision 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. Definition.- 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 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 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) '**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 person 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 on behalf of 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 the management thereof and responsible to the owner for the supervision and control of such shop, commercial establishment or industrial establishment;

(i) **'go-slow'** means an organised 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 vessel 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,
- (ii) any dock, wharf or jetty
- (iii) any mine, quarry, gas-field or oil-field.
- (iv) any plantation, or
- (v) a factory as defined in the Factories Act 1965,

(k) **'Labour Court'** means a Court constituted under the Industrial Relations Ordinance, 1969 (Ord. XXIII of 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 break-down of machinery or for any other reason, to give employment of a worker whose name is borne on the muster-rolls 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 sugar-cane, 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 (XLV of 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 measure of punishment inflicted by way of disciplinary action, but on the ground of redundancy;

(r) '**shop**' means a shop as defined in the Shops and Establishments Act, 1965 (VII of 1965);

(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 Industrial Relations Ordinance, 1969 (Ord. XXIII of 1969)²;

(u) '**wage**' means wage as defined in the payment of Wages Act, 1936 (IV of 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, exercise, 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.

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

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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 being 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 sub-section (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 Shops and Establishments Act, 1965 (VII of 1965); the Factories Act, 1965 (IV of 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 or 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 have 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 expiry 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 Shops and Establishments Act, 1965 (VII of

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1965), the Factories Act, 1965 (IV of 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 being 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 that for the piece-rated 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 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 office, 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;

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

(a) the provisions of sections 6, 9, 10 and 11 shall not apply to any shop, commercial or industrial establishment in which five or more workers are not employed, or were not employed on any day of the preceding twelve months;

(b) the provisions of sections 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 of 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 any thing contained in the proviso to subsection (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 on 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 village 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 day 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 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 to 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 subsection (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 case may be, which may be payable to him under clause (c).

Explanation.- For the purpose of calculation of compensation under this section, wage shall mean the average of the basic wages plus dearness allowance, if any, paid to the worker during the period of twelve month 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 the 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 re-employment, and the retrenched workers who so offer themselves for re-employment 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 (IV of 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 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 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 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 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) 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 personal hearing if 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 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 employer, otherwise than in the manner provided elsewhere in this Act, one hundred and twenty days' notice in the case of monthly rate workers and Sixty days' notice in the case of other workers, in writing, shall be given by the employer;

Provided that wages for one hundred and twenty days in the case of monthly rated workers and Sixty days in the case of other workers, in writing, shall be given by the employer;

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 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 worker who terminates his employment under this subsection 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 that Provident Fund

including the termination of service of the benefit of that 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, custom, 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, as may be, unless a case in respect of such retrenchment, discharge, dismissal or termination of service is pending before and 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, 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 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, 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 and female occupants, if any, 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 Relations Ordinance, 1969 (Ord. XIII of 1969):

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 benefits specified in that section; and

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- (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 application 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 offence 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 a 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 provision of this Act shall, if not 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 two hundred Taka and for each of the 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 or, 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 Bengali, and 1 English on special boards to be maintained for the purposes, 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 in 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. Power 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 and savings.- (1) The Industrial and Commercial Employment (Standing Orders) Ordinance, 1960, is hereby repealed.

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

(3) Any reference to the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960, in any other law for the time being in force shall be construed to have a reference to this Act.

THE EMPLOYMENT OF LABOUR (STANDING ORDERS) RULES, 1968

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THE EMPLOYMENT OF LABOUR (STANDING ORDERS) RULES, 1968

[22nd May, 1968]

[No. 522-LW/IR-168-22nd May, 1968--In exercise of the powers conferred by sub-section (1) of section 31 of the Employment of Labour (Standing Orders) Act, 1965 (Act No. VIII of 1965), the Governor is pleased to make the following Rules the same having been previously published, as required under the said sub-section, in the Dacca Gazette, Extraordinary, dated 28th September, 1967].

1. Short Title- These Rules may be called the Bangladesh Employment of Labour (Standing Order) Rules, 1968.

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

- (a) "**Act**" means the Bangladesh Employment of Labour (Standing Orders) Act, 1965
- (b) "**Form**" means a form appended to these Rules.
- (c) "**Section**" means a section of the Act.
- (d) "**Inspector**" means an Inspector appointed under sub-section (2) of section 30 of the Act
- (e) "**Establishment**" means a shop, a commercial or industrial establishment as defined in the Act.
- (f) The words and expressions used in the Act but not defined in these Rules shall have the same meaning as assigned to them in the Act.

3. Leave Register.- The leave register under section 5 of the Act shall be maintained in Form "A"

4. Notice of stoppage of work beyond working hours.- Notice of stoppage of work beyond working hours under sub-section (2) of section 6 of the Act shall be in Form "B".

5. Notice of Stoppage of work during working hours.- Notice of Stoppage of work during working hours under sub-section (3) of section 6 of the Act, shall be in Form "C"

6. Notice of closure due to strike.- Notice of closure under sub-section (6) of section 6 of the Act due to strike shall be in *Form "D"*

7. Notice of resumption of work after strike.- Notice of resumption of work after strike under sub-section (6) of section 6 of the Act shall be in *Form "E"*

8. Muster-roll of laid-off workers.- Muster-roll for laid-off workers under section 10 of the Act shall be maintained in *Form "F"*.

9. Notice of retrenchment.- Notice of retrenchment from service under section 12 of the Act shall be in *Form "G"*

10. Certificate of service.- Certificate of service under section 21 of the Act shall be in *Form "H"*

11. Complaint to the Labour Court.- A complaint to the Labour Court under clause (b) of section 25 of the Act shall be made in *Form "I"* The Labour Court may, however, in its discretion, entertain any complaint written on a plain paper provided other formalities have been complied with.

12. Sanction.- Sanction for prosecution under sub-section (3) of section 27 of the Act shall be in *Form "J"*.

13. Submission of draft service Rules.- (1) In the draft service rules to be submitted by an employer to the Inspector under sub-section (2) of section 3 of the Act, the particulars of the workers employed in any establishment shall be in duplicate and shall be in *Form "K"*

(2) The employer of any establishment desiring to have his own rules regulating employment of workers or any class thereof, as mentioned in the proviso to sub-section (1) of section 3 of the Act shall submit to the Inspector so empowered under clause (d) of Rule 2 of these Rules at least five copies of the draft service rules, as proposed by him for adoption in his establishment.

(3) Provisions shall be made in the draft service rules for every matter set out in the Act, excepting the provisions regarding eviction

from residential accommodation under section 24 of the Act and grievance procedure under section 25 of the Act which shall be applicable to the workers of the establishment and these provisions shall not be less favourable to any worker than the corresponding provisions of the Act.

(4) The draft service rules submitted to the Inspector shall be accompanied by a statement giving the number of the workers employed in the establishment in Form "L" including the particulars of the trade unions, if any, operating in the establishment.

(5) A group of employers in similar establishment desirous of submitting joint draft service rules may, through a person authorised in this behalf by the group, submit such draft service rules along with the following namely:-

- (i) a list of employers constituting the group with the name and address in full of each of the establishments, and
- (ii) a declaration that the establishments constituting the group will abide by the conditions laid down in the service rules submitted for the group.

(6) As soon as any establishment joins any group, the persons so authorised shall notify the fact to the Inspector within 7 (seven) days from the date on which the establishment joins the group.

(7) An establishment leaving the group shall continue to be governed by the service rules already approved until such time as it submits a separate draft service rules of its own and the same has been duly approved. Any establishment joining the group shall be governed by the service rules approved for the group by signing a declaration that it shall be so governed, and a copy thereof shall be sent to the Inspector.

14. Procedure for approval of service rules.-- (1) Within thirty days of receipt of the draft service rules, the Inspector shall forward a copy thereof by registered post with acknowledgment due together with a notice in Form "M" to the employer requiring him to publish, within seven days of receipt of the same, the notice along with the draft service rules in his notice board and to certify that the publication has been duly made, mentioning the actual date of publication.

Copies of the draft service rules shall also be forwarded by the Inspector to the registered and recognised trade unions of the establishment requiring them to submit within thirty days of receipt of the draft rules of such unions, their objections or suggestions, if any, in respect of the draft service rules.

(2) Workers or the trade unions may submit the suggestions or objections, if any, in Form "N"

(3) On receipt of objections or suggestions from the workers or trade unions concerned, the Inspector shall proceed to hear the objections or suggestions on the date, time and place already notified to workers and the trade unions, the employer shall be furnished with copies of objections or suggestions submitted by the workers or the trade unions immediately on receipt of the same by the Inspector.

The Inspector shall take into consideration the objections and suggestions and decide whether the draft service rules shall be adopted with or without modifications. While making his decision, he shall ensure that the provisions of the draft service rules, with or without amendments, are not less favourable than the corresponding provisions of the Act. He shall, then make an order approving the draft service rules.

(4) The Inspector may withhold his approval to the draft rules, if he considers that the same, with or without amendments, are contrary to the provisions of the Act or are otherwise inadequate or unacceptable. While withholding approval, the Inspector may also direct the employer to submit a fresh draft of the service rules incorporating such suggestions of the workers or trade unions as are considered proper.

(5) The employer shall re-submit the draft service rules referred to in sub-rule (4) within fifteen days, and the Inspector shall finalise the same after giving joint hearing to the parties concerned. The provisions of sub-rule (6) and (7) shall follow thereafter.

(6) The employer shall, within seven days of the approval of the draft service rules by the Inspector, submit to the Inspector at least 5

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fair copies of the service rules written on one side of the paper only duly signed and sealed by the employer with date.

(7) The service rules shall not come into force until after expiry of thirty days from the date on which the Inspector puts his seal and signature under sub-rule (6) or if any appeal has been preferred against the order of the Inspector under sub-section (3) of section 3 of the Act, until the disposal of the appeal.

(8) Certified copies of the service rules may be supplied to any person applying for them on payment of a fee of Taka one for the first 200 words or less and Paisa Fifty for every additional hundred words or less.

(9) One copy of the attested service rules shall be maintained in the office of the Inspector, one copy shall be sent to the office of the Chief Inspector, one copy shall be maintained by the employer and one copy each by the registered and or recognised trade unions.

(10) A registered shall be maintained in the office of the Chief Inspector in Form "O" and a copy thereof may be supplied to any person applying therefor on payment of Taka one for first 200 words or less, and Paisa fifty for every additional 100 words or fraction thereof.

15. Existing Service Rules.- Establishments which have already got their own service rules, in operation, before the enforcement of these rules, shall submit the same to the Inspector for approval and he shall follow the same procedures as laid down in rule 14 while according approval to those service rules.

16. Contravention of Rules.-- Contravention of any of these rules shall be punishable with fine which shall not exceed Taka one hundred.

17. Display of Abstract of Act and Rules.- Display of the abstract of the Act and Service Rules, as required under section 28 of the Act, shall be in Form "P"

**APPENDIX I
FORM 'A'
(Rule 3)**

Name of the Establishment.....
 Name of the Worker.....
 Section/ Department.....
 Date of appointment.....

Nature of leave asked for.		If refused or postponed, cause of refusal or postponement.	Leave due after adjustment
Annual	Casual	Sick	No of days granted

Signature of Employer or Manager

**APPENDIX II
FORM "B"
(Rules 4)**

Notice of stoppage of work beyond working hours

Notice is hereby given that the work of.....
 Section/ Department of the mills has/ have been stopped from
A.M./P.M. of (date) toA.M./P.M. of (date) due
 to.....The work is likely to be resumed at.....
 on.....and the workers are to remain at their place of work before
 the actual resumption of work.

Signature of Employer or Manger
 Date.....

APPENDIX III
FORM "C"
(Rule 5)

Name of Establishment.....

Notice of stoppage of work during working hours

Notice is hereby given that the work in.....section/
Department of the mills has/ have been stopped from.....
a.m./p.m. on.....due to.....The work is likely to be
resumed atonand workers are to leave/or remain
to their place or work or to report for duty at.....on

Signature of Employer or Manager
Date.....

APPENDIX IV
FORM "D"
(Rule 6)

Name of Establishment.....

Notice of closure due to strike

Notice is hereby given that the due to strike inSection
/DepartmentSection /Department will remain closed
from.....a.m./p.m. of(date) until further notice.

Signature of Employer or Manager
Date.....

APPENDIX V
FORM "E"
(Rule 7)

Name of Establishment.....

Notice of resumption of work after strike

Notice is hereby given that the..... section/Department of the
Millswhich was closed down from.....due to strike will
reopen onatThe work are informed to resume their work
accordingly

Signature of Employer or Manager
Date

FORM "F"
(Rule 8)

Muster-Roll for laid-off worker

Name of establishment (s)Section/Department

Sl No.	Name of the worker	Ticket No.	Date of appointment	Date on which the worker laid off	Cause of lay-off.	Total period of lay-off.	Amount paid as compensation (in Taka)	Housing allowance (in Taka)	Dearness allowance (in Taka)	Total amount paid (in Taka col. 8 to 10)	Date or dates on which the worker presented for work.
1	2	3	4	5	6	7	8	9	10	11	12

APPENDIX VII
FORM "G"
(Rule 9)

Name of the Establishment.....
Name of worker..... Ticket no..... class of worker..... date of
notice and the date from which retrenched cause of
retrenchment..... period of service rendered..... wages for
the period of notice period for which wages are to paid/total
amount paid as compensation gratuity Tk.

Copy to Chief Inspector/ Authorised Officer for information.

Signature of Employer or Manager
Date.....

APPENDIX VIII
FORM "H"
(Rule 10)
Certificate of Service

Name of the Establishment Name of
worker..... Ticket no. Section/
Department..... worked in the Establishment as a
..... from to He was
retrenched/ discharged/ retired from service with effect from
(Particulars of worker as per records of Establishment
.....)

- (1) Address in full -
- (2) Date of birth-
- (3) Religion-
- (4) Identification mark-
- (5) Rate of wages
- (6) Last wages drawn-

Signature of Employer or Manager
Date

APPENDIX IX
FORM "I"

(Rule 11)

Form of Complaint to the Labour Court

In the Labour Court at.....

1. Name, address and full description of the aggrieved worker;
2. Name, address and full description of the employer complained against;
3. Here describe the grievances clearly and serially:
 - (a)
 - (b)
 - (c)
 - (d)
4. Date of occurrence of the cause of grievance.....
5. Date on which the grievance was brought to the notice of the employer for redress:
6. State whether the employer has communicated his decision in the matter; if so, enclose a copy of such decision, or give the substance of the same:
7. Mention the date of decision, if any, of the employer:
8. State whether the grievance has already been raised or has otherwise been taken cognizance of as [Industrial dispute] under the provisions of the Industrial Relations Ordinance, 1969:
9. Enclosure, if any.....
10. Here describe the relief prayed for item by item.
 - (a)
 - (b)
 - (c)
 - (d)

Signature of the applicant aggrieved worker

Date.....

Copy to

- (1) Director of Labour, Bangladesh, and
- (2) Deputy Director of Labour, for information.

APPENDIX X
FORM "J"
(Rule 12)

Sanction for prosecution

Sanction is hereby accorded under section 27(3) of the Employment of Labour (Standing Orders) Act, 1965 for prosecution.....for violation of the following provisions of the Act/ Rules for which a complaint was lodged with the undersigned onby

- (1)
- (2)
- (3)

Chief Inspector or his Authorised Officer
Date

APPENDIX XI
FORM "K"
[Rule 13 (1)]

Matters which shall be provided for in the Service Rules	Reference to paragraph or clause of the Service Rules where provided
(1) Classification for workers, e.g. apprentices, badli, casual, parliament, probationer or temporary	
(2) Manner of intimating to the worker's hours of work and number of leave and holidays.	
(3) Conditions and procedures in applying for leave and the authority which may grant such leave and holidays.	
(4) Closing and re-opening of section of the establishment and temporary stoppage of work, and the rights and liabilities of the employers and workers arising therefrom.	
(5) Condition for compensation for the laid-off workers.	
(6) Conditions and procedures for retrenchment of worker, re-employment of such retrenched workers and the notice thereof to be given by the employers.	
(7) Conditions for fine.	
(8) Conditions for discharge, dismissals suspensions and the acts and omissions, which constitute misconduct, and the procedure in respect thereof.	
(9) Conditions for termination of employment and the notice thereof to be given by the employers and the workers.	
(10) Provident Fund.	
(11) Housing.	
(12) Medical facilities.	
(13) Insurance.	
(14) Any other matters not covered by the above.	

APPENDIX XII**FORM "L"**

[Rule 13 (4)]

Name of Establishment.....

Workers		Trade Unions	
Classification of workers	No. of workers category wise	Name of Trade Union with address	Whether registered or recognised.
(1) Apprentice			
(2) Badli etc.			
(3)			
(4)			
(5)			
Total.....			

APPENDIX XIII**FORM "M"**

[Rule 14 (1)]

All trade unions/ workers are hereby notified that the employer of.....has submitted to the undersigned a draft service rules (copy enclosed to regulate employment of its workers or any class thereof under section 3 (2) of the Employment of Labour (Standing Orders) Act, 1965 and that they may, within 30 days of the publication this notice by the employer, submit to the undersigned suggestions or objections if any, in Form "N" (copy enclosed in triplicate) in respect of draft service rules. Objections submitted will be heard at my office ata.m./ p.m., on Any one raising objection may appear in person or through an authorised agent on that date.

*Inspector under the
Employment of Labour (Standing Orders) Act, 1965*

APPENDIX- XIV
FORM "N"
[Rule 14 (2)]

Objections or suggestions in respect of draft Service Rules submitted by
.....Establishment

Objections or Suggestions with grounds:

- (1)
- (2)
- (3)

Workers

Signature/Signatures of the Workers
Trade Union representatives
Address.....
.....

Forwarded to:

The Employerfor comments on the objections noted above
to each me on or before.....

Inspector
Address and Date

Comments of employer:

Signature of employer
Date.....

Decision:

*Inspector under the Employment of
Labour (Standing orders) Act, 1965.*

APPENDIX XV
FORM "O"
Register of Service Rules

SL. No.	Date	Name and address of the shop or commercial or industrial establishment	Name of the officer signing the draft and submitting the same on behalf of the employer or group of employers	Date of Submission	Date of notice calling for objection
1	2	3	4	5	6

Objections if any, received			Approval Service Rule				
Name of parties submitting objections	Date of submission	Date of order by the Inspector	Date of receipt of final and fair copies of the Service Rule	Date of approval by the Inspector	Name of the employer or his agent receiving the authenticated Service Rules	Appal, if preferred with result and date thereof	Remark
7	8	9	10	11	12	13	14

The Employer.....for comments on the objections noted above to reach me on or before

APPENDIX XVI
FORM "P"
(Rule 17)

*Abstract of the Employment of Labour (Standing Orders) Act, 1965 and the
Employment of Labour (Standing Orders) Rules 1968.*

1. In every shop or commercial or industrial establishment the workers shall be classified according to section 4 of Act, i.e., apprentice, badlies, casual, permanent, probationer and temporary and there shall be Service Rules defining the conditions of employment of workers.

2. **Leave and holidays-** (a) Workers employed in establishments shall be entitled to leave and holidays with wages as provided in the Shops and Establishments Act, 1965 and the Factories Act, 1965 or any other law for the time in force, as the case may be, and only other holidays which the Government may specially declare.

(b) A worker desiring to obtain leave of absence shall apply to the employer 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 or two days prior to the commencement of leave applied for, whichever is earlier: provided that if, due to emergent reasons the leave is to begin on the date of application or within three days therefor, the orders shall be given on the same day. A leave pass shall be issued if the leave is granted. In case of refusal or postponement of the leave, the reasons thereof shall be recorded in a register to be maintained for the purpose. A worker desiring to extend his leave shall apply sufficiently in advance before the expiry of the leave and he should be informed whether the extension of leave has been granted or not.

(c) A worker remaining absent beyond the period of the leave originally granted or subsequently extended, shall be liable to lose his lien to his appointment unless he returns within ten days of the expiry of the leave, provided that a worker losing his lien to his appointment, shall not be deprived of the benefits and privileges, to which he is entitled and in addition he shall be kept on the *badli* list, if any. A worker failing to explain to the satisfaction of the employer the reason of his failure to return at the expiry of the leave may, on consideration of extenuating

circumstances, be suspended as a measure of punishment, for a period not exceeding even days and shall not be entitled to any wages for this period, but he shall not lose his lien to his post.

(d) If the services of a worker, who is entitled to any annual leave under the Shops and Establishments Act, 1965 and the Factories Act, 1965, are dispensed with as a result of discharge, dismissal, etc. before he has availed of any such leave, the employer shall pay his wages in lieu of the unavailed leave before the expiry of the second working day from the day on which the employment is dispensed with.

3. Stoppages of work.- (a) An employer may, at any time in the even of fire, catastrophe, break-down of machinery, etc., stop any section of his establishment, wholly or partly, for any period.

(b) In the event of such stoppage beyond working hours, the employer shall duly notify it indicating as to when the work will be resumed and whether the affected workers are to remain at their place of work before resumption.

(c) In the event of such stoppage during working hours, the affected workers shall be notified duly with the indication as to when the work will be resumed, and whether the workers are to leave or remain at their place of work. Wages will have to be paid to the workers for detention exceeding one hour.

(d) If the period of stoppage of work does not exceed one working day, a worker, unless as provided above, may not be paid any wages; but wages, shall be payable to him if the stoppage of work continues for more than a working day. Workers may be laid-off in accordance with provision of law if the stoppage of work continues for more than three working days and paid accordingly the wages for the first three days being adjusted against the compensation payable for such lay-off.

(e) The employer may, in the event of strike by any section of an establishment, close down, either wholly or partly, such section, and the affected workers may not be paid any wages for such closure, provided that the fact of such closure, and the resumption of work thereafter is duly notified by the employer.

4. Calculation of "One Year" or "Six Months", continuous service.- For the purpose of this Act, a worker who, during the preceding twelve calendar months has actually worked in any 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 that establishment.

5. Restrictions- The provisions of sections regarding stoppage of work, right of laid-off workers, maintenance of muster-rolls and non-eligibility of compensation in certain cases are not applicable to establishments which employ less than five-workers, and are of seasonal character.

6. Right of laid-off workers for compensation.- (a) A worker (other than a *badli* or casual worker) having his name in the muster-rolls of any establishment and completing not less than one year of continuous service, when laid-off, shall be paid by the employer for all days during which he is laid-off except for the intervening weekly holidays compensation for half of the total of basic wages and dearness allowance together with 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 having a continuous service of one year in any establishment shall cease to be regarded as such for the purpose of this section, and no worker, unless there is an agreement to the contrary between him and his employer, shall be entitled to compensation arising out of "lay off" for more than forty-five days during any calendar year.

(b) If a worker is laid-off for more than forty-five days during a calendar year and if the lay-off comprises period or periods of fifteen days or more after the expiry of the first forty-five days he shall, unless there is an agreement to the contrary, be paid for all the days comprised in every subsequent period of lay-off for fifteen days or more compensation equal to one-fourth of total of basic wages and dearness allowances, and full housing allowance, if any.

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(c) Any worker to be laid-off for any continuous period of fifteen days or more during a calendar year after the first forty-five days, the employer may retrench him instead of laying him off.

7. Muster-roll for laid-off worker.- Every employer shall maintain a muster-roll for the laid off workers who may present themselves for work at the establishment at appointed time.

8. No compensation for laid-off workers in certain cases.- (a) On compensation shall be payable to a laid-off worker if he refuses to accept any alternative employment on the same wage, in the same establishment from which he has been laid-off, or in any establishment belonging to the same employer situated within a radius of five miles;

(b) if he does not present himself for work at the establishment at the appointed time at least once a day if so required by the employer; or

(c) if such lay-off is due to strike in another part of the establishment.

9. Conditions for retrenchment.- No worker having a continuous service for not less than one year in any establishment shall be retrenched unless-

(a) He has been given one month's notice in writing indicating the reason for retrenchment or he has been paid wages for the period in lieu of notice;

(b) a copy of notice in respect thereof sent to the Chief Inspector or his authorised office; and

(c) he has been paid, at the time of retrenchment compensation equivalent to thirty days' wages for every completed year of service or any part thereof in excess of six months, or gratuity, if any, whichever is higher.

10. Procedure for retrenchment.- If any worker, belonging to a particular category is to be retrenched, the employer shall ordinarily retrench the worker who was employed last in that category, unless otherwise necessary.

11. Re-employment of retrenched workers.- An employer intending to take back any of his retrenched worker within one year of the date of retrenchment shall give opportunity to the retrenched

workers of that particular category by sending a notice to offer themselves for re-employment and the retrenched workers offering themselves for re-employment shall have preference over others, each having priority according to the length of his service.

12. Fine.- A workers may be fined in accordance with the provisions or the payment of Wages Act, 1936.

13. Discharge form service. A worker may be discharged form service for reasons of physical or mental incapacity or for such other reasons not amounting to misconduct, provided that a worker having completed not less than one year of continuous service is paid compensation at the rate of Thirty days wages for every completed year of service, or any part thereof in excess of six months or gratuity, if any, whichever is higher.

14. Dismissal from service.- (1) A worker may be dismissed without prior notice or pay in lieu thereof or any compensation,-

- (a) if he is convicted for an offence involving moral turpitude, or
- (b) if he is found guilty of misconduct under section 18 of the Act.

(2) Any worker found guilty of misconduct but not dismissed for any extenuating circumstances, may be discharged or suspended as a measure of punishment, without wages as well as subsistence allowance for a period of 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]

15. Procedure of punishment.- No order for discharge or dismissal of a worker shall be made unless the allegations against him are recorded in writing, he is given not less than three days time to explain his conduct and is given a personal hearing, if necessary, and the provisions of section 18 of the Act are to be complied with in awarding punishment to a worker.

16. Termination of employment.- (a) For terminating the employment of a permanent worker one hundred and twenty days' notice in case of monthly rated worker and sixty days' notice in case of other worker shall be given in writing by the employer, or pay in lieu of notice

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thereof, together with compensation at the rate of thirty days wages for every completed year of service or for any part thereof in excess of six months;

(b) Any monthly rated or other worker desiring to terminate his employment shall give his employer one month or fourteen days' notice, as the case may be and in such a case the worker shall not be entitled to any compensation as aforesaid but shall be entitled to other benefits, if any, under the Act or under any other law for the time being in force.

(c) For terminating the employment of a temporary worker if it is not due to the completion, cessation, abolition or discontinuance of the temporary work which he was appointed to perform, the employer shall be given one month's notice in the case of monthly rated workers and fourteen days' notice in other case or shall give one month's or fourteen days' wages, as the case may be, in lieu thereof.

17. Provident Fund.- No worker contributing to provident fund shall be deprived of the benefit of the fund including the employee's contribution thereto for losing his employment except by way of dismissal for misconduct. But in case of dismissal for misconduct, he shall not be deprived of any portion of his own contribution of the Fund.

18. 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.

19. Protection of existing conditions of employment.- Nothing in the Act shall affect any law, custom, usage etc., in force before the commencement of the Act, if such law, custom, etc., ensures more favourable conditions of employment to the workers.

20. Power to exempt.-The Government may exempt any such establishment from the operation of all or any provisions of this Act, by notification in the official Gazette.

21. Eviction from residential accommodation.- A worker occupying a residential accommodation provided by this employer and

losing his employment from the employer by way of discharge, dismissal, etc., shall vacate it within 15 days of such discharge, dismissal, etc., unless a case in respect thereof is pending before any Court. The provision of section 24 of the Act shall be complied with before evicting a worker from his residential accommodation.

22. Grievance procedure.- A worker intending to seek redress of his grievances under the Act shall observe the following procedure:-

(a) he shall bring his grievance to the notice of the employer, in writing within fifteen days of occurrence of the grievance, and the employer shall, within fifteen days of its receipt, enquire into the matter and communicate his decision in writing to the worker after giving him an opportunity of being heard;

(b) if the employer fails to give a decision as aforesaid or if the worker is dissatisfied with the decision, he may make a complaint to the Labour Court within thirty days, unless the grievance has been taken cognizance of as an industrial dispute under the Industrial Relations Ordinance, 1965.

Provided that no complaint shall lie against an order of termination of employment of a worker under section 19 unless the worker is an officer of a registered trade union and his employment has been terminated for his trade union activities, or unless the worker, whether an officer of a registered trade union or not, has been deprived of the benefits specified in section 19 (c) the Court may pass such orders including order regarding cost and require by such orders, the reinstatement of the complaint, and such order shall be final; and

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

23. Liability of the employer.- The employer of every establishment shall personally be held responsible for proper and faithful observance of the provisions of the Act.

THE FACTORIES ACT, 1965

Act No. IV of 1965

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