

CHAPTER III COMMISSIONERS

19. Reference to Commissioners.—(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. Appointment of Commissioners.—(1) The Government may, by notification in the official Gazette, appoint the chairman of any Labour court or any other competent persons having the knowledge of and experience of labour laws to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

(2) Where more than one Commissioner has been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them.

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or

more persons possessing special knowledge of any matter relevant to the matter under enquiry to assist him in holding the enquiry.

(4) Every Commissioner shall be deemed to be a public servant within the meaning of the *Penal Code.

*[Subs. by Act LIII of 1974.]

Note

As per Dhaka Gazette, 1947 Part I, Page 99, the District and Sessions Judges are Commissioners for workmen's compensation within their respective jurisdictions.

21. Venue of proceedings and transfer.—(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury :

Provided that, where the workman is the master of a ship or seaman, any such matter may be done by or before a Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Commissioner, * * * * he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other

Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

*[Subs by Act XXVI of 1980]

Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard.

*[Second Proviso omitted by Act LIII of 1974.]

Notes

Rule 44(1) lays down the procedure for transfer of any matter for report. In transferring any such matter, the Commissioner shall transmit the documents along with a concise statement in the form of questions for answer on the matter for which the report is required.

In accordance with rule 44(2) a Commissioner to whom any matter is so transferred for report shall not be required to report on any question of law. Rule 45 sets the procedure for transmitting money either by remittance transfer receipt, or by money order, or by a messenger, as the Commissioner transmitting the money may direct.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, enquire therein and, if

the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2) the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

(5) The Government may transfer any matter from any Commissioner appointed by it.

22. Form of application.—(1) No application for the settlement of any matter by a Commissioner, other than on application by a dependant or dependants for compensation shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

- (a) a concise statement of the circumstances in which the application is made and the relief order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

- (c) the names and addresses of the parties; and
- (d) except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

22A. Power of Commissioner to require further deposit in cases of fatal accident.—(1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

23. Powers and procedure of Commissioners.—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the Commissioner shall be deemed to be a Civil Court for all the

purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898. (V of 1898).

Notes

In accordance with Rule 35, a Commissioner before whom any proceeding relating to an injury by accident is pending may, at any time, enter the place where the workman was injured or where the workman ordinarily performed his work for the purpose of local inspection of examining any person likely to be able to give information relevant to the proceeding :

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

Rule 36 provides for local inspection by the Commissioner himself. After making such local inspection, the Commissioner shall note briefly in a memorandum any fact he observed which shall form part of the record.

It is evident that the commissioner cannot issue commission for local inspections or to get evidence taken on Commission. This was confirmed in the case of *Brigstock Edulji & Co. Vs Gaguji Deviji*, (A. I. R. 1930 Sind, 221).

24. Appearance of parties.—Any appearance, application or act required to be made or done by any person before or to a Commissioner (Other than an appearance of a party which is required for the purpose of his examination as a witness) may be

made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised.

25. Method of recording evidence.—The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

26. Costs.—All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Note

Rule 34 provides for exemption from payment of costs. According to this rule, if the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees.

- (c) the Commissioner may at any time rectify the register;
- (d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Contract Act, 1872 or in any other law for the time being in force.

29. Effect of failure to register agreement.—Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner

27. Power to submit cases.—A Commissioner may, if he thinks fit, submit any question of law for the decision of the Labour Appellate Tribunal [Subs. by Act XXVI of 1980] and, if he does so, shall decide the question in conformity with such decision.

Note

It was observed in the case of *G. D. Gian chand Vs. Abdul Hameed* (1938 AIR Lah 855) that a Commissioner being a Court subordinate to the High Court, revision will lie in the High Court, if the Commissioner had no jurisdiction to entertain the application or had acted illegally or with material irregularity in the exercise of his jurisdiction.

28. Registration of agreements.—(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

*[Cl (b) Omitted by the Workmen's Compensation (Amdt.) Act 1929 (V of 1929) s. 6.]

otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

30. Appeals.—(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely :—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions :

Proviso omitted by Act XXVI of 1980

Provided ** oमितेद Ibid that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties :

***Provided** further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

*[Inserted by Workmen's Compensation (Amdt) Act, 1933]

(f) An order under sub. section 7 of section 8

provided that no appeal shall be against any order unless a substantial question of law is involved in the appeal and in the cases of an order other than an order such as is referred to in clause (b) unless the amount in dispute in the appeal is not less than one thousand taka [Added by Act, XXVI of 1980.]

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Limitation Act, 1908, shall be applicable to appeals under this section.

Note

A finding of fact by a commissioner not based upon evidence is a substantial question of law and constitutes a good ground of appeal. (Pamma Ram Vs. Chet Ram—AIR 1954 H.P.—827). A challenge to the legality of the procedure adopted by the Commissioner would constitute a good ground of appeal. In the same way, the question whether there is sufficient cause for extension of limitation to enable the application for compensation

to be heard on the merits is a substantial question of law. (Said Ahmed Vs. N. W. Rly Lahore A. I. R, 1940 Lah 227)

***30A. Withholding of certain payments pending decision of appeal.**—Where an employer makes an appeal under clause (a) of sub-section (1) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

*[Ins. by the Workmen's Compensation (Amdt.) Act, 1933]

31. Recovery.—*Any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, shall be recoverable as arrear of land revenue.

*[Subs by Act LIII of 1974.]

CHAPTER IV

RULES

32. Power of the Government of make rules.—(1)

The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

- *(ee) for prescribing the manner in which any balance of money may, under sub-section (4) of section 8, be transferred to a fund or funds for the benefit of the workman and for the establishment and administration of such fund or funds ;
- *[Ins. by Act XI of 1957.]
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance ;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;
- (h) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same ;
- (i) for regulating the scales of costs which may be allowed in proceedings under this Act ;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act ;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them ;
- (l) for prescribing the classes of employers who shall maintain notice-books under sub-section (2) of section 10, and the form of such notice-books ;
- (m) for prescribing the form of statement to be submitted by employers under section 10A ;

* *

*[Omitted by Act XI of 1957.]

- (n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner ;*

and*

*[Subs. and added by Act XI of 1957.]

- *(o) for prescribing the abstracts of this Act and of the Rules required by section 10D.

*[Added by Act XI of 1957.]

33. Power of Local Government to make rules *Rep. by the A. O., 1937.*

34. Publication of rules. — (1) The power to make rules conferred by section 32 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 32 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.—(1) The Government may, by notification in the official Gazette, make rules for the transfer of money deposited with a Commissioner under this Act which has been awarded to, or

may be due to, any person residing or about to reside * * * and for the receipt, distribution and administration in the country and in Bangladesh of any money deposited under the law relating to workmen's compensation or * * * * * which has been awarded to, or may be due to, any person residing or about to reside in Bangladesh :

*[Omitted by XXVI of 1980]

Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.

SCHEDULE I

[See sections 2 (1) and 4]

List of injuries deemed to result in permanent partial disablement.

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

Note

Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II

[See section 2(1) (n)]

List of persons who, subject to the provisions of section 2(1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2(1)(n) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in clerical capacity or *[the railway], in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity ; or

*[Subs. by Act LIII of 1974.]

(ii) employed * * in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause *[(h) of section 2 of the Factories Act, 1965] or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used, *but no persons employed solely

**[Omitted by Act XI of 1957]

*[Subs. by Act LIII of 1974]

*[Inserted by Act XI of 1957]

in clerical capacity in any room or place where no manufacturing process is being carried on ; or

(iii) employed * [in any place to which section 5 of the Factories Act, 1934 has been applied or] for the purpose of

making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises whereing or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed ; or

* [Ins. by Act XI of 1957]

(iv) employed in the manufacture or handling or explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(v) employed in any mine as defined in clause (f) of section 3 of the mMines Act, 1923, in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground :

Provided that any excavation in which on no day of the preceding twelve monts more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause ; or

(vi) employed as the *master, seaman, sailor or otherwise *on—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled ; or

(b) any ship not included in sub-clause (a) of *twenty-five tons net tonnage or over; or

*[Subs. by Act XI of 1957.]

(vii) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing cleaning or painting any ship of which he is not the master or member of the crew, or in the handling or transport within the limits of any port subject to the Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel; or

[N. B. : Clause (viiia) omitted by Act LIII of 1974.]

(viii) employed in the construction, repair or demolition or—

*(a) any building or structure ; or

*[Subs. by Act XI of 1957.]

(b) any dam or embankment which is twenty feet or more in height from its lowest to its high point ; or

(c) any road, bridge or tunnel; or

(d) any wharf, quay, sea-wall or other marine work including any moorings or ships; or

(ix) employed in setting up, repairing, maintaining or taking down any telegraph or telephone line or post or any over-head electric line or cable or post or standard for the same; or

(x) employed, otherwise than in clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal pipeline or sewer ; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon *[the railway] as defined in clause (4) of section 3, and sub-section (1) of section 148 of the Railway Act, 1890 either directly or through a sub-contractor by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon

in *[the] Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Posts and Telegraphs Department; or

*[Subs. by Act LIII of 1974.]

(xiiia) [Omitted by Act LIII of 1974.]

(xiv) employed, otherwise than in clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(xv) employed in any occupation involving blasting operations; or

(xvi) employed in making or any excavation in which on any one day of the preceding twelve months more than *[twenty-five] persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

*[Subs. by Act XI of 1957]

(xvii) employed in the operation of any ferry-boat capable of carrying more than ten persons; or

(xviii) employed, otherwise than in clerical capacity, of any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or

(xix) employed, otherwise than in clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

(xx) employed in a light-house as defined in clause (d) of section 2 of the Light-house Act, 1927; or

(xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures ; or

(xxii) employed in the training, keeping or working of elephants or wild animals ; or

(xxiii) employed in the tapping of palm-trees or the felling for logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires ; or

(xxiv) employed in operations for the catching or hunting of elephants or other wild animals ; or

Note

Clauses (xxiii) and (xxiv) inserted by the Workmen's Compensation (Amdt) Act, 1938.

(xxv) employed as a driver; or

(xxvi) employed in the handling or transport of goods in or within the precincts of—

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed; or

(b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed; or

(xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substance.

Explanation.—In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

SCHEDULE III

(See section 3)

List of occupational diseases

Occupational disease	Employment.
PART A	
Anthrax	Any employment— (a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns; or (b) in connection with animals infected with anthrax ; or (c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae	Any process carried on in compressed air.
Poisoning by lead tetraethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.
PART B	
Lead poisoning or its sequelae excluding poisoning by lead tetra-ethyl---	Any process involving the use of lead or any of its preparations or compounds except lead tetra-ethyl.

Phosphorous or its sequelae	Any process involving the use of phosphorous or its preparations or compounds.
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium or their preparations.
Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to—	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
(a) radium and other radio-active substance :	
(b) X-rays	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues or these substances.
Primary epitheliomatous cancer of the skin	

*SCHEDULE IV

(See section 4)

Compensation payable in certain cases

Monthly wages of the workman injured.	Amount of compensation for—		Half-monthly payment as compensation for temporary Disablement of Adult.	
	Death of Adult.	Permanent Disablement of Adult.		
1	2	3	4	
More than Tk.	But not more than Tk.	Tk.	Tk.	Half his monthly wages Tk.
0	15	750	1,050	7.00
15	20	800	1,120	8.00
20	25	1,000	1,400	9.00
25	30	1,200	1,680	9.50
30	35	1,400	1,960	10.00
35	40	1,600	2,240	11.25
40	45	1,800	2,520	12.50
45	50	2,000	2,800	
50	60	2,400	3,360	15.00
60	70	2,800	3,920	17.50
70	80	3,200	4,480	20.00
80	90	3,600	5,040	25.00
90	100	4,000	5,600	25.00
100	200	6,000	8,400	30.00
200	300	7,000	9,800	30.00
300	400	7,500	10,500	30.00
400	500	9,000	13,000	40.00

*[Substituted by Act XI of 1957]

*[Subs. by Act LIII of 1974]

THE INDUSTRIAL RELATIONS ORDINANCE,
1969

(Ordinance XXIII of 1969)

(As Amended by I. R. (Amdt.) Ordinance XIX of 1970,
XXXV of 1977 and Ordinance XV of 1985)

[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.]

PRELIMINARY

(Sections 1—16)

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

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

(3) It shall not apply to any person employed in the police or any of the Defence Services of *Bangladesh and any services or installations connected with or incidental to the Armed Forces of Bangladesh, including an Ordnance Factory maintained by the *Government or to any person employed in the administration of the State other than those employed as workmen by the Railways, Posts, Telegraph and Telephone Departments.*or to persons employed in the security Printing Corporation (Bangladesh) Ltd * [Added by Act XXII of 1993]

*(Subs. by I. R. (Amdt.) Ordinance of 1977)

(4) It shall come into force at once.

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

(i) "Arbitrator" means a person appointed as such under this Ordinance.

(ii) "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.

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

(vi) "conciliation proceedings" means any proceeding before a Conciliator.

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

(viii) "employer" in relation to an establishment means any person or body or 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;

1 * * *

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

(e) in relation to an establishment run by or under the authority of any Ministry or Division or 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.

*[Subs. by I. R. (Amdt) Ord. XXXV of 1977.]

(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; 1[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];

1 Clauses (iii) & (iv) omitted by Od. XIX of 1970, s. 2(a). Gazette of Pakistan Extraordinary dated 17.10.70.

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

Provided that each class of transport vehicles such as truck/tank lorry, bus/minibus, taxi and baby taxi, tempo operating in a region of transport committee shall be deemed to be an establishment for the purpose of registration if trade union of workmen employed in such transport vehicles.

*[Subs by Act XXII of 1993]

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

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

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

(xiii) "Industrial Dispute" means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person;

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

1 Added by Ord. XIX of 1970. s. 2(b).

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

(xvi) "Lock-out" means the closing of a place of employment or part of such place or the suspension

2 Subs. for the original words by Ord. XIX of 1970, s. 2(c).

3 Subs. for the original cl. (xiv) by Ord. XIX of 1970, s. 2(d).

wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workmen employed by him where such closing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen employed to accept certain terms and conditions of or affecting employment;

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

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

(xix) " Prescribed" means prescribed by rules;

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

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



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

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

~~(xxiv)~~ "Settlement" means a settlement arrived at in the course of 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 thereto 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;

*[Subs. by Ord. XXXV of 1977.]

21.

~~(xxv)~~ "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;

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

*[(xxvi a)-"Transport vehicles" shall have the same meaning as in clause (57) of section 2 of the motor vehicles ordinance. (LV of 1983).

(XXVI aa)- Transport committee means a transport committee constituted under section 54 of the motor vehicles ordinance (LV of 1983)

* [Sub. by Act. XXII of 1993]

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

(xxviii) "Worker" and "Workman" mean any person not falling within the definition of employer who is employed (including employment as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the terms of employment be expressed or implied and for the purpose of *any proceeding* under this Ordinance *in relation to an industrial dispute* include a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of the dispute or whose dismissal, discharge retrenchment, lay-off or removal has led to that dispute.

Notes

C. (viii) "*Employer.*"—The definition of employer covers those who employ workmen under a contract of employment in establishments defined in clause (ix) including persons responsible for the management, supervision and control of the establishment. In establishments not covered by clause (ix), the proprietor, director, manager, secretary, agent or other officer or person concerned with the management of the affairs thereof is to be deemed to be the employers. In relation to establishments

run by or under the authority of any Ministry or Division of the Government or by a local authority, it has also been made clear as to who is to be deemed an "employer" in such cases. Further, in these cases the superior, managerial, secretarial, directional, supervisory or agency staff notified in the official Gazette shall be deemed to be 'employers' and not 'workers or workmen.'

Cl. (xiii). "*Industrial dispute.*"—This clause covers three classes of disputes connected with (i) employment or non-employment, (ii) terms of employment, and (iii) conditions of work of any person.

"*Employment or non-employment.*"—Disputes concerning employment, amongst other things, can comprise of the objection of workmen to the employment of *any person* (note that the words used are "any person" and not "any workman"). The failure or refusal to employ on the part of an employer, where there is an obligation to employ, are actions which would be covered by the term "non-employment". Re-instatement is connected with non-employment and is, therefore, within the definition. The determination in each case will depend on the facts of each case. The same considerations will apply to facilities for education, medical treatment, supply of houses, improvement of workers' colonies, etc, which have not yet fully attained, but are in the process of attaining, the status of implied terms of employment by virtue of continuous practices.

The dispute or difference must be such in which a workman is directly and substantially interested. It must also be a grievance which the employer is in a position to remedy.

Cl. (xiv) "*Industry.*"—This term means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, occupation or avocation of workmen including specific instances of industry enumerated in sub-clauses (a) to (d). An industry need not be necessarily for profit making. It can be an undertaking like a charitable hospital or a calling of employers like an automobile association.

Any undertaking is an industry and so is any service, employment or occupation of workmen in any undertaking—whether of industrial or non-industrial nature.

Cl. (xvi) "*Lock-out.*"—The lock-out must be in connection with an industrial dispute or intended to compel the employees to accept certain terms or conditions of employment. If it is in some other connection, such as, lack of raw-materials, it is not lock-out. Dismissal of one or more workers is not lock-out. The question of refusal by the employer to continue to employ persons by him can only arise when their services had continued. In a lock-out the workmen who have the right to be employed are prevented from exercising right. But in case of discharge or dismissal such right does not subsist.

Cl. (xxiv) "*Settlement.*"—This means a settlement arrived at in the course of a conciliation proceeding held by a Conciliator and also includes an agreement between the employers and workmen arrived at in the absence of a Conciliator where such agreement is in writing, signed by the parties and copy sent to

the Government and to the Conciliator concerned or other prescribed person.

Cl. (xxv) "*Strike*."—This expression means—

(a) a cessation of work by a body of persons employed in any establishment acting in combination;

(b) a concerted refusal of any number of person, who are or have been so employed to continue to work or to accept employment; or

(c) a refusal under a common understanding of any number of such person to continue to work or to accept employment.

Cl. (xxvi) "*Trade Union*."—A Trade Union is a combination of workmen or employers with the *primary* purpose of regulating the relations between workmen and employers, or between workmen and workmen or between employers and employers or to impose restrictive condition on the conduct of any trade or business. Besides the primary objects, the rules of a Trade Union may contain civil, educational, social and cultural objects which are not inconsistent with the primary objects or opposed to any law. Subject to this, the Ordinance places no restriction on the various objects which a Trade Union may pursue.

C. (xxvii) "*Worker*" and "*Workman*."—The old definition of "workman" confined to those doing skilled, unskilled, manual or clerical work has been abolished. It has been simply provided that any employee who does not fall within the definition of 'employer' is a 'worker' or 'workman'. They must be employed

in an establishment or industry for hire or reward (not honorarily) either directly or through a contractor. The definition includes a person who has been dismissed, discharged, retrenched, laid off, or otherwise removed from employment in connection with an industrial dispute or whose dismissal, discharge, retrenchment, layoff or removal has led to that dispute.

It should be noted that the definition of 'employer' includes persons responsible for the management, supervision and control of the establishment. This means that all persons falling in these categories are not 'workmen' and, hence, not entitled to the protection of this Ordinance.

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 organisations and confederations of workers' and employers' organisations.

Note

This provision is intended to conform to the requirements of ILO Conventions No. 87 and 98. There are no formalities or requirements to form and organise an association. It is only when an association is desired to be registered as a trade union that certain requirements are to be met.

4. Workers and employers and their respective organisations, 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.

(vi) In case of a trade union of transport vehicles workmen of transport vehicles the names & addresses of their wher, period number of the vehicles and the member of working vehicles.

* [Ins. by Act. XXII of 1993]

(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 objects for which the trade union has been formed;

*(c) the manner in which a worker may become a member of the trade union specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution declaring that he is not a member of any other trade union ;

*(cc) the sources of the fund of the trade union and the purposes for which such fund shall be applicable ;

*[Substituted by Ordinance XXXV of 1977.]

** (d) the number of persons forming the executive which shall not exceed the prescribed limit and shall include not less than seventy five percent. from amongst the workmen actually engaged or employed in the establishment or establishments or the industry for which the trade union has been formed;]

*[Omitted by ordinance XIX 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 the trade union ; I[***]

- (i) the manner in which the trade union may be dissolved ;
- 2[(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;

*[Added by Ordinance XXXV of 1977.]

1 The word "and".omitted, by Ord. XIX of 1970. s. 3(b).

2 Clauses (j), (k), (l) added, ibid, s. 3(c).

[Provided that more than one establishments under the same employer ¹[which are] allied to and conected with one another for the purpose of carrying on the some industry irrespective of their place of situation, shall be deemed to be one establishment for the purpose of this sub-sections.

Provided further that where any ²[doubt or]dispute arises as to whether 2[any two or more establishments are under the same employer or whether] they are to or connected with one anothe

allived for the purpose of carrying on the same industry, the decision of the registrar shall be final.

*1[added by ordinance 17 of 1989]

2[Which are] [doubt or]-added by Act. XXII of 1990]

Note

The constitution of a trade union seeking registration must provide for the matters set out in clauses (a) to (i). It is important to note that as per clause (d) the number of officers from the worker actually employed in the establishment may be 75 per cent (not less) and the remaining 25 per cent officers may be persons not actually employed in the establishment, i. e. they may be anybody whom the workers like to elect. Thus, the bar on the election of 'outsiders' as office bearers of trade union has been lifted to the extent of 25 percent strength of the total executive of the union.

*[7A Disqualification 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 person shall not be entitled—

(a) to be or to be elected as an officer of a trade union if he has been convicted of an offence involving moral turpitude or an offence made under clause (d) of sub-Section (1) of section 16 or section 61; and (b) to be a member or officer of trade union formed if he is not, or was never, employed or engaged in that establishment or group of establishments *[on if he was dismissed from any such establishment]

*[Ins. by ord. 17 of 1989 and Act XXII of 1990]

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

*[Substituted by Ordinance XV of 1985]

7-B. 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.]

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

(2) When the 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 subsection (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) Subject to the other provisions of this section, the registration of a trade union may be cancelled by the Registrar if the trade union has—

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

(h) elected as its officer a person who is disqualified under section 7A from being elected as, or from being, such officer; or

(i) contravened any of the provisions of this Ordinance or the rules.

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

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

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

*[Substituted by ordinance XV of 1985]

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

*[Subs. by Ordinance XV of 1985]

*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 enrol himself as, or to continue to be, a member of more than one trade union at the same time.

*[Inserted by Ordinance XXXV of 1977.]

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

*[Subs. Ibid.]

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 provisions of this Ordinance;

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

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

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

(2) The Societies Registration Act, 1860 (XXI of 1860), the Co-operative Societies Act, *1940 (Ben. 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.

*[Substituted by Ord. XXXV of 1977.]

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 workman—
- (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union, or
 - (ii) participates in the promotion, formation or activities of a trade union ;
- (e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person,
- (f) compel any officer of the collective bargaining agent to sign a memorandum by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods, 1[**]
- (g) interfere with or in any way influence the balloting provided for in section 22, 2[or]

1 The word "or" omitted by Ord. XIX of 1970, s. 6.

2 The word "or" added by Ord. XIX of 1970, S. 6.

3[(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.

(1) No workman or trade union of workmen and no person acting on behalf of such trade union shall—

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

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

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

3 Cl. (h) added, Ord. XIX of 1970.

(d) compel 1[or attempt to compel] the employer to sign a memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods, or

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

*[Added by Ord. XXXV of 1977]

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

1 Words added by Ord. XIX of 1970, s. 7.

Rights and Privileges of Registered Trade Unions and Collective Bargaining Agents

(Ss. 17—23)

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.

Notes

This section provides immunity to officers and members of a registered trade union or a collective bargaining agent from punishment under section 120-B of the Penal Code, 1860 (Act XLV of 1860) provided that :

(a) the agreement between the members is made in furtherance of the objects specified in its constitution; and

(b) such agreement is not an agreement to commit an offence or violate any laws besides this Ordinance.

They are neither liable for civil actions for such acts nor for criminal actions for conspiracy; but there is nothing in the Ordinance, which, apart from immunity from criminal conspiracy, allows immunity from any other *criminal offence*.

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.

Notes

Section 17 protects trade unionists from liability for furthering the objects of a trade union specified in its constitution. This section protects them from civil suits or other proceedings of a civil nature in respect of certain acts done in furtherance of industrial disputes.

Sub-section (2) of this section protects a trade union (registered or non-registered) from liability in tort (wrongs not arising out of contract) in respect of tortious acts done by their agents in furtherance of industrial disputes *if* the agent acted without the knowledge or contrary to express instructions 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 of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business or work, employ or be employed.

Notes

The word "trade" includes the disposal of labour by a workman. Section 27 of the Contract Act provides that any agreement by which one is restrained from exercising a lawful profession, trade or business of any kind, shall, to that extent, be void. The present section lays down an exception to that rule in the case of agreements between members of a trade union (registered or unregistered) in restraint of trade e. g., agreement not to accept employment unless certain conditions as to pay, hours of work, etc. are fulfilled.

No damages can be recovered for breach of any agreement concerning the conditions on which any member of a trade union may or may not sell his goods, transact business, work, employ or be employed.

20. Registration of Federation of Trade Unions.—

(1) Any two or more registered trade unions may, if their respective general bodies so resolve, constitute a federation by executing an instrument of federation and apply for the registration of the federation :

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

(2) An instrument of federation referred to in sub-section (1) shall, among other things, 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 presidents of all the trade unions constituting the federation or by the officers of these trade unions respectively authorised by the trade unions in this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

(4) Subject to sub-sections (1), (2) and (3), 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 a provision of the constitution shall be sent to the Registrar within 15 days of the making of the alteration of 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 members not less than one-third of the total number of workmen employed in such establishment or group of establishments or by the employer, hold a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group.

(3) Upon receipt of an application under sub-section (2), the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments to which the application relates to indicate, within the time specified

in the notice, whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to the establishment or group of establishments.

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

(5) Every employer shall,—

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

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

(6) On receipt of the list of workers from the employer, the Registrar shall send a copy of the list to each of 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 under sub-section (6A).

*(6C) After amendments, alterations or modifications, if any, made under sub-section (6B), or where no objections are received by the Registrar within the specified time, the Registrar shall prepare a list of workers employed in the establishment concerned and send copies thereof 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.

*[Subs. by I. R. (amdt.) Ordinance, 1977]

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

(10) Where a registered trade union has been declared under clause (e) of sub-section (9) to be the collective bargaining agent

for an establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group shall be entertained within a period of two years from the date of such declaration.

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

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

(a) undertake collective bargaining with the employer or employers on matters connected 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 institutions or Provident Funds, and of the worker's 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.

*[Added by Ord. XXXV of 1977.]

Note

The declaration of a collective bargaining agent in an establishment or industry is a new provision in this Ordinance. Once a trade union or a federation has been declared such agent through a secret ballot by the Registrar, no other claim to such status by rival union or federation is to be entertained for a period of two years from the date of such declaration. The rights of a collective bargaining agent are to nominate representatives to certain funds, undertake collective bargaining concerning terms and conditions of employment, represent workmen in any proceedings and to declare strikes.

1[22-A. Collective bargaining agent for institutions with more than one establishment.—(1) Where an employer carrying on an industry has, for the purpose of that industry, more establishments than one, any registered trade union which fulfils such conditions as may be prescribed in this behalf may make an application in such manner and to such authority as may be prescribed for being declared as the collective bargaining agent in relation to all such establishments and, upon such an application, there shall be determined in the prescribed manner a collective bargaining agent for such establishments.]

(2) Where a collective bargaining agent has been determined under sub-section (1) for the establishments referred to therein, the collective bargaining agent determined, if any, under section

¹ Sec. 22-A added by ord. XIX of 1970, s. 9.

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 applicable to workmen employed in any of such establishments.

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

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

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

Joint Consultation, Conciliation and Mediation

(Ss. 24—52)

24. Works councils.—(1) In every establishment in which 50 or more workmen are employed or were employed shall constitute, in the prescribed manner, a works council

¹ Sub-sec. (3) added by Ofd. XIX of 1970, s. 10.

consisting or representatives of the employer and the workmen so however that the number of the representatives of the workmen is not less than the number of the representatives of the employer in the works council.

(2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent shall nominate the representatives of the workmen on such works council :

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

Note

Establishments employing 50 or more workmen must constitute a works council. The collective bargaining agent will nominate the representatives of the workmen on the council. If there be no such agent, then the procedure for election as may be specified by rules under this Ordinance is to be followed.

25. Functions of works council.—The functions of a works council shall be to promote measures for securing and preserving good relations between an employer and his workmen and, in particular—

- (a) to endeavour to maintain continuous sympathy and understanding between the employer and workmen;
- (b) to promote security of employment for the workmen and conditions of safety, health and job satisfaction in their work;

- (c) to encourage vocational training within the establishment;
- (d) to take measures for facilitating good and harmonious working conditions in the establishment, to provide educational facilities for children of workmen in secretarial and accounting procedures and to promote their absorption in these departments of the establishment; and
- (e) to discuss any other matter of mutual interest with a view to promoting better labour-management relations

26. Negotiation relating to industrial disputes.—

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

(2) Within ¹[ten] days of the receipt of a communication under sub-section (1), the party receiving it shall, in consultation with the representatives of the other party, arrange 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 dialogue.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded

to the conciliator and the authorities mentioned in clause (xxiv) of section 2.

Note

It is obligatory to arrange a meeting within ten days on the receipt of the views of the employer or the collective bargaining agent in respect of an apprehended dispute. If a settlement is reached at, a memorandum of settlement is to be signed by the parties. 21 days' notice of strike or lock-out may be served by the bargaining agent or the employer on their party as per section 28.

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.

*[Substituted by Ordinance XXXV of 1977]

2[27A. Conciliation before notice of strike, etc.—Where the parties to an industrial dispute fail to reach a settlement by negotiation under section 26, any of them may report to the Conciliator that the negotiations have failed and request him in writing to conciliate in the dispute and the Conciliator shall, on receipt of such request, proceed to conciliate in the dispute.]

1. Subs. for 'seven' by Ord. XIX of 1970, s. 11.

2. Sec. 27A added by Ord. XIX of 1970, s. 12.

Note

When the negotiations under section 26 have failed, any party may request the Conciliator to conciliate the dispute. Upon such request, it becomes obligatory on the Conciliator to start conciliation. Only ten days are allowed to him for this purpose as specified in section 28. If he fails, the parties are free to serve a notice of strike or lock-out.

1[28. Notice of strike or lock-out.—If the Conciliator fails to settle the dispute within ten days from the date or receipt of a request made under section 27A, the collective bargaining agent or the employer may, in accordance with the provisions of this Ordinance, serve on the other party to the dispute twenty-one days' notice of strike or lock-out, as the case may be.

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.]

Note

Sections 28 and 29 provide ten days' time to the Conciliator to conciliate after the parties have failed to reach a settlement. Even after a notice of strike or lock-out has been served, the Conciliator must continue to conciliate in the dispute.

1. Sections 28 and 29 were substituted for the original sections by Ord. XIX of 1970, s. 18.

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 be represented before the conciliator by persons nominated by them and authorised to negotiate and enter into an agreement binding on the parties.

(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.

*[Subs. by Ordinance XXXV of 1977.]

¹[(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

... 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.

¹[(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.

*[Subs. by Ord. XXXV of 1977.]

(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.

Notes

An Arbitrator can only be appointed by mutual consent of the parties. His award being final, is not subject to appeal. The award will be binding upto a period of two years; but the Arbitrator is authorised to fix the duration of the award at his discretion.

32. Strike and Lock-out.—(1) If no settlement is arrived at during the course of conciliation proceedings and the

1. Sub-sec. (3) subs. for the original by Ord. XIX of 1970, s. 15.

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, ¹[on the expiry of the period of the notice under section 28 or upon a declaration by the Conciliator that the conciliation proceedings have failed, whichever is the later.]

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

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

³[Provided that the Government may, ⁴**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.

Notes

When collective bargaining has failed, a 21 days' notice of strike or lock-out is to be given by one party to the other as per section 28. During this period of 21 days, the Conciliator is to make attempts to bring the parties to a settlement or make them agreeable to refer the dispute to an Arbitrator. If both these courses fail, a strike or lock-out, as the case may be, can be declared in accordance with the notice already given. In case the strike or lock-out lasts for more than 30 days, the Government may (not necessarily) prohibit it by an order and simultaneously refer the dispute to a Labour Court for decision within 60 days from the date of reference. But an award made after 60 days will not be invalid. Strikes and lock-outs can also be prohibited earlier than 30 days in the national interest as per Proviso to sub-section (2) inserted by Ordinance XIX of 1970.

1 * * * *

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

(2) The 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.

Note

In public utility services, a strike or lock-out may be prohibited by the Government any time before or after the commencement of strike or lock-out. When this is done, the dispute has to be referred to a Labour Court simultaneously for an award within 60 days.

1[34. Application to Labour Court.—Any collective bargaining agent or any employer or workman may apply to the Labour Court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

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 each one of them shall exercise jurisdiction under this Ordinance.

2[(2) A Labour Court shall consist of a Chairman appointed by the Government and two members to advise the Chairman,

¹1. Sec. 34 subs. for the original by Ord. XIX of 1970, s. 18.

²2. Sub-sec. (2) subs. for the original by Ord. XIX of 1970, s. 19(1).
[3, Ins, Ibid]

one to represent the employers and the other to represent the workmen in the manner hereinafter provided

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

(4) *[The Govt. shall constitute in the prescribed manner by notification in the official gazette two panels one to consist of representatives of employers and the other of workman, each panel consisting of not more than two provided that the Government shall reconstitute in every two years.

but the members of the panels on the expiry of the period of two year shall continue till the new panels are constituted as notified in the official gazette.

[Subs by Act, XXII of 1993]

*[Sub-section (4A)— The chairman shall for Adjudication enquiry, determination or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under subsection (4) and persons so selected together with the chairman, shall be deemed to have constituted the labour court in respect of that specific industrial dispute.

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

*(Ins. by Act, 22 of 1993)

(5) A Labour Court shall—

- ¹[(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 settlement which is referred to it by the Government.
- (c) try offences under this Ordinance, ²[and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf.]
- (d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Ordinance ³[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 of, or confer upon it any power or function of, any authority under any of the said Acts. and upon such notification, the Labour Court shall be deemed to be such authority and shall exercise the powers and perform the functions of such authority under the relevant Act.

1. Cl. (a) subs. for the original by

2. Words added, *ibid.*, s. 19(2)(b).

3. Words added, *ibid.*, s. 19(2)(c).

¹[(7) If any member of the Labour Court is absent from, or is otherwise unable to attend, any sitting of the Court, the proceedings of the Court may continue, and the decision or award may be given in the absence of such member; and no act, proceeding, decision or award of the Court shall be invalid or be called in question merely on the ground of such absence.[or on the ground of any vacancy in, or any defect in the constitution of the Labour Court]

*(Subs, Ibid)

Notes

This section deals with the constitution and functions of Labour Courts. Its functions are to adjudicate and determine industrial disputes, adjudicate on matters concerning implementation or violation of a settlement, try offences under the Ordinance, perform other functions assigned by the Ordinance and to act as an authority under the Workmen's Compensation Act, 1923 and Payment of Wages Act, 1936 on the issue of a notification to this effect. It should be noted that the Labour Court in exercising the powers and functions of authorities under those Acts is not a Labour Court with powers as stipulated in this Ordinance, In those cases it is an authority under those particular laws subject to all the powers, duties, functions and limitations of that particular law. The decision given in such cases will be governed by the provisions of the relevant law and not by the present Ordinance. The provisions regarding appeals against the awards and decisions of the Court.

are not applicable in the context of functions performed under other laws; but appeals will be governed by the provisions of those laws.

Unlike the Civil Court, Labour Court is not confined within the bounds of legal rights. The function of conciliation and arbitration is to establish a compromise between the interests of the parties to a dispute and create a new basis for their mutual relationship.

Jurisdiction of Court regarding re-instatement.—It has now been authoritatively established that the Court has jurisdiction to order re-instatement of a discharged or dismissed employee. "No machinery for the conciliation and settlement of industrial disputes could be considered effective unless it provides within its scope a solution in cases of employees whose services are terminated improperly.

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

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

- (a) enforcing the attendance of any person and examining him on oath,

- (b) compelling the production of documents and material objects, and
 - (c) issuing commissions for the examination of witnesses or documents.
- (2A) [A Labour Court, may, if it is satisfied that the dispute has been amicably resolved, allow the withdrawal of a case before it at any stage of the proceeding there of upon consideration of an application signed by all the parties to the case after giving hearing to all or any one of them]

*[Ins, Ibid)

(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.

Notes

The Labour Court shall follow such procedure as may be prescribed. Sub-section 2 of this section provides that only for the purpose of adjudication and determining an industrial dispute the Labour Court shall be deemed to be a Civil Court and shall

have all the powers vested in a Civil Court under the Code of Civil Procedure, 1908.

When a Labour Court tries an offence under this Ordinance, it shall be deemed to be a Court of the status and powers of a Magistrate of the first class under the Code of Criminal Procedure, 1898. (Sections 6 to 41 of that code deal with constitution and powers of Criminal Courts and officers). For the purpose of appeal to the High Court from a sentence passed by a Labour Court, it shall be deemed to be a Court of Sessions under the Code of Criminal Procedure. It follows that an appeal to the Court of Sessions does not lie from a sentence passed by a Labour Court, but only to the High Court.

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

* * * *

*[Omitted by Ord. XXXV of 1977]

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

(3) Any party aggrieved by an award given under sub-section (1), may prefer an appeal to 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 sentences referred to in

sub-section (3) of section 36, shall be final and shall not be called in question in any manner by or before any Court or other authority.

38. Labour appellate tribunal.—(1) The Government may, by notification in the Official Gazette, establish one or more Labour Appellate Tribunal for the purpose of the Ordinance

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

*[(2) The Tribunal shall consist of one member who shall be appointed by the Government, be notification in the Official Gazette, from among a person who is or has been a Judge or an Additional Judge of the High Court Division]

*[Subs by Act, XXII 1993]

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

**[Ins. by Act XII of 1993]

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

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

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

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

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

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

*[Ins. Ibid]

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

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

*[subs. Ibid]

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 ¹[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 industrial dispute relates on

1. Words added by Ord. XIX of 1970, s. 20

the date on which the dispute first arose or who are employed therein after that date.

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

Notes

Not only the parties to the industrial dispute shall be bound by a settlement or award, but also the parties which were summoned to appear as parties to the dispute shall be so bound, unless the Court records the opinion that they were summoned without proper cause. When a collective bargaining agent is a party to the dispute relates on the date of the dispute and those subsequently employed in that establishment or part thereof will also be bound by the settlement or the award.

A settlement arrived at otherwise than through conciliation proceedings is binding only on the parties to the agreement, i.e., it will bind only those workmen of the establishment who are a party to it.

“If they were allowed to ignore such an award, it would lead to extraordinary results. The workers would be able to get out of an award which was not to their liking by simply changing the name of the union. In my view, this is not permissible under the Act.” [H. C. (E.P.) Adamjee Jute Mills, Ltd., Dacca vs. The Province of East Pakistan and others : 1960 LLC Pt. II., 17 — PLD 1959 Dhaka. 872— 1960 PLC 166.]

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

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months 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 of 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 other other party an opportunity of being heard, terminate the said period on a date specified in the order.

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

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

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

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

- (a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and
- (b) where no settlement is arrived at—
 - (i) if the dispute is referred to an Arbitrator under section 31, on the date on which the Arbitrator has given his award; or otherwise.
 - (ii) on the date of which the period of the notice of strike or lock-out expires.

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

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

*[Added by Ord. XIX of 1970, s. 22.]

(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 ¹[or an employer.]

The law does not recognise the existence of an industrial dispute unless it is raised by a collective bargaining agent in the prescribed manner i.e., by negotiation (s. 26), conciliation (s. 30), arbitration (s.31) and adjudication by Labour Court (s.35). A rival trade union (though it may be registered) not certified as collective bargaining agent is incompetent to raise industrial disputes.

44. Prohibition on serving notice of strike or lockout 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

1. Words added by Ord. XIX of 1970, s. 23.

in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, a Labour Court, * * * or an application under section 34, the Labour Court may, by an order in writing, prohibit continuance of the strike or lock-out.

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

46. Illegal strike 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

1. The words and comma, "a reference under section 32 or section 33" omitted by Ord. XIX of 1970, s. 25.

- (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.

Notes

Distinction between lock-out and closure of business.—A lock-out does not mean closing down of a business. It only means closing down of a place of business. It means the refusal by an employer to employ the persons employed by him and not the refusal by an employer to carry on any longer his business. The Labour Court has got the jurisdiction to adjudicate on the question whether a particular lock-out was justified or not; it cannot decide the question whether an employer can close down his business temporarily, for an indefinite period or permanently. An employer cannot be compelled to carry on his business. The closure of factory may be illegal, wrongful, unjustified or even malafide, but still a Court cannot direct the management to reopen and start the business.

Pay for the strike period.—The basic principle of all employment is that an employee has only the right to receive payment for work done and that voluntary unemployment ordinarily carries no right to receive pay. However, if the conduct of the employer or the conditions imposed by him upon

the employees have been such as to render it impossible for the employees to resume work or the demands made by the employees have been so obviously fair and reasonable that the employer's attitude in rejecting them can be characterised as capricious or vindictive, the Court may grant wages for the strike period or a part of it upon the appropriate facts of the proceedings before it.

Employer's right to dismiss an employee for participation in a strike.—An employer cannot dismiss a worker for mere participation in an illegal strike. But if a particular worker who joined the strike is guilty of violent acts or subversive activities, he should be individually dealt with and should be given a chance of defence before he can be dismissed. The Supreme Court of Pakistan held that dismissal was justified for a legal but unjustified strike. [Remington Rand Ltd. LLC 1947-57, Sec. III, p. 11 (S.C.)]

Illegal strike causes break in service.—In the case of Buckingham and Carnatic Co. Ltd. vs. their workers, the Supreme Court of India held that when the employees of a mill stopped work on a certain day for about four hours (by concerted action) due to the management refusing to declare the forenoon of that day as a holiday for solar eclipse, (i) the stoppage of work was a "strike", (ii) the strike was an illegal strike for want of notice, the textile mills being public utility industry, and (iii) the continuity of service being interrupted, claim for holidays with pay under the Factories Act was not sustainable. (AIR 1953, S. C. 47). The same view was taken by

the Tribunal in the case of Karachi Port Trust (1957 LLC I. 549) not only in respect of holidays but also for the purpose of granting provident fund. etc.

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

*[Substituted by Ordinance XV of 1985]

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

Having regard to the object of this section and the definition of industrial dispute, the expression "workmen concerned in such dispute" cannot be limited only to such of the workmen who were directly concerned with the industrial dispute in question. That expression includes all workmen on whose behalf the dispute has been raised as well as those who would be bound by the award which may be made in the said dispute. [S. C. (Ind.) New India Motors (Private) Ltd. New Delhi vs. K. T. Morris : 1961 LLC 107 = 1960 I LLJ 551 = 1961 PLC 46.]

Dismissal for misconduct not connected with dispute is not covered by section 47. [S. C. (Pak.) Pakistan Petroleum Ltd. Karachi vs. Pakistan Petroleum Workers Federation; 1961 LLC 55 = PLD 1961 S. C. 479 = 1961 PLC 1169.]

Action under terms of service.—"Re-instatement" does not have the effect of "improving contractual rights of a workman under the terms of his service." Employer may re-instate a workman in compliance with Tribunal's order while, at the same time, take action against him for alleged "misconduct" in accordance with the terms of service of the workman. If a direction is given for re-instatement of the workman on account of due enquiry preceding his dismissal, it does not destroy the right of the Company after re-instatement, to proceed against them, in accordance with the mode permitted by law. The Company would be at liberty after complying with the order of re-instatement, to resort to such action as may be open to it in respect of such workmen under the terms of their service, provided that such action is taken bonafide and is not merely a

cloak for victimisation on account of Trade Union activities. [(S. C.) Glaxo Laboratories (Pakistan) Ltd. vs. Pakistan : 1962 LLCI = 1962 PLC 362 = PLD 1962 S. C. 60].

***[“47A. Conditions of service to remain unchanged while application for registration pending.—**No employer shall, while an application under section 5 for registration of a trade union is pending, alter, without prior permission of the Registrar, to the disadvantage of any workman who is an officer of such trade union, the conditions of service applicable to him before the receipt of the application by the Registrar.]

*[47B. *][President and General secretary not to be transferred— Neither the president nor the General secretary of any trade union shall be transferred from one place to another without his consent.]

*[Subs. by Ord 17 of 1989

& (Act, XXII of 1990)]

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 members 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 proceedings under this Ordinance.

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

Notes

As a dispute between an individual workman and an employer cannot be an industrial dispute as defined in section 2(k) of the Industrial Disputes Act, 1947, unless it is taken up by a trade union of the workmen or by a considerable number of workmen, it follows that the individual workman is, at no stage, a party to the industrial dispute independently of the trade union. The trade union, or those workmen who have, by their sponsoring turned the individual dispute, can, therefore, claim to have a say in the conduct of the proceedings before an Industrial Tribunal. Where, therefore, a workman was represented in such proceedings by an officer of the trade union sponsoring his cause, it would not be open to him, unless there were exceptional circumstances, to submit later on that he had no faith in the officer of the trade union and he should be permitted to appoint representatives of his own choice. [S. C. (Ind.) Ram Prasad Vishwakarma vs. Industrial Tribunal, Patna and others : 1961 LLC 220 = 1961 I LLJ 504 = 1961 PLC. 588.]

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

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

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

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

Notes

The expression "benefit" which can be computed in terms of money is wide enough to include claim for arrears of salary at a particular rate per month. The plea of discharge to such claim raised by the employer could and should be decided by Labour Court in such a claim petition as an incidental question.

Where the employee claims salary at a particular rate per month and on that basis claims arrears of salary, such claim would be a "benefit" which could be computed in terms of money. The word "computed" merely means calculation whether simple or otherwise. The word "benefit" would include also benefits, express or otherwise in terms of money but requiring computation.

52. Any act or function which is, by this Ordinance, required to be performed by or has been conferred upon a collective bargaining agent may, until a collective 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.

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

(Added by Act XXII of 1993]

Penalties and Procedure

(Ss. 53—64)

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 16, 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; and
- (b) for each subsequent offence with imprisonment for a 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 wilfully 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 or the rules thereunder, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to 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 'goslow'.—Whoever takes part in or instigates or incites others to take part in or otherwise acts in furtherance of a 'go-slow' shall be punishable with imprisonment for a term which may extend to

six months, or with fine which may extend to Taka five hundred or with both.

Explanation.—In this section, 'go-slow' means an organised, deliberate and purposeful slowing down of normal output of work by a body of workmen acting in a concerted manner, but does not include the slowing down of normal output of work which is due to mechanical defect, break-down of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.

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 may extend to six months, or with fine which may extend to Taka five thousand, or with both.

61. Penalty for embezzlement or misappropriation of funds.—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-imbursed by the Court to the trade union concerned.

***[61-A. Penalty for activities of unregistered trade union.**—Whoever takes part in, or instigates or incites othes to take part in, the activities of an unregistered trade union or of a trade union whose registration has been cancelled or collects

subscription except enrolment 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.]

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

*[Inserted by Ordinance XXXV of 1977.]

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.

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

64. Trial of offences.—No Court other than a Labour Court or that of a Magistrate of the First Class shall try any offence punishable under this Ordinance.

Miscellaneous
(Ss. 65—67)

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.

***[65-A. 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).

* * * * *

*[S-65A added by Ord. XIX of 1970]

*[S. 65-B omitted by Ordinance XXXV of 1977]

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 thereof shall be punishable with fine which may extend to Taka one hundred.

67. Repeal and savings.—(1) The following laws are hereby repealed, namely—

- (a) The Trade Unions Act, 1965 (E. P. Act V of 1965).
- (b) The Labour Disputes Act, 1965 (E. P. Act VI of 1965).

- (c) The Industrial Disputes Ordinance, 1968 (W. P. Ordinance IV of 1968), and
- (d) The Trade Unions Ordinance, 1968 (W. P. Ordinance V of 1968).

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

- (a) every trade union existing immediately before the commencement of this Ordinance, which was registered under any such law shall be deemed to be registered under this Ordinance and its constitution shall, * * * * * continue in force until altered or rescinded; and

*[Certain words omitted by Ord. 1970, s. 28 (1)].

- (b) anything done, rules made, notification or order issued, officer appointed, Court constituted, notice given, proceedings commenced or other acts 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. ¹ * * *

SCHEDULE

Public utility services.—[See section 2 (xix).]

1. 2[The generation, production, manufacture or supply of electricity, gas, oil or water to the public.]

1. Certain words omitted by ord. XIX of 1970, s. 28(2).

2. Subs. for the original enry. *ibid.* s. 29 (1).

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. 3[Watch and Ward staff and security services maintained in any establishment.]

Notes

Section 30 of Ordinance XIX of 1970 which comprised of "savings" is reproduced below for reference purposes :—

"Savings.—(1) Notwithstanding the commencement of this Ordinance, any Labour Court constituted under the said ordinance and functioning immediately before such commencement shall, until the Labour Court is constituted in accordance with the provisions of the said Ordinance, continue to exercise its powers and perform its functions as if it had been constituted in accordance with those provisions.

(2) A trade union which, immediately before the commencement of this Ordinance, was a collective bargaining agent for any establishment or group of establishments shall, upon such commencement, be deemed to have been declared under the said Ordinance as amended by this Ordinance to be the collective bargaining agent for such establishment or group."

3. Subs. for "Watch and Ward and security services", *ibid*, s. 29(2).

THE INDUSTRIAL RELATIONS (REGULATION) ORDINANCE, 1975

(Ordinance No. LIV of 1975)

[As amended by I. R. (Regulation) (Amdt.) Ordinance 1977 (Ordinance VII of 1977)].

[An Ordinance to regulate industrial relations with a view to achieving higher national productivity and maintaining industrial peace and discipline.]

1. Short title.—This Ordinance may be called the Industrial Relations (Regulation) Ordinance, 1975.

2. Definition.—All words and expressions used in this Ordinance shall, unless the context otherwise requires, have the meaning assigned to them in the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter referred to as the said Ordinance.

3. Ordinance to over-ride other laws.—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument or document.

4. Registration of new trade union.—Unless the Government otherwise directs, there shall not be any registration of new trade union under the said Ordinance (XXIII of 1969).

5. Restriction on the right to be member of trade unions.—(1) Persons employed as members of the watch and ward or security staff or confidential assistants of any

establishment shall have no right to be members or officers of any trade union.

(2) On the commencement of this Ordinance, all members or officers of a trade union who are employed as members of the watch and ward or security staff or confidential assistants of any establishment shall cease to be such members or officers.

6. Non-workers to cease to be members of trade unions.—(1) No person shall be entitled to be a member or officer of any trade union formed for any establishment if he is not actually employed or engaged in that establishment.

(2) A member or officer of a trade union who is not actually employed or engaged in the establishment for which such trade union has been formed shall, on the commencement of this Ordinance, cease to be member or officer of that trade union.

(3) Nothing in this section shall apply to any federation of trade unions.

7. Election for determination of collective bargaining agent.—Unless the Government otherwise directs, there shall not be any election for determination of collective bargaining agent under the said Ordinance.

8. Constitution of Consultative committees.—(1) Where there is no collective bargaining agent in any establishment, the Registrar shall *[and where the collective bargaining agent in any establishment cannot, in the opinion of the Registrar, function for any reason, the Registrar may] constitute a consultative committee for such establishment which shall consist of equal

number of representatives of workers and employers to be selected by the Registrar.

(2) The consultative committee shall examine workers' grievances and suggest measures for redressing such grievances.

9. Procedure for settlement of industrial disputes.—

(1) Where an industrial dispute arises, the employer and the collective bargaining agent shall settle the dispute by direct negotiation.

(2) Where direct negotiation fails to settle an industrial dispute within 14 days of the receipt of the dispute by one party from the other or where a consultative committee fails to suggest any measure for redressing the grievances of the workers within 14 days of the submission of the grievances, the dispute or the grievances, as the case may be, may be referred by any of the parties to a Conciliator within 14 days of such failure.

(3) If a Conciliator fails to settle any dispute or suggest any measures for redressing the grievances referred to him within 30 days of such reference, he shall issue a certificate of failure, and in that case any of the parties may refer the dispute or the grievances, as the case may be, to a Labour Court within 21 days of the date of the issue of such certificate.

(4) If no reference is made to the Labour Court under clause (3), the industrial dispute or the grievances concerned shall be deemed to have ceased to exist and none of the parties shall, thereafter, be entitled to take any action in respect thereto.

*[Subs. by Ordinance VII of 1977]

(5) The Government may, at any time, refer any industrial dispute or workers' grievances to a Conciliator or Labour Court for settlement of such dispute or suggesting measures for redress of such grievances.

Notes

1. The object of the Ordinance is to achieve higher national productivity and maintain industrial peace and discipline. The Ordinance also puts some restrictions on the right to be members of trade unions and enjoins that "persons employed as members of the watch and ward or security staff or confidential assistants of any establishments shall have no right to be members or officers of any trade union." It also enjoins that non-workers should cease to be members of the trade union.

2. Further, there shall not be any registration of new trade unions under the Ordinance, unless the Government otherwise directs.

3. The Ordinance, thus, lays down the procedures about-

- a. Stipulation that non-workers should cease to be members of trade unions.
- b. The constitution of consultative committees.
- c. Settlement of industrial disputes.

**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, for regulating the holidays, payment of wages, leave, hours of work and certain other allied matters concerning the workers employed in shops, commercial establishments and industrial establishments not being factories.]

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

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

- (a) 'apprentice' means a learner who is paid an allowance during the period of his training;
- (b) 'child' means a person who has not completed twelve years of age;
- (c) 'closed' means not open for service to any customer or to any business connected with any establishment;

- (d) 'commercial establishment' means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial 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, and 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 any Department of the Government, the authority appointed in this behalf, or where no authority is so appointed, the Head of the Department;
 - (ii) in any shop, commercial establishment or industrial establishment, 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

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articles 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 No. IV of 1936);
- (o) 'week' means a period of seven days beginning at mid-night between Friday and Saturday;
- (p) 'worker' means any person including an apprentice employed in any shop, commercial establishment or industrial establishment to do any skilled, unskilled, manual, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does 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 any 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 any worker of an establishment.

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

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

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

(3) No shop shall on any day remain open after the hours of 8-0' clock post meridiem :

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

Provided further that the Government may, on consideration of special circumstances, alter, by notification in the official Gazette, the closing hours of 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, sweet-meats and flowers;
- (iii) shops dealing mainly in medicines, surgical appliances, bandages or other medical requisities;
- (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) barbours' 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 the 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, on days 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, in so far 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 effluvia arising from any drain, privy or other nuisance and shall be cleaned at such time and by such method as may be prescribed.

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

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

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

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

23. Night work 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 section 14 of the Payment of Wages Act, 1936 (IV of 1936), within the local limits for which they are appointed, and shall exercise all the functions and powers of an Inspector under that Act in respect of payment of wages to workers employed in any establishment.

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

27. Penalties.—(1) Whoever contravenes any of the provisions of sections 4, 5, 8, 9, 13, 14, 15, 16, or 24 shall be punishable, for the first offence, 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 it on being so required by an Inspector under section 26, shall be punishable with simple imprisonment which may extend to two months or with fine which may extend to 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.— A n 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, and 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 person for anything which is, in good faith, done or intended to be done under this Act or rules made thereunder.

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

THE EMPLOYERS'S LIABILITY ACT, 1938

[Act No. XX of 1938]

(As Adapted)

[An Act to declare that certain defences shall not be raised in suits for damages in respect of injuries sustained by workmen.]

* *

1. Short title and extent.—(1) This Act may be called the Employer's Liability Act, 1938.

(2) It extends to the whole of Bangladesh.

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

(a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing; and

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

3. Defence of common employment barred in certain cases.—Where personal injury is caused to a workman—

- (a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or
- (b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or
- (c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or
- (d) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be

approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has delegated authority in that behalf or in the normal performance of his duties;

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of injury a workman of, or in the service of, or engaged in the work of, the employer.

4. Risk not to be deemed to have been assumed without full knowledge.—In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

5. Saving.—Nothing in this Act shall affect the validity of any decree or order of a Civil Court passed before the commencement of this Act in any such suit for damages.

THE E. P. MINIMUM WAGES ACT, 1957

[E. P. Act XXXVII of 1957]

[An Act to regulate the minimum wages of workmen employed in the industries in Bangladesh.]

1. Short title, extent and commencement.—(1) This Act may be called the E. P. Minimum Wages Act, 1957.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

Note

The Act was repealed by Ordinance XXXIX of 1961 (Vide section 18 of The Minimum Wages Ordinance, 1961).

2. Application of the Act.—The Act shall apply in relation to the industries listed in the Schedule to this Act and to such other industries as the Government may, by notification in the official Gazette, add to the Schedule :

Provided that in respect of industries added to the Schedule by the Government, any such industry may, in like manner, be deleted from the list.

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

- (a) “Board” means the Bangladesh Minimum Wages Board established under section 4;

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- (b) “employer” means a person, a body of persons or a company, owning or having charge of an industry or a unit thereof, including an agent or manager of, and any other person acting on behalf of, such person in the general management or control thereof;
- (c) “industry” means—
 - (i) an industry as defined in clause (j) of section 2 of the Industrial Disputes Act, 1947, or
 - (ii) a factory as defined in clause (j) of section 2 of the Factories Act, 1965, or
 - (iii) a plantation as defined in clause (iii) of section 2 of the Payment of Wages Act, 1936;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “wages” shall have the same meaning as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936; and
- (f) “workman” shall have the same meaning as defined in clause (3) of section 2 of the Industrial Disputes Act, 1947.

4. Establishment of Board and its function.—(1)

The Government may constitute one or more Boards to be called the [Bangladesh] Minimum Wages Board.

(2) The Board shall, on a reference being made to it by the Government, enquire into, and after full consultation with the representatives of the employers and workmen, recommend the minimum wages for an industry or units thereof referred to it by the Government.

(3) The board may recommend to the Government—

- (i) to fix minimum rates of wages for the time work;
- (ii) to fix minimum rates of wages for piece work;
- (iii) to fix minimum rates of wages for time work to apply in the case of persons employed on piece work, for the purpose of securing to such persons a minimum wage on time work basis.

5. Constitution of the Board.—The Board shall consist of—

- (i) two persons representing employers and two persons representing workmen, appointed by the Government; and
- (ii) two independent persons of whom one shall be the Chairman of the Board and another shall be an expert not in any way connected with any industry and not associated with any workers' organisation to be appointed by the Government.

6. Constitution of Committees and their powers.—The Board may appoint one or more Committees for an industry or unit thereof consisting of equal number of members representing the employer and workmen and one or more

independent members, but not exceeding one-third of the total number of members in the Committee, and may refer to any such Committee for report and recommendations in any matter which the Board may decide to refer. The Committee shall have the same powers for the purpose of investigation as the Board itself.

7. Meeting of the Board.—Every meeting of the Board shall be presided over by the Chairman, if present, and if he is absent, such member of the Board as may be elected by the members present.

8. Formal defects.—The proceedings of the Board shall not be invalidated due to a vacancy therein or for any defect in the appointment of the Chairman or of any member of the Board.

9. Terms of office of members.—(1) Save as otherwise expressly provided in this Act, the term of office of a member shall be three years from the date on which his appointment is notified in the official Gazette.

(2) A member of the Board shall, notwithstanding the expiry of the said period of three years, continue to hold office until the appointment of his successor is notified in the official Gazette.

(3) Any person whose term of office expires shall be eligible for re-appointment as a member of the Board.

10. Resignation and cessation of members.—(1) A member of the Board may resign his office by notice in writing to the Government and his seat shall fall vacant from the date of the acceptance of the resignation by the Government.

(2) A person (other than the Chairman) shall cease to be a member of the Board if he absents himself from three consecutive meetings thereof without the leave of absence from the Chairman.

11. Disqualification for office.—No person shall be qualified to be appointed as a member of the Board or shall continue as such if he—

- (i) is of unsound mind and stands so declared by a competent Court; or
- (ii) is an undischarged insolvent; or
- (iii) is or at any time has been convicted by a competent Court on a charge for an offence involving moral turpitude.

12. Removal of member from office.—If any member of the Board has been, in the opinion of the Government, guilty of gross misconduct, he may be removed from office by the Government.

13. Filling up vacancies.—(i) Vacancies in the office of the members shall be filled in by appointment by the Government in a manner not affecting the representation of the different interests on the Board.

(2) A member appointed to fill a casual vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

14. Quorum.—Three members of the Board including at least one representative each of the employer and the workmen

represented on the Board shall form the quorum for a meeting of the Board.

15. Venue of meeting.—The Chairman of the Board shall convene meetings of the Board by notice in writing to be given to each member at such time and place as the Chairman may direct.

16. Allowances.—Members of the Board other than chairman, may be allowed such honorarium and allowances as the Government may determine.

17. Power to summon witnesses and compel the production of documents.—For the purpose of any enquiry under this Act, the Board or any Committee appointed by the Board in this behalf shall have the powers to summon and enforce the attendance of witnesses including the parties interested and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the Code of Civil Procedure, 1908.

18. Action by Government on Board's recommendation.—(1) On receipt of the recommendation of the Board, the Government, unless it decides to act under subsection (2) of this section, shall notify the minimum wages in the industry concerned.

(2) If the Government consider that the recommendation of the Board is not equitable to the employer or the workman in the industry, it may, within thirty days of receipt of such a recommendation, remit the matter to the Board for reconsideration together with such data or views, if any, as the

Government may wish to communicate, and the Board shall reconsider the matter and submit a further recommendation; upon receipt of such recommendation, the Government shall notify the minimum wages in the industry concerned.

19. Enforcement.—Subject to the provisions of this Act, if an employer fails to pay to a workman to whom an order under section 18 applies, wages at the minimum rate fixed by the Government, he shall be liable on conviction to imprisonment not exceeding six months or to pay a fine not exceeding Taka one thousand or with both for each day of default.

20. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of the employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited in such manner as may be prescribed in the industry where the employees of the industries listed in the Schedule may be employed, notices in the prescribed form containing the prescribed particulars.

(3) The Government may, by rules made under this Act, provide for the issue of Wage Books or Wage Slips to the employees employed in any industry in respect of which minimum rates of wages have been fixed and prescribe the manner in which the entries shall be made and authenticated in such Wage Books or Wage Slips by the employer or his agent.

21. Penalty for failure to display certain notices.—If any person fails to display any notice or maintain any register as required under section 20 or under any rule made under this Act, he shall be liable, on summary conviction, to pay a fine not exceeding Taka five hundred.

22. Cognizance of offences.—No Court inferior to that of a Magistrate of the first class shall take cognizance of, or try an offence under this Act or any rule or order made thereunder.

23. Limitation of prosecution.—No Court shall take cognizance of any offence under this Act or any rule or order made thereunder, except upon complaint made by the Government or by such person or persons as may be authorised by the Government in this behalf.

24. 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.

25. Rule making power.—The Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

SCHEDULE

(Vide section 2)

(1) Inland Water Transport, (2) Textiles (Cotton, Wool, Artificial Silk and Jute), (3) Sugar, (4) Matches, (5) Paper, (6) Rubber manufactures, (7) Tea.

Notes

Rules 16, 21 and 22 of the East Pakistan Minimum Wages Rules, 1961 which deal with—

(a) Publicity for minimum rates of wages

(b) Submission of Claim

(c) Contravention of Rules

are reproduced below :—

16. Publicity for minimum rates of wages.—(1)

The Government shall take all appropriate means of ensuring that the minimum rates of wages fixed shall be made known to all employers and workers concerned.

(2) The Government may, whenever it considers appropriate, require all employers for whose workers' minimum rates of wages have been fixed, to display in conspicuous places in the factory, workshop or such other place as it thinks fit, notices in English, Bengali and Urdu giving the minimum rates of wages fixed.

(3) In respect of home or out-workers the notices shall be displayed in such factory, workshop or place as may be used for giving out work to them.

* * * * *

21. Submission of claim.—When a worker claims that he has been paid less than the minimum rate of wages applicable to him, the worker himself or any legal practitioner or any officer of a registered trade union authorised in writing to take

action on his behalf may submit the claim in Form IV to the Government or the such persons as may be appointed to act in this behalf :

Provided that every such claim shall be submitted within six months from the date on which the minimum rates of wages should have been paid.

22. Contravention of Rules.—Any person who contravenes any provisions of these rules shall be punishable with fine not exceeding Taka five hundred.

THE MINIMUM WAGES ORDINANCE, 1961

[Ordinance No. XXXIX of 1961]

(As adapted)

[An Ordinance to provide for the regulation of minimum rates of wages for workers employed in certain industrial undertakings and for matters ancillary thereto.]

1. Short title, extent and commencement.—(1) This Ordinance may be called the Minimum Wages Ordinance, 1961.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

Note

See also Ordinance X of 1969 [The EP Minimum Wages (Fixation) Ordinance, 1969]

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

(1) “adult” has the same meaning as in clause (b) of section 2 of the Factories Act, 1934 (XXV of 1934);

(2) “Board” means a Minimum Wages Board established under section 3;

(3) “Council” means the Minimum Wages Council constituted under section 8;

(4) “employer” means any person who employs either directly or through another person, whether on behalf of himself

or any other person, any person for whom a minimum rate of wages may be declared under this Ordinance, and includes—

- (a) in relation to a factory, a managing agent or other person who has ultimate control over the affairs of the factory, and
- (b) in other cases, any person responsible to the owner for supervision and control of such worker or for payment of his wages;

(5) “factory” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), and includes any place deemed to be factory under sub-section (3) of section 5 thereof;

(6) “industry” with its grammatical variations and cognate expressions, means an industry as defined in clause (g) of section 2 of the Industrial Disputes Ordinance, 1959 (LVI of 1959) and includes a Plantation as defined in clause (iii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936);

(7) “wages” means all emuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

- (a) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund,
- (b) any travelling allowance or the value of any travelling concession;

- (c) any sum paid to such person to defray special expenses incurred by him in respect of his employment,
- (d) any sum paid as annual bonus, or
- (e) any gratuity payable on discharge; and

(9) "worker" means any person including an apprentice employed in any industry to do any skilled or unskilled, intellectual, technical, clerical, manual or other work, including domestic work, for hire or reward, but does not include—

- (i) persons employed by the Government;
- (ii) persons employed in coal mines in respect of whom minimum wages may be fixed under the Coal Mines (Fixation of Rates of Wages) Ordinance, 1960 (XXXIX of 1960); and
- (iii) persons employed in agriculture.

3. Establishment of Minimum Wages Boards.—(1)

As soon as may be, after the commencement of this Ordinance, the Government shall establish a Minimum Wages Board for Bangladesh consisting of the following four members to be appointed by it, namely—

- (a) the Chairman of the Board;
- (b) one independent member;
- (c) one member to represent the employers of Bangladesh; and
- (d) one member to represent the workers of Bangladesh :

The Minimum Wages Ordinance

Provided that for the purpose of discharging the function of a Board specified in section 5 the following two more members appointed by the Government shall be added, namely—

- (i) one member to represent the employers connected with the industry concerned; and
- (ii) one member to represent the workers engaged in such industry.

(2) The Chairman of the Board and the independent member shall be appointed from persons with adequate knowledge of industrial, labour and economic conditions of Bangladesh who are not connected with any industry or associated with any employers' or workers' organisation.

(3) The member to represent the employers of Bangladesh and the member to represent the workers of Bangladesh under sub-section (1) shall be appointed after considering nominations if any, of such organisations as the Government considers to be representative organisations of such employers and workers respectively.

(4) The members referred to in the proviso to subsection (1) to represent the employers connected with and the workers engaged in the industry concerned shall be appointed after considering nominations, if any, of such organisations as the Government considers and workers respectively.

(5) The term of office of the members of the Board, the manner of the filling casual vacancies therein, the appointment of

its committees, if any, the procedure and conduct of the meetings of the Board and its committees and all matters connected therewith including the fees and allowances to be paid for attending such meeting and other expenses, including expenses for the services of experts and advisers obtained by the Board, shall be such as may be prescribed by rules made under section 17.

4. Recommendation of minimum rates of wages for unskilled and juvenile workers.—(1) A Board shall, upon a reference made to it by the Government, recommend to such Government, after such enquiry as the Board thinks fit, the minimum rates of wages for adult, unskilled workers and juvenile workers employed in industrial undertakings in Bangladesh.

(2) In its recommendations under sub-section (1), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout Bangladesh or with such local variations for such localities as are specified therein.

5. Recommendation of minimum rates of wages for workers with respect to particular industries.—Where, in respect of any particular industry in Bangladesh, for which no adequate machinery exists for effective regulation of wages, the Government is of the opinion that, having regard to the wages of the workers employed in the undertakings engaged in such industry, it is expedient to fix the minimum rates of wages of such workers, it may direct the Board to recommend, after such enquiry as the Board thinks fit, the minimum rates of

wages either for all such workers or for such of them as are specified in the direction:

* * * * *

*[The Proviso omitted by A.O., 1964.]

(2) In pursuance of a direction under sub-section (1), the Board may recommend minimum rates of wages for all classes of workers in any grade and, in such recommendation, may specify—

- (a) the minimum rates of wages for—
 - (i) time-work;
 - (ii) piece-work;
 - (iii) overtime-work; and
 - (iv) work on the weekly day of rest and for paid holidays; and
- (b) The minimum time rates for workers employed on piece-work so to guarantee minimum wages on a time basis for such workers.

(3) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

(4) The rates recommended under this section for overtime work and work on paid holidays shall not be less than minimum rates fixed for such work under any other law for the time being in force.

6. Power to declare minimum rates of wages.—(1) Upon receipt of a recommendation of the Board under section 4 or section 5, the Government may,—

(a) by notification in the official Gazette, declare that the minimum rates of wages recommended by the Board for the various workers shall, subject to such exception as may be specified in the notification, be the minimum rates of wages for such workers;

or

(b) if it considers that the recommendation is not, in any respect, equitable to the employers or the workers, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments thereon and giving such information relating thereto as the Government may think fit to make or give.

(2) Where a recommendation is referred back to the Board under clause (b) of sub-section (1), the Board shall reconsider it after taking into account the comments made and information given by the Government and, if necessary, shall hold further enquiry and submit to such Government—

(a) a revised recommendation, or

(b) if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons therefor.

(3) Upon receipt of the recommendation of the Board under sub-section (2), the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the Board for various

workers shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum rates of wages for such workers.

(4) Unless any date is specified for the purpose in the notification under sub-section (1) or sub-section (3), the declaration thereunder shall take effect on the date of publication of such notification.

(5) Where after publication of a notification under sub-section (1) of sub-section (3) or after minimum rates of wages declared thereunder have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it may refer the matter to the Board and any such reference shall be deemed to be a reference under sub-section(2).

* * * *

*[The original sub-section (6) omitted by A.O., 1964.]

(7) The minimum rates of wages declared under this section shall be final and shall not, in any manner, be questioned by any person in any Court or before any authority.

7. Periodical review of minimum rates of wages.—

(1) The Board shall review its recommendations if any change in the economic conditions and cost of living and other relevant factors so demand, and recommend to the Government any amendment, modification or revision of the minimum rates of wages declared under section 6 :

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require, and later than three years from such date.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 4 or, as the case may be, under section 5, and, so far as may be, the provisions of this Ordinance shall, to such review and recommendation, apply accordingly.

8. [*Constitution of the Minimum Wages Council omitted by A. O., 1964, Art. 2 and Sch.*]

9. Prohibition to pay wages at a rate below the minimum rate of wages.—(1) Subject only to such deductions as may be authorised under this Ordinance, or under any other any other law for the time being in force, no employer shall pay any worker wages at a rate lower than the rate declared under this Ordinance to be the minimum rate of wages for such worker.

(2) Nothing in sub-section (1) shall be deemed—

- (a) to require or authorise an employer to reduce the rate of wages of any worker; or
- (b) to affect, in any way, the right of a worker to continue to receive wages at a rate higher than the minimum rate declared under this Ordinance, if, under any agreement, contract or award, or as a customary differential or otherwise, he is entitled to receive wages at such higher rate, or to continue to

enjoy such amenities and other advantages as are customary for such worker to enjoy; and

- (c) to affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

(3) Any employer who contravenes the provisions of this section 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 if the Court trying such contravention by order so directs, shall also pay to the worker concerned such sum as may be specified in the order to represent the differences between the amount actually paid to such worker and the amount which would have been paid to him had there been no such contravention.

10 Cognizance of offences.—No Court other than a labour Court established under the Industrial Relations Ordinance 1969 (XXIII of 1969), or a Court not inferior to that of a Magistrate of the first class shall take cognizance of an offence punishable under this Ordinance or rules made thereunder, and cognizance shall not be so taken except upon a Complaint in writing made by the person offended or by any person authorised by the Government in this behalf.

(2) A Labour Court shall for the purpose of trying an offence made by this Ordinance have the same powers as are vested in the court of a Magistrate of the first class made the Code of Criminal Procedure 1898 (Act V of 1898) hereinafter referred to as the said Code and shall the powers of an appeal from a

sentemec passed by it be deemed to be by a count of sessions made the said code.

(3) A court trying an offence made this ordinance shall follow as nearly as possible the same many precedents on persons made this and code.

*[Subs by Act XXDIV of 1988]

11. Protection of the proceedings of a Board or the Council.—No act or proceeding of a Board shall be invalid or questioned merely on the ground of existence of any vacancy therein or of any defect in the constitution or in the appointment or qualification of any member thereof.

12. Powers of Boards, etc. to collect information.— (1) Any Board or the Chairman of a Board may, for the purpose of an enquiry under this Ordinance or the rules made thereunder, direct any employer to furnish such record, documents or information and do such other acts as the Board or the Chairman, as the case may be may require, and every such employer shall comply with such direction.

* Subs by Act XXIV of 1988

(2) The Chairman of the Board and such members, officers and servants thereof as are authorised in this behalf by the Chairman, may, for the discharge of any functions under this Ordinance or the rules made thereunder,—

- (a) enter, at all reasonable times, any factory;
- (b) inspect any books, registers and other documents relating to such factory; and

- (c) record statements of persons connected with the working of such factory:

Provided that no one shall be required under this clause to answer any question tending to criminate himself.

(3) Any employer who contravenes the provisions of sub-section (1), and any person who wilfully obstructs any one in the exercise of any power under sub-section (2), or fails to produce on demand thereunder any books, registers or other documents, shall be punishable with fine which may extend to Taka five *thousand.

13. Certain powers of Court to Boards etc.—(1) The Boards Shall, while holding an enquiry under this Ordinance or the rules made thereunder, be deemed to be Civil Courts and shall have the same powers as are vested in such Courts under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely—

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects; and

(c) issuing commissions for the examinations of witnesses.

14. Chairman, etc., deemed to be public servants.— The Chairman of the Boards and the members, officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860).

15. Bar to legal proceedings.—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 Ordinance or the rules made thereunder,

16.[Rules relating to council]. Omitted by A.O., 1964 Art. 2 and Sch.

17. Rules relating to Boards.—(1) Subject to the provision of section 16, the Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

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

(a) the matters specified in sub-section (5) of section 3;

(b) the giving of opportunities to persons likely to be affected by the minimum rates of wages to offer comments and make suggestions;

(c) Fixing normal hours of work for the purpose of determining time-work;

(d) giving adequate publicity to the minimum rates of wages declared under this Ordinance;

(e) the maintenance of wage books, wage slips, registers and other records and prescribe their forms and particulars to be entered therein and the manner of authenticating such entries;

(f) the preparation and submission of reports and returns;

(g) the appointment of Inspectors or other officers and prescribe their powers and functions; and

(h) such other matters for which rules are considered necessary for effectively carrying out the provisions of this Ordinance.

(3) Rules made under this section may provide that any contravention thereof shall be punishable with fine not exceeding Taka five thousand * Subs by Act XXXIV of 1988]

18. Repeal and savings.-(1) *The East Pakistan Minimum Wages Act, 1957 (E. P. Act XXXVII of 1957) shall stand repealed.*

(2) Notwithstanding the aforesaid repeal, any thing done, action taken, rule made and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done, taken, made or issued under this Ordinance, and shall have effect accordingly.

THE E. P. MINIMUM WAGES (FIXATION)
ORDINANCE, 1969

[Ordinance No. X of 1969]

(As adapted)

[An Ordinance to fix rates of wages for unskilled workers employed in certain commercial and industrial establishments and in tea gardens.]

1. Short title, extent, commencement and application.—(1) This Ordinance may be called the E. P. Minimum Wages (Fixation) Ordinance, 1969.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once and shall be deemed to have taken effect on the first day of July, 1969.

(4) It shall apply to all commercial and industrial establishments in which fifty or more workers are employed, or were employed on any day during the twelve months preceding the day of coming into force of this Ordinance, and tea gardens, but shall not apply to any establishment, undertaking or installation relating to the defence services, postal, telegraph or telephone service, major ports, railway, fire-fighting service, electricity, gas, water supply, public conservancy or sanitation and hospitals.

Note

The Ordinance applies to commercial and industrial establishments employing fifty or more workers and tea gardens falling under the classes as per section 4.

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

- (a) "commercial establishment" includes a trading establishment, a firm, a joint stock company, an insurance company, a bank, a stock exchange, a hotel or eating house, a cinema or theatre, or any other establishment which the Government may, by notification in the official Gazette, declare to be commercial establishment for the purpose of this Ordinance, but does not include the head office of any corporation, body or authority established under any law;
- (b) "employer" means the owner, proprietor, manager or managing agent of a commercial or industrial establishment or tea garden or any other person in such establishment or tea garden who is responsible for payment of wages;
- (c) "industrial area" means—
 - (i) the Dhaka Municipality, Postagola, Keraniganj, Tejgaon, Tongi, Kaliganj, Ghorashal, Narsingdi, the Narayanganj Municipality, Demra, Bandar, Kanchan, Palash, Murapara and the area between the Dhaka Municipal Corporation and the Narayanganj Municipality in the district of Dhaka;

- (ii) the Khulna Municipality, Khalishpur, Daulatpur, Rupsa, ChandniMahal, Mirerdanga, Atra, the areas opposite to the Khulna Municipality on the other bank of the river Bhairab, the mongla Port, Naopara, Taltola, and Rajghat in the district of Khulna;
 - (iii) the Chittagong Municipality, Kalurghat, Solasahar, Patenga, Double Mooring, Pahartali, Barabkunda and the area between Pahartali and Barabkunda in the district of Chittagong; and
 - (iv) Kaptai and Chandraghona in the district of Chittagong Hill Tracts;
- (d) "industrial establishment" means—
- (i) any mine or quarry;
 - (ii) any workshop or other establishment in which any article or commodity is produced, manufactured, altered, transformed, printed, cleaned, repaired, ornamented, finished, adapted or preserved with a view to its sale, transport or use;
 - (iii) any establishment concerning constuction, reconstruction, repair, alteration or demolition of any building, road, tunnel, drain, canal or bridge;

- (iv) any other establishment which the Government may by notification in the official Gazette, declare to be an industrial establishment for the purpose of this Ordinance;
- (e) "wages" means all cash remuneration payable to a worker, and includes dearness allowance, house rent, conveyance allowance or any other fixed allowance, but does not include travelling allowance, gratuity or bonus;
- (f) "worker" means any person employed in one industrial or commercial establishment or tea garden.

3. Minimum rates of wages in certain commercial or industrial establishments.—(1) An unskilled worker, whether time-rated employed in a commercial or industrial establishment, other than a tea garden, shall be paid wages at a rate,—

- (a) in an industrial area, not lower than Taka one hundred and twenty-five per month;
- (b) in any other area, not lower than Taka one hundred and fifteen per month.

Explanation.—In this sub-section, "month" means a normal working period of twenty-six days.

(2) Notwithstanding anything contained in subsection (1), an employer may deduct from the wages of an unskilled worker

employed in a commercial or industrial establishment for providing—

(a) accommodation in family quarters with pucca floor—

(i) in an industrial area—Take ten per month;

(ii) in any other area—Taka six and Poisa fifty per month;

The E. P. Minimum Wages (Fixation) Ordinance

(b) accommodation in a dormitory with pucca floor not more than Taka three per month;

(c) transport—

(i) in an industrial area—Taka two and poisa fifty per month;

(ii) in any other area—Taka one per month.

4. Minimum rates of wages in tea gardens.—(A two-member family of unskilled workers employed in a tea garden shall be paid wages at a rate—

(a) in an 'A' class garden, not lower than Taka one hundred and twenty per month;

(b) in a 'B' class garden, not lower than Taka one hundred and ten per month;

(c) in a 'C' class garden, not lower than Taka one hundred per month.

Explanation.—In this sub-section,—

(i) "month" means a normal working period of twenty-six days;

- (ii) "A class garden" means a tea garden the annual production capacity of which is at least 400,000 lbs. of tea;
- (iii) "B class garden" means a tea garden the annual production capacity of which is less than 400,000 lbs. but not less than 240,000 lbs. of tea;
- (iv) "C class garden" means a tea garden the annual production capacity of which is less than 240,000 lbs., but not less than 60,000 lbs. of tea.

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(2) Notwithstanding anything contained in sub section (1), an employer may deduct from the wages of an unskilled worker employed in a tea garden for accommodation in family quarters Taka six and Poisa fifty per month:

Provided that where two or more workers occupy one unit of family quarters, deduction may be made from the wages of only one of them.

5. Responsibility for payment of minimum wages.— Every employer shall be responsible for the payment of minimum wages required to be paid under this Ordinance to all unskilled workers employed, either directly or indirectly through a contractor, in his Commercial or industrial establishment.

6. Agreements under duress to be void.—All agreements arrived at between the employers and workers under *duress* at any time during the period from the 1st day of March, 1969 to the 25th day of March, 1969, shall, with effect from the date of coming into force of this Ordinance, be void.

7. Effect of laws, orders, agreements, etc. inconsistent with this Ordinance.—The provisions of this Ordinance shall have effect notwithstanding anything in any other law or in any order or notification made or issued under any other law or in any agreement or contract of service:

Provided that where under any such law, order notification, agreement or contract of service, other than an agreement declared to be void under section 6, an unskilled worker is entitled to wages which are higher than the minimum wages required to be paid under this Ordinance, he shall continue to be paid such higher wages.

8. Penalty.—Whoever contravenes any of the provisions of this Ordinance, shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to Taka one thousand or with both.

9. Cognizance of offence.—No Court shall take cognizance of an offence under this Ordinance except upon complaint made by an aggrieved party or by an officer of a registered trade union of which such person is a member.

UNIVERSITY QUESTIONS AND SUGGESTED QUESTIONS

WITH HINTS AGAINST EACH

(Covering all Acts and Regulations according to Syllabus)

Workmen's Compensation Act, 1922

Q. 1. What does the Act provide for?

Hints. The Act provides for the payment by certain classes of employers of compensation for injury due to accident.

Q. 2. Define the following terms in accordance with the provisions of the Workmen's Compensation Act:-

(a) adult and minor, (b) dependant, (c) partial disablement (R. U. 1972), (d) total disablement, (e) workman.

Hints. (a) Section 2(a),

(b) section 2(d, (i) and (ii)

(c) Section 2(g) and note thereunder

(d) Section 2(l).

(e) Section 2(n) (i) and (ii) and also Schedule II

Q. 3. "An injured workman is not always entitled to compensation from the employer"—Discuss [D. U. January and July, 1977]

Hints. Section 3 proviso (a), (b) (i), (ii) and (iii) read with sub-section (4) and sub-section (5) of section 3. See also Notes under sub-section (5)

Q. 4. Discuss the nature of accidents in which the employer is liable for compensation under the Workmen's Compensation Act. [R. U. -July (supplementary) 1971]

Hints. Section 3 (1), (2), (3), (4), (5) and **notes** under the section .

Q. 5. Mention the main heading of **occupational diseases**.

Hints. Schedule III

Q. 6. Briefly discuss the provisions of the "Workmen's Compensation Act (1923)" for the payment of compensation in the following cases involving adult and minor workers:-

(a) Death (b) Permanent disablement (c) Permanent partial disablement-[D. U, January and July 1977]

Hints. Section 4-A, B, C.

Q. 7. Discuss the provisions of law relating to review of half monthly payments.

Hints. Section 6 and Notes thereunder pointing out, specially, the provisions of Rules 3 and 4 of the Workmen's Compensation Rules, 1924.

Q. 8. Under which circumstances can a Commissioner for workmen's compensation invest the deposited money in a post office Savings Bank or post office Cash Certificates etc.? Refer to any rule on the subject.

Hints. Notes under section 8(7)

Q. 9. Discuss the law relating to referring cases for compensation.

Hints. Section 10C and Rule 12A vide Notes under section 10C

Q. 10. What happens when the employer is unable to pay compensation due to his insolvency?

Hints. Section 14.

Q. 11. Briefly discuss the law relating to appointing of Commissioners and the place of trial and transfer of proceedings.

Hints. Section 20 and note thereunder and section 21 read With Rule 44(1) as per notes .

Q. 12. Cite the cases in which an appeal against the order of the Commissioner shall lie to the High Court (Division of the Supreme Court).

Hints. Section 30 and **note** thereunder.

The Dock Labourers Act, 1934

Q. 1. (a) What is the object of this Act?

(b) Define and explain—

(i) "Processes"

(ii) Worker

as defined in this Act.

Hints, (a) The object of this Act is to **give protection against accidents** of workers employes in loading and unloading ships.

(b) (i) Section 2(a)

(ii) Section 2(b)

Q. 2. (a) What are the powers of the Inspector under this Act?

(b) Who are ex-officio Inspectors under this Act?

Hints. (a) Section 4

(b) Section 3(2).

Q. 3. What are the powers of the Government as to making regulations?

Hints. Section 5(1), (2), (3) and section 7 of this Act.

THE DOCK LABOURERS REGULATIONS, 1948 (APPENDIX A)

Q. 1. Define and explain the following terms:—

(a) hatch, (b) hatchway, (c) lifting machinery, (d) premises, (e) pulley block.

Hints. Section 2 (c), (d), (f), (i), (j).

Q. 2. Briefly discuss the powers of the Inspector according to the Dock Labourers Regulations, 1948.

Hints, Section 4 of the Regulations.

Q. 3. Enumerate and explain the provisions of the Regulation relating to the following:—

(a) Fencing of working places and approaches.

(b) Life saving appliances.

(c) First Aid.

(d) Reports of accidents and dangerous occurrences.

- (e) Hygienic condition of premises and facilities for workers.

Hints. (a) Rule 7 (b) Rule 9
 (c) Rule 10 (d) Rule 12
 (e) Rule 13.

Q. 4. Write a few lines on the affixing of Abstracts of the Act and the Regulations.

Hints. Rule 63, (Part VIII—Page 287).

Q. 5. Write the headings of the principal Forms to be maintained under the Regulations.

Hints. See Forms I to IX at the end of the Regulations.

The Payment of Wages Act, 1936

Q. 1. Discuss the application of the provisions of this Act to the different classes of employees.

Hints. Section 1 (4), (5) and notes thereunder —

Q. 2. Write short notes on the following:—

- (a) Industrial establishments.
- (b) Plantation.
- (c) Wages.

Hints. (a) Section 2(ii)
 (b) Section 2(iii)
 (c) Section 2(iv) and notes thereunder

Q. 3. Enumerate the circumstances in which deductions may be made from wages (D. U. Jan. and July, 77).

Hints. Sections 9 to 13.

Q. 4. (a) Who is the competent authority to hear and decide all claims arising out of deductions from the wages or delay in the payment of wages?

(b) Discuss the procedure for disposal of applications relating to such deductions.

Hints. (a) and (b)—Section 15.

The Employer's Liability Act, 1938

Q.1. (a) Elucidate the defence of common employment in certain cases.

(b) How can an employer be exempted from the liability of paying damages to worker or to his representative?

Hints, (a) Section 3 of this Act.

(b) Section 4 of this Act.

The Employment of Children Act, 1938

Q. 1. Mention the list of 'processes' connected with the Employment of Children Act.

Q. 2. Discuss the law with regard to employment of children below the age of 17 years, 15 years and 12 years pointing out the exceptions therein.

Hints. Section 3 (2), (1), (3) and provisions under each.

Q. 3, What will happen in the case of a dispute between the Inspector and employer as to whether a child has or has not completed his 12th or 15th year?

Hints. Section 3(c).

The Maternity Benefit Act, 1939

Q. 1. (a) What is the object of the Maternity Benefit Act?

(b) What is meant by "maternity benefit"?

Hints. (a) The object of this Act is, first, to regulate the employment of women for certain periods before and after child birth and, secondly, to provide for the payment of maternity benefit to them.

(b) Section 2(b).

Q. 2. Discuss the provisions of the Act regarding the prohibition of employment of women during certain periods.

Hints. Section 3.

Q.3. What are the rights of the woman and liability of the employer as regards payment of maternity benefit?

Hints. Section 4 (1) and (2).

Q. 4. Briefly discuss the procedure for payment of maternity benefit.

Hints. Section 5 (1), (2), (3), (4).

Q. 5. Summarise the provisions of the Act of the Maternity Benefit Act and the rules thereunder.

Hints. Section 15 from page 111 to 112.

The Fatal Accidents act, 1955

Q. 1. Define—

(a) Person (b) Parent (c) Child according to this Act.

Hints. Section 4 of the Act.

Q. 2. Summarise the provisions of the Act for Claiming compensations.

The Minimum Wages Act, 1957

Q. 1. (a) Mention the industries to which this Act applies.

(b) Briefly discuss the Minimum Wages Rules relating to publicity for minimum rates of wages, submission of claim and penalty for contravention of rules.

Hints. (a) Section 2 and the Schedule

(b) Notes thereunder

Q. 2. Write short notes on the following:-

(a) Establishment of the Minimum Wages Board and its functions.

(b) Constitution of the Board.

(c) Meetings of the Board.

Hints. (a) Section 4. (b) Section 5. (c) Section 7.

Q. 3. Discuss what action will the government take on the Board's recommendation.

Hints. Section 18.

The Minimum Wages Ordinance 1961

Q. 1. Define the following terms according to the Minimum Wages Ordinance—

(a) Council (b) Industry (c) Juvenile worker (d) Wages (e) Worker.

Hints. (a) Section 2(3). (b) Section 2(6). (c) Section 2(7). (d) Section 2(8). (e) Section 2(9).

Q. 2. Explain the law relating to periodical review of minimum rates of wages under the Minimum Wages Ordinance, 1961

Hints. Section 7.

The Minimum Wages (Fixation) Ordinance, 1969

Q. 1. What is the object of this Ordinance?

Hints. The object of this Ordinance is to fix rates of wages for unskilled workers employed in certain commercial and industrial establishments and in tea gardens as illustrated under section 1(4) of the Ordinance and notes thereunder read with sections 4.

Q. 2. Write short notes on the following:—

- (a) Industrial areas in Dhaka Municipal Corporation, the Khulna Municipality, the Chittagong Municipality, Chittagong Hill Tracts.
- (b) Industrial establishments.

Hints. (a) Section 2(c) (i), (ii), (iii), (iv)

(b) Section 2(d) (i), (ii), (iii), (iv).

The Factories Act, 1965

Q. 1. What is the object of this Act?

Hints. The object of the Act is to repeal and with certain amendments re-enact the Factories Act, 1934 for the purpose of regulating working conditions in factories and for matters connected therewith.

Q. 2. Write short notes on the following:—

(a) abolescent (b) adult (c) child (d) factory (e) manufacturing process (f) prime mover (g) relay (R. U. July, 1973) (h) shift (i) worker (j) young person (R. U. July, 1973) (k) wages (l) seasonal factory.

Hints. (a) Section 2(a), (b) Section 2(b)
 (c) Section 2(c) (d) Section 2(f),
 (e) Section 2(h) (i) to (v) (f) Section 2(k),
 (g) Section 2(l), (h) Section 2(m),
 (i) Section 2(p), (j) Section 2(q),
 (k) Section 2(s), (h) Section 7.

Q. 3. What are the powers of the Inspector of factories for carrying out the purposes of the Act?

Hints. Section 10(1), (2), (3).

Q. 4. What are the duties of certifying surgeons?

Hints. Section 11 (3) (a), (b), c (i), (ii), (iii).

Q. 5. Briefly narrate the measures for health and hygiene as laid down in the Factories Act, 1965.

Hints. Chapter III—Sections 12 to 21.

Q. 6. What precautions will have to be taken against (a) the incidents of fire and (b) dangerous fumes.

Hints. (a) Section 22
 (b) Section 41.

Q. 7. Discuss briefly the provisions of law with regard to 'safety' of Factory workers under the Factories Act (R. U. 1971, 1972).

Hints. Chapter IV—Sections 22 to 42

Q. 8. Explain the law relating to employment of young persons on dangerous machines.

Hints. Section 25

Q. 9. Write a few lines on welfare measures to be adopted in a factory.

Hints. Sections 43 to 48.

Q. 10. Is there any prohibition for the children to work in a factory? Under what circumstances the prohibition is not applied ? (D.U. Jan. & July 1977)

Hints. Sections 66,67, 70 to 74.

Q. 11. Discuss the provisions of the Act relating to leave and holidays with wages.

Hints. Section 78, 79, 80 with notes thereunder and section 81.

Q. 12. Mention some of the notifiable diseases.

Hints. The Schedule

Q. 13. (a) What are the liabilities of owner of premises in certain circumstances?

(b) Is there any exemption to this rule?

Hints. (a) Section 94.

(b) Section 103.

Q. 14. What are the obligations of the workers in a factory?

Hints. Section 111.

The Employment of Labour (Standing Orders) Act, 1965

Q. 1. Define—

- (a) Commercial establishment, (b) Employer,
(c) Industrial establishment, (d) Worker.

Hints. (a) Section 2(d)

(b) Section 2(h) and (i—iii)

(c) Section 2(J) and (i—iii)

(d) Section 2(v) and (i—ii)

Q. 2. Discuss the provisions of law under this Act relating to classification of workers and period of probation.

Hints. Section 4 of the Act.

Q. 3. (a) When will a worker lose his lien to his appointment?

(b) Discuss the consequences of losing such lien.

Hints. (a) Section 5(3)

(b) Section 5(3) Provisos.

Q. 4. Analyse the right of laid-off workers for compensation.

Hints. Section 9.

Q. 5. Discuss the cases in which the workers are not entitled to compensation.

Hints. Section 11.

Q. 6. What are the conditions and procedure of retrenchment of workers under this Act?

(b) What will an employer do when he proposes to re-employ a retrenched worker?

Hints. (a) Section 12 and 13.

(b) Section 14

Q. 7. Briefly discuss the provisions of law under this Act relating to—

(a) Discharge from service.

(b) Dismissal from service.

(c) Termination of employment.

Hints. (a) Section 16,

(b) Section 17,

(c) Section 19,

Q.8. Briefly discuss the grievance procedure in the light of the amendment under Ordinance XXXV of 1978.

Hints. Section 25.

Q. 9. What are the rules for termination of employment and grievance procedure according to the Employment of Labour (Standing Orders) Act, 1965? (D. U.—January and July 1977).

Hints. See Hints on Q. 7(c) and Q. 8 above.

Q. 10. Briefly discuss. (in proper sequence) the rules relating to Leave and Holidays of workers accordign to the provisions of the Employment of Labour (Standing Orders) Act, 1965. (D. U. January and July 1977).

Hints. Section 5.

Q. 11. Explain how workers are classified under the Employment of Labour (Standing Orders) Act, 1965. [D. U.—January and July, 1977]

Hints. (a) For classification—Section 4(1)
(b) For definitions—Section 2(a), (b), (c), (m), (p), (s).

The Shops and Establishments Act, 1965

Q. 1. What do you understand by the following according to the Shops and Establishments Act, 1965?

(a) Shops (b) Commercial and industrial establishment.

Hints, (a) Section 2(m)

(b) (i) Commercial establishment—Section 2(d)

(ii) Industrial establishment—Section 2(k).

Q. 2. Discuss the law relation to closure of shops or commercial or industrial establishment and exceptions thereto.

Hints. Section 5 and 6 of the Act.

Q. 3. What is the rule as to protection of rights and privileges of workers under the Act?

Hints. Section 31.

Act X of 1974

[State-owned Manufacturing Industries Workers (Terms and Conditions of Service) Act, 1974]

Q. 1. What is the object of this Act?

Hints. See Note to section 1.

Q. 2. Define—

- (a) State-owned Manufacturing Industry
- (b) Worker

Hints.(a) Section 2(b)

(b) Section 2(c)

Q.3. Briefly Discuss the power of the Government to determine the terms and conditions of service of workers under this Act.

Hints. Section 3.

The Industrial Relations Ordinance, 1969 (I.R.O.)

Q. 1. What is the purpose of this Ordinance?

Hints. The purpose of this Ordinance is as follows:-

(a) to amend and consolidate the law relating to the formation of trade unions,

(b) to regulate the relations between employers and workmen, and

(c) the avoidance and settlement of any difference of dispute arising between them.

Q. 2. Mention the person employed in different organisations to whom this Ordinance does not apply.

Hints. Section 1(3)

Q. 3. Write short notes on the following:—

(a) award (b) collective bargaining agent (D.U. 1977) (c) employer (d) establishment (e) illegal lockout (f) illegal strike (g)

industrial dispute (h) industry (i) lokout (D.U. july 1973) (m) trade union (n) tribunal (o) worker and workmen.

Hints. (a) section 2(ii), (b) section 2(v), (c) section 2(viii) [see also note, (d) section 2(ix), (e) section 2(xi), section 2(xii), (g) section 2(xiii) [see also Note], (h) section 2(xiv) [see also Note] (i) section 2(xvi) [see also Note], (j) section 2(xx), (k) section 2(xxiv) [see also Note (l) section 2(xxvi) [see also Note, (m) section 2(xxvi) [see also Note, (n) section 2(xxvii), (o) section 2(xxviii) see also Note].

Q. 4. Briefly discuss the provisions of the Ordinance relating to trade unions and freedom of association.

Hints. Section 3 and note thereunder

Q. 5. Enumerate the requirements for registration of trade unions.

Hints. Section 7 and note thereunder

Q. 6. (a) Briefly discuss the law regarding registration and cancellation of registration of trade unions.

(b) What happens if the Registrar, after settlement of the objections, delayed the disposal of application for registration beyond the period of sixty days?

Hints. (a) Section 8(1), (2) and section 10.

(b) Section 8(3),

Q.7. Enumerate the different steps for registration of a trade union according to the "Industrial Relations Ordinance, 1969" (as amended), and also mention the various remedies open to a trade union in case the application for its registration is rejected

or its disposal is delayed after the settlement of any objection (D U. January and July 1977).

Hints. See Hints on Question 6(a), (b) above.

Q. 8. What is the remedy for an aggrieved trade union against the decision given by the Labour Court under section 10?

Hints. Section 11.

Q. 9. What are the powers and functions of the Registrar of trade unions?

Hints. Section 13.

Q. 10. Briefly discuss the following:—

- (a) Unfair labour practices on the part of employers;
- (b) unfair labour practices on the part of workmen.

Hints. (a) Section 15
(b) Section 16.

Q. 11. (a) How can a 'Collective Bargaining Agent' be determined?

(b) Discuss the powers and functions of 'Collective Bargaining Agent'—[R. U. July 1973]

Hints. (a) Section 22(1) to (11).

(b) Section 22(12)

[See also note below section 22(13)].

Q. 12. Write a short note on collective bargaining agent for institutions with more than one establishment.

Hints. Section 22A

Q. 13. Write briefly on—

(a) Constitution of a works council

(b) Functions of a works council.

Hints. (a) Section 24 and note thereunder.

(b) Section 25.

Q.14. Discuss the role played by different agencies in promoting amity and good relation between the employers and workers and in bringing about settlement in case of any labour dispute under the Industrial Relations Ordinance, 1969. [R. U. July 1973].

Hints. Sections 24 to 27, 30, 31, 34, 35, 38.

Q. 15. Briefly narrate how a labour dispute is settled through negotiation, conciliation and arbitration [D. U. January and July 1977].

Hints. Sections 26 to 32, with notes

Q. 16. State the procedure of conciliation in case of labour dispute. What are the remedies under the Industrial Relations Ordinance, 1969 in case the Conciliator fails to bring about settlement? —(R. U. July 1972)

Hints. Sections 30, 31 and 32.

Q. 17. Define strike and lock-out. Under what circumstances strike and lock-out are lawful and when they become illegal? —(R. U. July 1972)

Hints. Definition of (a) Strike (R. U. July 1975)—Section 2(xxv); (b) lock-out—Section 2(xvi);

Lawful strikes and lock-out—Section 32 and Notes

Illegal strikes and lock-out —Section 46.

[NB : For break of service due to illegal strike— See last para of the notes under section 46].

Q. 18. Write, briefly, what you know of the constitution, procedure and powers of the Labour Courts and the Labour Appellate Tribunal in Bangladesh.

(D. U. January and July 1977)

Hints, Sections 35 and 36 as to Labour Court; section 38 as to Labour Appellate Tribunal.

Q. 19. Briefly touch upon the list of penalties for different offences under the Ordinance.

Hints. Sections 53 to 62.

Q. 20. Give a list of public utility service within the scope of the Ordinance.

Hints. Schedule at the end of The Industrial Relations Ordinance.

The Industrial Relations (Regulation) Ordinance, 1975

Q. 1. Briefly narrate the salient features of the Industrial relations (Regulation) Ordinance, 1975.

[D. U. January and July, 1977].

Hints, Notes under section 9

Q.2. Write short notes on the following:—

(a) Constitution of consultative committees.

(b) Procedure for settlement of industrial disputes under this Ordinance.

(c) Over-riding power of the Ordinance.

Hints (a) Section 8

(b) Section 9.

(c) Section 3.

Q.3. Briefly discuss the labour policy of the Government as reflected in this Ordinance.

Hints. The Ordinance formulates the labour policy conducive to the healthy labour relations. It aims at creating a better environment for work in industries for boosting up production.

The policy pre-supposes the existence of bargaining agents qualified to present the case of the workers.

See sub-section (3) to section 6 which provides for non-worker union leaders to retain their office in federation of unions. It is also to be noted that the procedure for resolution of conflicts are all-embracing.
