

## THE CINEMATOGRAPH ACT, 1918

### Act No. II of 1918

6th March 1918

An Act to make provision for regulating exhibitions by means of cinematographs

WHEREAS it is expedient to make provision for regulating exhibitions by means of cinematographs. It is hereby enacted as follows:

1. (1) This Act may be called the Cinematograph Act, 1918.

(2) It extends to the whole of Bangladesh.

(3) The Bangladesh Government may, by notification in the official gazette, direct that any of its provisions not in force in any area immediately before the commencement of the Cinematograph Act (Amendment) Ordinance, 1961, shall come into force in such area or not thereof on such date or dates as may be specified in such notification.

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

(a) "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;

(b) "place" includes also a house, building, tent or vessel; and

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

3. Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

4. The authority having power to grant licences under this Act (hereinafter referred to as the "licensing authority") shall be the district magistrate:

Provided that the Bangladesh Government may, by notification in the official gazette, constitute for the whole or any part of a province such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act.

5. (1) The licensing authority shall not grant a licence under this Act, unless it is satisfied that—

(a) the rules made under the Act have been substantially complied with; and

(b) adequate precautions have been taken in the place in respect of which the licence is to be given to provide for the safety of persons attending exhibitions therein.

- (2) A condition shall be inserted in every licence that the licensee will not exhibit, or permit to be exhibited, in such place any film other than a film which has been certified as suitable for public exhibition by an authority constituted under the Censorship of Films Act of 1963, and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.
- (3) Subject to the foregoing provisions of this section, and to the control of the Bangladesh Government, the licensing authority may grant licences under this Act to such persons as it thinks fit, and on such terms and conditions, and subject to such restrictions as it may determine.
6. (1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of the place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to which, any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to taka one hundred for each day during which the offence continues, and his licence (if any) shall be liable to be revoked by the licensing authority.
- (2) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to Government.
7. Certification of Films. *Rep. by the Censorship of Films Act, 1963 (XVIII of 1963).*
8. (1) The Bangladesh Government may make rules for the purpose of carrying into effect the provisions of the Act.
- (2) In particular and without prejudice to the generality of the foregoing power, rules under this section may provide for—
- (a) the regulation of cinematograph exhibitions for securing the public safety; and
- (c) any other matter which by this Act is to be prescribed.
- (4) All rules made under this Act shall be published in the official gazette and, on such publication, shall have effect as if enacted in this Act.

9. The Bangladesh Government may, by order in writing, exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.

## THE AMUSEMENT TAX ACT, 1922

29th March 1922

An Act to make an addition to the public revenue of Bangladesh and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting.

WHEREAS it is necessary to make an addition to the public revenue of Bangladesh and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting.

It is hereby enacted as follows:

1. (1) This Act may be called the Amusement Tax Act, 1922.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on the first day of April 1922 in the municipality of Dhaka.
- (4) The Government may, by notification in the official gazette, bring this Act or any portion thereof into force in such other areas in Bangladesh at such time as shall be specified in such notification.

### Chapter II

#### Taxes on certain forms of betting

14. Definitions. In this chapter—
- (1) "backer" includes any person with whom a licensed bookmaker bets;
  - (2) "bet" includes "wager" and "betting" includes wagering;
  - (3) "licensed bookmaker" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a licence or permit issued by any racing club or by the stewards thereof to enable him to carry on his business or vocation under the provisions of the Public Gambling Act 1867, as amended from time to time, as specified in the licence or permit;

- (4) "prescribed" means prescribed by this chapter or by the rules made thereunder;
- (5) "racing club" includes a club, association, society or body of persons corporate or incorporate—
- (a) formed for the purpose of promoting horse-racing or pony-racing or for holding race-meetings, or
  - (b) conducting or controlling such meetings;
- (6) "totalizator" means a totalizator, in an enclosure which the stewards controlling a race-meeting have set apart in accordance with the Public Gambling Act of 1867, as amended from time to time, and includes any instrument, machine, or contrivance known as the totalizator, or any other instrument, machine, or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principle.
15. There shall be charged, levied and paid to the Government out of all monies paid into any totalizator by way of stakes or bets, a tax on backers, hereinafter referred to as the totalizator tax, amounting to twenty per cent of every sum so paid; and twenty per cent of every sum so paid into a totalizator shall be deemed to have been paid by the backer on account of the totalizator tax, and shall be received by the stewards of the race-meeting on behalf of the Government.
16. The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the monies paid into the totalizator at the meeting, and shall at the prescribed time make over to the prescribed officer the amount of the tax for that meeting.
17. (1) The stewards of a race-meeting shall keep accounts in the prescribed form of all monies paid into the totalizator at that meeting.
- (2) Every person having the custody or control of any such accounts shall, when required in writing by an officer empowered in this behalf by the Government, permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of them.
18. (1) There shall be charged, levied and paid to the Government out of all monies paid or agreed to be paid by a licensed bookmaker to a backer in consequence of the winning by

the backer of a bet made in an enclosure set apart under the provisions of the Public Gambling Act of 1867, as amended from time to time, any race, a tax on backers hereinafter referred to as the betting tax, amounting to twenty per cent of all such monies.

- (2) The betting tax shall be deducted or collected by the licensed bookmaker from such monies at the time when the money is paid to the backer, or in the case of credit bets at such time as may be prescribed, and shall be deemed to have been paid by the backer on account of the tax, and shall be retained by the licensed bookmaker on behalf of the Government.
19. All sums retained on account of the betting tax shall be made over by the licensed bookmaker, by whom they have been retained, to the prescribed officer at such times and in such manner as may be prescribed.
  20. (1) The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them to carry on the business or vocation of a bookmaker at that meeting.
    - (2) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by them to backers in satisfaction of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the Government, permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of such accounts.
  21. (1) The totalizator tax payable under Section 15 shall be recoverable as a public demand from the racing club conducting the meeting, and any portion of such tax which is not so recovered shall also be recoverable as a public demand from the stewards of the race-meeting jointly and severally.
    - (2) All monies which a licensed bookmaker is liable to make over to the prescribed officer under Section 19 shall be recoverable from the licensed bookmaker as a public demand.
  22. The Government may make rules for securing the payment of the totalizator tax and the betting tax, the production and inspection of accounts kept under this chapter and generally for carrying into effect the provisions of this chapter, and for dealing with such matters as are therein directed to be prescribed.

## THE CONTEMPT OF COURTS ACT, 1926

### Act No. XII of 1926

An Act to define and limit the powers of certain courts in punishing contempts of courts

WHEREAS doubts have arisen as to the powers of the High Court Division to punish contempts of courts:

AND WHEREAS it is expedient to resolve these doubts and to define and limit the powers exercisable by the High Court Division in punishing contempts of court.

It is hereby enacted as follows:

1. (1) This Act may be called the Contempt of Courts Act, 1926.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such date as the Government may, by notification in the official gazette, appoint 1st May 1926.
2. (2) Subject to the provisions of subsection (3), the High Court Division shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself.
- (3) The High Court Division shall not take cognizance of contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Penal Code.
3. Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to taka two thousand or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court:

Provided further that notwithstanding anything elsewhere contained in any law, the High Court Division shall not impose a sentence in excess of that specified in this section for any contempt either in respect of itself or a court subordinate to it.

480. (1) any such offences as described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Penal Code is committed in the view or presence of any civil, criminal or revenue court, the court may cause the offender to be detained in custody and at any time before the rising of the

court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding taka two hundred, and, in default to payment, to simple imprisonment for a term which may extend to one month unless such fine be sooner paid.

481. (1) In every such case the court shall record the facts constituting the offence, with the statement if any made by the offender, as well as the finding and sentence.
- (2) If the offence is under Section 228 of the Penal Code, the record shall show the nature and stage of the judicial proceeding in which the court interrupted or insulted was sitting, and the nature of the interruption or insult.
482. (1) If the court in any case considers that a person accused of the offences referred to in Section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding taka two hundred should be imposed upon him, or such court is for any other reason of opinion that the case should not be disposed of under Section 480, such court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such magistrate, or if sufficient security is not given, shall forward such person in custody to such magistrate.
- (2) The magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in the manner hereinbefore provided.
483. When the Government so directs, any registrar or any sub-registrar appointed under the Registration Act, 1908 shall be deemed to be a civil court within the meaning of Sections 480 and 482.
484. When any court has under Section 480 or Section 482 adjudged an offender to punishment or forwarded him to a magistrate for trial for refusing or omitting to do anything which was lawfully required to do or for any intentional insult or interruption, the court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such court, or on apology being made to its satisfaction.

485. If any witness or person called to produce a document or thing before a criminal court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the court requires him to produce, and does not offer any reasonable excuse for such refusal, such court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding magistrate or judge commit him to the custody of an officer of the court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 480 or Section 482, and, in the case of High Court Division, shall be deemed guilty of a contempt.
- 485A. (1) If any witness being summoned to appear before a criminal court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the court before which the witness is to appear is satisfied that it is expedient in the interest of justice that such a witness should be tried summarily, the court may take cognizance of the offence and, after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding taka two hundred and fifty.
- (2) In every such case the court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.
486. (1) Any person sentenced by any court under Section 480 or Section 485 or Section 485A may, notwithstanding anything herein before contained, appeal to the court to which decrees or orders made in such court are ordinarily appealable.
- (2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

- (3) An appeal from such conviction by a Court of Small Causes shall lie with the Court of Session for the sessions division within which such court is situated.
- (4) An appeal from such conviction by any officer as registrar or sub-registrar appointed as aforesaid may, when such officer is also judge of a civil court, be made to the court to which it would, under the proceeding portion of this section, be made if such conviction were a decree by such officer in his capacity as such judge, and in other cases may be made to the district judge.
487. (1) Except as provided in Sections 480, 485, and 485A, no judge of a criminal court or magistrate, other than a judge of the Supreme Court, shall try any person for any offence referred to in Section 195, when such offence is committed before him or in contempt of his authority, or is brought under his notice as such judge or magistrate in the court of a judicial proceeding.
195. (1) No court shall take cognizance—
- (a) of any offence punishable under Sections 172 to 188 of the Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate,
  - (b) of any offence punishable under any of the following sections of the same code, namely, Sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any court, except on the complaint in writing of such court or some other court to which such court is subordinate, or
  - (c) of any offence described in Section 463 or punishable under Section 471, Section 475 or Section 476 of the same code, when such offence is alleged to have been committed by a party to any proceeding in any court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such court, or of some other court to which such court is subordinate.
- (2) In clauses (b) and (c) of subsection (1), the term "court" includes a civil, revenue or criminal court, but does not

include a registrar or sub-registrar under the Registration Act, 1908.

- (3) For the purposes of this section, a court shall be deemed to be subordinate to the court to which appeals ordinarily lie from the appealable decrees or sentences of such former court, or in the case of a civil court from whose decrees no appeal ordinarily lies to the principal court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such civil court is situated:

Provided that—

- (a) where appeals lie to more than one court, the appellate court of inferior jurisdiction shall be the court to which such court shall be deemed to be subordinate; and
- (b) where appeals lie to a civil and also to a subordinate to the civil or revenue court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.
- (4) The provision of subsection (1), with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences, and attempts to commit them.
- (5) Where a complaint has been made under subsection (1), clause (a) by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint, if it does so, it shall forward a copy of such order to the court and, upon receipt thereof by the court, no further proceeding shall be taken on the complaint.
476. (1) When any civil, revenue or criminal court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in Section 195, subsection (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that court, such court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the court, and shall forward the same to a magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused

before such magistrate or if the alleged offence is not bailable may, if it thinks necessary so to do, send the accused in custody to such magistrate, and may bind over any person to appear and give evidence before such magistrate:

Provided that, where the court making the complaint is the High Court Division, the complaint may be signed by such officer of the court as the court may appoint.

For the purpose of this subsection, a metropolitan magistrate shall be deemed to be a magistrate of the first class.

- (2) A magistrate to whom a complaint is made under subsection (1) or Section 476A or Section 476B shall, notwithstanding anything contained in Chapter XVI, proceed, as far as may be, to deal with the case as if it were instituted on a police report.
- (3) Where it is brought to the notice of such magistrate or of any other magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided:

476A. The power conferred on civil, revenue and criminal courts by Section 476, subsection (1) may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such court, by the court to which such former court is subordinate within the meaning of Section 195, subsection (3), in any case in which such former court has neither made a complaint under Section 476 in respect of such offence nor rejected an application for the making of such complaint; and where the superior court makes such complaint, the provisions of Section 476 shall apply accordingly.

476B. Any person on whose application any civil, revenue or criminal court has refused to make a complaint under Section 476 or Section 476A, or against whom such a complaint has been made, may appeal to the court to which such former court is subordinate within the meaning of Section 195, subsection (3), and the superior court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the

subordinate court might have made under Section 476, and if it makes such complaint the provisions of that section shall apply accordingly.

99A. (1) Where—

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

(b) any document,

wherever printed, appears to the Government to contain any treasonable or 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 feelings of any such class by insulting the religion or the religious beliefs of the class, that is to say any matter the publication of which is punishable under Section 123A or Section 124A or Section 153A or Section 295A 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 authorize 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 subsection (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 the 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 subsection (1) of Section 99A.

99C. Every such application shall be heard and determined by a

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 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 subsection (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.
- 99F. The Supreme Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, 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.
- 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.

## CHAPTER XII

### THE COPYRIGHT ORDINANCE, 1962

#### Ordinance No. XXXIV of 1962

An ordinance to amend and consolidate the law relating to copyright.

WHEREAS it is expedient to amend and consolidate the law relating to copyright;

NOW, THEREFORE, in pursuance of the proclamation of the seventh day of October, and in exercise of all powers enabling in that behalf the President is pleased to make and promulgate the following Ordinance:

## Chapter I Preliminary

### *Extent and Commencement*

1. (1) This Ordinance may be called the Copyright Ordinance, 1962.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on such date as the Government may, by notification in the official gazette, appoint.
2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context—
  - (a) "Adaptation" means—
    - (i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;
    - (ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;
    - (iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
    - (iv) in relation to a musical work, any arrangement or transcription of the work;
  - (b) "Architectural work of art" means any building having an artistic character or design or any model of such building;
  - (c) "Artistic work" means—
    - (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph whether or not any such work possesses artistic quality;
    - (ii) an architectural work of art; and
    - (iii) any other work of artistic craftsmanship;
  - (d) "Author" means—
    - (i) in relation to a literary or dramatic work, the author of the work;
    - (ii) in relation to a musical work, the composer;
    - (iii) in relation to an artistic work other than a photograph, the artist;
    - (iv) in relation to a photograph, the person taking the photograph;

- (v) in relation to a cinematographic work, the owner of the work at the time of its completion; and
- (vi) in relation to a record, the owner of the original plate from which the record is made at the time of the making of the plate;
- (e) "Banglalee work" means a literary, dramatic, musical or artistic work the author of which is a citizen of Bangladesh and includes a cinematographic work or a record made or manufactured in Bangladesh;
- (f) "Board" means the Copyright Board constituted under Section 45;
- (g) "Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan, separately printed or lithographed, but does not include a newspaper;
- (h) "Broadcast" means communication to the public by any means of radio-diffusion including telecast or by wire or by both, and "broadcasting" shall be construed accordingly;
- (i) "Broadcasting Authority" means any person who, or any authority which, operates a broadcast transmitting station;
- (j) "Building" includes any structure;
- (k) "Calendar year" means the year commencing on the first day of January;
- (l) "Cinematographic work" means any sequence of visual images fixed on material of any description (whether translucent or not) so as to be capable of being shown as a moving picture and of being the subject of reproduction, whether silent or accompanied by sound;
- (m) "Copy" means a reproduction in a written form or in the form of a sound recording or cinematographic work or in any other material form, whether in two or three dimensions;
- (n) "Copyright" means copyright under this Ordinance;
- (o) "Delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by broadcast or telecast.
- (p) "Dramatic work" includes any play for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematographic work;
- (q) "Engravings" include etchings, lithographs, wood cuts, print and other similar works, not being photographed;
- (r) "Exclusive licence" means a licence which confers on the licensee

and persons authorized by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work and "exclusive" shall be construed accordingly;

- (s) "Fixation" means the incorporation of sounds or images or both in a device by means of which they can later be made aurally or visually perceivable;
- (t) "Government work" means a work which is made or published by or under the direction or control of—
  - (i) the Government or any department of the Government, or
  - (ii) any court, tribunal or other judicial or legislative authority in Bangladesh;
- (u) "Infringing copy" means—
  - (i) in relation to a literary, dramatic, musical or artistic work, a reproduction in any material form of the whole work or a part thereof otherwise than in the form of a cinematographic work;
  - (ii) in relation to a cinematographic work, a copy of the work or a record embodying the whole or a part of the recording in any part or the sound-track associated with the film;
  - (iii) in relation to a record, any record embodying the same recording either in its original form or in any form derived from the original; and
  - (iv) in relation to a programme in which broadcast reproduction right subsists under Section 24, a cinematographic work or a record, recording the whole programme or a part thereof, if such reproduction, copy or record is made or imported in contravention of any of the provisions of this Ordinance;
- (v) "Lecture" includes address, speech and sermon;
- (w) "Licence" means a licence granted under Chapter VII of this Ordinance;
- (x) "Literary work" includes works on humanity, religion, social and physical sciences, tables and compilations;
- (y) "Manuscript" means the original documents embodying the work, whether written by hand or not;
- (z) "Musical work" means any combination of melody and harmony or either of them printed, reduced to writing otherwise graphically produced or reproduced;

- (za) "Newspaper" means a newspaper as defined in Section 2(f) of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), printed or published in conformity with the provisions of Part III of the said Act;
- (zb) "Performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematographic work, or by means of broadcast, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture;
- (zc) "Performing rights society" means a society, association or other body, whether incorporated or not, which carries on in Bangladesh the business of issuing or granting licences for the performance in Bangladesh of any works in which copyright subsists;
- (zd) "Photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematographic work;
- (ze) "Plate" includes any stereotype or other plate, stone, block mould, matrix, transfer, negative tape, wire, optical film, or other device used or intended to be used for printing or reproducing copies of any work, any matrix or other appliances by which records for the acoustic presentation of the work are or are intended to be made;
- (zf) "Prescribed" means prescribed by rules made under this Ordinance;
- (zg) "Public libraries" means the National Library of Bangladesh designated as such by the Government and any three other libraries as may be specified by the Government in this behalf by notification in the official gazette;
- (zh) "Rebroadcast" means a simultaneous or subsequent broadcast by one broadcasting authority of the broadcast of another broadcasting authority, whether situated in Bangladesh or abroad, and includes distribution of such broadcast over wires and "rebroadcasting" shall be construed accordingly;
- (zi) "Record" means any disc, tape, wire, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound-track associated with a cinematographic work;
- (zj) "Recording" means the aggregate of the sound, embodied in, and capable of being reproduced by means of a record;

- (zk) "Reproduction" in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematographic work or the sorting of the work in a computer or other device by means of which it can be read or otherwise perceived and in the case of an artistic work, includes a version produced by converting the work into a three dimensional form or if it is three dimensions, by converting it into a two-dimensional form be construed accordingly;
- (zl) "Registrar" means the Registrar of Copyrights appointed under Section 44 and includes a Deputy Registrar of Copyrights discharging any function of the Registrar;
- (zm) "Work" means any of the following works, namely;
- (i) a literary, dramatic, musical or artistic work;
  - (ii) a cinematographic work;
  - (iii) a record; and
  - (iv) a broadcast;
- (zn) "Work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors; and
- (zo) "Work or sculpture" includes casts and models.

### *Meaning of Copyright*

3. (1) For the purposes of the Ordinance, "Copyright" means the exclusive right, by virtue of, and subject to the provisions of, this Ordinance;
- (a) in the case of a literary, dramatic or musical work, to do and authorize the doing of any of the following acts, namely—
- (i) to reproduce the work in any material form;
  - (ii) to publish the work;
  - (iii) to perform the work in public;
  - (iv) to produce, reproduce, perform or publish any translation of the work;
  - (v) to use the work in a cinematographic work or make a record in respect of the work;
  - (vi) to broadcast the work or to communicate the broadcast

- of the work to the public by a loudspeaker or any other similar instrument;
  - (vii) to make any adaptation of the work;
  - (viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in subclauses (i) to (vi);
  - (b) in the case of an artistic work, to do or authorize the doing of any of the following act, namely—
    - (i) to reproduce the work in any material form;
    - (ii) to publish the work;
    - (iii) to use the work in a cinematographic work;
    - (iv) to show the work in television;
    - (v) to make any adaptation of the work;
    - (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in subclauses (i) to (iv);
  - (c) in the case of a cinematographic work, to do or authorize the doing of any of the following acts, namely—
    - (i) to make a copy of the work;
    - (ii) to cause the work insofar as it consists of visual images, to be seen in public and insofar as it consists of sounds to be heard in public;
    - (iii) to make any record embodying the recording in any part of the sound track associated with the work by utilizing such sound track;
    - (iv) to broadcast the work;
  - (d) in the case of a record, to do or authorize the doing of any of the following acts by utilizing the record, namely—
    - (i) to make any other record embodying the same recording;
    - (ii) to use the record in the sound track of a cinematographic work;
    - (iii) to cause the recording embodied in the record to be heard in public;
    - (iv) to communicate the recording embodied in the record by broadcast.
- (2) Any reference in subsection (i) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a part thereof.

**Meaning of Publication**

4. (1) For the purposes of this Ordinance, "Publication" means:
- (a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities;
  - (b) in the case of a cinematographic work, the sale or hire or offer for sale or hire of the work or copies thereof to the public
  - (c) in the case of a record, the issue of records to the public in sufficient quantities;
- but does not, except as otherwise expressly provided in this Ordinance, include
- (i) in the case of a literary, dramatic or musical work, the issue of any records recording such work;
  - (ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.
- (2) If any question arises under subsection (1) whether copies of any literary dramatic, musical or artistic work, or records issued to the public are sufficient in quantities, it shall be referred to the Board whose decision thereon shall be final.
5. When the work not deemed to be published or performed in public. Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, if published, performed in public or delivered in public, without the licence of consent of the owner of the copyright.
6. When work deemed to be first published in Bangladesh.
- (1) For the purposes of this Ordinance, a work published in Bangladesh shall be deemed to be first published in Bangladesh notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in Bangladesh and in another country if the time between the publication in Bangladesh and the publication in such other country does not exceed thirty days.
- (2) If any question arises under subsection (1) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Ordinance,

it shall be referred to the Board whose decision thereon shall be final.

*Nationality of Author where the Making of Unpublished Work is Extended over Considerable Period. Domicile of Corporation.*

7. Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Ordinance, be deemed to be citizen of, or domiciled in, the country of which he was a citizen of wherein he was domiciled during the major part of that period.
8. For the purposes of this Ordinance, a body corporate shall be deemed to be domiciled in Bangladesh if it is incorporated under any law in force in Bangladesh or if it has an established place of business in Bangladesh.

*No Copyright Except as Provided on this Ordinance*

9. No person shall be entitled to copyright or any similar right in any work whether published or unpublished, otherwise than under and in accordance with the provisions of this Ordinance, or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

*Works in which Copyright Subsists*

10. (1) Subject to the provisions of this section and to the other provisions of this Ordinance, copyright shall subsist throughout Bangladesh in the following classes of works, that is to say—
  - (a) Original literary, dramatic, musical and artistic works;
  - (b) Cinematographic works;
  - (c) Records; and
  - (d) Broadcasts.
- (2) Copyright shall not subject in any work specified in subsection (1), other than a work to which the provisions of Section 53 or Section 54 apply, unless—
  - (i) in the case of a published work, the work is first published in Bangladesh, or where the work is first published

- outside Bangladesh, the author is at the date of such publication, or in case where the author was dead at the date, was at the time of his death, a citizen of Bangladesh or domiciled in Bangladesh;
- (ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of Bangladesh or domiciled in Bangladesh;
  - (iii) in the case of an architectural work of art, the work is located in Bangladesh;
  - (iv) in the case of a record, the recording is made in Bangladesh; and
  - (v) in the case of a broadcast, the broadcasting is transmitted from within Bangladesh.
- (3) Copyright shall not subsist—
- (a) in any cinematographic work, if a substantial part of the work is an infringement of the copyright in any other work;
  - (b) in any record made in respect of a literary, dramatic or musical work, of, in making the record copyright in such work has been infringed; and
  - (c) in any broadcast, if a substantial part of the broadcast, is an infringement of the copyright in any other work.
- (4) The copyright or the lack of copyright in a cinematographic work or a broadcast or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the work or the broadcast or, as the case may be, the record is made.
- (5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to the processes or methods of construction.

### **Work of Joint Authors**

11. Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Ordinance, the work shall be treated for the purpose of this Ordinance as if the other author or authors had been the sole author or authors thereof; provided that the

term of the copyright shall be the same as it, would have been if all the authors had satisfied such conditions.

*Provision as to Designs Registrable under Act II of 1911*

12. (1) Copyright shall not subsist under this Ordinance in any design which is registered under the Patents and Designs Act, 1911.
- (2) Copyright in any design which is capable of being registered under the Patents and Designs Act, 1911, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence by any other person.

*First Owner of Copyright*

13. Subject to the provisions of the Ordinance, the author of a work shall be the first owner of the copyright therein;

Provided that—

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the owner of the copyright in the work insofar as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;
- (b) subject to the provisions of clause (a) in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematographic work made, for valuable consideration at the instance of any person, such persons shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer

- shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein,
- (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
  - (e) in the case of a work to which the provisions of Section 53 apply, the international organization concerned shall be the first owner of the copyright therein.
14. (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof;

Provided that, in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence;

Provided further that, where the owner of the copyright in a work is the author of the work, no assignment of the copyright in the work or of any interest in such copyright shall be made, or if made shall be effective (except where the assignment is made in favour of Government or an educational, charitable, religious or non-profit institution) for a period of more than ten years beginning from the calendar year next following the year in which the assignment is made; if an assignment of the copyright in a work is made in contravention of this proviso, the copyright in the work shall, on the expiry of the period specified in this proviso, revert to the author (who may re-assign the copyright in the work subject to the provisions therein contained), or if the author be dead, to his representatives in interest:

Provided further that the copyright in an unpublished work assigned by its author to any person or organization for the specific purpose of publication shall revert to the author if it is not published within a period of three years from the date of its assignment, subject to the condition that prior to such assignment the work is registered under this Ordinance.

- (2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not

assigned, shall be treated for the purposes of this Ordinance as the owner of copyright and the provisions of this Ordinance shall have effect accordingly.

- (3) In this section, the expression "assignee" as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

### *Mode of Assignment*

15. No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorized agent. Transmission of copyright in manuscript by testamentary disposition.
16. Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator's will or any codicil thereto, be construed as including the copyright in the work insofar as the testator was the owner of the copyright immediately before his death.

### *Right of Owner to Relinquish Copyright*

17. (1) The owner of the copyright in a work may relinquish all or any of the right comprised in the copyright by giving notice in the prescribed form to the Registrar and thereupon such rights shall, subject to the provisions of subsection (3), cease to exist from the date of the notice.
- (2) On receipt of a notice under subsection (1), the Registrar shall cause it to be published in the official gazette and in such other manner as he may deem fit.
- (3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any right subsisting in favour of any person on the date of the notice referred to in subsection (1).

### *Term of Copyright in Published Literary, Dramatic, Musical and Artistic Work*

18. Except as otherwise hereinafter provided, copyright shall subsist

in any literary, dramatic, musical or artistic work (other than a photograph) published within the life time of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation. In this section, the reference to the author shall in the case of a work of joint authorship, be construed as a reference to the author who dies last.

### *Term of Copyright in Posthumous Work*

19. (1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author, who dies last but which or any adaptation of which, had not been published before that date, copyright shall subsist until fifty years, from the beginning before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published or where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.
- (2) For the purposes of this section, a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold, or offered for sale, to the public.

### *Term of Copyright in Cinematographic Works, Records and Photographs*

20. (1) In the case of a cinematographic work, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is published.
- (2) In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.
- (3) In the case of photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

*Term of Copyright in Broadcast*

20A. In the case of a broadcast, copyright shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast took place.

*Term of Copyright in Anonymous and Pseudonymous Work*

21. (1) In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the author dies.

- (2) In subsection (1), references to the author shall, in the case of an anonymous work of joint authorship be construed
- (a) where the identity of one of the authors is disclosed as references to that author;
  - (b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors;
  - (c) in subsection (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed—
    - (a) where the names of one or more (but not all) of the authors are pseudonym and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such one of those authors who dies last;
    - (b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the authors who dies last from amongst the authors whose names are pseudonyms and are disclosed; and
    - (c) where the names of all the authors are pseudonyms

and the identity of one of them is disclosed, as references to the author whose identity is disclosed or, if the identity of two or more of such authors is disclosed, as references to such one of those authors who dies last.

Explanation. For the purposes of this section, the identity of an author shall be deemed to have been disclosed if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Board by that author.

### *Terms of Copyright in Government Works and in Works of International Organizations*

22. (1) Copyright in a Government work shall, where Government is the first owner of the copyright therein, subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.
- (2) In the case of a work of an international organization to which the provisions of Section 53 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

### *Term of Copyright in Unpublished Work*

23. (1) If a work, whose author's identity is known is not published posthumously within fifty years after the death of the author, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the author dies.
- (2) If a work, whose author's identity is not known, is not published within fifty years of its creation, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the work is created.

### *Rights of Broadcasting Organization*

24. (1) Broadcasting organizations shall enjoy the right to authorize—
- (a) the rebroadcasting of their broadcasts;

- (b) the fixation of their broadcasts; and
- (c) the copying of fixations made of their broadcasts.

***Application of Other Provisions of this Ordinance to Broadcasts***

- 25. Any persons who, without the authorization of the broadcasting organization, does or causes the doing of any of the acts referred to in Section 24 shall be deemed to infringe the rights of the broadcasting organizations, and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to broadcasting organization and broadcasts as if they were authors and works, respectively.
- 26. Omitted by Act LIV of 1974, x.x. 8 and 9.

***Other Rights Not Affected***

- 27. For the removal of doubts, it is hereby declared that the rights conferred upon broadcasting organizations shall not affect the copyright in any literary, dramatic, musical, artistic or cinematographic work, or in any record used in the broadcast.

***Protection of . . . and Term of Protection***

- 28. The publisher of an edition of a work shall enjoy the right to authorize the making, by any photographic or similar process, of copies, intended for sale in commerce, of the typographical arrangement of the edition, and such right shall subsist until the twenty-fifth year after the edition was first published.
- 29. Any person who, without the authorization of the publisher makes or causes the making of, by any photographic or similar process, copies, intended for sale in commerce, of the typographical arrangement of the edition or any substantial part thereof, shall be deemed to infringe the right of the publisher, and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to the publisher and the typographical arrangements of editions as if they were authors and works respectively.

Explanation. "Typographical arrangement" shall include calligraphy.

***Protection to Copyright***

30. For the removal of doubts, it is hereby declared that the right conferred upon publishers by this chapter shall—
- (a) subsist irrespective of the question whether the edition is that of a work protected or unprotected by copyright;
  - (b) not affect the copyright, if any, in the literary, dramatic, musical or artistic work itself.

***Performing Rights Society of the Statements of Fees, Charges and Royalties***

31. (1) Every performing rights society shall within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar statements of all fees, charges or royalties which it proposes to collect for the grant of licences for the performance in public or works in respect of which it has authority to grant such licences.
- (2) If any such society fails, in relation to any work, to prepare, publish or file with the Registrar the statements referred to in subsection (1) in accordance with the provisions of that subsection, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar.

***Objections Relating to Published Statements***

32. Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in Section 31 may at any time lodge such objections in writing at the Copyright Office.

***Determination of Objections***

33. (1) Every objection lodged at the Copyright Office under Section 32 shall, as soon as may be, be referred to the Board, and the Board shall decide such objection in the manner hereinafter provided.
- (2) The Board shall, notwithstanding that no objection has been

- lodged, take notice of any matter which, in its opinion, is one for objection.
- (3) The Board shall give notice in respect of every objection to the performing rights society concerned and shall give to such society and the person who lodged the objection a reasonable opportunity of being heard.
  - (4) The Board shall, after making the prescribed enquiry, make such alterations in the statements as it may think fit, and shall transmit the statements thus altered or unchanged, as the case may be, to the Registrar, who shall thereupon as soon as practicable after the receipt of such statements publish them in the official gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.
  - (5) The statements of fees, charges or royalties as approved by the Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the issue or grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.
  - (6) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work claimed by such society against any person who has tendered or paid to such society the fees, charges or royalties which have been approved by the Board as aforesaid.

#### *Existing Rights Not Affected*

34. Nothing in this chapter shall be deemed to affect—
  - (a) any rights or liabilities in relation to the performing rights in work accrued or incurred before the commencement of this Ordinance; and
  - (b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

#### *Licence by Owners of Copyright*

35. The owner of the copyright in any existing work of the prospective owner of the copyright in any future work may grant any interest in the copyright by licence in writing signed by him or

by his duty authorized agent; provided that in the case of a licence relating to copyright in any future work; the licence shall take effect only when the work comes into existence.

Explanation. When a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

### *Compulsory Licence in Work Withheld from Public*

36. (1) If any time during the term of copyright in any Bangladye's work which has been published or performed in public, an application is made to the Board that the owner of the copyright in the work;
- (a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work and by reason of such refusal the work is withheld from the public; or
  - (b) has refused to allow communication to the public by broadcast of such work or, in the case of record the work recorded in such record, in terms which the applicant considers reasonable; the Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that such refusal is not in the public interest, or that the grounds for such refusal are not reasonable, direct the Registrar to grant to the applicant a licence to republish the work, perform the work in public or communicate the work to the public by broadcast as the case may be, subject to payment to the copyright of such compensation and subject to such other term and conditions as the Board may determine; and thereupon the Registrar shall grant the licence to the applicant in accordance with the directions of the Board, on payment of such fees as may be prescribed.
- (2) Where two or more persons have made applications under subsection (1), the licence shall be granted to the applicant who, in the opinion of the Board, would best serve the interest of the general public.

*Licence to Produce and Publish Translations*

37. (1) Any citizen of Bangladesh or a person domiciled in Bangladesh may apply to the Board for a licence to produce and publish a translation of a literary or dramatic work in Bengali or a language ordinarily used in Bangladesh.
- (2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.
- (3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar such fee as may be prescribed.
- (4) When an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public calculated at such rate as the Board may in the circumstances each case, determine in the prescribed manner.

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorized by him within seven years of the first publication of the work, or if a translation has been so published, it has been out of print;
- (b) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorization by the owner of the copyright to produce and publish such translation or that he was unable to find the owner of the copyright;
- (c) Where the applicant is unable to find the owner of the copyright he has sent a copy of his request for such authorization to the publisher whose name appears from the work, not less than two months before the application for the licence;
- (d) the Board is satisfied that the applicant is competent to

- produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (e) the author has not withdrawn from circulation copies of the work;
  - (f) an opportunity of being heard is given wherever practicable to the owner of the copyright in the work; and
  - (g) the Board is satisfied, for reason to be recorded in writing, that the grant of the licence will be in the public interest.

### *Register of Copyrights, Indexes Form and Inspection of Register*

38. (1) The Registrar shall keep at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which shall be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.
- (2) The Registrar shall also keep such indexes of Register of Copyrights as may be prescribed.
- (3) The Register of Copyrights and the indexes thereof kept under this section shall at all reasonable time be opened to inspection, and any person shall be entitled to take copies of, or make extracts from any such register or index on payment of such fee and subject to such conditions as may be prescribed.

### *Registration of Copyrights*

39. (1) The author or publisher of, or the owner of, or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in the Register of Copyrights.
- (2) On receipt of an application in respect of any work under subsection (1) the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any work.

**Registration Assignment of Copyright**

40. (1) Any person interested in the grant of an interest in a copyright, either by assignment or licence may make an application in the prescribed form, accompanied by the prescribed fee, the original instrument of such grant and a certified copy thereof, to the Registrar for entering the particulars of the Register of Copyrights.
- (2) On receipt of an application in respect of any work under subsection (1), the Registrar shall, after holding such inquiry as he deems fit, enter the particulars of the grant in the Register of Copyrights unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any grant.
- (3) The certified copy of the grant shall be retained at the Copyrights Office and the original shall be returned to the person depositing it, with a certificate of registration endorsed thereon affixed thereto.

**Correction of Entries in the Register of Copyright and Indexes etc.**

41. (1) The Registrar may in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights and the indexes by—
- (a) correcting any error in any name, address or particulars; or
- (b) correcting any other error which may have arisen therein by accidental slip or omission.
- (2) The Board, on application of the Registrar or of any person aggrieved, may order the rectification of the Register of Copyrights by—
- (a) the making of any entry wrongly omitted to be made in the Register, or
- (b) the expunging of any entry wrongly made in or, remaining on, the Register, or
- (c) the correction of any error or defect in the Register.
42. (1) The Register of Copyrights and the indexes shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entry therein or extracts therefrom certified by the Registrar and sealed with the seal

- of the Copyright Office shall be admissible in evidence in all courts without further proof of production of the original.
- (2) A certificate of registration of copyright in a work shall be prima facie evidence that copyright subsists in the work and that the person shown in the certificate as the owner of the copyright is the owner of such copyright.

### *Copyright Office*

43. (1) There shall be established for the purposes of this Ordinance an office to be called the Copyright Office.
- (2) The Copyright Office shall be under the immediate control of the Registrar of Copyright who shall act under the superintendence and direction of the Government.
- (3) The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

### *Registrar and Deputy Registrar of Copyrights*

44. (1) The Government shall, for the purposes of this Ordinance appoint a Registrar of Copyright and may appoint one or more Deputy Registrars of Copyrights.
- (2) The Registrar shall—
- (i) sign all entries made in the Register of Copyrights kept under this Ordinance;
  - (ii) sign all certificate of registration of copyright and certified copies under the seal of the Copyright Office;
  - (iii) exercise the powers conferred and perform the duties imposed upon him by or under this Ordinance;
  - (iv) be the Secretary of the Copyright Board; and
  - (v) shall perform such other functions as may be prescribed.
- (3) A Deputy Registrar of Copyrights shall discharge, under the superintendence and direction of the Registrar, such functions of the Registrar under this Ordinance as the Registrar may from time to time, assign to him.
45. (1) The Government shall constitute a Board to be called the Copyright Board consisting of the following members, namely:
- (i) A Chairman appointed by the Government;
  - (ii) not less than three and not more than five other members appointed by the Government; and
  - (iii) the Registrar, ex-officio.

- (2) The members, including the Chairman of the Board, other than the ex-officio member, shall hold office for such period and on such terms and conditions as may be prescribed.
- (3) The Chairman shall be appointed from among eminent jurists and educationists.

### *Powers and Procedure of the Board*

46. (1) The Board shall, subject to any rules that may be made under the Ordinance, have power to regulate its own procedure including the fixing of places and times of its sittings.
- (2) If there is a difference of opinion among the members of the Board in respect of any matter coming before it for decision under this Ordinance, the opinion of the majority shall prevail; Provided that where there is no such majority the opinion of the Chairman shall prevail.
- (3) The Board may authorize any of its members to exercise any of its powers under Section 78 and any order made or act done in exercise of any such power by the member so authorized shall be deemed to be the order or act, as the case may be, of the Board.
- (4) No act done or proceeding taken by the Board under this Ordinance shall be questioned on the ground merely of the exercise of any vacancy in, or defect in the constitution of the Board.
- (5) The Board shall be deemed to be a civil court for the purposes of Sections 480 and 482 of the Code of Criminal Procedure, 1898, and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Penal Code.
- (6) No member of the board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

### *Delivery of Books to Public Libraries*

47. (1) Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in Section 24 of the Printing Presses and Publications (Declaration and

Registration) Act, 1973 (XXIII of 1973), the publisher of every book published in Bangladesh after the commencement of this Ordinance, shall, notwithstanding any agreement to the contrary, deliver at his own expense one copy of the book to each of the four public libraries within thirty days from the date of its publication.

- (2) The copy delivered to the National Library of Bangladesh shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the same, and shall be bound, sewed or stitched together and in the best on which any copy of the book is printed.
- (3) The copy delivered to any other public library shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.
- (4) Nothing contained in subsection (1) shall apply to any second or subsequent edition of a book in which edition no additions or alterations either in the letter press or in the maps, book prints or other engravings belonging to the book have been made, and a copy of the first or any other edition of which book has been delivered under this section.

#### *Delivery of Newspapers to Public Libraries*

48. Subject to any rules that may be made under this Ordinance but without prejudice to the provisions contained in Section 26 of the Printing Press and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), the publisher of every newspaper published in Bangladesh shall deliver at his own expense one copy of each issue of such newspaper as soon as it is published to each of the four public libraries.

#### *Receipt for Books Delivered*

49. The person in charge of a public library (whether called a librarian or any other name) or any other person authorized by him in this behalf to whom a copy of a book is delivered under Section 47, shall give to the publisher a receipt in writing therefore.

**Penalty**

50. Any publisher who contravenes any provision of this chapter or of any rule made thereunder shall be punishable with fine which may extend to taka fifty and if the contravention is in respect of a book, shall also be punishable with the fine which shall be equivalent to the value of the book and the court trying the offence may direct that the whole or any part of the fine realized from him shall be paid, by way of compensation, to the public library to which the book or newspaper, as the case may be, ought to have been delivered.

**Cognizance of Offences under this Chapter**

51. (1) No court shall take cognizance of any offence punishable under this chapter save on complaint made by an officer empowered in this behalf of the Government by a general or special order.
- (2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this chapter.

**Application of this Chapter,  
Books and Newspapers Published by Government**

52. The Chapter shall also apply to books and newspapers published by or under the authority of the Government, but shall not apply to books meant for official use only.

**Provision as to Works of  
Certain International Organizations**

53. (1) The Government may, by notification in the official gazette, declare that this section shall apply to such organizations, as may be specified therein of which one or more sovereign powers or the Government or Government thereof are members.
- (2) Where—
- (a) any work is made or first published by or under the direction or control of any organization to which this section applies; and

- (b) there would, apart from this section, be no copyright in the work in Bangladesh at the time of the making or, as the case may be, of the first publication thereof; and
- (c) either—
- (i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author being an agreement which does not reserve to the author the copyright if any, in the work, or
  - (ii) under Section 13 any copyright in the work would belong to the organization,
- there shall subsist copyright in the work throughout Bangladesh.
- (3) Any organization to which this section applies which at the material time had not the legal capacity of a body corporate shall have, and be deemed at all material times to have had, the legal capacity of a body corporate for the purpose of holding dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

#### *Powers to Extend Copyright Foreign Works*

54. The Government may, by order published in the official gazette, direct that all or any of the provisions of this Ordinance shall apply—

- (a) to works first published in a foreign country to which the order related in like manner as if they were first published within Bangladesh;
- (b) to unpublished works, or any class thereof, the authors whereof were at the time of making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of Bangladesh;
- (c) in respect of domicile in a foreign country to which the order relates in like manner as if such domicile were in Bangladesh;
- (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order related in like manner as if the author was a citizen of Bangladesh at the date of time; and thereupon, subject to the provisions of this chapter and of the order, this Ordinance shall apply accordingly;

Provided that—

- (i) before making an order under this section in respect of any foreign country (other than a country with which Bangladesh has entered into a treaty or which is a party to a convention relating to copyright to which Bangladesh is a party), the Government shall be satisfied that foreign country has made or has undertaken to make such provisions, if any, as it appears to the Government expedient to require for the protection in that country, of works entitled to copyright under the provisions of this Ordinance;
- (ii) the order may provide that the provisions of this Ordinance shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;
- (iii) the order may provide that the term of copyright in Bangladesh shall not exceed that conferred by the law of the foreign country to which the order relates;
- (iv) the order may provide that the provisions of this Ordinance as to delivery of copies of books to public libraries shall not apply to works first published in such foreign country except so far as is provided by the order;
- (v) in applying the provisions of this Ordinance as to ownership of copyright the order may make such modification as appears necessary, having regard to the law of the foreign country;
- (vi) the order may provide this Ordinance or any part thereof shall not apply to works made, or first published before the commencement of this order.

***Power to Restrict Right in Works of Foreign Authors First Published in Bangladesh***

55. If it appears to the Government that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Bangladesh authors, the government may, by order published in the official gazette, direct that such of the provisions of this Ordinance as confer copyright on works first published in Bangladesh shall not apply to work published after the date specified in the order the authors whereof are subjects or citizens of such foreign country and are not domiciled in Bangladesh, and thereupon those provisions shall not apply to such works.

*The Copyright Infringed*

56. Copyright in a work shall be deemed to be infringed—
- (a) when any person, without the consent of the owner of the copyright or without licence granted by such owner of the Registrar under this Ordinance or in contravention of the conditions of a licence to grant or of any condition imposed by a competent authority under this Ordinance:
    - (i) does anything, the exclusive right to do which is by this Ordinance conferred upon the owner of the copyright; or
    - (ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware, and had no reasonable ground for suspecting, that such performance would be an infringement of copyright; or
  - (b) when any person
    - (i) makes for sale or hire, or sells or lets for hire or by way of trade displays or offers for sale or hire; or
    - (ii) distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright; or
    - (iii) by way of trade exhibits in public; or
    - (iv) imports into Bangladesh, any infringing copies of the work.

Explanation. For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematographic work shall be deemed to be an 'infringing copy'.

*Certain Acts Not to Be Infringement of Copyright*

57. (1) The following acts shall not constitute an infringement of copyright, namely:
- (a) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of—
    - (i) research for private study;
    - (ii) criticism or review, whether of that work or of any other work;
  - (b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events—

- (i) in a newspaper, magazine or similar periodical; or by broadcast or in a cinematographic work or by means of photograph;
- (c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of judicial proceeding;
- (d) the publication in a newspaper of a report of an address of political nature delivered at a public meeting unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given and, except whilst the building is being used for public worship, in a position near the lecture; but nothing in this clause shall affect the provisions as to newspaper summaries;
- (e) the reproduction of any literary, dramatic, or musical work in the certified copy made or supplied in accordance with any law for the time being in force;
- (f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;
- (g) the publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of educational institutions and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic work, not themselves published for the use of educational institutions, in which copyright subsists;

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years;

Explanation. In the case of work of joint authorship references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person.

- (h) The production or adaptation of a literary, dramatic, musical or artistic work—
  - (i) in the course and for the sole purpose of instruction whether at an educational institution or elsewhere

- where the reproduction or adaptation is made by a teacher or a pupil otherwise than by the use of a printing process; or
- (ii) as part of the questions to be answered in an examination, or
  - (iii) in answers to such questions;
- (i) the performance, in the course of the activities of an educational institution, or a literary, dramatic or musical work by the staff and students of the institution, or of a cinematographic work or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution;
  - (j) the making of records in respect of any literary, dramatic or musical work, if—
    - (i) records recording the work have previously been made by or with the licence or consent of the owner of the copyright in the works; and
    - (ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Board in this behalf.

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and, omissions have been previously made by, or with the licence or consent of the owner of the copyright, or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question.

- (k) the causing of a recording embodied in a record to be heard in public utilizing the record:
  - (i) at any premises where person resides, as part of the amenities provided exclusively or mainly or residents therein, or
  - (ii) as part of the activities of a club, society or other organization which is not established or conducted for profit;

- (l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious, charitable or educational institution.
- (m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the owner of copyright of such article has expressly reserved to himself the right of such reproduction;
- (n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered to public;
- (o) the making of not more than three copies of books (including a pamphlet, sheet of music, tape, disc recording, map, chart or plan) by or under the direction of the person in charge of a public library or a non-profit library available for use by the public free of charge or a library attached to an educational institution for the use of such library if such book is not available for sale;
- (p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access.

Provided that where the identity of the author of any such work, or in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution as the case may be, the provision of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known from the death of such one of those authors who dies last;

- (q) the reproduction or publication of—
  - (i) any matter which has been published in any official gazette, or the report of any committee, commission, council, board or other like body appointed by the Government unless the reproduction or publication of such matter or report is prohibited by the Government;
  - (ii) any judgment or order of a court, tribunal or other

judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, tribunal or other judicial authority, as the case may be;

- (r) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;
- (s) the making or publishing of a painting, drawing, engraving or photograph of a sculpture or other artistic work if such work is permanently situated in a public or any premises to which the public has access;
- (t) the inclusion in a cinematographic work of
  - (i) any artistic work permanently situated in a public place or any premises to which the public has access; or
  - (ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the work;
- (u) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the works.

Provided that he does not thereby repeat or imitate the main design of the work;

- (v) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not expert relation to objects of that description, to be a reproduction of the artistic work.
- (w) the reconstruction of building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed;

Provided that the original construction was made with the consent or licence of the owner of copyright in such drawings or plans;

- (x) in relation to a literary, dramatic or musical, work recorded or reproduced in any cinematographic work, the exhibition of such work after the expiration of the term of copyright therein;

Provided that the provisions of subclause (ii) of clause (a), subclause (i) of clause (b) and clauses (f), (g), (m), and (p)

shall not apply as respects any act unless that act is accompanied by an acknowledgement

- (i) identifying the work by its title or other descriptions; and
- (ii) unless the work is anonymous or the author of the work has previously agreed to require that no acknowledgement of his name should be made also identifying the author.

Explanation. For the purpose of clause (a) and clause (b) of this subsection—

- (i) in relation to a literary or dramatic work in prose: a single extract up to four hundred words, or a series of extracts (with comments interposed) up to a total of eight hundred words with no one extract exceeding three hundred words; and
- (ii) in relation to a literary, or dramatic work in poetry, an extract or extracts up to a total of forty lines and in no case exceeding one-fourth of the whole of any poem may be deemed to be fair dealing with such work;

Provided that in a review of a newly published work, reasonably longer extracts may be deemed fair dealing with such work.

- (2) The provisions of subsection (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic musical or artistic work as they apply in relation to the work itself.

### *Importance of Infringing Copies*

58. (1) The Registrar, on application by the owner of copyright in any work or by his duly authorized agent and on payment of the prescribed fee, may after making such enquiry as he deems fit, order that copies made out of Bangladesh of the work which if made in Bangladesh would infringe copyright shall not be imported.
- (2) Subject to any rules that may be made under this Ordinance, the Registrar or any person authorized by him in this behalf may enter any ship, vehicle, dock or premises where any such copies as are referred to in subsection (1) may be found and may examine such copies.
  - (3) All copies to which any order made under subsection (1)

applies shall be deemed to be goods of which the bringing into Bangladesh has been prohibited or restricted under Section 16 of the Custom Act, 1969 (IV of 1969), and all the provisions of that Act shall have effect accordingly.

### *Definition*

59. For the purposes of this chapter, unless the context otherwise required, the expression "owner of copyright" shall include—

- (a) an exclusive licensee;
- (b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Board by that author or his legal representatives.

### *Civil Remedies for Infringement of Copyright*

60. (1) Where copyright in any work which has been registered under this Ordinance or is otherwise deemed to have complied with the formalities of registration has been infringed, the owner of the copyright shall, except as otherwise provided by this Ordinance, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:

Provided that if the defendant proves that at the date of the infringement he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and degree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

- (2) Where, in the case of a literary, dramatic, musical, or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or, in the case of an artistic work, appeared

on the work when it was made, the person whose name so appears or appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed unless the contrary is proved, to be the author or the publisher of the work, the case may be.

- (3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be at the discretion of the court.

### *Protection of Separate Rights*

61. Subject to the provisions of this Ordinance, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to this Ordinance and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit or proceeding.

### *Author's Special Rights*

62. (1) Notwithstanding that the author of a work may have assigned or relinquished the copyright in the work, he shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of any distortion, mutilation or other modification of the said work, or any other action in relation to the said work which would be prejudicial to his honour or reputation.
- (2) The right conferred upon an author of a work by subsection (1) other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

### *Right of Owner against Persons Possessing or Dealing with Infringing Copies*

63. All infringing copies or any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings

for the recovery of possession thereof or in respect of the conversion thereof:

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

- (a) that he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work of which such copies are alleged to be infringing copies: or
- (b) that he had reasonable ground for believing that such copies or plates do not involve infringement of the copyright in any work.

#### *Restriction on Remedies to the Case of Works of Architecture*

64. (1) Where the construction of a building or other structure which infringes or which, if completed would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition.
- (2) Nothing in Section 63 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

#### *Jurisdiction of Court and Limitation*

65. (1) Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the court of the district judge.
- (2) Where all the parties to a suit or other proceeding regarding infringement of copyright, in any work agree in writing that the suit or proceeding, as the case may be, be referred to the decision of the Board, the suitor other proceeding shall, notwithstanding anything contained in subsection (1) be referred to the Board for decision, and no court or other tribunal shall hear, try or entertain such suit or proceeding.
- (3) The decision of the Board in any matter referred to it for decision under subsection (2) shall, subject to the provisions

as to appeal be fined, and shall be executed in the manner provided in Section 79.

***Offences of Infringement of Copyright or Other Rights Conferred by this Ordinance***

66. Any person who knowingly infringes or abets the infringement of—

- (a) the copyright in a work, or
- (b) any other right conferred by this Ordinance, shall be punishable, with fine which may extend to taka five thousand or with imprisonment which may extend to two years, or with both.

Explanation. Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work, shall not be an offence under this section.

***Possession of Plates for Purpose of Making Infringing Copies***

67. If any person knowingly makes or has in possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to taka five thousand or with imprisonment which may extend to two years, or with both.

***Penalty for Making False Entries in the Register, etc or Producing or Tendering False Evidence***

68. Any person who—

- (a) makes or cause to be made a false entry in the Register of Copyrights, or
- (b) makes or causes to be made a writing falsely purporting to be a copy of any entry in the Register, or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

shall be punishable with fine which may extend to taka five thousand or with imprisonment which may extend to two years, or with both.

*Penalty for Making False Statements for the Purpose of Deceiving or Influencing any Authority or Officer*

69. Any person who—

- (a) with a view to deceiving any authority or officer in the performance of any of his functions under any of the provisions of this Ordinance, or
- (b) with a view to inducing or influencing the doing or omission of anything in relation to this Ordinance or any matter thereunder, makes a false statement or representation knowing the same to be false, shall be punishable, with fine which may extend to taka five thousand or with imprisonment which may extend to two years, or with both.

*False Attribution of Authorship etc.*

70. Whosoever—

- (1) inserts or affixes the name of any person in or on a work of which that person is not the author, or in or a reproduction of such a work, in such a way as to imply that such person is the author of the work; or
- (2) publishes, or sells or lets for hire, or by way of trade offers, exposes for sale or hire, or by way of trade exhibits in public a work in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, or the publisher of the work, who to his knowledge is not the author or the publisher, as the case may be of such work; or
- (3) does not of the acts mentioned in clause (2) in relation to, or distributes, reproductions of a work, being reproductions in or on which any person's name has been inserted or affixed in such a way as to imply that such person is the author of the work, who to his knowledge is not author of such work, or performs in public, or broadcasts the work as being the work of a particular authors, who to his knowledge is not the author of such work;

shall be punishable with fine which may extend to taka five thousand, or with imprisonment which may extend to two years, or with both.

### *Offence by Companies*

71. (1) Where any offence under this Ordinance has been committed by 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 such offence and shall be proceeded against and punished accordingly. Provided that nothing contained in this subsection shall render any person liable to any punishment, 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 subsection (1) where an offence under this Ordinance has been committed by company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall 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 persons; and
- (b) "director" in relation to a firm means a partner in the firm.

### *Cognizance of Offence*

72. No court inferior to that of a magistrate of the first class shall try any offence under this Ordinance.

### *Power of the Court to Dispose of Infringing Copies or Places for Purpose of Making Infringing Copies*

73. The court before which any offence under this Ordinance is tried may, whether the alleged offender is convicted or not, order that

all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purposes of making infringing copies, be destroyed or delivered to the owner of the copyright or otherwise dealt with as the court may think fit.

### *Power of Police to Seize Infringing Copies*

74. (1) Where a magistrate has taken cognizance of any offence under Section 72 in respect of the infringement of copyright in any work it shall be lawful for any police officer not below the rank of subinspector to seize with warrant from the magistrate all copies of the work which appears to him to be infringing copies of the work and all copies to be seized shall as soon as practicable be produced before the magistrate;

Provided that no such copy as is owned by any public library, or a library attached to an educational institution or a non-profit library available for use by the public free of charge or is in the possession of any person for his bona fide use shall be seized.

(2) Any person having an interest in any copies or a work seized under subsection (1), may within fifteen days of such seizure made an application to the magistrate for such copies being restored to him and the magistrate after hearing the applicant and the complainant and making such further inquiry as may be necessary shall make such order on the application as he may deem fit.

### *Appeals against Certain Orders of Magistrate*

75. Any person aggrieved by an order made under Section 73 or subsection (2) of Section 74 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal.

### *Appeals against Order of Registrar.*

76. Any person aggrieved by any final decision or order of the

Registrar may, within three months from the date of the decision or order, appeal to the Board.

Provided that the Registrar shall not sit as a member of the Board when the Board hears an appeal under this section.

### *Appeals against Order of the Board*

77. (1) Any person aggrieved by any final decision or order of the Board, not being a decision or order made in an appeal under Section 76 may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily reside or carries on business or personally works for gain;

Provided that no such appeal shall be against a decision of the Board under subsection (2) of Section 4 and subsection (2) of Section 6.

(2) In calculating the period of three months provided for an appeal under Section 76 and subsection (1), the time taken in granting a certified copy of the order of record of the decision appealed against shall be excluded.

### *Registrar and Board to Possess Certain Powers of Civil Court*

78. The Registrar and the Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) requisitioning any public record or copy thereof from any court of office;
- (f) any other matter of procedure which may be prescribed.

Explanation. For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar or the Board, as the case may be, shall be the whole of Bangladesh.

***Order for Payment of Money Passed by Registrar or Board to be Executable as a Decree***

79. Every order made by the Registrar of the Board under this Ordinance for the payment of any money or by the High Court Division in any appeal against any such order of the Board shall, on a certificate issued by the Registrar, the Board or the Registrar or the High Court Division as the case may be, deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

***Indemnity***

80. No suit or other legal proceeding shall be against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance.

***Certain Persons to be Public Servants***

81. Every officer appointed under this Ordinance and every member of the Board shall be deemed to be a public servant within the meaning of Section 21 of the Penal Code.

***Powers to Make Rules***

82. (1) The Government may, after previous publication, make rules for carrying out the purposes of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, the rules may provide or all or any of the following, namely:
- (a) the term of office and conditions of service of the Chairman and other members of the Board;
  - (b) the form of complaints and applications to be made, and the licences to be granted, under this Ordinance;
  - (c) the procedure to be followed in connection with any proceeding before the Registrar or the Board;
  - (d) the manner of determining any royalties payable under this Ordinance, and the security to be taken for the payment of such royalties;
  - (e) the form of Register of Copyrights to be kept under this Ordinance and the particulars to be entered therein;

- (f) the matter in respect of which the Registrar and the Board shall have powers of a civil court;
- (g) the fees which may be payable under this Ordinance;
- (h) the regulation of business of the Copyright Office and of all things by this Ordinance placed under the direction or control of the Registrar.

### *Repeal*

83. The Copyright Act, 1914, and the Copyright Act of 1911 passed by the Parliament of the United Kingdom, as modified in its application to Bangladesh by the Copyright Act, 1914, are hereby repealed.

### *Savings and Transitory Provisions*

84. (1) Where any person has, before the commencement of this Ordinance, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or permanence of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction would, but for the coming into force of this Ordinance, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such actions which are subsisting and valuable at the said date, unless the person who, by virtue of this Ordinance, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Board.
- (2) Copyright shall not subsist by virtue of this Ordinance in any work in which copyright did not subsist immediately before the commencement of this Ordinance under any Act repealed by Section 83.
- (3) Where copyright subsisted in any work immediately before the commencement of this Ordinance, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in Section 3 in relation to the class of works to which such work belongs, and where any new

rights are conferred by that section the owner of such rights shall be—

- (a) in any case where copyright in the work was wholly assigned before the commencement of this Ordinance, the assignee or his successor-in-interest; and
  - (b) in any other case, the person who was the first owner of the copyright in the work under any act repealed by Section 83 or his legal representatives;
- (4) Except as otherwise provided in this Ordinance, where any person was entitled immediately before the commencement of this Ordinance to copyright in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Ordinance had not come into force.
- (5) Nothing contained in this Ordinance shall be deemed to render any act done before its commencement on infringement of copyright if that act would not otherwise have constituted such an infringement.

### Short Note

Infringement of copyright is an offence punishable under Section 66 of the Copyright Ordinance, 1962.

Section 13 of the Ordinance provides that the author of a work shall be the first owner of the copyright therein. Provided that

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodicals, the said proprietor shall in the absence of any agreement to the contrary, be the owner of the copyright in the work insofar as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published but in all other respects the author shall be the first owner of the copyright in the work;
- (b) subject to the provision of class (a) in the case of photograph taken, or a painting or portrait drawn, or an engraving or a cinematographic work made, for valuable consideration at the

instance of any person, such persons shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship to which clause (a) or clause (b) does not apply the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (e) in the case of a work to which the provision of Section 53 apply, the international organization concerned shall be the first owner of the copyright therein.

However, Section 57(1)(m) of the Ordinance lays down that it is not infringement of copyright if there is a reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topic unless the owner of copyright of such article has expressly reserved to himself the right to such reproduction.

## THE NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1974 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 meaning respectively assigned to them in that Ordinance.
3. Industrial Relations Ordinance, 1969, to apply to newspaper employee. 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 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' causal leave of absence with wages in a calendar year.
8. Medical care. Every newspaper employee and his dependants 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, "dependants" 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 member 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 three months 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 subsection (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 subsection (1).

12. Power 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 subsection (1).

(3) Any interim rate of wages fixed under subsection (1) shall remain in force until the decision of the Board comes into operation under subsection (2) of Section II;

15. Employment of Labour (Standing Orders) Act, 1965, to apply to certain newspaper establishment. 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 subsection (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 that matter 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 matter 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 one thousand.
- (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 INDUSTRIAL RELATIONS  
ORDINANCE, 1969  
(Ordinance No. XXIII of 1969)  
13th November 1969**

AN ORDINANCE to amend and consolidate the law relating to the formation of trade unions, the regulation of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them

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

AND WHEREAS the national interest of Bangladesh in relation to the achievement of uniformity requires central legislation in the matter;

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

### Preliminary

#### 1. Short title, extent, application and commencement.

(1) This Ordinance may be called the Industrial Relations Ordinance, 1969.

(2) It extends to the whole of Bangladesh.

(3) It shall not apply to any person employed in the police or any of the defence services of Bangladesh and any services or installations connected with or incidental to the armed forces of Bangladesh, including an ordnance factory maintained by the Government; or to any person employed in the administration of the state other than those employed as workmen by the railways, posts, telegraph and telephone departments.

(4) It shall come into force at once.

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

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

(ii) "award" means the determination by a labour court, arbitrator or appellate tribunal of any industrial dispute or any matter relating thereto and includes an interim award;

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

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

(vii) "Conciliator" means a person appointed as such under Section 27;

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

(viii) "employer" in relation to an establishment, means any person

or body or persons, whether incorporated or not, who or which employs workmen in the establishment under a contract of employment and includes—

- (a) an heir, successor or assign, as the case may be, or such person or body as aforesaid;
- (b) any person responsible for the management, supervision and control of the establishment;
- (c) in relation to an establishment run by or under the authority of any ministry or division of the Government, the authority appointed in this behalf or, where no authority is so appointed, the head of the ministry or division;
- (d) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf, or, where no officer is so appointed, the chief executive officer of that authority;

Special Provision. For the purposes of distinction from the category of "workers" or "workmen", officers and employees of a ministry or division of the government or a local authority who belong to the superior managerial, secretarial, directional, supervisory or agency staff and who have been notified for this purpose in the official gazette shall be deemed to fall within the category of "employer".

- (e) in relation to any other establishment, the proprietor of such establishment and every director, manager, secretary, agent or other officer or person concerned with the management of the affairs thereof and, in the case of a banking company, also the person who holds a general power of attorney or has authority to sign, endorse or discharge negotiable instruments on behalf of the banking company;
- (ix) "establishment" means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- (x) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;
- (xi) "illegal lock-out" means a lock-out declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;

- (xii) "illegal strike" means a strike declared, commenced or continued otherwise than in accordance with the provisions of this Ordinance;
- (xiii) "industrial dispute" means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person;
- (xiv) "industry" means any business, trade, manufacture, calling, service, employment or occupation;
- (xv) "Labour Court" means a labour court established under Section 35;
- (xvi) "lock-out" means the closing of a place of employment or part of such place, or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workmen employed by him, where such closing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen employed to accept certain terms and conditions of or affecting employment;
- (xvii) "organization" means any organization of workers or of employers for furthering and defending the interests of workers or of employers;
- (xviii) "officer" in relation to a trade union, means any member of the executive thereof but does not include an auditor or legal adviser;
- (xix) "prescribed" means prescribed by rules;
- (xx) "public utility service" means any of the service specified in the Schedule;
- (xxi) "registered trade union" means a trade union registered under this Ordinance;
- (xxii) "Registrar" means a Registrar of Trade Union appointed under Section 12;
- (xxiii) "rule" means rule made under Section 66;
- (xxiv) "settlement" means a settlement arrived at in the course of a conciliation proceeding, and includes an agreement between an employer and his workmen arrived at otherwise than in the course of any conciliation proceedings, where such agreement is in writing, has been signed by the parties thereto in such manner as may be prescribed and a copy

- thereof has been sent to the Government, the Conciliator and such other person as may be prescribed;
- (xxiva) "State-owned manufacturing industry" means manufacturing industry owned, or nationalized or taken over by or under any law, by the Government;
- (xxv) "strike" means a cessation of work by a body of persons employed in any establishment acting in combination or a concerted refusal, or refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment;
- (xxvi) "trade union" means any combination of workmen or employers formed primarily for the purpose of regulating the relations between workmen and employers or workmen and workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes a federation of two or more trade unions;
- (xxvii) "Tribunal" means the Labour Appellate Tribunal constituted under Section 38 of this Ordinance;
- (xxviii) "worker" and "workmen" means any person, including an apprentice, not falling within the definition of employer who is employed in an establishment or industry for hire or reward either directly or through a contractor to do any skilled, unskilled, manual, technical or clerical work whether the terms of employment be expressed or implied, and for the purpose of any proceedings under this Ordinance in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay off or removal has led to that dispute, but does not include a person—
- (a) employed as a member of the watch and ward or security staff or confidential assistant, cypher assistant of any establishment;
  - (b) employed in a managerial or administrative capacity;
  - (c) who being employed in a supervisory capacity performs, by virtue of the duties attached to his office or by reason of the powers given to him, functions of managerial or administrative nature.

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

3. Trade unions and freedom of association. Subject to the provisions contained in this Ordinance—
  - (a) Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
  - (b) Employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join associations of their own choosing without previous authorization;
  - (c) Trade unions and employers' associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes;
  - (d) Workers' and employers' organizations shall have the right to establish and join federations and confederations and any such organization federation or confederation shall have the right to affiliate with international organizations and confederation of workers' and employers' organizations.
4. Workers and employers and their respective organizations, in exercising the rights provided for in Section 3, like other persons or organized collectivities, shall respect the law of the land.
5. Application for registration. Any trade union may, under the signature of its President and the secretary, apply for registration of the trade union under this Ordinance.
6. Requirements for application. Every application for registration of a trade union shall be made to the Registrar and shall be accompanied by—
  - (a) a statement showing—
    - (i) the name of the trade union and the address of its head office;
    - (ii) date of formation of the union;
    - (iii) the titles, names, ages, addresses and occupations of the officers of the trade union;

- 28.1
- (iv) statement of total paid membership;
  - (v) in case of a federation of trade unions, the names, addresses and registration number of member unions;
  - (b) three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the chairman of the meeting;
  - (c) a copy of the resolution by the members of the trade union authorizing its President and the secretary to apply for its registration; and
  - (d) in case of a federation of trade unions, a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.

#### 7. Requirements for registration.

- (1) A trade union shall not be entitled to registration under this Ordinance unless the constitution thereof provides for the following matters, namely:
- (a) the name and address of the trade union;
  - (b) the objects for which the trade union has been formed;
  - (c) the manner in which a worker may become a member of the trade union specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution declaring that he is not a member of any other trade union;
  - (d) the sources of the fund of the trade union and the purposes for which such fund shall be applicable;
  - (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;
  - (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union;
  - (g) the manner in which the constitution shall be amended, varied or rescinded;
  - (h) the safe custody of the funds of trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the officers and members of trade union.
  - (i) the manner in which the trade union may be dissolved;

- (j) the manner of election of officers by the general body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his election or re-election;
- (k) the procedure for expressing want of confidence in any officer of the trade union; and
- (l) the meetings of the executive and of the general body of the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.

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

7A. Disqualifications for being an officer of a member of a trade union.

(1) Notwithstanding anything contained in the constitution or the rules of a trade union—

(a) a person shall not be entitled—

(i) to be, or to be elected as, an officer of a trade union if he has been convicted of an offence under clause (d) of subsection (1) of Section 16 or Section 61;

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

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

(2) Nothing in subsection (1) of clause (a) and clause (b) shall apply to any federation of trade union.

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

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

- (b) an accounts book showing receipts and expenditure; and
- (c) a minute book for recording the proceedings of meetings.

#### 8. Registration.

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

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

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

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

#### 10. Cancellation of registration.

(1) The registration of a trade union may be cancelled by the Registrar if the Registrar is satisfied on enquiry that the trade union has—

- (a) applied for such cancellation or ceased to exist;
- (b) obtained registration by fraud or by misrepresentation of facts;
- (c) contravened any of the provisions of this Ordinance or rules;
- (d) contravened any of the provisions of its constitution;
- (e) committed any unfair labour practice at any time within

- three months prior to the date of passing of the order of such cancellation;
- (f) made in its constitution any provision which is inconsistent with this Ordinance of the rules; or
  - (g) a membership which has fallen short of 30% of the workers of the establishment or group of establishments for which it was formed.
- (2) Where any person who is disqualified under Section 7A from being elected as, or from being, an officer of a trade union is elected as an officer of a registered trade union, the registration of that union shall be cancelled by the Registrar.
11. Appeal against cancellation.
- (1) Any trade union aggrieved by an order or decision of the Registrar issued or given under Section 10 may, within two months from the date of the order or, as the case may be, decision, appeal to the labour court which may uphold or reject the order or decision.
  - (2) Any trade union aggrieved by the decision of the labour court given under subsection (1) may, within two months from the date of the decision, appeal to the Labour Appellate Tribunal which may uphold or reject the decision.
- 11A. No trade union to function without registration.
- (1) No trade union which is unregistered or whose registration has been cancelled shall function as a trade union.
  - (2) No person shall collect any subscription for any fund of a trade union mentioned in subsection (1).
- 11B. Restriction of dual membership. No worker shall be entitled to enroll himself as, or to continue to be, a member of more than one trade union at the same time.
12. Registrar of trade union. For the purpose of this Ordinance, the Government may by notification in the official gazette, appoint as many persons as it considers necessary to be registrars of trade unions and where it appoints more than one registrar, shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under this Ordinance.
13. Power and functions of Registrar. The following shall be the powers and functions of the Registrar:
- (a) the registration of trade unions under this Ordinance and the maintenance of a register for this purpose;

- (b) to lodge complaints with the labour courts for action against trade unions for any alleged offence or any unfair labour practice or violation of any provisions of this Ordinance;
  - (c) the determination of the question as to which one of the trade unions in an establishment or an industry is entitled to be certified as the collective bargaining agent in relation to that establishment or industry, and
  - (d) such other powers and functions as may be prescribed.
14. Incorporation of registered trade union
- (1) Every registered trade union shall be a body corporate by the name under which it is registered, shall have perpetual succession and a common seal and the power to contract and to acquire, hold and dispose of property, both movable and immovable, and shall be the said name, sue or be sued.
  - (2) The Societies Registration Act, 1860 (XXI of 1860), the Co-operative Societies Act, 1940 (Ben. Act XXI of 1940), and the Companies Act, 1913 (VII of 1913), shall not apply to any registered trade union and the registration of any trade union under any of these Acts shall be void.
15. Unfair labour practices on the part of employers.
- (1) No employer or trade union of employers and no person acting on behalf of either shall—
    - (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union; or
    - (b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not, a member or officer of a trade union; or
    - (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union; or
    - (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a workman or injure or threaten to injure him in respect of his employment by reason that the workman—
      - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or

- (ii) participates in the promotion, formation or activities of a trade union;
  - (e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
  - (f) compel any officer of the collective bargaining agent to sign a memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods;
  - (g) interfere with, or in any way influence the balloting provided for in Section 22; or
  - (h) recruit any new workman during the period of strike under Section 28 or during the currency of a strike which is not illegal except where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment of a limited number of workmen in the section where the damage is likely to occur.
- (2) Nothing in subsection (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be, and shall be disqualified from being, a member or officer of a trade union of workmen.

16. In fair labour practices on the part of workmen.

- (1) No workman or trade union of workmen and no person acting on behalf of such trade union shall—
- (a) persuade a workman to join or refrain from joining a trade union during working hours; or
  - (b) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or officer of a trade union; or
  - (c) induce any person to refrain from becoming, or cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for, such person or any other person; or
  - (d) compel or attempt to compel the employer to sign a

memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods; or

- (e) compel or attempt to compel any workman to pay, or refrain from paying, any subscription towards the fund of any trade union by using intimidation, coercion, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities and such other methods.
- (2) It shall be an unfair practice for a trade union to interfere with a ballot held under Section 22 by the exercise of undue influence, intimidation, impersonation for bribery through its executive or through any person acting on its behalf.

### **Rights and Privileges of Registered Trade Unions and Collective Bargaining Agents**

- 17. Law of conspiracy limited in application. No officer or member of a registered trade union or a collective bargaining agent as determined by the Registrar shall be liable to punishment under subsection (2) of Section 120B of the Penal Code (Act XLV of 1860) in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in Section 7, unless the agreement is an agreement to commit an offence, or otherwise violate any laws other than this Ordinance.
- 18. Immunity from civil suit in certain cases.
  - (1) No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.
  - (2) A trade union shall be liable in any suit or other legal proceedings in any civil court in respect of any tortious act done

in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade union.

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

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, or recovering damages for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.

20. Registration of Federation of Trade Unions.

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

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

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

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

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

21. Returns.

- (1) There shall be sent annually to the Registrar, on or before

- such date as may be prescribed, a general statement audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of December, next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December, as may be prescribed.
- (2) Together with the general statement, there shall be sent to the Registrar a statement showing all changes of officers made by the trade union during the year to which the general statement refers, together also with a copy of the constitution of the trade union corrected up to the date of the despatch thereof to the Registrar.
  - (3) A copy of every alteration made in the constitution of registered trade union and of a resolution of the general body having the effect of a provision of the constitution, shall be sent to the Registrar within 15 days of the making of the alteration or adoption of the resolution.
  - (4) In case the registered trade union is member of a federation, the name of that federation shall be given in the annual statement.
22. Collective bargaining agent.
- (1) Where there is only one registered trade union in an establishment or a group of establishments, that trade union shall, if it has as its members not less than one-third of the total number of workmen employed in such establishment or group of establishments, be deemed to be collective bargaining agent for such establishment or group.
  - (2) Where there are more registered trade unions than one in an establishment or a group of establishments, the Registrar shall, upon an application made in this behalf by any such trade union which has as its members not less than one-third of the total number of workmen employed in such establishment or group of establishments or by the employer, hold a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group.
  - (3) Upon receipt of an application under subsection (2), the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments, to which the application relates to indicate, within the time

- specified in the notice, whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to the establishment or group of establishments.
- (4) If a trade union fails to indicate, within the time specified in the notice, its desire to be a contestant in the secret ballot, it shall be presumed that it shall not be a contestant in such ballot.
  - (5) Every employer shall—
    - (a) on being so required by the Registrar, submit to the Registrar a list of all workers employed in the establishment, excluding those whose period of employment in the establishment is less than three months or who are casual or badli workers, showing in respect of each worker his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his employment in the establishment, and also as many copies of such list as may be demanded by the Registrar; and
    - (b) provide such facilities for verification of the list submitted by him as the Registrar may require.
  - (6) On receipt of the list of workers from the employer, the Registrar shall send a copy of the list to each of the contesting trade unions and shall also affix a copy thereof in a conspicuous part of his office and another copy of the list in a conspicuous part of the establishment concerned, together with a notice inviting objections, if any, to be submitted to him within such time as may be specified by him.
  - (6A) The objections if any, received by the Registrar within the specified time shall be disposed of by him after such enquiry as he deems necessary.
  - (6B) The Registrar shall make such amendment, alterations or modifications in the list of workers submitted by the employer as may be required by any decision given by him on objections under subsection (6A).
  - (6C) After amendments, alterations or modifications, if any, made under subsection (6B), or where no objections are received by the Registrar within the specified time, the Registrar shall prepare a list of workers employed in the establishment

- concerned and send copies thereof to the employer and each of the contesting trade unions at least four days prior to the date fixed for the poll.
- (6D) The list of workers prepared under subsection (6C) shall be deemed to be the list of voters, and every worker whose name appears in that list shall be entitled to vote in the poll to determine the collective bargaining agent.
- (7) Every employer shall provide all such facilities in his establishment as may be required by the Registrar for the conduct of the poll but shall not interfere with, or in any way influence, the voting.
- (8) No person shall canvas for vote within a radius of 50 yards of the polling stations.
- (9) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall—
- (a) fix the date for the poll and intimate the same to each of the contesting trade unions and also to every employer;
  - (b) on the date fixed for the poll to place in the polling station, set up for the purpose of the ballot boxes which shall be sealed in the presence of the representatives of the contesting trade unions as to receive the ballot papers;
  - (c) conduct the poll at the polling stations at which the representatives of the contesting trade unions shall have the right to be present;
  - (d) after the conclusion of the poll and in the presence of such of the representatives of the contesting trade unions as may be present, open the ballot boxes and count the votes; and
  - (e) after the conclusion of the count, declare the trade union which has received the highest number of votes to be the collective bargaining agent;
- Provided that no trade union shall be described to be the collective bargaining agent for an establishment or group of establishments unless the number of votes received by it is not less than one-third of the total number of workmen employed in such establishment or group.
- (10) Where a registered trade union has been declared under clause (e) of subsection (9) to be the collective bargaining

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

- (11) A collective bargaining agent may, without prejudice to its own position, implead as a party to any proceedings under this Ordinance to which it is itself a party any federation of trade unions of which it is a member.
- (12) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to—
  - (a) undertake collective bargaining with the employer or employers on matters connected with employment, the term of employment or the conditions of work;
  - (b) represent all or any of the workmen in any proceedings;
  - (c) give notice of, and declare, a strike in accordance with the provisions of this Ordinance, and
  - (d) nominate representatives of workmen on the Board of Trustees of any welfare institutions or Provident Funds, and of the workers participation fund established under the Companies Profits (Workers' Participation) Act, 1968 (XII of 1968).
- (13) The Registrar may, by order in writing, delegate any of his powers under subsection (9) to any officer subordinate to him.

22A. Collective bargaining agent for institutions with more than one establishment.

- (1) Where an employer carrying on an industry has, for the purpose of that industry, more establishments than one, any registered trade union which fulfils such conditions as may be prescribed in this behalf may make an application in such manner and to such authority as may be prescribed for being declared as the collective bargaining agent in relation to all such establishments and, upon such an application, there shall be determined in the prescribed manner a collective bargaining agent for such establishments.
- (2) Where a collective bargaining agent has been determined under subsection (1) for the establishments referred to therein, the collective bargaining agent determined, if any, under Section 22 for anyone or more of such establishments

shall not undertake collective bargaining in respect of matters relating to the terms and conditions of employment applicable to workmen employed in any of such establishments.

23. Check-off.

- (1) If a collective bargaining agent so requests, the employer of the workmen who are members of a trade union shall deduct from the wages of the workmen such amounts, towards their subscription to the funds of the trade union as may be specified, with the approval of each individual workman named in the demand statement furnished by the trade union.
- (2) An employer making any deduction from the wages under subsection (1) shall, within 15 days of the end of the period from the wages for which the deductions have been made, deposit the entire amount so deducted by him in the account of the trade union on whose behalf he has made the deductions.
- (3) The employer shall provide facilities to the collective bargaining agent for ascertaining whether deductions from the wages of its members are being made under subsection (1).

### Joint Consultation, Conciliation and Mediation

24. Participation Committee.

- (1) The Director of Labour or any officer authorized by him in this behalf shall, by an order in writing, require the employer in establishment in which 50 or more workmen are employed or were employed on any day in the preceding twelve months to constitute in the prescribed manner a Participation Committee consisting of representatives of the employer and the workmen so however that the representatives of the workmen is not less than the number of the representatives of the employer in the Participation Committee.
- (2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent, shall nominate the representatives of the workmen in such Participation Committee;

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

25. Functions of the Participation Committee.

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

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

25A. Meetings of the Participation Committee.

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

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

26. Negotiations relating to industrial disputes.

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

(2) Within ten days of the receipt of a communication under subsection (1), the party receiving it shall, in consultation with the representatives of the other party, arrange a meeting with the representatives of the other party, for collective bargaining on the issue raised in the communication with a view to reaching an agreement thereon through the procedure of a dialogue.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing

and signed by both the parties and a copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause (xxiv) of Section 2.

27. Conciliator. The Government shall, by notification in the official gazette, appoint as many persons as it considers necessary to be conciliators for the purposes of the Ordinance and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform his functions.
- 27A. Conciliation before notice of strike, etc. Where the parties of an industrial dispute fail to reach a settlement by negotiation under Section 26, any of them may report to the Conciliator that the negotiations have failed and request him in writing to conciliate in the dispute and the Conciliator shall, on receipt of such request, proceed to conciliate in the dispute.
28. Notice of strike or lock-out. If the Conciliator fails to settle the dispute within ten days from the date of receipt of a request made under Section 27A, the collective bargaining agent or the employer may, in accordance with the provisions of this Ordinance, serve on the other party to the dispute 21 days' notice of strike or lock-out, as the case may be:

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

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

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

service or not, the Conciliator may, at his discretion, decide not to proceed with the conciliation:

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

30. Proceedings before Conciliator.

- (1) The Conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.
- (2) The parties to the dispute shall appear before the Conciliator in person or shall be represented before him by person nominated by them and authorized to negotiate and enter into an agreement binding on the parties;
- (3) The Conciliator shall perform such functions in relation to a dispute before him as may be prescribed and may, in particular, suggest to either party to the dispute such concessions or modifications in its demand as are in the opinion of the Conciliator likely to promote an amicable settlement of the dispute.
- (4) If a settlement of the dispute or any matter in dispute is approved as in the course of the proceedings before him the Conciliator shall send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.
- (5) If no settlement is arrived at within the period of the notice of strike or lock-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

31. Arbitration.

- (1) If the conciliation fails, the Conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator. In case the parties agree, they shall make a joint request in writing for reference of the dispute to an Arbitrator agreed upon by them.
- (2) The Arbitrator to whom a dispute is referred under subsection (1) may be a person borne on a panel to be maintained by the Government or any other person agreed upon by the parties.

- (3) The Arbitrator shall give his award within a period of 30 days from the date on which the dispute is referred to him under subsection (1) or such further period as may be agreed upon by the parties to the dispute.
  - (4) After he has made an award, the Arbitrator shall forward copy thereof to the parties and to the Government who shall cause it to be published in the official gazette.
  - (5) The award of the Arbitrator shall be final and no appeal shall lie against it. It shall be valid for a period not exceeding two years, as may be fixed by the Arbitrator.
32. Strike and lock-out.

- (1) If no settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an Arbitrator under Section 31, the workmen may go on strike or, as the case may be, the employer may declare a lock-out, on the expiry of the period of the notice under Section 28 or upon the issuance by the Conciliator to the parties to the dispute of a certificate to the effect that the conciliation proceedings have failed, whichever is the later.
- (1A) The parties to the dispute may, at any time, either before or after the commencement of a strike or lock-out, make a joint application to the labour court for adjudication of the dispute.
- (2) If a strike or lock-out lasts for more than 30 days, the Government may, by order in writing, prohibit the strike or lock-out.  
 Provided that the Government may, by order in writing prohibit a strike or lock-out at any time before the expiry of 30 days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.
- (3) In any case in which the Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the Labour Court.
- (4) The Labour Court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not exceeding 60 days from the date on which the dispute was referred to it;

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

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

- (5) An award of the Labour Court shall be for such period as may be specified in the award which shall not be more than two years.
33. Strike or lock-out in public utility services
- (1) In the case of any of the public utility services, the Government may, by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out.
- (2) The provisions of subsection (3), (4), and (5) of Section 32 shall also apply to an order made under subsection (1) above as they apply to an order made under subsection (2) of the section.
34. Application to Labour Court. Any collective bargaining agent or any employer or workman may apply to the Labour Court for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

### Labour Courts, etc.

#### 35. Labour Court.

- (1) The Government may, by notification in the official gazette, establish as many labour courts as it considers necessary and, where it establishes more than one labour court, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under the Ordinance.
- (2) A labour court shall consist of a chairman appointed by the Government and two members to be appointed in the prescribed manner to advise the chairman, one to represent the employers and the other to represent the workmen.
- (3) A person shall not be qualified for appointment as chairman unless he has been or is, or is qualified to be a judge or additional judge of a High Court or is a district judge, or an additional district judge.
- (4) The members shall be appointed in consultation with the employers and workmen in such manner and on such terms and conditions as may be prescribed.

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

### 36. Procedure and powers of Labour Court.

- (1) Subject to the provisions of this Ordinance, a labour court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal Procedure, 1898 (Act V of 1898).
- (2) A labour court shall, for the purpose of adjudicating and determining any industrial dispute, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908) including the powers of—
  - (a) enforcing the attendance of any person and examining him on oath;

- (b) compelling the production of documents and material object;
  - (c) issuing commissions for the examination of witnesses or documents; and
  - (d) delivering ex parte decision in the event of failure of any part to appear before the court.
- (3) A labour court shall, for the purpose of trying an offence under the Ordinance, have the same powers as are vested in the court of a magistrate of the first class under the Code of Criminal Procedure, 1898 (Act V of 1898) and shall, for the purpose of appeal from a sentence passed by it, be deemed to be a court of sessions under that Code.
- (4) No court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from a labour court.
37. Award and decisions of Labour Court.
- (1) An award or decision of a labour court shall be given in writing and delivered in open court and two copies thereof shall be forwarded forthwith to the Government.
- (1A) An award or decision of a labour court shall, in every case, be delivered; unless the parties to the dispute give their consent in writing to extend the time limit within 60 days following the date of filing of the case:
- Provided that no award or decision of a labour court shall be invalid merely on the ground of delay in its delivery.
- (2) The Government shall, within a period of one month from the receipt of the copies of the award or decision, publish it in the official gazette.
- (3) Any party aggrieved by an award given under subsection (1), may prefer an appeal to the Labour Appellate Tribunal within 30 days of the delivery thereof and the decision of the Tribunal in such appeal shall be final.
- (4) All decisions of Labour Court, other than awards referred to in subsection (3) of this section, and sentences referred to in subsection (3) of Section 36, shall be final and shall not be called in question in any manner by or before any court or other authority.
38. Labour Appellate Tribunal.
- (1) The Tribunal shall consist of one member to be appointed by the Government by notification in the official gazette.

- (2) The member of the Tribunal shall be a person who is or has been a judge (or an additional judge) of a High Court, and shall be appointed on such terms and conditions as the Government may determine.
- (3) The Tribunal may, on appeal, confirm, set aside, vary, modify the award, and shall exercise all the powers conferred by this Ordinance on the court, save as otherwise provided. The decision of the Tribunal shall be delivered as expeditiously as possible, within a period of 60 days following the filing of the appeal:

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

- (4) The Tribunal shall follow such procedure as may be prescribed.
  - (5) The Tribunal shall have authority to punish for contempts of its authority, or that of any labour court subject to its appellate jurisdiction, as if it were a High Court.
  - (6) Any person convicted and sentenced by the Tribunal under subsection (5) to imprisonment for any period, or to pay a fine exceeding taka fifty, may prefer an appeal to the High Court.
39. Settlements and awards on whom binding.

- (1) A settlement arrived at in the course of a conciliation, proceedings or an award of an arbitrator published under Section 31, or an award or decision of a labour court delivered under Section 37 or the decision of a Tribunal under Section 38 shall—

- (a) be binding on all parties to the industrial dispute;
- (b) be binding on all other parties summoned to appear in any proceeding before a labour court or Tribunal in the industrial dispute, unless the court or Tribunal otherwise directs in respect of any such party;
- (c) be binding on the heirs, successors or assigns of the employer in respect of the establishment to which the industrial dispute relates where an employer is one of the parties to the disputes; and
- (d) where a collective bargaining agent is one of the parties to the dispute, be binding on all workmen who were employed in the establishment or industry to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after that date.

- (2) A settlement arrived at by agreement between the employer

and trade union otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

40. Effective date of settlement, awards, etc.

- (1) A settlement shall become effective—
  - (a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and
  - (b) if a date is not so agreed upon, on the date on which the memorandum of the settlement is signed by the parties.
- (2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the settlement.
- (3) An award given under subsection (1) of Section 37 shall unless an appeal against it is preferred to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Arbitrator, the Labour Court, or, as the case may be, the Tribunal, shall specify dates from which the award on various demands shall be effective and the time-limit by which it shall be implemented in each case:

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

- (4) A decision of the Tribunal in appeal under subsection (3) of Section 38 shall be effective from the date of the award.
- (5) Notwithstanding the expiry of the period for which an award is to be effective under subsection (3), the award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the award.

41. Commencement and conclusion of proceedings.
- (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the Conciliator under Section 28.
  - (2) A conciliation proceeding shall be deemed to have concluded—
    - (a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and
    - (b) where no settlement is arrived at—
      - (i) if the dispute is referred to an arbitrator under Section 31, on the date on which the arbitrator has given his award, or otherwise;
      - (ii) on the date on which the period of the notice of strike or lock-out expires.
  - (3) Proceedings before a labour court shall be deemed to have commenced—
    - (a) in relation to an industrial dispute, on the date on which an application has been made under (Section 32 or) Section 34, or on the date on which it is referred to the Labour Court by the Government under Section 32 or 33, and
    - (b) in relation to any other matter, on the date on which it is referred to the Labour Court.
  - (4) Proceedings before a labour court shall be deemed to have concluded on the date on which the award or decision is delivered under subsection (1) of Section 37.
42. Certain matters to be kept confidential. There shall not be include in any report, award or decision under this Ordinance any information obtained by a registrar, Conciliator, labour court, arbitrator or tribunal in the course of any investigation or enquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such authority, if the trade union, person, firm, or company in question has made a request in writing to the authority that such information shall be treated as confidential, nor shall such proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:
- Provided that nothing contained in this section shall apply to

- disclosure of any such information for the purpose of a prosecution under Section 193 of the Penal Code (Act XLV of 1860).
43. Raising of industrial disputes. No industrial dispute shall be deemed to exist, unless it has been raised in the prescribed manner by a collective bargaining agent (or an employer).
44. Prohibition on serving notice of strike or lock-out while proceedings pending. No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceeding or proceedings before an arbitrator or a labour court or an appeal to the tribunal under subsection (3) of Section 38 are or is pending in respect of any matter constituting such industrial dispute.
45. Power of Labour Court and Tribunal to prohibit strike, etc.
- (1) When a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, at Labour Court an application under Section 34, the Labour Court may, by an order in writing, prohibit continuance of the strike or lock-out.
  - (2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to a tribunal under Section 38, the Tribunal may, by an order in writing prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which has already commenced and was in existence on the date on which the appeal was preferred.
46. Illegal strikes and lock-out.
- (1) A strike or lock-out shall be illegal if—
    - (a) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out or before the date of strike or lock-out specified in such notice, or in contravention of Section 44; or
    - (b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in Section 43; or
    - (c) it is continued in contravention of an order made under Section 32 (Section 33) or Section 45; or
    - (d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

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

47. Conditions of service to remain unchanged while proceedings are pending.

(1) No employer shall, while any conciliation proceeding before an arbitrator, a labour court or tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any workmen concerned in such dispute, the conditions of service applicable to him before the commencement of the conciliation proceedings or of the proceedings before the Arbitrator, the Labour Court or Tribunal, as the case may be, nor shall be—

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

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

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

48. Protection of certain persons.

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

(2) Any contravention of the provisions of subsection (1) may be made the subject matter of an industrial dispute, and nothing in the constitution of a trade union providing the manner in which any dispute between its executive and members shall be settled, shall apply to proceedings for enforcing any right or exemption granted by subsection (1). In any such

proceedings, the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the court thinks just.

49. Representation of parties.

- (1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Ordinance by an officer of a collective bargaining agent and, subject to the provisions of subsection (2) and subsection (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorized by him.
- (2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Ordinance.
- (3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before the Labour Court, or before an arbitrator, with the permission of the court or the Arbitrator, as the case may be.

50. Interpretation of settlement and awards.

- (1) If any difficulty or doubt arises as to the interpretation of any provisions of an award or settlement, it shall be referred to the Tribunal constituted under this Ordinance.
- (2) The Tribunal to which a matter is referred under subsection (1) shall, after giving the parties an opportunity of being heard, decide the matter, and its decision shall be final and binding on the parties.

51. Recovery of money due from an employer under a settlement or award.

- (1) Any money due from an employer under a settlement, or under an award on decision of the Arbitrator, Labour Court or Tribunal may be recovered as arrears of land revenue or as a public demand upon application by the Government if it is moved in that behalf by the person entitled to the money under that settlement, award or decision.
- (2) Where any workman is entitled to receive from the employer any benefit, under settlement or under an award or decision of the Arbitrator, Labour Court or Tribunal, which is capable of being computed in terms of money, the amount at which

such benefit shall be computed may, subject to the rules made under this Ordinance, be determined and recovered as provided for in subsection (1) and paid to the workman concerned within a specified date.

52. Any act or function which is by this Ordinance required to be performed by or has been conferred upon a collective bargaining agent may, until a collective bargaining agent has been ascertained under the provisions of this Ordinance, be performed by a registered trade union which has been recognized by the employer or employers.

### Penalties and Procedures

53. Penalty for unfair labour practices.

(1) Whoever contravenes the provisions of Section 15, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to taka five thousand, or with both.

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

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

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

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

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

55. Penalty for failing to implement settlement, etc. Whoever wilfully fails to implement any term of any settlement, award or decision which it is his duty under this Ordinance to implement shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to taka five hundred,

or with both, and, in the case of continuing failure, with a further fine which may extend to taka two hundred, for every day after the first during which the failure continues.

56. Penalty for false statements, etc. Whoever wilfully makes or causes to be made in any application or other document submitted under this Ordinance or the rules thereunder, any statement which he knows or has reason to believe to be false, or wilfully neglects or fails to maintain or furnish any list document or information he is required to maintain or furnish, under this Ordinance or the rules thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five hundred, or with both.
57. Penalty for illegal strike or lock-out.
- (1) Any workman who commences, continues or otherwise acts in furtherance of an illegal strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka two hundred, or with both.
  - (2) Any employer who commences, continues or otherwise acts in furtherance of an illegal lock-out shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to taka five thousand, or with both, and, in the case of a continuing offence with a further fine which may extend to taka two hundred, for every day after the first during which the offence continues.
58. Penalty for instigating illegal strike or lock-out. Whoever instigates or incites others to take part in, or expends supplies money or otherwise acts in furtherance or support of an illegal strike or an illegal lock-out, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka one thousand, or with both.
59. Penalty for taking part in or instigating go-slow. Whoever takes part in, or instigates or incites others to take part in, or otherwise acts in furtherance of a go-slow shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five hundred, or with both.

Explanation. In this section "go-slow" means an organized deliberate and purposeful slowing down of normal output of work by a body of workmen acting in a concerted manner, but does not include the slowing down of normal output of work which

- is due to mechanical defect, break-down or machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.
60. Penalty for discharging officer of trade union in certain circumstances, etc. Any employer who contravenes the provisions of Section 47 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five thousand, or with both.
  61. Penalty for embezzlement or misappropriation of funds. Any officer or any employee of a registered trade union guilty of embezzlement or misappropriation of trade union funds shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine, which shall not exceed the amount found by the court to have been embezzled or misappropriated. Upon realization, the amount of fine may be reimbursed by the court to the trade union concerned.
  - 61A. Penalty for activities of unregistered trade union. Whoever takes part in or instigates or incites others to take part in the activities of an unregistered trade union or of a trade union whose registration has been cancelled or collects subscription except enrolment fee, for the fund of any such trade union, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five hundred, or with both.
  - 61B. Penalty for dual membership of trade unions. Whoever enrolls himself as, or continues to be, a member of more than one trade union at the same time shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five hundred, or with both.
  62. Penalty for other offence. Whoever contravenes, or fails to comply with, any of the provisions of the Ordinance shall, if no other penalty is provided by this Ordinance for such contravention or failure, be punishable with fine which may extend to taka two hundred and fifty.
  - 62A. Penalty for non-appearance or non-representation before a Conciliator. A person who fails, except for reasons satisfactory to the Conciliator, to comply with the provisions of subsection (2) of Section 30 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to taka five hundred, or with both.

63. Offences by corporations. Where the person guilty of any offence under this Ordinance is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.
64. Trial of offences. No court other than a labour court or that of a magistrate of the first class shall try any offence punishable under this Ordinance, and no prosecution for an offence punishable under Section 53 or Section 62A shall be instituted except by or under the authority, or with the previous permission, of the Director of Labour or of an officer authorized by him in this behalf.

### Miscellaneous

65. Indemnity. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule.
- 65A. Registrar, etc to be public servants. A registrar, a Conciliator, the chairman of a labour court and the member of the tribunal shall be deemed to be public servants within the meaning of Section 21 of the Penal Code (Act XLV of 1860).
66. Powers to make rules.
- (1) The Government may, by notification in the official gazette, make rules for carrying out the purposes of this Ordinance.
  - (2) Rules made under this section may provide that a contravention thereof shall be punishable with fine which may extend to taka one hundred.
67. Repeal and savings.
- (1) The following laws are hereby repealed, namely:
    - (a) The East Pakistan Trade Unions Act, 1965 (E.P. Act V of 1965);
    - (b) The East Pakistan Labour Disputes Act, 1965 (E.P. Act VI of 1965);
    - (c) The West Pakistan Industrial Disputes Ordinance, 1968 (W.P. Ordinance IV of 1968); and
    - (d) The West Pakistan Trade Union Ordinance, 1968 (W.P. Ordinance V of 1968).

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

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

### Schedule

#### Public Utility Services

[See Section 2 (xx)]

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

## 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 of 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 meaning assigned to them in the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter referred to as the said Ordinance.
3. Ordinance to override 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 of 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 establishments or group of establishments, the Registrar shall, upon 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 subsection (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 21 days of the receipt of communication under subsection (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 in the communication with a view to reaching an agreement 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 no settlement is reached within the period of 21 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 authorized 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 settlement of the dispute or any matter in dispute is arrived at in the course of the proceedings before him, the Conciliator

a memorandum of settlement signed by the parties to this dispute.

- (5) If no settlement is arrived within the period of 30 days of 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 reason 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 Conciliator 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 subsection (6) may, within 30 days of issue of such certificate, make an application of a labour court for adjudication of the dispute.
  - (9) If no application is made to the Labour Court under subsection (8), the dispute shall be deemed to have ceased to exist from the date of expiry of the period mentioned in that subsection.
  - (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 provisions of this section shall be punishable with imprisonment

for a term which may extend to two years, or with fine which may extend to taka five thousand, 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 taka five thousand, or with both.

H.M. Ershad, ndc, Psc  
Lieutenant General  
Chief Martial Law Administrator  
Shamsur Rahman,  
Deputy Secretary

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 East Bengal Shops and Establishment 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 12 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 Government may, by notification in the official gazette, declare to be a commercial establishment for the purpose of this Act;
- (e) "Director of Labour" means an officer 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 service of a worker by the employer for misconduct;

- (h) "employer" means a person, 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 organized deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner, and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply or normal materials and spare parts of machinery.
- (j) "industrial establishment" means any workshop or other establishment in which articles are produced adapted or manufactured or where the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance, with a view to their use, transport, sale, delivery or disposal, is carried on or such other class of establishments including water transport vessels or any class, thereof which the Government may, by notification in the official gazette, declare to be an industrial establishment for the purpose of this Act, and includes—
- (i) any 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 a worker whose name is borne on the muster-rolls of his shop, commercial establishment or industrial establishment;
- (m) "permanent worker" means a worker who has been engaged on a permanent basis or who has satisfactorily completed the period of his probation in the shop or the commercial or industrial establishment;
- (n) "Plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea and includes agricultural farms under sugar mill for growing sugarcane, employing 25 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 Union 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 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 subsection (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 30 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 30 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 worker whose function is of clerical nature, shall be six months and for other workers such period shall be three months, including breaks due to leave, illegal

lock-out or strike (not being an illegal strike) in the shop or commercial or industrial establishment;

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

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

#### 5. Leave and holidays.

- (1) Workers employed in shops or commercial or industrial establishments shall be entitled to leave and holidays with wages as provided in the East Bengal Shops and Establishments Act, 1951, the Factories Act, 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 authorized 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 therefore 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 unauthorized absence and suspension; but he shall not lose the lien to the appointment.

- (4) If the service 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 retirement, 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 notice posted, in the case of a factory, on the notice board in the section or department concerned and, in other cases, at a conspicuous place before the work is due to begin next, indicating as to when the work will be resumed and whether such workers are to remain at their place of work at any time before the actual resumption.
  - (3) In the event of such stoppage occurring at any time during working hours, the workers affected shall be notified, as soon as practicable, by notice posted, in the case of a factory on the notice board in the section or department concerned, and in other cases, at a conspicuous place, indicating as to when the work will be resumed and whether such workers are to leave or remain at their place of work.
  - (4) In the case of detention of workers following such stoppage—
    - (a) the workers so detained may not be paid for the period of such detention if it does not exceed one hour;
    - (b) the workers so detained shall be paid wages for the whole period of such detention if it exceeds one hour.
  - (5) If the period of stoppage of work does not exceed one working day, a worker, unless entitled to wages under clause (b) of subsection (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 subsection.

- (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 12 calendar months, has actually worked in a shop or commercial or industrial establishment for not less than 240 days and 140 days, as the case may be, shall be deemed to have completed one year or six months respectively, of continuous service in the shop or the commercial or industrial establishment.

Explanation. In computing the number of days on which a worker actually worked in a shop or commercial or industrial establishment the days or 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 12 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 12 months;
- (b) the provisions of Sections 9 to 11, both inclusive, shall not apply to a shop, commercial or industrial establishment which is of seasonal character or in which work is performed only intermittently, irrespective of the number of workers employed therein

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

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

9. Right of laid-off workers for compensation

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

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

Provided further that no worker shall, unless there is an agreement to the contrary between him and the employer, be entitled to the payment of compensation in the aforesaid manner for more than 45 days during any calendar year.

- (2) Notwithstanding anything contained in the proviso to subsection (1), if during a calendar year a worker is laid-off for more than 45 days, whether continuously or intermittently, and the lay-off after the expiry of the first 45 days comprises period or periods of 15 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 15 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 45 days as aforesaid, for any continuous period of 15 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 purpose

during the second half of the shift for the day, and if he so presents himself, he shall be deemed to have been laid-off only for one-half of that day the other half being treated as on duty, irrespective of the fact whether he is given work or not.

12. Conditions of retrenchment. No worker employed in any shop or commercial or industrial establishment who has been in continuous service of 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 authorized by him; and
- (c) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent to 14 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 15 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 12 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 14 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 12 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 subsection (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 subsection (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 days' 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 60 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 subsection (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 inciting 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 subsections or elsewhere in this Act, an employer, in cases of 'go-slow' or illegal strike, may discharge or dismiss one of 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, 90 days' notice in the case of monthly rated workers and 45 days' notice in the case of other workers, in writing, shall be given by the employer.

Provided that wages for 90 days or 45 days, as the case may be is 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 14 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 subsection, wages shall mean the average of the basic wages and dearness allowance, if any, paid to the worker during the period of 12 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 14 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 subsection shall not be entitled to the payment of any compensation mentioned in subsection (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 14 days' notice in other case, in writing, shall be given by the employer.

Provided that wages for one month or 14 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 rule 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 15 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 subsection (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 subsection (3).
  - (5) The police officer, while acting under an order of the magistrate under subsection (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 15 days of the occurrence of the cause of such grievance and the employer shall within 30 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 30 days from the last date under clause (a) or within 30 days from the last date of the decisions, 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 these 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 subsection (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 of every day after the first during which such offence continues.
  - (2) Whoever contravenes any of the provisions of this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable, for the first offence, with a fine which may extend to taka two hundred and for each 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 authorized 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 purposes, in conspicuous places of the shop or commercial or industrial establishment.

Provided that this section shall not apply to any shop or commercial or industrial establishment where the total number of workers employed 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 authorize 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 all 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) Within 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).

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# ADDENDA

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## A FEW WORDS MORE

The work of compilation of the media laws and regulations in Bangladesh was completed when the people of Bangladesh were on the street to achieve a democratic government. The mass movement in 1990 for the restoration of democracy ended in success and the Constitution of the People's Republic of Bangladesh has been amended by the newly-elected Parliament. The provisions of the Constitution have been amended to restore a parliamentary form of government by abolishing the presidential form. It was the demand of struggling journalists and people of all walks of life that the people should enjoy freedom of thought, of association, of speech and of press. Accordingly, the government amended the Special Powers Act, 1974, by omitting Sections 16, 17, and 18 which fettered freedom of press, and freedom of speech. But simultaneously, Sections 99A, 99B, 99D and Schedule II of the Code of Criminal Procedure have been amended which almost incorporated the provisions of the omitted Sections 16, 17, and 18 of the Special Powers Act, 1974.

The amendment of Section 99A of the Code of Criminal Procedure, by which clause (b) (a new clause) has been introduced in subsection (1) of Section 99A of the Code, has practically made the law relating to press more stringent, because the voice of the press may be gagged by the government at any time by resorting to the provisions of clause (b) of Section 99 A(1) of the Code on the plea that the printed matter is defamatory of the President of Bangladesh or the Prime Minister of the Government. So, reasonable apprehension exists that whatever freedom of press was achieved by the omission of Sections 16, 17, and 18 of the Special Powers Act, 1974, has been negated by the said amendment of Section 99A of the Code of Criminal Procedure. More so, the punishment prescribed for the offence has been made severe by enhancing the sentence of two years to seven years, by amending Section 505 of, and by introducing Section 505A, in the Penal Code.

The amendment of the Code of Criminal Procedure and of the Penal Code also put definite restrictions on the freedom of press, freedom of speech, and of association. The only difference is that under Section 32 of the Special Powers Act, 1974, there was an embargo on the matter of granting bail, whereas under the amended Code of Criminal Procedure and Penal Code no such restriction has been imposed. Further, the government also amended the Printing Presses and Publications (Declaration and Registration) Act, 1973, and established the 'Press Appellate Board', by which the government has transferred some of its powers to the Press Appellate Board, whose decision shall be final in matters of authentication and cancellation of authentication of publication.

Although the amendment of the Printing Presses and Publications (Declaration and Registration) Act, 1973, by establishing the Press Appellate Board, has ensured some freedom of the press, the amendment of the Code of Criminal Procedure and the introduction of Section 505A of the Penal Code may negate such freedom.

## THE SPECIAL POWERS (SECOND AMENDMENT) ORDINANCE, 1991

1. This ordinance may be called The Special Powers (Second Amendment) Ordinance, 1991.
2. Amendment of Section 2 of Special Powers Act, 1974. Clause (d) and clause (g) of Section 2 shall be omitted.
3. Amendment of Sections 16, 17, and 18 of Special Powers Act, 1974. Sections 16, 17, and 18 of the Act shall be omitted.

## THE PRINTING PRESSES AND PUBLICATIONS (DECLARATION AND REGISTRATION) (AMENDMENT) ACT, 1991

1. This Act shall be called The Printing Presses and Publications (Declaration and Registration) (Amendment) Act, 1991.
2. Amendment of Section 2 of the Act. In Section 2 after clause (g), a new clause i.e., clause (gg) shall be added.  
(gg) "Press Appellate Board" means the Press Appellate Board constituted under Section 2A.
3. Addition of Part IA in Printing Presses and Publications (Declaration and Registration) Act, 1973. After Part I a new Part IA shall be added.

### Part IA

#### Press Appellate Board

2. **Press Appellate Board.** The Government shall constitute a Press Appellate Board consisting of the following members namely:
  - (a) Chairman of the Press Council established under the Press Council Act, 1974, who shall be its Chairman.
  - (b) a member of the said Press Council to be nominated by its Chairman.
  - (c) an officer in the service of the Republic, not below the rank of a joint Secretary, to be nominated by the Government.
4. Amendment of Section 12 of the Act. In subsections 3 and 4 of Section 12, the word "Government" shall be substituted by the words "Press Appellate Board".
5. Amendment of Section 20 of the Act. In subsection (2) of Section 20,

the word "Government" shall be substituted by the words "Press Appellate Board".

6. Amendment of Section 29 of the Act. In Section 29, the words "two thousand" shall be substituted by the words "five thousand".
7. Amendment of Section 30 of the Act. In Section 30, the words "two thousand" shall be substituted by the words "five thousand".
8. Amendment of Section 31 of the Act. In Section 31, the words "two thousand" shall be substituted by the words "five thousand".
9. Amendment of Section 32 of the Act. In Section 32, the words "two thousand" shall be substituted by the words "five thousand".
10. Amendment of Section 33 of the Act. In Section 33, the words "ten thousand" shall be substituted by the words "twenty thousand".

### THE PENAL CODE (AMENDMENT) ORDINANCE, 1991

1. This Ordinance shall be called The Penal Code (Amendment) Ordinance, 1991.
2. Amendment of heading of Chapter XXII of The Penal Code. The words "AND ANNOYANCE" of the heading of Chapter XXII shall be substituted by the words "PREJUDICIAL ACT AND ANNOYANCE".
3. Amendment of Section 505 of The Penal Code.
  - (a) After clause (c), new clause (d) shall be added:
    - (d) with intent to create or promote, or which is likely to create or promote feelings of enmity, hatred or ill-will between different communities, classes or sections of people.
  - (b) The words "two years" shall be substituted by the words "seven years".
4. Addition of a new section in the Penal Code. After Section 505 of the Penal Code, the following new section shall be added:
 

505A. Prejudicial act by words etc. Whoever

  - (a) by words either spoken or written, or by signs or by visible representations or otherwise does anything, or
  - (b) makes, publishes or circulates any statement, rumour or report, which is or which is likely to be prejudicial

to the interests of the security of Bangladesh or public order or to the maintenance of friendly relations of Bangladesh with foreign states or to maintenance of supplies and services essential to the community, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

## THE CODE OF CRIMINAL PROCEDURE (THIRD AMENDMENT) ORDINANCE, 1991

1. This Ordinance shall be called The Code of Criminal Procedure (Third Amendment) Ordinance, 1991.
2. Amendment of Section 99A of the Code of Criminal Procedure. Section 99A of the Code of Criminal Procedure shall be substituted as follows:

99A. Power to declare certain publications forfeited and to issue search warrants for the same.

- (1) Where any newspaper or book or any document, wherever printed, appears to the Government to contain
  - (a) any matter the publication of which is punishable under Section 123A or Section 124A or Section 153A or Section 292 or Section 295A or Section 505 or Section 505A of the Penal Code (Act XLV of 1860), or
  - (b) any matter which is defamatory of the President of Bangladesh, the Vice-President of Bangladesh, the Prime Minister of the Government, the Speaker of Parliament or the Chief Justice of Bangladesh, or
  - (c) any matter which is grossly indecent or is scurrilous or obscene, or
  - (d) any words, signs or visible representations which incite, or which are likely to incite, any person or class of persons to commit any cognizable offence.
 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, words, signs or visible representations, and every copy of such book or other document to be forfeited to Government, and thereupon any police-officer may seize the

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**NOTICE**

B. In section 99B of the Code of Criminal Procedure, the words "any Magistrate may by warrant authorize 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 subsection (1), "newspaper", "book" and "document" have the same meaning as in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973).
- 3. Amendment of Section 99B of the Code of Criminal Procedure. In Section 99B of the Code of Criminal Procedure for the words "any treasonable or seditious or other matter of such a nature", the words "any such matter, word, sign or visible representation" shall be substituted.
- 4. Amendment of Section 99D of the Code of Criminal Procedure. In Section 99D for the words "treasonable or seditious or other matter of such a nature" the words "any such matter, word, sign or visible representation" shall be substituted.
- 5. Amendment of Schedule II of the Code of Criminal Procedure. In Schedule II of the Act
  - (a) in the heading of Chapter XXII for the words "AND ANNOYANCE" the words "PREJUDICIAL ACT AND ANNOYANCE" shall be substituted.
  - (b) In Section 505 relating to Entries in column 7 for the word "ditto" the words "imprisonment for seven years, or fine, or both" shall be substituted.
    - In column 8 for the words "any magistrate" the words "Court of Session" shall be substituted.
  - (c) After the entries in Section 505 of the Code of Criminal Procedure the following entries shall be added—
    - "505A. Prejudicial Ditto Ditto Ditto Ditto Ditto Ditto Act by words etc."