

CHAPTER XIII
LAW ON OFFICIAL SECRETS
THE OFFICIAL SECRETS ACT, 1923

Contents

PREAMBLE

SECTION

1. Short title, extent and application.
2. Definitions.
3. Penalties for spying.
- 3A. Restriction against photographs, sketches, etc., of prohibited and notified areas.
4. Communications with foreign agents to be evidence of commission of certain offences.
5. Wrongful communication, etc., of informations.
6. Unauthorised use of uniforms ; falsification of reports, forgery, impersonation, and false documents.
7. Interfering with officers of the police or members of the armed Forces of Bangladesh.
8. Duty of giving information as commission of offences.
9. Attempts, incitements, etc.
10. Penalty for harbouring spies.
11. Search warrants.
12. Power to arrest.
13. Restriction on trial of offences.
14. Exclusion of public from proceedings.
15. Offences by companies, etc.
16. Repealed.

Act No. XIX of 1923

Preamble.

An Act to consolidate and amend the law in Bangladesh relating to official secrets.

WHEREAS it is expedient that the law relating of official secrets in Bangladesh should be consolidated and amended ;

It is hereby enacted as follows :—

1. Short title, extent and application

(1) This Act may be called the Official Secrets Act, 1923.

(2) It extends to the whole of Bangladesh and applies also to all citizens of Bangladesh and persons in the service of the Republic wherever they may be.

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

(1) any reference to a place belonging to Govt. includes a place occupied by any department of the Government whether the place is or is not actually vested in Government.

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received ;
expression referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article note or document ; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan model, article, note or document ;

(6) "Offices under Government" includes any office or employment in or under any department of the Government ;

(7) "Photograph" includes an undeveloped film or plate ;

(8) "prohibited place" means

- (a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, Government, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any amunitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war ;
- (b) any place not belonging to Government where any amunitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, Government, or otherwise on behalf of Government ;
- (c) any place belonging to or used for the purpose of Government which is for the time being declared by the Government, by notification in the official Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to any enemy, and to which a copy of the notification in respect thereof has been affixed in English and in Bengali ;
- (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any amunitions of war or any sketches, models

plans, or documents relating thereto, are being made, repaired or stored otherwise than on behalf of Government, which is for the time being declared by the Government, by notification in the official Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and Bengali :

Provided that where for declaring a prohibited place under sub-clause (c) or sub-clause (d) a notification in the official Gazette is not considered desirable in the interest of the security of the state, such declaration may be made by an order a copy or notice of which shall be prominently displayed at the point of entry to or a conspicuous place near, the prohibited place."

- (9) "Sketch" includes any photograph or other made of representing any place or thing ; and
- (10) "Superintendent of Police" includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Government.

Penalties for spying

3.—(1) If any person for any purpose prejudicial to the safety or interests of the state—

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place ; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or

other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ;

he shall be guilty of an offence under this section.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the state ; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the state, such sketch, plan, model, article, note, documents or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the state.

(3) A person guilty of an offence under this section shall be punishable,—

- (a) where the offence, committed is intended or calculated to be, directly or indirectly, in the interest or for the benefit of a foreign power, or is in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval military or air force affairs of Bangladesh or in relation to any secret official code with death, or with

imprisonment for a term which may extend to fourteen years ; and

- (b) in any other case with imprisonment for a term which may extend to three years.

3A Restriction against photographs, sketches, etc. of prohibited and notified areas

(1) No person shall, except under the authority of a written permit granted by or on behalf of the Government make any photograph, sketch, plan, model, note or representation of any kind of any prohibited place or of any other place or area, noticed by Government as a place or area, with regard to which such restriction appears to Government to be expedient in the interests of the security of Bangladesh or of any part of or object in any such place or area.

(2) The Government may, by general or special order make provision for securing that no photograph, sketch, plan, model, note or representation of any kind made under the authority of a permit granted in pursuance of sub-section (1) shall be published unless and until the same has been submitted to and approved by such authority or person as may be specified in the order, and may retain or destroy or otherwise dispose of anything so submitted.

(3) If any person contravenes any of the provisions of this section he shall be punished with imprisonment for a term which may extend to three years, or with fine or with both.

4. Communications with foreign agents to be evidence of commission of certain offences

(1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, foreign agent, whether within or without Bangladesh shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety of interests of the state, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

- (a) a person may be presumed to have been in communication with a foreign agent if—
 - (i) he has, either within or without Bangladesh visited the address of a foreign agent or consorted or associated with a foreign agent, or
 - (ii) either within or without Bangladesh, the name or address, of or any other information regarding, a foreign agent has been found in his possession or has been obtained by him from any other person ;
- (b) the expression “foreign agent” includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without Bangladesh prejudicial to the safety or interests of the state, or who has or is reasonably suspected of having, either within or without Bangladesh, committed or attempted to commit, such an act in the interests of a foreign power :
- (c) any address, whether within or without Bangladesh in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. Wrongful communication etc., of information

(1) If any person having in his possession of control any secret official code or pass word or any sketch, plan, model, article, note,

document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of Government, or as person who is or has been employed under a person who holds or has held such an office or contract—

- (a) wilfully, communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the state, his duty to communicate it ; or
- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the state ; or
- (c) retains the sketch, plan, model, article, note or document in his possession or control when he has not right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety or, the sketch, plan, model, article, note, document, secret official code or pass word or information ;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in

contravention of this Act, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable,—

- (a) where the offence committed is a contravention of clause (a) of sub-section (1) and intended or calculated to be directly or indirectly, in the interest or for the benefit of a foreign power, or is in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Bangladesh or in relation to any secret official code with death, or with imprisonment of a term which may extend to fourteen years; and
- (b) in any other case, with imprisonment for a term which may extend to two years, or with fine, or with both—

6. Unauthorised use of uniforms; falsification of reports, forgery, personation, and false documents

(1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the state—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally, or in writing in any declaration or application or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, or official pass, permit, certificate,

licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document ; or

(d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under Government, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement ; or

(e) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval military or air force authority of Government, for any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp.

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the state—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or willfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof, or

- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself or, on obtaining possession of any official document by finding or otherwise, willfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer ; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the state, to any prosecution for an offence under this section relating to the naval military or air force affairs of Government or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the state, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. Interfering with officers of the police or members of the armed forces of Bangladesh

(1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of the armed forces of Bangladesh engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. Duty of giving information as to commission of offences

(1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by the Inspector General of Police or, in the Dhaka Metropolitan area, the Police Commissioner * * * in this behalf, or to any member of the armed forces of Bangladesh engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

9. Attempts, incitements etc.

Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

10. Penalty for harbouring spies

(1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as

aforesaid, to give on demand to a Superintendent of Police or other a police officer not below the rank of Inspector empowered by the Inspector General of Police or, in the Dhaka Metropolitan area, the Police Commissioner in his behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

11. Search warrants

(1) If a ** Magistrate of the first class, or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note, or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the state immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under subsection (2) he shall, as soon as may be, report such action, *** to the District or Sub-divisional Magistrate.

12. Power to arrest

Notwithstanding anything in the Code of Criminal Procedure,
1898— *** *** ***

- (b) an offence under this Act, other than an offence punishable with imprisonment for a term which may extend to fourteen years, shall be a cognizable and bailable offence ; and
- (c) any member of the armed forces of Bangladesh may, without an order from a Magistrate and without a warrant, arrest in or in the vicinity of a prohibited place, any person who has been concerned in an offence under section 3, or under section 3 read with section 9 or under clause (a) or clause (b) of sub-section 5, (1) of section 5, or under clause (a) of sub-section (I) of section 6, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, and shall without unnecessary delay take or send the person arrested before a Magistrate having jurisdiction in the case or before an officer in charge of a police-station, and thereupon the provisions of the said code applicable in respect of a person who, having been arrested without warrant, has been taken or sent before a Magistrate or before an officer in charge of a police-station shall apply to him.

13. Restriction on trial of offences

(1) No Court other than that of a Magistrate of the first class specially empowered in this behalf by the Government which is inferior to that of a District Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not

discharge the accused, commit the case for trial by that court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from the Government or some officer empowered by the Government in this behalf.

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in Bangladesh in which the offender may be found.

(6) The Government may if it thinks fit, by general or special order direct that the procedure for the trial of an offence under section 3, or under section 3 read with section 9, or under clause (a) or clause (b) of sub-section (1) of section 5, or under clause (a) of sub-section (1) of section 6 shall be that prescribed for offence under the Enemy Agents Ordinance, 1943, or under the Bangladesh Criminal Law Amendment Act, 1958 (XL of 1958).

14. Exclusion of public from proceedings

In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the state, that all or any portion of the public shall be excluded during any part of the hearing the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

15. Offences by companies etc.

Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

16. Repeals Rep. by the Repealing Act, 1927 (XII of 1927) S. 2 and Schedule.**SHORT NOTES**

It is an act which consolidates the law relating to official secret and deals with offences like spying and wrongful communication of secret information. Section 3 of the Act makes it an offence if any person for any purpose prejudicial to the public safety and the interests of the state—(a) approaches, inspects, passes over or is in the vicinity of, or enters any prohibited place; or (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy; or (c) obtains, collects, records or publishes or communicates to any other person any sketch, plan, model, article or note or document or information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy. In a prosecution for an offence punishable under s. 3(1) of the Act, with imprisonment for a term which may extend to 14 years, it is not necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and notwithstanding that no such act is proved against him, he may be convicted, if from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the state; and if any sketch, plan, model, article, not documents, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting

under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interest of the state. Under section 5, which is another important section, it is an offence if any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, or note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of the Act or which has been entrusted in confidence to him by any person holding a governmental office, wilfully communicates the same to any person other than a person to whom he is authorised to communicate or it is his duty to communicate. Further, the section makes it an offence if any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information, knowing or having reasonable ground to believe, at the time when he receives it, that the same has been communicated in contravention of the Official Secret Act. Any publication by a newspaper of an official secret, whether in the form of a note, documents, code or pass word, sketch, plan or model, makes not only the correspondent, editor, printer and publisher, liable to punishment but also every director and officer of the company or corporation with whose knowledge and consent the offence was committed become guilty of a like offence. Undoubtedly, the sweep of this section is very wide. Yet another important section is 14. Under this section powers have been vested in the courts in addition and without prejudice to any powers which a court may possess to exclude all or any portion of the public from any proceeding by the prosecution on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the state. Obviously, under this provision in cases of the nature mentioned therein, even the newspaper reporters may be excluded from the court proceedings.

CHAPTER—XIV

Laws on forfeiture, stoppage and Interception of Newspaper and other restrictions on them.

- (1) Special Power Act, 1974.
- (2) Criminal Procedure Code.
- (3) Telegraph Act, 1885.
- (4) Post Office Act.
- (5) The Children Act, 1974.
- (6) The Indecent Advertisements Prohibition Act, 1963.

SPECIAL POWER ACT

Section 2(6), 16 and 18.

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

* * * * *

- (f) “prejudicial act” means any act which is intended or likely—
- (i) to prejudice the sovereignty or defence of Bangladesh ;
 - (ii) to prejudice the maintenance of friendly relations of Bangladesh with foreign states ;
 - (iii) to prejudice the security of Bangladesh or to endanger public safety or the maintenance of public order ;
 - (iv) to create or excite feelings of enmity or hatred between different communities, classes or sections of people ;
 - (v) to interfere with or encourage or incite interference with the administration of law or the maintenance of supplies and services essential to the community ;
 - (vii) to cause fear or alarm to the public or to any section of the public ;
 - (viii) to prejudice the economic or financial interests of the state ;

(g) "Prejudicial report" means any report, statement or visible representation, whether true or false, or the publishing of which, is, or is an incitement of the commission of, a prejudicial act ;

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

16. *Prohibition of prejudicial acts, etc.* (1) No person shall—

(a) do any prejudicial act ; or

(b) make, print, publish, possess or distribute any document containing, or spread by any other means whatsoever, any prejudicial report.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces, any prejudicial report and any person who distributes or sells any report of that nature knowing it to be of such nature, shall be deemed to have contravened the provision of this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both :

Provided that in any proceedings arising out of a contravention of this section—

(a) in relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,—

(i) with the permission or under the authority of Government, or

(ii) as a proof intended for submission to Government or to a person or authority designated by Government in this behalf with a view to obtaining permission for its publication ;

(b) in relation to the publication of any document, it shall be a defence for the accused to prove that the said document was published with the permission or under the authority of Government.

17. *Proscription etc. of certain documents.*—(1) The Government, if satisfied that any document made, printed or published, whether before or after the commencement of this Act, contains any prejudicial report may by order—

- (a) require the editor, printer, publisher or person in possession of such document to inform the authority specified in the order of the name and address of any person concerned in the making of such report ;
- (b) require the delivery of such document and any copy thereof to an authority specified in the order ;
- (c) prohibit the further publication, sale or distribution of such document or any extract therefrom or of any translation thereof, including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issue thereof ;
- (d) declare such document and every copy or translation thereof or extract thereof to be forfeited to Government ;
- (e) require the editor, printer, publisher or the keeper of the press to furnish security for such amount not exceeding twenty-five thousand taka as, as the Government thinks reasonable.

(2) Where an order has been made under sub-section (1), the authority making the order shall, as soon as may be, communicate to the person affected thereby the grounds on which the order has been made to enable him to make a representation against the order, and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest opportunity of doing so :

Provided that nothing in this sub-section shall require the authority to disclose the facts which it considers to be against the public interest to disclose.

(3) Where in pursuance of sub-section (1) (b) any document is required to be delivered to a specified authority, that authority may

enter upon and search any premises wherein such document or any copy thereof is or is reasonably suspected to be, but such authority shall not so enter after sunset and before sunrise.

(4) Where in pursuance of sub-section (1) (d) any document has been declared to be forfeited to Government, any police officer may seize any copy thereof, and any Magistrate may, by warrant, authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be, but such police officer shall not so enter after sunset and before sunrise.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(6) If, after the furnishing of security under sub-section (1) (e), any document is made, printed or published containing any prejudicial report, the Government may, without prejudice to any other penalty to which the person guilty of making, printing or publishing such document is liable and after giving the person concerned an opportunity of being heard, declare such security, or any portion thereof, to be forfeited to it.

18. *Regulation of publication of certain matters.*—

(1) Where the government is satisfied that in the interests of the security of Bangladesh, friendly relations of Bangladesh with foreign states, or public order, it is necessary so to do, if may, by order addressed to a printer, publisher or editor, or printers, publishers, editors generally require that all matters, relating to a particular subject or class of subjects affecting the security of Bangladesh, friendly relations of Bangladesh with foreign states, or public order shall, before being published in any document or class of document be submitted for security to any authority specified in the order, who shall, within seventy two hours of its submission, either approve or prohibit its publication whereof has been so prohibited shall be published.

(2) Any person affected by an order under sub-section (1) prohibiting the publication of any matter within seven days of the communication of the order, appeal against it to the Government and the Government shall refer the appeal to the District Judge of the district in which such person resides :

Provided that where appeals against the same order have been made by persons who reside in different districts all such appeals shall be referred to the senior of the District Judges of such districts.

Explanation.—A person shall be deemed to reside in the district in which he ordinarily resides or carries on business or personally works for gain.

(3) The District Judge to whom a reference has been made under sub-section (2) shall, after giving the appellant an opportunity of being heard, consider the appeal as speedily as possible and submit his report together with his recommendations to the Government and the Government shall pass orders on such appeal in accordance with the recommendations of the District Judge.

(4) If any person contravenes any order made under sub-section (1), then, without prejudice to the provision of sub-section (5), the Government may declare to be forfeited to Government every copy of any document published or made in contravention of such order.

(5) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

CRIMINAL PROCEDURE CODE

99A (1) Where

(a) any newspaper, or book as defined in the Printing Presses and Publications (Declaration and Registration) Act, 1973 or

Power to declare certain publications forfeited and to issue a search warrant for the same.

(b) any document.

Where-ever printed, appears to the Government to contain any seditious matter or any matter which promotes or is intended to promote feelings of enmity or hatred

between different classes of the citizens of Bangladesh or which is deliberately and maliciously intended to outrage the religious feeling of any such class by insulting the religion or the religious beliefs of that class, that is to say any matter the publication of which is punishable under section 123A or section 124A or section 153A or section 295 of the Penal Code, the Government may, by notification in the official Gazette, stating the grounds of its opinion declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to government and thereupon any police-officer may seize the same wherever found in Bangladesh and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court Division to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any treasonable or seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A.

99C. Every such application shall be heard and determined by Special Bench of the High Court Division composed of three Judges.

99D. (1) On receipt of the application, the Special Bench shall if it is not satisfied that the issue of the newspaper, or the book

Evidence to prove nature or tendency of newspaper.

or other document, in respect of which the application has been made, contained treasonable or seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A set aside the order of forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.

Evidence to prove nature or tendency of newspaper.

99F. The Supreme Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such application, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Procedure in High Court Division.

99G. No order passed or action taken under section 99A shall be called in question in any court otherwise than in accordance with the provisions of section 99B.

Jurisdiction barred.

THE TELEGRAPH ACT.

Power for Government to take possession of licensed telegraphs and to order interception of messages

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the (Government) or any officer specially authorized in this behalf by the (Government) may,

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

- (b) order that any message or class of messages to or from any person or class of persons or relating to any particulars subject brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to (the Government making the order) or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, (a certificate of the Central or, as the case may be, the Government) shall be conclusive proof on the point.

THE POST OFFICE ACT.

Power to detain newspapers and other articles being transmitted by Post 27B. (1) Any officer of the Post Office authorised by the Post Master General in this behalf may detain any postal article in course of transmission by post which he suspects to contain,

- (a) (i) any newspaper or book as defined in the Printing Presses and Publications (Declaration and Registration Act, 1973, or XXIII of 1973
- (ii) any document.

containing any treasonable or seditious matter that is to say, any matter the publication of which is punishable under section 123A or section 124A as the case may be, of the penal Code ; or XIV of 1869

(b) any newspaper as defined in the Printing Presses and Publications (Declaration and Registration) Act, 1973 edited, printed or published otherwise that in conformity with the rules laid down in that Act ; XXIII of 1973

and shall deliver any postal article so detained to such officer as the government may appoint in this behalf.

(2) Any officer detaining any postal article under the provisions of sub-section (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(3) The Government shall cause the contents of any postal article detained under sub-section (1) to be examined, and if it appears to the government that the article contained any newspaper, book or other document, of the nature described in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force ;

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to the government for release of that same, and the government shall consider such application and pass such orders thereon as it may deem to be proper ;

Provided also that, if such application is rejected, the application may, within two months from the date of the order rejecting the application, apply to the High Court Division for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any treasonable or seditious matter.

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

27C. Every application made under the second proviso to sub-section (3) of section 27B shall be heard and determined in this manner provided by section 99D to 99F of the Code of Criminal Procedure, 1898, by a Special Bench of the (High Court Division) constituted in the manner provided by section 99C of that Code.

Procedure for disposal by High Court Division of applications for release of newspapers and articles so detained.

27D. No order passed or action taken under section 27B shall be called in question in any court otherwise than in accordance with the second proviso to sub-section (3) of that section.

Jurisdiction barred.

THE CHILDREN ACT, 1974

Act No. XXXIX of 1974.

1. *Short title and commencement* :—(1) This Act may be called the Children Act, 1974.

2. *Definitions*

(f) “Child” means a person under the age of sixteen years, and when used with reference to a child sent to a certified institute or approved home or committed by a court to the custody of a relative or other fit person means that child during the whole period of his detention notwithstanding that the child may have attained the age of sixteen years during that period

17. *Prohibition on publication of report disclosing identity, etc. of child involved in cases.*—No report in any newspaper, magazine or news-sheet or any news-giving agency shall disclose any particular or any case or proceeding in any court under this Act in which a child is involved and which leads directly or indirectly to the identification of such child, nor shall any picture of such child be published ;

Provided that, for reasons to be recorded in writing, the court trying the case or holding the proceeding may permit the disclosure of any such report, if, in its opinion, such disclosure is in the interest of child welfare and is not likely to affect adversely the interest of the child concerned.

THE INDECENT ADVERTISEMENTS PROHIBITION

ACT, 1963

Act No. XII 1963

18th June, 1963

An Act to prohibit indecent advertisement.

WHEREAS it is expedient to provide for the prohibition of indecent advertisements ;

AND WHEREAS the national interest of **Pakistan** in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter ;

It is hereby enacted as follows :—

1.—(1) This Act may be called the Indecent Advertisement Prohibition Act, 1963

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

(3) It shall come into force at once.

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

(a) "advertisement" includes any notice, circular or other document, displayed on any house, building or wall or published in any newspaper or periodical, and any announcement made orally or by any means of producing or transmitting light or sound, but does not include trade circulars issued by manufacturers of drugs to medical practitioners ;

(b) "indecent" includes whatsoever may amount to any incentive to sensuality and excitement of impure thought in the mind of an ordinary man of normal temperament, and has the tendency to deprave and corrupt those

minds are open to such immoral influence, and which is deemed to be detrimental to public morals and calculated to produce pernicious effect, in depraving and debauching the minds of persons ;

(c) "taking any part in the publication of any advertisement" includes—

(i) the writing, typing, stamping, drawing, announcing, printing or transmitting of the advertisement ;

(ii) the publication of any advertisement outside **Pakistan** by or at the instance of a person residing in **Pakistan** ;

(d) "public place" means any place where an advertisement can be seen or heard by members of the public .

3. Subject to the provisions of this Act—

Prohibition against persons advertising displaying, etc., indecent advertisements.

(i) no person shall take any part in the publication of any advertisement which is indecent ; and

(ii) no person having the ownership, possession or control of any property or public place shall knowingly allow any advertisement which is indecent to be displayed on such property or place, or to be

announced therefrom.

4. Whoever contravenes any of the provisions of this Act shall, Penalty. on conviction, be punishable—

(a) in the case of the first conviction, with imprisonment which may extend to six months, or with fine, or with both ; and

(b) in the case of any subsequent conviction, with imprisonment which may extend to one year, or the fine, or with both.

5. Any person authorised by the Central Government in this

Confiscation of documents, etc. containing indecent advertisements.

behalf may, at any time, seize and detain any document, article or thing which such person has reason to believe contains any advertisement which contravenes any of the provisions of this Act and

the court trying such contravention may direct that such document (including all copies thereof), article or thing shall be forfeited to the Government.

6. (1) If the person contravening any of the provisions of this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

Offences by
companies

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director manager, secretary or other officer of the company, such director, secretary or other officer also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) 'company' means any body corporate and includes a firm or other association of individuals, and

(b) 'director' in relation to a firm means a partner in the firm.

7. Without prejudice to the right of any other person to make a complaint of an offence under this Act, a police officer not below the rank of sub-inspector who receives information that such an offence has been committed, shall, if he is satisfied as to the truth of the information, make a complaint of the offence in writing to the nearest Magistrate having jurisdiction.

8. No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

9. Every person authorised under section 5 shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

10. 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.

11. The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

12. If, in the opinion of the Central Government, public interest so requires, it may, by notification in the official Gazette, direct that the provisions of sections 3 shall not apply, or shall apply subject to such conditions as may be specified in the notification to, or in relation to, the advertisement of any specified drug or class of drugs.

13. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

14. The Karachi Indecent Advertisement Prohibition Act, 1951, and the Punjab Suppression of Indecent Advertisement Act, 1941, are hereby repealed,

CHAPTER.—XV

LAWS ON SERVICE CONDITION OF NEWSPAPER
EMPLOYEES

1. Newspaper Employees (Conditions of Service) Act, 1974.
2. The Industrial Relations (Regulation) Ordinance, 1982.
3. The Employment of Labour (Standing Orders) Act, 1965.

Act No. XXX of 1974.

An Act to regulate certain conditions of service of newspaper employees.

WHEREAS it is expedient to regulate certain conditions of service of newspaper employees ;

It is hereby enacted as follows :

1. *Short title.*—This Act may be called the Newspaper Employees (Conditions of Service) Act, 1974.

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

- (a) “Board” means the Wage Board constituted under section 9;
- (b) “newspaper” means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as the Government may by notification in the official Gazette, declare to be newspaper ;
- (c) “newspaper employees” means a working journalist, an administrative employee or a newspaper press worker ;
- (d) “working journalist” means a person who is a whole-time journalist and is employed as such in or in relation to, any newspaper establishment, and includes an editor, a leader writer, news editor, sub-editor, feature-writer, reporter, corres-

pondent, copy tester, cartoonist, news-photographer, calligraphist and proof-reader ;

- (c) "administrative employee" means a person who is employed on a whole-time basis in, or in relation to, any newspaper establishment in any capacity other than that of a working journalist or a newspaper press worker ;
- (f) "newspaper press worker" means a person who is employed on a whole-time basis in any newspaper establishment for doing any printing work ;
- (g) "newspaper establishment" means an establishment for the printing, production or publication of any newspaper or for conducting any news agency or news or feature syndicate ;
- (h) "prescribed" means prescribed by rules made under this Act ;
- (i) "wages" means all remuneration, capable of being expressed in terms of money, payable to a newspaper employee and, except for the purpose of section 5, includes any gratuity or other sum or payment declared as wages by the Board in its decision published under section 11 ;
- (j) all words and expressions used but not defined in this Act and defined in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall have the meanings respectively assigned to them in that Ordinance.

3. *Industrial Relations Ordinance, 1969 to apply to newspaper employees.*—Subject to the other provisions of this Act, the provisions of the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to or in relation to, newspaper employees as they apply to, or in relation to, workers within the meaning of that Ordinance.

4. *Letter of appointment.*—Every newspaper establishment shall, at the time of appointing a newspaper employee, furnish such newspaper employee a letter of appointment containing —

- (a) his name, father's name and address ;
- (b) the date and nature of his appointment ; and
- (c) the terms and conditions of his appointment.

5. *Provident Fund*.—(1) Every newspaper establishment shall constitute, for the benefit of its newspaper employees, a provident fund in such manner as may be prescribed.

(2) The provident fund shall be held and administered by a board of trustees consisting of an equal number of representatives of the newspaper establishment constituting the fund and of the newspaper employees employed in it, chosen and appointed in such manner as may be prescribed.

(3) Every newspaper employee shall, after the completion of the first two years of his service with any newspaper establishment subscribe to the provident fund, every month, a sum not less than $6\frac{1}{4}$ per cent and not more than 8 per cent, of his monthly wages, and the employer shall contribute to it an equal amount.

(4) During the first two years of his service, a newspaper employee may or may not, at his option subscribe to the provident fund, and if he so subscribes, the newspaper establishment employing him may or may not, at its option, contribute to it.

(5) A newspaper establishment shall be deemed to be a public institution for the purpose of the Provident Fund Act, 1925 (XIX of 1925).

6. *Hours of work*.—Subject to any rules that may be made under this Act, no newspaper employee shall be required to work in any newspaper establishment for more than forty-eight hours in a week, exclusive of the time for meals.

Explanation.—For the purpose of this section, 'week' means a period of seven days beginning at mid-night on Saturday.

7. *Leave for working journalist*.—Without prejudice to such holiday as may be prescribed, every working journalist shall be entitled to—

- (a) earned leave on full wages for not less than one-eleventh of the period spent on duty ;
- (b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service ; and

- (c) ten days' casual leave of absence with wages in a calendar year.

8. *Medical care*.—Every newspaper employee and his dependents shall be entitled to medical care at the cost of the newspaper establishment in such manner and to such extent as may be prescribed.

Explanation.—For the purpose of this section, “dependents” means wife or husband, as the case may be, widowed-mother, invalid parents and legitimate sons and daughters of a newspaper employee residing with and wholly dependent upon him.

9. *Wage Board*.—(1) The Government may, by notification in the official Gazette, constitute a Wage Board for fixing rates of wages in respect of newspaper employees in accordance with the provisions of this Act.

(2) The Board shall consist of a Chairman and an equal number of members to represent the employers in relation to newspaper establishments and newspaper employees, all being appointed by the Government

10. *Fixation of wages*.—(1) In fixing rates of wages in respect of newspaper employees the Board shall have regard to the cost of living, the prevalent rates of wages of comparable employments, in Government, Corporations and other private sectors, the circumstances relating to the newspaper industry in different regions of the country, and to any other circumstances which to the Board may seem relevant.

(2) The Board may fix rates of wages for time work and for piece work.

(3) That decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Government.

11. *Publication of the decision of the Board*.—(1) The decision of the Board shall, within a period of one month from the date of its receipt and examination by the Government, be published in the official Gazette.

(2) The decision of the Board published under sub-section (1) shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come in to operation on the date of its publication and shall remain in force until it is

modified or varied by a later decision of the Board published in the manner provided in sub-section (1).

12. *Powers and procedures of the Board.*—Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as a Labour Court exercises or follows for the purpose of adjudicating a labour dispute referred to it.

13. *Decision of the Board to be binding on all employers.*—The decision of the Board shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by the Board.

14. *Power of Board to fix interim rates of wages.*—(1) Notwithstanding anything contained in this Act, where the Board is of the opinion that it is necessary so to do, it may by notification in the official Gazette fix interim rates of wages.

(2) Any interim rate of wages so fixed shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under sub-section (1).

(3) Any interim rate of wages fixed under sub-section (1) shall remain in force until the decision of the Board comes in to operation under sub-section (2) of section 11.

15. *Employment of Labour (Standing Orders) Act, 1965, to apply to certain newspaper establishments.*—The provisions of the Employment of Labour (Standing Orders) Act, 1965 (E.P. Act VIII of 1965), shall, subject to the provisions of this Act, apply to every newspaper establishment wherein 20 or more newspaper employees are employed or were employed on any day of the preceding 12 months as if such newspaper establishment were an industrial establishment to which the aforesaid Act applies under sub-section (4) of section 1 thereof, and as if a newspaper employee were a worker within the meaning of that.

16. *Effect of laws and agreements inconsistent with this Act*—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service whether made before or after the coming into force of this Act :

Provided that where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matters which are more favourable to him than those to which he would be entitled under this Act.

17. *Inspectors*.—(1) 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.

(2) An inspector may, for carrying out the purposes, of this Act, enter into the premises of any newspaper establishment and inspect, examine or seize such record, register or other document relevant to the enforcement of the provisions of this Act and require such explanation from the employer in respect of such record, register or other document and take on the spot or otherwise such evidence of any person as he deems necessary.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (XLV of 1860.)

18. *Offences and penalties*.—(1) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall be punishable with fine which may extend to taka 1,000/-

(2) Where the person guilty of an offence under this Act is a company or other body corporate every director, manager, secretary and other officer thereof who is knowingly a party to the offence shall also be guilty of the same offence and liable to the same punishment.

(3) No court shall take cognizance of an offence under this Act except upon complaint made by or with the previous permission, in writing, of an Inspector appointed under section 17.

19. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against any person or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

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

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

- (a) hours of work of newspaper employees ;
- (b) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to newspaper employees ;
- (c) the constitution of provident fund ;
- (d) the constitution of board of trustees for the administration of provident fund ;
- (e) the procedure for regulating the management and administration of provident fund and the conditions subject to which such fund shall operate ;
- (f) the procedure to be followed by the Board in fixing rates of wages ; and
- (g) any other matter which has to be or may be prescribed.

21. *Repeal and Savings.*—(1) The Working Journalists (Conditions of Service) Ordinance, 1960 (XVI of 1960) is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, any rule made under the said Ordinance shall, so far as it is not inconsistent with provisions of this Act, be deemed to have been done, taken or made under the corresponding provision of this Act.

(Published in the Bangladesh Gazette, Extraordinary,
dated the 30th August, 1982).

Government of the People's Republic of Bangladesh
Ministry of Law and Land Reforms

(Law & Parliamentary Affairs Division)

NOTIFICATION

Dhaka, the 30th August, 1982.

No. 509-Pub. —The following Ordinance made by the Chief Martial Law Administrator of the People's Republic of Bangladesh, on the 27th August, 1982, is hereby published for general information :

THE INDUSTRIAL RELATIONS (REGULATION)

ORDINANCE, 1982

Ordinance No. XXVI of 1982.

AN

ORDINANCE

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

Whereas it is expedient to regulate industrial relations with a view to achieving higher national productivity and maintaining industrial peace and discipline ;

Now, Therefore, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the Industrial Relations (Regulation) Ordinance, 1982.

2. *Definitions.*—All words and expressions used in this Ordinance shall, unless the context otherwise requires, have the meanings

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, etc.*—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. *Determination of collective bargaining agents.* (1) Unless the Government otherwise directs, there shall not be any election for determination of collective bargaining agents under the said Ordinance.

(2) On the expiry of the term of an existing collective bargaining agent in any establishment or group of establishments, or where there is no collective bargaining agent in any establishment or group of establishments, the Registrar shall, upon an application by a registered trade union in such establishment or group of establishments or by the employer concerned, declare any registered trade union in such establishment or group of establishments as collective bargaining agent for such establishment or group of establishments for two years.

(3) No trade union shall be declared as a collective bargaining agent under sub-section (2), unless—

(a) it has as its members not less than one-third of the total number of workers employed in the establishment or group of establishments; and

(b) where there are more registered trade unions than one in the establishment or group of establishments, the total number of its members exceeds the total number of members of each of the other trade unions.

(4) The declaration of the Registrar under this section shall be final and shall not be called in question by or in any Court.

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

(2) Within twenty-one days of the receipt of communication under sub-section (1), the party receiving it shall, in consultation with the representatives of the other party, arrange meetings with the representatives of the other party for collective bargaining on the issue raised in the communication with a view to reaching an agreement there on through the procedure of a dialogue.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded by the employer to the Conciliator, the Director of Labour, and the Secretary, Labour and Manpower Division.

(4) If not settlement is reached within the period of twenty-one days the negotiation may be continued for such further period as may be agreed upon in writing by the parties.

6. *Settlement of industrial disputes by conciliation.*—(1) Where the parties to an industrial dispute fail to reach a settlement by negotiation under section 5, any of them may request the Conciliator, in writing, to conciliate in the dispute and the Conciliator shall, on receipt of such request, proceed to conciliate in the dispute.

(2) The Conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

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

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

(4) If a settlement of the dispute or 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 a memorandum of settlement signed by the parties to the dispute.

(5) If not settlement is arrived at within the period of thirty days or receipt of such request by the Conciliator, the conciliation proceedings may be continued for such further period as may be agreed upon in writing by the parties.

(6) If no settlement is arrived at during the course of conciliation proceedings, the Conciliator shall, within three days after the expiry of the period fixed for conciliation, issue a certificate of failure to the parties to that effect :

Provided that the Conciliator may, in special circumstances to be recorded in writing, issue a certificate of failure of the conciliation proceedings before the expiry of the said period.

(7) The Director of Labour may, after recording his reasons in writing, at any time, take over any conciliation proceedings pending before any Conciliator and proceed to conciliate in the dispute himself or transfer such proceedings to any other Conciliate in the dispute himself or transfer such proceedings to any other Conciliator for the purpose of conclusion of the same, but such taking over or transfer shall not affect the period fixed for conciliation.

(8) Any party to whom a certificate of failure has been issued under sub-section (6) may, within thirty days of issue of such certificate, make an application to a Labour Court for adjudication of the dispute.

(9) If no application is made to the Labour Court under sub-section (8), the dispute shall be deemed to have ceased to exist from the date of expiry of the period mentioned in that sub-section.

(10) Notwithstanding anything contained in this section, the Government may, at any time, refer any industrial dispute to a Labour Court for adjudication of such dispute.

7. *Meetings of trade union.*—(1) No meetings of any trade union including a meeting for election of its executive committee, shall be held without the prior permission of the Government or of such other

authority as the Government may, by notification in the official Gazette, specify.

(2) Whoever convenes any meeting in contravention of the provision of this section shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand taka, or with both.

8. *Strikes and lock outs prohibited* (1) All strikes and lock-outs in any establishments shall be illegal.

(2) Any workman or employer who commences, continues or otherwise acts in furtherance of any strike or, as the case may be, lock-out, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand taka, or with both.

H.M. Ershad, NDC, PSC

Dhaka.

The 27th August, 1982.

Lieutenant General

Chief Martial Law Administrator

Shamsur Rahman

Deputy Secretary

The following Acts of Parliament received the assent of the President on the 18th February, 1974, and are hereby published for general information :—

Act No. XXX OF 1974

An Act to regulate certain conditions of service of newspaper employees

WHEREAS it is expedient to regulate certain conditions of service of newspaper employees ;

It is hereby enacted as follows :

1, Short title.—This Act may be called the Newspaper Employees (Conditions of Service) Act, 1974.

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

- (a) "Board" means the Wage Board constituted under section 9 ;
- (b) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as the Government may, by notification in the official Gazette, declare to be newspaper ;
- (c) "newspaper employees" means a working journalist, an administrative employee or a newspaper press worker ;
- (d) "working journalist" means a person who is a whole-time journalist and is employed as such in, or in relation to, any newspaper establishment, and includes an editor, a leader writer, news editor, sub-editor, feature writer ; reporter, correspondent, copy tester, cartoonist, news-photographer, calligraphist and proof-reader ;
- (e) "administrative employee" means a person who is employed on a whole-time basis in, or in relation to, any newspaper establishment in any capacity other than that of a working journalist or a newspaper press worker ;
- (f) "newspaper press worker" means a person who is employed on a whole-time basis in any newspaper establishment for doing any printing work ;
- (g) "newspaper establishment" means an establishment for the printing, production or publication of any newspaper or for conducting any news agency or news or feature syndicate ;
- (h) "prescribed" means prescribed by rules made under this Act ;
- (i) "wages" means all remuneration, capable of being expressed in terms of money, payable to a newspaper employee and, except for the purpose of section 5,

- includes any gratuity or other sum or payment declared as wages by the Board in its decision published under section 11 ;
- (j) all words and expressions used but not defined in this Act and defined in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall have the meanings respectively assigned to them in that Ordinance.

3. *Industrial Relations Ordinance, 1969 to apply to newspaper employees.*—Subject to the other provisions of this Act, the provisions of the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, newspaper employees as they apply to, or in relation to, workers within the meaning of that Ordinance.

4. *Letter of appointment.*—Every newspaper establishment shall, at the time of appointing a newspaper employee, furnish such newspaper employee a letter of appointment containing—

- (a) his name, father's name and address ;
- (b) the date and nature of his appointment ; and
- (c) the terms and conditions of his appointment.

5. *Provident Fund.*—(1) Every newspaper establishment shall constitute, for the benefit of its newspaper employees, a provident fund in such manner as may be prescribed.

(2) The provident fund shall be held and administered by a board of trustees consisting of an equal number of representatives of the newspaper establishment constituting the fund and of the newspaper employees employed in it, chosen and appointed in such manner as may be prescribed.

(3) Every newspaper employee shall, after the completion of the first two years of his service with any newspaper establishment, subscribe to the provident fund, every month, a sum not less than 6½ per cent and not more than 8 per cent, of his monthly wages, and the employer shall contribute to an equal amount.

(4) During the first two years of his service, a newspaper employee may or may not, at this option, subscribe to the provident fund.

and if he so subscribes, the newspaper establishment employing him may or may not, at its option, contribute to it.

(5) A newspaper establishment shall be deemed to be a public institution for the purpose of the Provident Fund Act, 1925 (XIX of 1925).

6. *Hours of work.*—Subject to any rules that may be made under this Act, no newspaper employee shall be required to work in any newspaper establishment for more than forty-eight hours in a week, exclusive of the time for meals.

Explanation.—For the purpose of this section, ‘week’ means period of seven days beginning at mid-night on Saturday.

7. *Leave for working journalist.*—Without prejudice to such holidays as may be prescribed, every working journalist shall be entitled to—

- (a) earned leave on full wages for not less than one-eleventh of the period spent on duty ;
- (b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service and
- (c) ten days’ casual leave of absence with wages in a calendar year.

8. *Medical care.*—Every newspaper employee and his dependents shall be entitled to medical care at the cost of the newspaper establishment in such manner and to such extent as may be prescribed.

Explanation.—For the purpose of this section, “dependents” means wife or husband, as the case may be, widowed-mother, invalid parents and legitimate sons and daughters of a newspaper employee residing with and wholly dependent upon him.

9. *Wage Board.*—(1) The Government may, by notification in the official Gazette, constitute a Wage Board for fixing rates of wages in respect of newspaper employees in accordance with the provisions of this Act.

(2) The Board shall consist of a Chairman and an equal number of members to represent the employers in relation to newspaper establishments and newspaper employees, all being appointed by the Government.

10. *Fixation of wages.*—(1) In fixing rates of wages in respect of newspaper employees the Board shall have regard to the cost of living, the prevalent rates of wages of comparable employments, in Government, corporations and other private sections, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

(2) The Board may fix rates of wages for time work and for piece work.

(3) That decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Government.

11. *Publication of the decision of the Board.*—(1) The decision of the Board shall, within a period of one month from the date of its receipt and examination by the Government, be published in the official Gazette.

(2) The decision of the Board published under sub-section (1) shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication and shall remain in force until it is modified or varied by a later decision of the Board published in the manner provided in sub-section (1).

12. *Powers and procedures of the Board.*—Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as a Labour Court exercises or follows for the purpose of adjudicating a labour dispute referred to it.

13. *Decision of the Board to be binding on all employers.*—The decision of the Board shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by the Board.

14. *Power of Board to fix interim rates of wages.*—(1) Notwithstanding anything contained in this Act, where the Board is of the opinion that it is necessary so to do, it may, by notification in the official Gazette, fix interim rates of wages.

(2) Any interim rate of wages so fixed shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under sub-section (1).

(3) Any interim rate of wages fixed under sub-section (1) shall remain in force until the decision of the Board comes into operation under sub-section (2) of section 11.

15. *Employment of Labour (Standing Orders) Act, 1965, to apply to certain newspaper establishments.*—The provisions of the employment of Labour (Standing Orders) Act, 1965 (E.P. Act VIII of 1965), shall, subject to the provisions of this Act, apply to every newspaper establishment wherein 20 or more newspaper employees are employed or were employed on any day of the preceding 12 months as if such newspaper establishment were an industrial establishment to which the aforesaid Act applies under sub-section (4) of section 1 thereof, and as if a newspaper employee were a worker within the meaning of that Act.

16. *Effect of laws and agreements inconsistent with this Act.*—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service whether made before or after the coming into force of this Act :

Provided that where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matters which are more favourable to him than those to which he would be entitled under this Act.

17. *Inspectors*.—(1) 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.

(2) An Inspector may, for carrying out the purposes of this Act, enter into the premises of any newspaper establishment and inspect, examine or seize such record, register or other document relevant to the enforcement of the provisions of this Act and require such explanation from the employer in respect of such record, register or other document and take on the spot or otherwise such evidence of any person as he deems necessary.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (XLV of 1860).

18. *Offences and penalties*.—(1) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall be punishable with fine which may extend to taka 1,000/-

(2) Where the person guilty of an offence under this Act is a company or other body corporate every director, manager, secretary and other officer thereof who is knowingly a party to the offence shall also be guilty of the same offence and liable to the same punishment.

(3) No court shall take cognizance of an offence under this Act except upon complaint made by or with the previous permission, in writing, of an Inspector appointed under section 17.

19. *Indemnity*.—No suit, prosecution or other legal proceedings shall lie against any person or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

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

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

- (a) hours of work of newspaper employees ;
- (b) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to newspaper employees ;
- (c) the constitution of provident fund ;
- (d) the constitution of board of trustees for the administration of provident fund ;
- (e) the procedure for regulating the management and administration of provident fund and the conditions subject to which such fund shall operate ;
- (f) the procedure to be followed by the Board in fixing rates of wages ; and
- (g) any other matter which has to be or may be prescribed.

21. *Repeal and Savings.*—(1) The Working Journalists (Conditions of Service) Ordinance, 1960 (XVI of 1960) is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, any rule made under the said Ordinance shall, so far as it is not inconsistent with provisions of this Act, be deemed to have been done, taken or made under the corresponding provision of this Act.

THE EMPLOYMENT OF LABOUR

(STANDING ORDERS) ACT, 1965.

(ACT. VIII of 1965)

(As amended by P.O. No. 100 of 1972).

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

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

It is hereby enacted as follows :—

1. *Short title extent commencement and application.* (1) This Act may be called the Bangladesh Employment of Labour (Standing Orders) Act, 1965 (as adapted) :

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

(4) It shall apply to—

(a) every shop or commercial establishment to which the the East Bengal Shops and Establishments Act, 1951 applies :

(b) every industrial establishment in the areas in which the East Bengal Shops and Establishments Act, 1951 applies :

(c) every industrial establishment in all other areas of the country in which five or more workers are employed, or were employed on any day of the preceding twelve months:

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

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

- (a) 'apprentice' means a learner who is paid an allowance during the period of his training ;
- (b) 'badli' means a worker who is appointed in the post of a permanent worker or of a probationer who is temporarily absent ;
- (c) 'casual worker' means a worker whose employment is of a casual nature ;
- (d) 'commercial establishment' means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the official establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment employs workers, a unit of a joint-stock company, an insurance company, a banking company or a bank, a broker's office or stock exchange, a club, a hotel or a restaurant or an eating house, a cinema or theatre, or such other establishment or class thereof as the Governments may by notification in the official Gazette, declare to be a commercial establishment for the purpose of this Act ;
- (e) 'Director of Labour' means an officer also appointed by the Government ;
- (f) 'discharge' means the termination of services of a worker by the employer for reasons of physical or mental incapacity or continued ill health of the worker or such other similar reasons not amounting to misconduct.
- (g) 'dismissal' means the termination of services of a worker by the employer for misconduct ;
- (h) 'employer' means a person, a body of persons or body corporate, company or institutions owning or managing

a shop, commercial establishment or industrial establishment or their heirs, successors or assigns, as the case may be, and includes—

- (i) in a factory, any person working as manager of the factory ;
 - (ii) in any shop, commercial establishment or industrial establishment, carried on by or on behalf of a local authority, the officer appointed, the chief executive officer of that authority, and
 - (iii) in relation to any other shop, commercial establishment, or industrial establishment, every Director, Manager, Secretary, Agent or other officer or person concerned with management thereof and responsible to the owner for the supervision and control of such shop; commercial establishment or industrial establishment ;
- (i) 'go-slow' means an organised deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner, and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.
- (j) 'industrial establishment' means any workshop or other establishment in which articles are produced, adapted or manufactured or where the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance, with a view to their use, transport, sale, delivery or disposal, is carried on or such other class of establishments including water transport vessels or any class thereof which the Government may, by notification in the official Gázette, declare to be an industrial establishment for the purpose of this Act, and includes—

- (i) any tramway or motor omnibus service, any dock, wharf or jetty.
- (ii) any mine, quarry, gas-field or oil-field.
- (iii) any plantation, or
- (iv) a factory as defined in the Factories Act, 1934 ;
- (k) 'Labour Court' means a court constituted under the Industrial Disputes Ordinance, 1959 ;
- (l) 'lay-off' means the failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stock or the breakdown of machinery or for any other reason, to give employment to an worker whose name is borne on the muster-rolls of his shop, commercial establishment or industrial establishment ;
- (m) 'permanent worker' means a worker who has been engaged on a permanent basis or who has satisfactorily completed the period of his probation in the shop or the commercial or industrial establishment ;
- (n) 'plantation' means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea and includes agricultural farms under sugar mill for growing sugarcane, employing twenty-five or more persons for that purpose ;
- (o) 'public servant' shall have the same meaning as in section 21 of the Penal Code, 1860 (as adapted) ;
- (p) 'probationer' means a worker who is provisionally employed to fill a permanent vacancy in a post and has not completed the period of his probation ;
- (q) 'retrenchment' means the termination by the employer of services of workers, not as a measure of punishment inflicted by way of disciplinary action, but on the ground of redundancy ;

- (r) 'shop' means a shop as defined in the East Bengal Shops and Establishments Act, 1951 ;
- (s) 'temporary worker' means a worker who has been engaged for work which is essentially of temporary nature and is likely to be finished within a limited period ;
- (t) 'trade union' means a trade union registered under the Trade Unions Act, 1926 ;
- (u) 'wage' means wages as defined in the Payment of Wages Act, 1936.
- (v) 'worker' means any person including an apprentice employed in any shop, commercial establishment or industrial establishment to do any skilled, unskilled manual, technical, trade promotional or clerical work for hire or reward, whether the terms of employment be expressed or implied, but does not include any such person—
 - (i) who is employed mainly in a managerial or administrative capacity ; or
 - (ii) who, being employed in a supervisory capacity, exercises, either by nature of the duties attached to the office or by reason of power vested in him, functions mainly of managerial or administrative nature.

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

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

(2) The service rules regulating employment of workers or any class thereof in any shop or commercial or industrial establishment as mentioned in the proviso to sub-section (1) shall be submitted by the employer of such shop or commercial or industrial establishment

to the Inspector appointed under section 30 for approval and such service rules shall not be put into effect until such approval of the Inspector has been obtained.

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

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

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

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

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

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

(3) If any worker, whose service has been terminated during his probationary period, including the extended period of three months in

case of a skilled worker as mentioned in sub-section (2). is again appointed by the same employer within a period of three years, he shall, unless appointed on a permanent basis, be deemed to be a probationer and the period of periods of his earlier probation shall be counted for determining his total period of probation.

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

5. *Leave and holidays*.—(1) Workers employed in shops or commercial or industrial establishments shall be entitled to leave and holidays with wages as provided in the East Bengal Shops and Establishments Act, 1951, the Factories Act, 1934, or in any other law for the time being in force, as the case may be, and other holidays which the Government may specially declare to be holidays for worker by notification in the official Gazette .

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

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

(3) If the worker remains absent beyond the period of leave originally granted or subsequently extended, he shall be liable to

lose his lien to his appointment unless he returns within ten days of the expiry of his leave and explains to the satisfaction of the employer his inability to return earlier :

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

Provided further that if such a worker fails to explain to the satisfaction of the employer the reason of his failure to return at the expiry of the leave, the employer may, on consideration of extenuating circumstances, if any, suspend him, as a measure of punishment for a period not exceeding seven days from the date of his return and the worker shall not be entitled to wages for such periods of unauthorised absence and of suspension ; but he shall not lose the lien to the appointment.

(4) If the services of a worker, to whom any annual leave is due under the provision of the East Bengal Shops and Establishments Act, 1951, the Factories Act, 1934, or of any other law for the time being in force, as the case may be, is dispensed with whether as a result of retrenchment, discharge, dismissal, termination, retirement or by reason of his resignation before he has availed of any such leave the employer shall pay his wages in lieu of the unavailed leave of the rate he is entitled to the payment of wages during the period of leave in accordance with the provisions of those laws and such payments shall be made before the expiry of the second working day after the day on which his employment is dispensed with.

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

(2) In the event of such stoppage occurring at any time beyond working hours, the employer shall notify the workers affected, by

notices posted, in the case of a factory, on the notice board in the section or department concerned and, in other cases, at a conspicuous place before the work is due to begin next, indicating as to when the work will be resumed and whether such workers as to remain at their place of work at any time before the actual resumption.

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

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

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

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

Provided that for the piece-rated workers affected, their average for the purposes of the foregoing sub-sections.

(6) The employer may, in the event of a strike by any section or department of a shop or commercial or industrial establishment,

close down either wholly or partly, such section or department or any other section or department affected by such closing down and the workers affected may not be paid any wages for such closure.

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

7. *Calculation of 'one year' or 'six months' of continuous service.*—(1) For the purpose of this Act, a worker who, during the preceding twelve calendar months, has actually worked in a shop or commercial or industrial establishment for not less than two hundred and forty days and one hundred and forty days, as the case may be, shall be deemed to have completed 'one year' or six months respectively, of continuous service in the shop or the commercial or the commercial or industrial establishment.

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

(a) he has been laid-off under an agreement or as permitted under this Act or under any other law applicable to the shop or the commercial or industrial establishment the total number of days during which he has been so laid-off ;

(b) he has been on leave with or without wages due to sickness or accident ;

(c) in the case of a female, she has been on maternity leave not exceeding twelve weeks ; shall be counted.

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

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

- (b) the provisions of section 9 to 11, both inclusive, shall not apply to a shop, commercial or industrial establishment which is of seasonal character or in which work is performed only intermittently, irrespective of the number of workers employed therein :

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

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

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

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

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

(2) Notwithstanding anything contained in the proviso to sub-section (1), if during a calendar year a worker is laid-off for more than forty-five days, whether continuously or intermittently, and the lay-off after the expiry of the first forty-five days comprises period or periods of fifteen days or more, the worker shall, unless there is an agreement to the contrary between him and the employer, be paid for all the days comprised in every subsequent period of lay-off for fifteen days or more, compensation which shall be equal to one-fourth of the total of the basic wages and dearness allowance, and the full amount of housing allowance if any, that would have been payable to him had he not been so laid-off.

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

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

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

- (a) if he refuses to accept, on the same wages, any alternative employment not requiring any special skill or previous experience, in the same shop or the commercial or industrial establishment from which he has been laid-off or in any other shop or commercial or industrial establishment belonging to the same employer and situated in the same town or villa or situated within a radius of five miles from the shop or the commercial or industrial establishment ;

- (b) if he does not present himself for work at the shop or the commercial or industrial establishment at the appointed time during normal working hours at least once a day if so required by the employer ; or
- (c) if such lay-off is due to a strike in another part of the shop or the commercial or industrial establishment.

Explanation.—For the purpose of clause (b) every laid-off worker who presents himself for work at the shop or the commercial or industrial establishment, as the case may be, at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this section ; and if the worker instead of being given employment at the commencement of any shift for any day, is asked to present himself for the purposes during the second half of the shift for the day, and if he so presents himself, he shall be deemed to have been laid-off only for one-half of that day the other half being treated as on duty, irrespective of the fact whether he is given work or not.

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

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

part thereof in excess of six months, or gratuity, if any, whichever is higher :

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

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

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

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

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

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

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

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

17. *Dismissal from service.*—(1) Notwithstanding anything regarding lay off, retrenchment, discharge and termination of service as provided elsewhere in this Act, a worker may be dismissed without prior notice or pay in lieu thereof or any compensation—

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

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

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

- (a) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful or reasonable order of a superior ;
- (b) theft, fraud or dishonesty in connection with the employer's business or property ;
- (c) taking or giving bribes or any illegal gratification in connection with his or any other worker's employment under the employer ;

- (d) habitual absence without leave or absence without leave for more than ten days ;
- (e) habitual late attendance ;
- (f) habitual breach of any law or rule or regulation applicable to the shop or commercial or industrial establishment ;
- (g) riotous or disorderly behaviour in the shop or commercial or industrial establishment, or any act subversive of discipline ;
- (h) habitual negligence or neglect of work ;
- (i) frequent repetition of any act or omission for which a fine may be imposed ;
- (j) resorting to illegal strike or 'go-slow' or inciting others to resort to illegal strike or 'go-slow' ;
- (k) falsifying, tampering with, damaging or causing loss of employer's official records.

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

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

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

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

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

(4) (a) If, on enquiry, a worker is found guilty of any of the charge alleged and is punished under sub-section (1) of section 17, he shall

not be entitled to his wages for any period of suspension for enquiry but shall be entitled to the subsistence allowance under the proviso to sub-section (2).

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

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

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

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

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

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

Provided that wages for ninety days or forty-five days, as the case may be paid in lieu of such notice.

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

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

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

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

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

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

20. *Provident Fund.*—No worker, who is a member of any Provident Fund, shall be deprived, due to retrenchment, discharge or termination of service in any other manner provided in this Act other than by way of dismissal for misconduct, of the benefit of that Provident Fund including the employer's contribution thereto, if he is entitled to it under the rules of that Fund :

Provided that, in case of dismissal for misconduct no worker shall be deprived of any portion of his own contribution to such Provident Fund.

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

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

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

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

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

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

(4) The Magistrate may also pass an order directing a police-officer to evict such a worker, if necessary, by force, in case he fails to

quit the residential accommodation within the time allowed under sub-section (3).

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

25. *Grievance Procedure*—(1) Any individual worker who has a grievance in respect of any matter covered under this Act and intends to seek redress thereof under this section, shall observe the following procedure :—

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

Provided that no complaint shall lie against an order of termination of employment of a worker under section 19, unless the worker concerned is an officer of a registered trade union and his employment is alleged to have been terminated for his trade union activities or unless the worker concerned, whether an officer of a registered trade union or not, has been deprived of the benefits specified in that section.

(c) on receipt of any complaint under clause (b), the Court after notice and given the parties hearing, may decide the matter in such summary way as it deems proper ;

(d) in deciding the matter the court may pass such orders including orders regarding cost, as it may deem just and proper and it may, in appropriate cases, require, by such order, the reinstatement of the complainant thereof and such order shall be final :

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

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

26. *Penalty for non-compliance of Courts order under section 25 .*

—(1) Whoever refuses or fails to comply with an order passed by the court under section 25, may be punished with simple imprisonment for a term not exceeding three months or with fine not exceeding taka one thousand or with both.

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

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

(2) Whoever contravenes any of the provisions of this Act shall, if not othr penalty is elsewhere provided by or under this Act for

such contravention, be punishable, for the first offence, with a fine which may extend to taka two hundred and for each of the subsequent offence with a fine which may extend to taka two hundred or with simple imprisonment not exceeding one month or with both.

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

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

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

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

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

30. *Chief Inspector and Inspectors.*—(1) The Chief Inspector of Factories and Establishment 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 the country and shall also have powers of supervision and control over the Inspectors :

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

(2) The Government may, by notification in the official Gazette, appoint such persons or class of persons as it thinks fit to be Inspectors

for the purposes of this Act, within the local limit as may be assigned to each.

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

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code, 1860 (as adapted).

31. *Powers to make rules.*—(1) The Government may, subject to the conditions of previous publication in the official Gazette, make rules for carrying into effect the purposes of this Act.

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

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding taka one hundred.

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

CHAPTER XVI
LAW ON NEWS AGENCY

THE BANGLADESH SANGBAD SANGSTHA ORDINANCE, 1979
Ordinance No. XX of 1979

An Ordinance to provide for the establishment of the Bangladesh Sangbad Sangstha.

WHEREAS it is expedient to provide for the establishment of the Bangladesh Sangbad Sangstha as a national news agency for undertaking and promoting news agency service in Bangladesh, obtaining international news agency service, mobilisation of national news, and for matters connected therewith or incidental thereto ;

Now, THEREFORE, in pursuance of the proclamations of the 20th August, 1975, and the 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. *Short title.*—This Ordinance may be called the Bangladesh Sangbad Sangstha Ordinance, 1979.

2. *Definitons.*—In this Ordinance, unless context otherwise requires,

- (a) “Board” means the Board of Directors of the Sangstha constituted under section 7 ;
- (b) “Chairman” means the Chairman of the Board ;
- (c) “Director” means a Director of the Board ;
- (d) “Managing Director” means the Managing Director of the Board
- (e) “prescribed” means prescribed by rules or regulations made under this Ordinance ;

(f) "Sangstha" means the Bangladesh Sangbad Sangstha established under section 3.

3. *Establishment and Incorporation of the Sangstha.* (1) There shall be a Sangstha to be called the Bangladesh Sangbad Sangstha for carrying out the purposes of this Ordinance.

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

4. *Head office of the Sangstha.*—(1) The Head Office of the Sangstha shall be at Dhaka.

(2) The Sangstha may establish its branches at such other places as the Board may decide.

5. *Functions and the Sangstha.*—The functions of the Sangstha shall be—(a) to carry out the responsibility of national news agency of Bangladesh by securing news from home and abroad, disseminating the same to the people of Bangladesh in general through mass media and organising transmission of national news abroad ;

(b) to secure world-wide news—political, diplomatic, financial, economic and commercial, cultural and sports from international news agencies and exchange news with national news agencies of other countries ;

(c) to sell all kinds of news, general, economic and commercial features and photo to all mass media and news agencies within and outside Bangladesh ;

(d) to sign agreements with international news agencies, national news agencies of their countries for securing and disseminating news and facilities for the same ;

(e) to organise systematic programme for news agency business ; and

(f) to do such other acts and things as may be connected with or incidental to the carrying out of the functions of the Sangstha.

6. *Management of the Sangstha.*—(1) Subject to the rules and regulations made under the Ordinance, the general direction, management and administration of the affairs of the Sangstha shall vest in a Board which may exercise all powers and do all acts and things which may be exercised or done by the Sangstha.

(2) The Board in discharging its functions shall, as far as practicable, act having due regard to public interest generally and be guided by such general or special instruction as may be given to it from time to time by the Government.

7. *Constitution of the Board.*—The Board shall consist of

- (a) a Chairman who shall be appointed by the Government ;
- (b) the Managing Director, ex-officio ;
- (c) three Directors to be appointed by the Government, from amongst the officers not below the status of Joint Secretary, one each from the Ministry of Information and Broadcasting, Ministry of Finance and the Posts, Telegraph and Telephone Division ;
- (d) five Directors to be appointed by the Government from the editors of newspapers who subscribe news from the Sangstha, of which at least three must be from Dhaka ;
- (e) one person to be appointed by the Government from amongst the employees of the Sangstha.

8. *Terms of office of the Chairman and other Directors.*—(1)

Save as otherwise provided, the Chairman and other Directors shall hold office during pleasure of the Government for a period not exceeding three years from the date of appointment but are removable by the Government for permanent incapacity or other cause ; and a retiring Chairman or Director shall be eligible for reappointment for another term only.

(2) When a person appointed as Director, ceases to represent the particular interest which he was appointed to represent shall also cease to be the Director, and his seat shall be deemed to have been vacated and a person shall thereupon be appointed to fill the vacancy.

(3) Any vacancy in the office of a Director shall be filled in by fresh appointment and a Director so appointed shall hold office for the remaining period for which the Director in whose place he is appointed would have held office.

(4) The Chairman and other Directors shall serve without remuneration but may be paid such travelling and other expenses when engaged on business of the Board as may be prescribed.

9. *Vacating the office, disqualifications, etc.*—(1) No person shall be or shall continue to be the Chairman or a Director who—

- (a) is a salaried official of the Sangstha other than the Managing Director and an employee appointed as Director;
- (b) is or, at any time, has been convicted of an offence which in the opinion of the Government, is an offence involving moral turpitude; or
- (c) stands declared by a competent court to be of unsound mind; or
- (d) is a person who is subject to a disqualification imposed by or under any law for the time being in force to hold any public office; or
- (e) is or, any time, has been adjudicated an insolvent; or
- (f) absents himself from three consecutive meetings of the Board without leave of absence granted by the Chairman or, in case of the Chairman, by the Government.

(2) If the Chairman or any other Director, by reason of illness or other incapacity or absence from Dhaka, is unable, at any time, to perform the duties of his position, or if the position of the Chairman or any other Director is, at any time, vacant, the Government may make a temporary appointment of any person to act in his place or in such position upon such terms and conditions and for such time as the Government may determine.

10. *Meeting of the Board.*—(1) Meetings of the Board shall be held at such times and places, as may be prescribed;

Provided that the meeting of the Board may otherwise be convened by the Managing Director in consultation with the Chairman.

(2) Seven Directors including the Chairman shall form the quorum at a meeting of the Board.

(3) Meeting of the Board shall be presided over by the Chairman and, in his absence, by a person elected for the purpose by the Directors present from amongst themselves.

(4) All matters of a meeting of the Board shall be decided by the votes of the majority of the Directors present and voting.

(5) At a meeting of the Board each Director shall have one vote, in the event of equality of votes, the person presiding shall have a second or casting vote.

11. *Validity of the proceeding.*—(1) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in the Board or a defect in the constitution of the Board ; and a vacancy in the Board or a temporary absence of a Director for any reason shall not impair the right of the remaining Directors to act.

(2) All acts done by the person acting in good faith as the Chairman or a Director shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force ;

Provided that nothing in this section shall be deemed to give validity to any act of the Chairman or a Director after his appointment has been shown to be invalid or to have been terminated.

12. *Managing Director.*—(1) The Managing Director shall be appointed by the Government from amongst the journalists having not less than fifteen years experience in journalism on such terms and conditions as may be determined by the Government and he shall also be the Chief Editor of the Sangstha.

(2) The Managing Director shall be a whole time officer and the Chief Administrative Officer of the Sangstha and, subject to the pro-

visions of this Ordinance, he shall administer and manage the affairs and fund of the Sangstha, and shall have supervision over and direction of the work of the Sangstha and of the officers and employees, technical or otherwise employed for the purpose of carrying out the work of the Sangstha, and shall also discharge such duties as may be assigned to him by the Board or as may be prescribed.

13. *Appointment of officers, etc.*—(1) The Sangstha may, subject to such general or special orders as the Government may give from time to time and subject to such terms and conditions as the Government may determine, appoint such officers and other employees as it considers necessary for the efficient performance of its affairs.

(2) The Board, subject to approval of the Government and in accordance with the general and specific standing orders of the Government, shall prescribe the procedure for appointment of its officers and employees and for taking disciplinary action against them.

14. *Delegation of Powers.*—The Board may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any, as may be specified in the order be exercisable also by the Chairman, or by such director or officer of the Sangstha as may be so specified.

15. *Indemnity, etc.*—The Chairman, Director and every officer and employee of the Sangstha shall be indemnified by the Sangstha against all losses and expenses incurred by him in or in relation to the discharge of his duties, except such as have been caused by his wilful act or default.

16. *Funds of the Sangstha.*—(1) The Sangstha shall have its own fund which shall be utilised by it to meet charges in connection with the affairs of the Sangstha.

(2) The fund of the Sangstha shall consist of—

- (a) grants made by the Government ;
- (b) loans obtained from the Government ;
- (c) fees from the subscribers of the news ;

- (d) gifts and endowments ;
- (e) sale proceeds and royalties of news items, features, photos and such other allied matters ;
- (f) grants and contributions from agencies, foundations and organisations ; and
- (g) other sources

(3) All money of the Sangstha shall be kept in any bank or banks approved by the Board.

17. *Budget.*—The Sangstha shall, by such date before the commencement of every financial year as the Government may direct, submit to the Government for approval a budget, in such form as the Government may specify, for each financial year showing the estimated receipts and expenditure and the sums which are likely to be required from the Government during that financial year.

18. *Accounts.*—The Sangstha shall maintain its accounts in such manner and form as the Government may direct.

19. *Audit.*—(1) The accounts of the Sangstha shall be audited every year by the Comptroller and Auditor-General of Bangladesh, hereinafter referred to as the Auditor-General, in such manner as may be proscribed :

Provided that the Auditor-General may in addition to the yearly audit either of his own motion or upon a request received in this behalf from the Government undertake such audit of the accounts of the Sangstha at such time as may be considered necessary.

(2) For the purpose of audit, the Auditor-General or any person authorised by him shall have access to all records, books, documents, accounts each and other properties of the Sangstha and may examine, the Chairman, any Director or any officer or other employee of the Sangstha and the Sangstha shall at the time of such audit, produce the account books and connected documents and furnish such explanations and informations as the Auditor-General or an officer authorised by him in this behalf may ask for.

(3) The Auditor-General shall submit an audit report to the Government with a copy to the Sangstha, in which he shall state whatever, in his opinion, accounts of the Sangstha are properly drawn up and, if he has called for any explanation or information from the Sangstha whether it has been given and whether it is satisfactory.

(4) The Sangstha, shall comply with any directive issued by the Government for the modification of the matters objected to in audit.

20. *Reports, etc*—(1) The Sangstha shall furnish to the Government such returns, reports and statements as the Government time to time acquire.

(2) The Sangstha shall, as soon as possible after the end of every financial year furnish to the Government, a statement of accounts audited by the Auditor-General together with an annual report giving therein a true and faithful account of its activity during that year and its proposal for the next financial year.

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

21. *Winding up of the Sangstha*.—No provision of law relating to the winding up of companies or corporations shall apply to the Sangstha and the Sangstha shall not be wound up save by an order of the Government and in such manner as the Government may direct.

22. *Power to make rules and regulations*.—(1) The Government may make rules for the purpose of giving effect of the provisions of the Ordinance.

(2) The Sangstha may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of the Ordinance and the rules made by Government, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(3) All rules and regulations made under this section shall be published in the official Gazette and shall come into force on such publications.

3. *Transfer of assets, etc.*—Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement or in any other instrument or notification or order, on the commencement of this Ordinance,—

- (a) all assets, rights, powers, authorities and privileges and all properties, movable and immovable, cash and Bank balances, grants and funds of the erstwhile Associated Press in Bangladesh and vested in the Government under the Bangladesh (Vesting of Property and Assets) Order 1972 (P.O. No. 29 of 1972), and all other rights and interests in, or arising out of, such properties and all books of accounts, register, records and all other documents of whatever nature relating thereto shall stand transferred to, and vested in, the Sangstha.
- (b) all debts, liabilities and obligation of whatever kind of the erstwhile Associated Press in, and in relation to, Bangladesh shall, unless the Government otherwise directs, be the debts, liabilities and obligations of the Sangstha ;
- (c) every officer or other employee of the erst while Associated Press serving in Bangladesh immediately before the commencement of the Ordinance shall stand transferred to the Sangstha and continue to be in the service of the Sangstha on the same terms and conditions as were applicable to them immediately before the commencement of the Ordinance ;

Provided that if an officer or other employee is considered by the Sangstha as surplus of requirement, his employment shall be terminated by the Sangstha with due notice and with such compensation as may be prescribed :

Provided further that, notwithstanding anything contained in any terms and conditions of service or in any award, settlement or agreement for the time being in force, the Government or the Sangstha, with the prior approval of the Government, may alter the remuneration, whether by way of reduction or otherwise, and other terms and conditions of service of any officer or other employee.

Dhaka :
The 30th March, 1979.

ZIAUR RAHMAN, BU, PSC.
LIEUTENANT GENERAL,
PRESIDENT.

N.Z. Choudhury
Deputy Secretary.