

## Contents

kw WN

20  
21

22

23

24

25

26

27

28

## INDUSTRIAL RELATIONS ORDINANCE, 2002

Last Updated: 2002-12-01

### PREAMBLE

### SHORT TITLE, EXTENT, COMMENCEMENT AND APPLICATION DEFINITIONS

### TRADE UNIONS AND FREEDOM OF ASSOCIATION APPLICATION FOR REGISTRATION

### REQUIREMENTS FOR APPLICATION

### REQUIREMENTS FOR REGISTRATION

### DISQUALIFICATION FOR BEING AN OFFICE BEARER OF A TRADE UNION

### REGISTERED TRADE UNION TO MAINTAIN REGISTER, ETC

### TRANSFER, ETC, OF OFFICE BEARERS OF TRADE UNION DURING PENDENCY OF APPLICATION FOR REGISTRATION

### CERTIFICATE OF REGISTRATION

### CANCELLATION OF REGISTRATION

### APPEAL AGAINST CANCELLATION OF REGISTRATION INCORPORATION OF REGISTERED TRADE UNION LAW OF CONSPIRACY LIMITED IN APPLICATION IMMUNITY FROM CIVIL SUIT IN CERTAIN CASES

### ENFORCEABILITY OF AGREEMENT BETWEEN MEMBERS OF TRADE UNION

### REGISTRATION OF FEDERATION OF TRADE UNIONS RETURNS

COLLECTIVE BARGAINING AGENT

CHECK OFF

PERFORMANCE OF FUNCTIONS PENDING ASCERTAINMENT OF  
COLLECTIVE BARGAINING AGENT

SHOP STEWARDS TO ACT AS LINK BETWEEN LABOUR AND  
MANAGEMENT

JOINT WORKS COUNCIL

NEGOTIATIONS RELATING TO DIFFERENCES AND DISPUTES  
CONCILIATOR

PERIOD OF NOTICE OF CONCILIATION

CONCILIATION AFTER NOTICE

## 2 "PROCEEDINGS BEFORE CONCILIATOR WS tie

© Uiaas Us SMe kk A aM Se SF el BR

!

!

uv a ARBTRARON a? | aa? | a an?

Sam, 31 STRIKE AND LOCK.OUT , Sing oe Sn

32 STRIKE OR, LOCK OUT IN PUBLIC UTILITY SERVICES

# i. ea APPLIGATION, TOLABOUR COURT. NAY nse

i \_ COMMENCEMENT AND CONCLUSION OF PROCEEDINGS x

ab agit Fost aeRO. ARTS A Ra . Lan ifi =

a) I LARING

7 POWERS OF LABOUR COURT AND APPELLATE, COURT OF

"ah \_ COMPETENT JURISDICTION TO PROHIBIT STRIKE, ETC — fa.

[ian ILLEGAL STRIKES ANDLOCK OUTS

"| alia) 2) ENS OF aeewe LOCK pear ith =

A

go Sea

41s REMOVAL'

» OF ROTECTION OF CERTAIN PERSONS a te

- — ee

t a | rR Onna Gwe

MS 2 RABQUR CODER of SS |SM A SS POR

bent |

---

| 4S PROCEDURE AND POWERS OF LABOUR COURT Roa  
Sr, REN "REDRESS OF INDIVIDUAL GRIEVANCES <2Tos >?

aN AWARDS AND DECISION OF LABOUM SOURS a

2

Si eB | APPEAL TO THE HIGH COURT — eee ee ee

ia | NATIONAL INDUSTRIAL RELATIONS COMMISSION.

50 BENCHES OF THE COMMISSION, ETC

he atc "ADDITIONAL POWERS OF THE COMMISSION,

Sees some! APPEAR? See SPP

' 3 \_ FINALITY OF ORDER ' cz 7 Pa

54 DETERMINATION, ETC, OF COLLECTIVE BARGAINING UNIT

(se 2 ROWER TPURAREREGUTATIONG Sn TiaT 3 & Sr

6 RAISING OF INDUSTRIAL DISPUTE BY A FEDERATION

ee } 'SRST REG STRAR OF TRADE UNIONS REG a Sati '&

## 58 POWERS AND. FUNCTIONS OF REGISTRAR

a

59" %, SETTLEMENT AND AWARDS ON WHOM BINDING Sat a

is: EFFECTIVE DATE OF SETTLEMENT, AWARD, ETC

(ra {Soe Aa REE specu ann ¥

[ — — —

Paes JE.

TTLEM SAE os

ae - | ONEARE x RSET RACTICES ON TIME PRE ¢ OF EMPLOYERS | =

— , Me, hier PRACTICES ON THE PART OF WORKMEN te.

on

wn

n

65 PENALTY FORUNFAIRLABOUR PRACTICES

(mis €6 PENALTY FOR COMMITTING BREACH OF SEFTLEMENT

(Saawe aae aan Eee \_aM Ee so aa eee

:

:

Tsia| PEN ALR RAING To GME SAE EMRE GaN?

© 68 PENALTY FOR FALSE STATEMENTS ETC

69 PENALTY FOR | OFFENCES UNDER SECTION 40 “3

Hy: ” aks {A goa Reni a goer RyOrEION \* FUNDS |

“PENALTY FOR OTHER OFFENCES

MGs a | OFFENCES TO BENON COGNIZABLE = Beh a  
| Ta OFFENCES BY CORPORATIONS hee cd

age TRIAL OF OFFENCES — ties ieee RETIRE  
‘ ~ "CERTAIN MATTERS TO BE KEPT CONFIDENTIAL a oe te  
( “INDEMNITY, & = ois kh GnilNia We

ae Lina N ane aE sree a Se

REPEAL AND \$ D SAVINGS ay

no FORMER REGISTRATION OFFICES, OFFICERS, ETC, aout

\$2 REMOVAL OF DIMCUETIES

© Sia ee “ESS

5 wa schRDUnE I

” § user ox cas th a arama BEAT AGS) e.

# INDUSTRIAL RELATIONS ORDINANCE, 2002

## ORDINANCE XCI OF 2002

An Ordinance to amend, consolidate and rationalize the law relating

to formation of trade unions, regulation and improvement of relations between employers and workmen and avoidance and settlement of any differences or disputes arising between them

WHEREAS it is expedient to amend, consolidate and rationalize the law relating to formation of trade unions, regulation and improvement of relations between employers and workmen and avoidance and settlement of any differences of disputes arising between them.

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the Fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the president of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

### CHAPTER I

#### Preliminary

1. Short title, extent, commencement and application.-(1) This Ordinance may be called the industrial Relations Ordinance, 2002.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) It shall apply to all persons employed in any establishment or group of establishments or industry except those employed (a) in the Police or any of the Defence Services of Pakistan; (b) in any installations or services exclusively connected with the Armed Forces of Pakistan including Ministry of Defence lines of the Railways; (c) by the Pakistan Security Printing Corporation or the Security Papers Limited or Pakistan Mint; (d) in the administration of the State other than those employed as workmen by the Railways, Post, Telegraph and Telephone Departments; (e) by an establishment or institution maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons excluding those run on commercial basis; (f) by an institution established for payment of employees old-age pensions or for workers' welfare; (g) as a member of the Watch and Ward, Security or Fire Service Staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum gas or petroleum products or of a seaport or an airport:

Provided that the Federal Government may suspend, in the public interest, by an order published in the official Gazette, the application of this Ordinance to any establishment or industry for a period specified in the order not exceeding six months at a time.

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 an Appellate Court of competent jurisdiction of any industrial dispute or any matter relating thereto and includes an interim award;

(iii) "association" means any organization of employers formed primarily for furthering and defending the interests and rights of employers;

(iv) "Board of Conciliators" means a tripartite Board. of Conciliators constituted under subsection (3) of section 26;

(v) "collective bargaining agent" means the trade union of workmen which, under section 20, is the agent of the workmen in the establishment. group of establishments or, as the case may be, industry in the matter of collective bargaining;

(vi) "collective bargaining unit" means those workers or class of workers of an employer in one or more establishments coming within the same class of industry whose terms and conditions of employment are, or could appropriately be, the subject of collective bargaining together;

(vii) "Commission" means the National Industrial Relations Commission constituted under section 49;

(viii) "conciliation proceedings" mean any proceeding before a Conciliator or Board of Conciliators;

(ix) "Conciliator" means-

(a) a person appointed as such by the Federal Government under sub-section (2) of section 26, in respect of disputes which the Commission is competent to adjudicate and determine; and

(b) in respect of other disputes, a person appointed as such by the Provincial Government under sub-section,(1) of section 26.

(x) "employer" in relation to an establishment means any person or body of persons, whether incorporated or not, who or which employs workmen in an establishment under a contract of employment and includes-

(a) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;

(b) any person responsible for the direction, administration, management and control of the establishment;

(c) the authority, in relation to an establishment or group of establishments run by or under the authority of any department of the Federal Government or a Provincial Government, appointed in this behalf or, where no authority is appointed, the Head of the Department.

(d) the office-bearer, in relation to an establishment run by or on behalf of a local authority, appointed in this behalf, or where no officer is so appointed, the chief executive office-bearer of that authority;

(e) the proprietor, in relation to any other establishment, of such establishment and every director, manager secretary, agent or office-bearer or person concerned with the management of the affairs thereof;

(f) a contractor or an establishment of a contractor who or which undertakes to procure the labour or services of workmen for use by . another person or in another establishment for any purpose whatsoever and for payment in any form and on any basis whatsoever; and

(g) office-bearers of a Department or Division of the Federal or a Provincial or local authority who belong to the managerial, secretariat or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette:

(xi) "establishment" means any office, firm, factory, society, undertaking, company, shop, premises or enterprise which employs workmen directly or through a contractor for the purposes of carrying on any business or industry and includes all its departments and branches, whether situated in the same place or in different places having a common balance sheet and profit and loss account and, except in section 54, includes a collective bargaining unit, if any, constituted under that section in any establishment;

(xii) "executive" means a person or body of persons, by whatever name called, to whom or which the management of the affairs of a trade union is entrusted under its constitution;

(xiii) "group of establishments" means establishments belonging to the same employer and the same industry;

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

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

(xvi) "industrial dispute" means any dispute or difference between employers and workmen, or between workmen and workmen which is concerned with the employment or non-employment or the terms of employment or the conditions of work; and is not in respect of the enforcement of any right guaranteed or accrued to workers under or under any law, other than this Ordinance, or any award or settlement for the time being in force;

(xvii) "industry" means any business, trade, manufacture, calling, service, occupation or employment engaged in, or an organized economic activity of producing goods or services for sale, excluding those set up exclusively for charitable purposes, operating through public or private donations where "charitable purpose" includes the provision of education, medical care, emergency relief and other needs of the poor and indigent;

(xviii) "Inspector" means an Inspector appointed under this Ordinance;

(xix) "Labour Court" means a Labour Court established under section 44;

(xx) "lock-out" means the closing of a place of employment or part of such place or the suspension of work wholly or partly, 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;

(xxi) "office-bearer" means any member of the executive of a trade union in an establishment, industry or group of establishments but does not include an auditor or legal advisor thereof;

(xxii) "prescribed" means prescribed by rules made under section 79;

(xxiii) "public utility service" means any of the services specified in Schedule 1;

(xxiv) "registered trade union" means a trade union registered under this Ordinance;

(xxv) "Registrar" means Registrar of trade unions appointed under section 57;

(xxvi) "settlement" means a settlement arrived at in the course of conciliation proceedings, and includes an agreement between an employer, the collective bargaining agent or workmen, as the case may be, arrived at otherwise than in the course of such proceedings, where the agreement is in writing and has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the Provincial

Government, the Conciliator and such other persons as may be prescribed;

(xxvii) "Schedule" means the Schedule to this Ordinance;



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

(xxix) "trade union" means any combination of workers formed primarily for the purpose of furthering and defending the interests and rights of workers in any industry or establishment and includes an industry-wide federation of two or more collective bargaining agent unions and a federation at the national level of ten or more collective bargaining agent unions; and

(xxx) "worker" and "workman" means any and all persons not falling within the definition of employer who are employed in an establishment or industry for remuneration or reward either directly or through a contractor, whether the terms of employment be express or implied, and for the purpose of any proceeding 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 the dispute or whose dismissal, discharge, retrenchment, lay-off or removal has led to that dispute but does not include any person who is employed mainly in a managerial or administrative capacity.

## CHAPTER II

### Trade Unions

3. Trade unions and freedom of association.-(1) Subject to the provisions, of Article 17 of the Constitution of the Islamic Republic of Pakistan, this Ordinance and any other law for the time being in,

(a) the workers shall, without distinction whatsoever, have the right to form and, subject to the constitution and rules of a trade union, join any trade union of their choice within the establishment or industry they are employed in:

Provided that a worker shall not be entitled to be a member of more than one trade union at any one time; provided further that on joining another union, the earlier membership will stand automatically cancelled;

(b) the employers shall, without distinction whatsoever, have the right to form or join any association of their choice and their association shall have the right to draw up their constitution and rules, elect freely their representatives, organize their administration and activities and formulate their programmes;

(c) trade unions of workers and associations of employers shall have the right to form and join federations and confederations of trade unions and associations; and such federations and confederations shall have the right to affiliate with international organizations and confederations of workers and employers, as the case may be; and

(d) every collective bargaining agent union shall have to affiliate with any federation at the national level registered with the National Industrial Relations Commission within two months after its determination as a collective bargaining agent or promulgation of this Ordinance, whichever is earlier.

(2) The workers and employers and their respective bodies shall, exercising their rights under sub-section (1) of this section, act in good faith, in the best interest of the workers, other persons, or organised collectivises, respect and abide by all Federal and Provincial laws.

4. Application for registration. Any trade union may, under the signatures of its President and General Secretary, apply for registration of the trade union under this Ordinance.

5. Requirements for application. An application for registration shall be made to the Registrar and shall be made 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 trade union;
- (iii) the titles, names, 'ages, addresses and occupations of the office, bearers of the trade union;
- (iv) statement of-total paid membership;
- (v) the name of the establishment, group of establishments or the industry, as the case may be, to which the trade union relates alongwith a statement of the total number of workers employed therein;
- (vi) the names and addresses of the registered trade unions in the establishment, group of establishments or industry, as the case may be, to which the trade union relates;
- (vii) the names, addresses and registration number of member trade unions, in case the application is made by a federation of trade 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 signatures of the Chairman of the meeting;

(c) a copy of the resolution by the members of the trade union authorising its President and the General Secretary to apply for its registration; and

(d) a copy of the resolution from each of the constituent trade unions agreeing to become a member of a federation or confederation of trade unions, where such application is made by a federation or confederation.

6. Requirements for registration.-(1) A trade union shall not be entitled to registration under this Ordinance if 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 purposes for which the general funds of the union shall be applicable;
- (d) the number of persons forming the executive which shall not exceed the prescribed limit and shall include less than seventy five per cent. from amongst the workmen actually engaged or employed in the establishment or establishments or the industry for which the trade union has been formed;
- (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 by the office-bearers 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 the trade union, its annual audit, the manner of audit and adequate facilities for the inspection by the office-bearers and members of the trade union;

inspection of the account books by the office-bearers and members of trade union;

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

(j) the manner of election of office-bearers by the general body of the trade union and the term not exceeding three years; for which an office bearer may hold office upon his election or re-election through secret ballot;

(k) the procedure for expressing want of confidence in any office bearer of union the trade union; and

(1) 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 four months and the general body at least once every year.

(2) Without prejudice to the provisions of the subsection (1), a trade union of workmen shall not be entitled to registration under this Ordinance -

(a) unless all its members are workmen actually engaged or employed in the establishment or industry with which the trade union is connected; and

(b) where there are two or more registered trade unions in the establishment, group of establishments or industry, with which the trade union is connected, unless it has as its members not less than one-fourth of the total number of workmen employed in such establishments, group of establishments or industry, as the case may be.

7. Disqualification for being an office-bearer of a trade union. Notwithstanding anything contained in the constitution or rules of a trade union, a person who has been convicted of an offence under section 7 of a criminal offence of heinous nature within the meaning of the Pakistan Penal Code (Act XLV of 1860), such as theft, physical assault, murder, attempt to murder, etc., shall be disqualified from being elected as, or from being a member or office-bearer of a trade union.

8. 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 receipt and expenditure; and

(c) a minute book for recording the proceedings of meetings.

9. Registration.- (1) The Registrar, after having exercised due diligence and verification of facts, and on being satisfied that a trade union has complied with all the requirements of this Ordinance, shall register the trade union in a prescribed register issue a registration certificate in the prescribed form within a period of fifteen days from the date of receipt of the application under intimation to the concerned employer.

(2) In case the application for registration is found by the Registrar to be deficient to any material respect, he shall communicate in writing all his objections to the trade union within a period of fifteen days from the receipt of the application and the trade union shall reply thereto within a period of fifteen days from the receipt of the objections.

(3) When the objections raised by the Registrar have been satisfactorily met, the Registrar shall register the trade union as provided in sub-section (1) and issue a registration certificate thereunder within three days of the date of the objections having been met under intimation to the employer.

(4) In case the objections raised under sub-section (2) are not satisfactorily met or are not replied to within the time mentioned therein, the Registrar shall reject the application.

(5) Where the application for registration is rejected or the Registrar delays the disposal of such application beyond the period of fifteen days specified in sub-section (1) or does not issue a registration certificate within a period of three days specified in subsection (3), the trade union may appeal to the LabourCourt which may, for reasons to be recorded by an order, direct the

Registrar to register the trade union and to issue a registration certificate or may dismiss the appeal.

(6) Notwithstanding anything contained in any other provision of this Ordinance, every alteration made in the constitution of a registered trade union and every change of its office-bearers shall be notified by registered post to the Registrar by the trade union within fifteen days of such alteration or change, as the case may be.

(7) The Registrar may refuse to register any alteration or change referred to in sub-section (6), if it is in contravention of any of the provisions of this Ordinance or if it is in violation of the constitution of the trade union.

(8) Subject to the provisions of sub-section (7), every inclusion or exclusion of any constituent unit of a federation of trade unions shall be notified by registered post to the Registrar by the federation within fifteen days of such inclusion or exclusion. .

(9) In case there is a dispute in relation to the change of office-bearers of a trade union or any trade union is aggrieved by order of the Registrar made under subsection (7), any office bearer or member of the trade union may apply or appeal to the Labour Court which shall within seven days of receipt of the application for appeal, as the case may be, pass an order either directing the Registrar to register such alteration or change, may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the trade union under his supervision.

10. Transfer, etc., of office bearers of trade union during pendency of application for registration. Save with the prior permission of the Registrar or the Labour Court, no office bearer of a trade union shall be transferred, discharged, dismissed or otherwise punished during the pendency of an application for registration of trade union with the Registrar or the Labour Court, provided that the union has notified the names of the office-bearers to the employer in writing.

11. Certificate of registration. The certificate of registration issued under section 9 shall be conclusive evidence of the registration of a trade union under this Ordinance

12. Cancellation of registration.-(1) The registration of a trade union shall be cancelled if the Labour Court so directs upon a complaint in writing made by the Registrar that the trade union has-

(i) contravened or has been registered in contravention of, any of the provisions of this Ordinance or the rules made thereunder:

(ii) contravened any of the provisions of its constitution; or

(iii) made in its constitution any provision which is it consistent with this Ordinance or the rules made thereunder.

(2) Where any person who is disqualified under section 7 from being elected as, or from being an office-bearer of a trade union, is elected as an office-bearer of a registered trade union, the registration of the trade union shall be cancelled if the Labour Court. upon a complaint in writing made in this behalf by the Registrar so directs.

(3) The registration of a trade union shall be cancelled by the Registrar, by giving reasons for such cancellation in writing, if after holding any inquiry he finds that any trade union:

(i) has dissolved itself or has ceased to exist; or

(ii) has not been a contestant in a referendum for the determination of a collective bargaining agent; or

(iii) has not applied for determination of collective bargaining agent under section 20 (2) within two months of its registration as another union or promulgation of this Ordinance, whichever is earlier, provided there does not already exist a collective bargaining agent determined under section 20(11) in an establishment. or group of establishments or industry; or

(iv) has secured less than 15 % of polled votes per final list of voters during a referendum for the determination of collective bargaining agent.

13. Appeal against cancellation of registration. Any trade union aggrieved by a decision given-

(a) by the Labour Court under sub-section (1) or (2) of section 12, may appeal to the High Court; or

(b) by the Registrar under sub-section (3) of section 12. may appeal to the Labour Court.

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 hold and dispose of property, both movable and same name sue or be sued.

(2) The Societies Registration Act, 1860 (XXI of 1860), the Co-operative Societies Act, 1912 (II of 1912), and the Companies Ordinance, 1984 (XLVII of 1984), shall not apply to any registered trade union and the registration of a trade union under any of these enactments shall be void.

15. Law of conspiracy limited in application. No office-bearer or member of a registered trade union or collective bargaining agent as certified by the Registrar shall be liable to punishment under subsection (2) of section 120-B of the Pakistan Penal Code (Act XVL 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 6, unless the agreement is an agreement to commit an offence, or otherwise to violate any law other than this Ordinance.

16. 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 office-bearer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a part 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 his labouras he wills.

(2) A trade union shall not be liable in any suit or other legal proceedings in any Civil Court in respect of any tortuous 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.

17. Enforceability of agreement between members of trade union. 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 avoidable 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 conduct of any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.

18. Registration of federation of trade unions.-(1) Any two or more registered trade unions belonging to an industry or industries may constitute an industry wise federation. Any ten or more registered trade unions (at least one from each industry) may constitute a federation or confederation at the national level. In both cases, the respective general bodies if they so resolve, shall constitute a federation or confederation of trade unions by executing an instrument of registration and apply for registration of such federation or confederation:

Provided that a trade union of workmen shall not join a federation which comprises of an association of employers and shall an association of employers join a federation which comprises of a trade union.

(2) No trade union, federation or confederation shall be formed and registered having same, similar or identical objects.

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

(4) An application for the registration of a federation of trade unions or associations shall be signed by the office-bearers of all the trade unions or all associations constituting the federation or by the office-bearers of these trade unions or associations respectively authorized by the trade unions or associations in this behalf and shall be accompanied by five copies of the instrument of federation referred to in sub-section (1).

(5) Subject to subsections (1), (2), (3) and (4), provisions of this Ordinance shall, so far as may be and without any necessary modifications, apply to a federation of trade unions or associations as they apply to a trade union.

19. 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 or confederation of trade unions during the year ending on the 315 day of December next preceding such period.

of the assets and liabilities of the trade union, federation or confederation existing on such 315' day of December as may be prescribed:

Provided that the accounts maintained by the collective bargaining agent having membership of five thousand or more shall be subject to external audit by a firm of chartered accountants appointed by the Registrar:

Provided further that in case of the collective bargaining agent having membership of less than five thousand, the accounts shall be subject to audit in the manner as may be prescribed.

(2) Together with the general statement referred to in subsection (1), there shall be sent to the Registrar a statement showing all changes of office bearers made by the trade union, federation or confederation of trade unions to which the general statement refers, alongwith a statement of the total paid membership and a copy of the statement of the trade union corrected up to the date of he dispatch thereof.

(3) A copy of every alteration made in the constitution of a registered trade union and of a resolution of the body having the effect of a provision of the constitution shall be sent to the Registrar within fifteen days of the alteration or adoption of the resolution.

(4) In case the registered trade union is member of a federation or confederation of trade unions, the name of the federation or confederation shall be given in the annual statement.

20. Collective bargaining agent.-(1) Where there is only one registered trade union in an establishment or in a group of establishments or industry, such trade union shall, if it has as its members not less than one third of the workmen employed in such establishment or group of establishments or industry, upon an application made to the Registrar in the prescribed manner to be the collective bargaining agent for such establishment or in the case may be, group of establishments.

(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 to him in this behalf by any such trade union, hold within fifteen days of the making of the application, a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group of establishments:

Provided that the Registrar may, in the case of a large establishment having its branches in more than one place, hold the secret ballot within thirty days from the making of the application:

Provided further that the Registrar shall not entertain any application under this subsection in respect of an establishment or group of establishments consisting of, or including, a seasonal factory within the meaning of the Factories Act, 1934 (XXV of 1934), unless such application is made during the month in which the number of workmen employed in such factory in a year in usually the maximum.

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

(a) to indicate whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to such establishment or group of establishments, as the case may be; and

(b) to submit to him within the time specified in the notice a list of its members showing, in respect of each member; his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his becoming a member and if the trade union is a federation of trade unions, a list of its affiliated trade unions together with a list of members of each such trade union showing in respect of each such member the said particulars.

(4) Every employer shall-

(a) on being so required by the Registrar, within fifteen days, submit a list of all workmen employed in the establishment excluding those whose period of employment in the establishment is less than three months showing, in respect of each workman, 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. However, a separate list of workmen whose period of employment is less than three months showing the said particulars in respect of each workman may also be submitted; and

(b) provide such facilities for verification of the list submitted by him and the trade unions as the Registrar may require:

Provided that in computing the period of three months referred to in clause (a), in the case of a workman seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), the period during which he was employed in that factory during the preceding season shall also be taken into account.

(5) The Registrar shall, after verification of the lists submitted by trade unions, prepare a list of voters in which shall be included the name of every workman whose period of employment, as computed in accordance with sub-section (4), is not less than three months and who is a member of any of the contesting trade unions and shall, at least three days before the date fixed for the poll, send to each of the contesting trade unions a certified copy of the list of voters so prepared.

(6) Every workman who is a member of any of the contesting trade unions and whose name appears in the list so prepared under subsection (5) shall be entitled to vote at the poll to determine the collective bargaining agent.

(7) Every employer shall provide all such facilities in his establishment as may be required by the Registrar for the conduct of the poll but shall not interfere with, or in any way, influence, the voting.

(8) No person shall canvass for vote within a radius of hundred yards of the polling station.

(9) For the purpose of holding secret ballot to determine the collective bargaining agent, the Registrar shall—

(a) fix the date of the poll and intimate the same to each of the trade unions and also to every employer four days prior to such date.

(b) on the date fixed for the poll so place, in the polling station set up for the purpose, the ballot boxes which shall be sealed in the presence of the representatives of the contesting trade unions as to receive the ballot papers.

(c) conduct the poll at the polling station at which the representatives of the contesting trade unions shall be present and give 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, certify the trade union which has received the highest number of votes as the collective bargaining agent:

Provided that no trade union shall be certified 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 votes cast at the poll in such establishment or, as the case may be, group of establishments:

Provided further that, if no trade union secures such number of votes in the first poll, a second poll shall be held between the two trade unions which secure the highest number of votes in the first poll and the trade union securing the majority of the votes cast at the second poll shall be certified in the prescribed manner to be the collective bargaining agent.

Provided also that, if the number of votes secured by two or more trade unions securing the highest number of votes is equal, further poll shall be held between them until one of them secures a majority of the votes cast at such poll.

(10) No trade union shall be certified to be the collective bargaining agent under subsection (2) without holding a secret ballot.

(11) Where a registered trade union has been certified under clause (e) of sub-section (9) to be the collective bargaining agent for an establishment or group of establishments, no application for determination of the collective bargaining agent for such establishment or group of establishments shall be entertained within a period of one month from the date of such certification.

certification except where the registration of such a registered trade union is cancelled before the expiry of that period.

(12) 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 or any federation of trade unions of which it is a member.

(13) A collective bargaining agent in relation to an establishment or group of establishments shall be entitled to--

(a) undertake collective bargaining with the employer or employers on matters connected with employment, non-employment, the terms of employment or the conditions of work, other than matters which relate to the enforcement of any right guaranteed or secured to it or any award or settlement;

(b) represent all or any of the workmen in any proceedings; and

(c) give notice of, and declare, a strike in accordance with the provisions of this Ordinance.

(d) nominate workmen on the Boards of Provident Funds and Workers Participation fund of their respective establishment or industry.

(14) The Registrar may authorize in writing an office-bearer to perform all or any of his functions under this Ordinance and the rules made thereunder.

(15) After an application under sub-section (2) is made to the Registrar, no employer shall transfer, remove, retrench or terminate any worker who is office-bearer of any contestant trade union save with the permission of the Registrar.

21. 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 subscriptions to the funds of the trade union as may be specified with the approval of each individual workman named in a demand statement furnished by the trade union:

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

(3) A collective bargaining agent shall maintain with any Scheduled Bank or with a Post Office Saving Bank an account to which shall be credited the entire amount deducted by the employer under sub-section (1) from the wages of the members of the trade union.

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

22. Performance of functions pending ascertainment of collective bargaining agent. 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 certified under the provisions of this Ordinance be performed by a registered trade union which has been recognized by the employer or emp

### CHAPTER III

#### WORKERS' PARTICIPATION AND DISPUTE RESOLUTION

23. Shop Stewards to act as link between labour and management.-(1) In every establishment in which five or more workmen are employed, a Shop Steward, from amongst the workmen in a shop, section or department of the establishment shall-

(a) be nominated by the collective bargaining agent, where there is a collective bargaining agent in the establishment; or

(b) be elected at a secret ballot held in the prescribed manner, where there is no collective bargaining agent in the establishment.

(2) The employer shall provide all such facilities in his establishment as may be required for the holding of elections under subsection (1), but shall not interfere with, or in any way influence, the voting.

(3) A Shop Steward shall hold office for a period of one year from the date of his nomination or election, as the case may be.

(4) Any dispute arising out of, or in connection with, the election of a Shop Steward shall be referred to the employer whose decision shall be final and binding on all parties to the dispute.

(5) A Shop Steward shall act as a link between the workers and the employer, assist in the improvement of arrangements for the physical working conditions and production work in the shop, section or department he is elected and help workers in the settlement of their problems either connected with work or with any such grievance of a workman as is referred to in sub-section (1) of section 46.

24. Joint Works Council.-(1) Every establishment which employs fifty persons or more, shall set up a Joint Works Council consisting of not more than ten members in which workers' participation shall be to the extent of five members. The Convener of the Council shall be from the management.

(2) The employer's representatives on the Joint Works Council shall be from amongst the Directors or the General Manager or senior executives and the workers' representatives shall be the office-bearers of collective bargaining agent or nominees or from workers elected in the prescribed manner, in case there is no collective bargaining agent.

(3) The Joint Works Council shall deal with the following matters, namely:-

(i) improvement in production, productivity and efficiency;

(ii) provision of minimum facilities for such of the workers employed through contractors as are not covered by the laws relating to welfare of workers;

(iii) promoting settlement of differences through bilateral negotiations;

(iv) promoting conditions of safety and health for the workers;

(v) encouraging vocational training within the establishment;

(vi) taking measures for facilitating good and harmonious working conditions in the establishment;

(vii) provision of educational facilities for children of workmen.

(4) The Joint Works Council may call for reasonable information about the working of, the establishment and the management and the management shall supply the information called for.

(5) The Joint Works Council shall meet at such intervals as may be prescribed.



25. Negotiations relating to differences and disputes.- (1) If at any time an employer or a collective bargaining agent finds that an industrial dispute has arisen or is likely to arise, the employer or, as the case may be, the collective bargaining agent may communicate his or its views in writing to the other party.

(2) On receipt of the communication under sub-section (1), the party receiving it shall try to settle the dispute by bilateral negotiations within fifteen days of the receipt of the communication or within such further period as may be agreed upon by the parties and, if the parties reach a settlement, 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 specified in clause (xxvi) of section 2

(3) Where a settlement is not reached between the employer and the collective bargaining agent, the employer or the collective bargaining agent may, within fifteen days from the end of the period referred to in sub-section (2). serve on the outer party to the dispute a notice of conciliation, in accordance with the provisions of this Ordinance.

26. Conciliator.- (1) The Provincial Government shall, by notification in the official Gazette, appoint as many persons as it considers necessary to be Conciliators for the purposes of this Ordinance and shall specify in such notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform his functions.

(2) The Federal Government may, by notification in the official Gazette, appoint as many persons as it considers necessary to act as Conciliators in such disputes as the National Industrial Relations Commission is competent to adjudicate and determine under this Ordinance.

(3) A tripartite Board of Conciliators, hereinafter called the Board, consisting of men of standing competence shall be appointed on the request of the party raising the dispute, by the Federal Government or by a Provincial Government, as the case may be, by notification in the official Gazette, to conciliate in an industrial dispute involving more than one establishment in a Province or in an industry at national level or in an industrial dispute of national importance, if the negotiations are not satisfactorily progressing.

(4) The Board constituted under sub-section (3) shall stand dissolved on the settlement of dispute or on the failure of conciliation proceedings.

27. Period of notice of conciliation. The period of a notice of conciliation under sub-section (3) of section 25 shall be fifteen days.

28. Conciliation after notice. Where a party to an industrial dispute serves a notice of conciliation under sub-section (3) of section 25, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to conciliate in the dispute and to the LabourCourt.

29. Proceedings before Conciliator.- (1) The Conciliator or the Board shall, as soon as possible, call a meeting of the parties to a dispute for the purpose of bringing about a settlement.

(2) The parties to a dispute shall be represented before the Conciliator or the Board by persons nominated by them and authorised to negotiate and enter into an agreement binding on the parties;

Provided that if, in the opinion of the Conciliator or the Board, the presence of the employer or any office-union connected with the dispute is necessary in a meeting called by him, he or, as the case may be, it shall require the employer or such office bearer to appear in person before him or it at the place, date and time it shall be the duty of the employer or the office-bearer of trade union to comply with the notice.

(3) The Conciliator or the Board shall perform such functions in relation to a dispute before him or it as may, in particular, suggest to either party to the dispute such concessions or modifications in its demand Conciliator or the Board likely to promote an amicable settlement of the dispute.

(4) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings the Conciliator or the Board shall send a report thereof to the Provincial Government or the Federal Government together with the memorandum of settlement signed by the parties to the dispute.

(5) If no settlement is arrived at within the period of the notice of conciliation, the conciliation proceedings such further period as may be agreed upon by the parties.

30. Arbitration.- (1) If the conciliation fails, the Conciliator shall try to persuade the parties to agree to refer the arbitrator, and in case the parties agree, they shall make a joint request in writing for reference of the dispute upon by them.

(2) The arbitrator to whom a dispute is referred- under sub-section (1) may be a , person borne on a panel Provincial Government or the Federal Government as the case may be, or any other person agreed upon by the parties.

(3) The arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred under sub-section (1) or such further period as may be agreed upon by the parties to the dispute.

(4) After the arbitrator has made the award, he shall forward a copy thereof to the parties and to a , Provincial or Federal Government, as the case may be, 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 and shall be valid for- a period of years or as may be fixed by the arbitrator.

31. Strike and lock-out.- (1) If no settlement is arrived at during the course of conciliation proceedings and the parties do not agree to refer it to an arbitrator under section 30, the workmen, subject to a seven days notice, may declare a strike or, as the case may be, the employer may declare a lock-out on the expiry of the period of notice, or on a declaration by the Conciliator or the Board that conciliation proceedings have failed, whichever is the later.

(2) The party raising a dispute may at any time, either before or after the commencement of a strike or lock-out, apply to the Labour Court for adjudication of the dispute:

(3) Where a strike or lock-out lasts for more than fifteen days, the Federal Government, if it relates to a dispute within its jurisdiction, the Labour Commission is competent to adjudicate and determine, and a Provincial Government, if it relates to any dispute within its jurisdiction, may, by order in writing, prohibit the strike or lock-out:

Provided that the Federal Government may, with respect to a strike or lock-out relating to a dispute which is within its jurisdiction, make such order as it deems necessary to prevent the strike or lock-out, and the Provincial Government may, with respect to a strike or lock-out relating to a dispute which is within its jurisdiction, make such order as it deems necessary to prevent the strike or lock-out.

Government, with the previous approval of the Federal Government may, with respect to any other strike writing, prohibit a strike or lock-out at any time before the expiry of thirty days, if it is satisfied that the concerned lock-out is causing serious hardship to community or is prejudicial to the national interest:

Provided further that the Federal Government or a Provincial Government, as the case may be, shall pro-  
official Gazette, the commencement of a strike or lock-out, as the case may be, if the same, in the opinion concerned, is detrimental to the interest of the community at large.

(4) In any case in which the Federal Government or a Provincial Government prohibits a strike or lock-out the dispute to the Commission or, as the case may be, the Labour Court.

(5) The Commission, or as the case may be the Labour Court shall, after giving both the parties, to the dispute being heard, make such award as it deems fit as expeditiously as possible but not exceeding thirty days the dispute was referred to it:

Provided that the Commission, or as the case may be, the Labour Court may make an interim award on a

Provided further that any delay by the Commission or, as the case may be, the Labour Court in making a the validity of any award made by it.

(6) An award of the Commission or, as the case may be, the Labour Court shall be for such period, as may award, but shall not be for more than two years.

32. Strike or, lock-out in public utility services. The Federal Government or a Provincial Government, as the case of a strike or lock-out relating to an industrial dispute in respect of any of the public utility services prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out and refer arbitrators comprising serving or retired Judges of the High Court or of the Supreme Court of Pakistan as respective Government, for compulsory arbitration.

33. Application to Labour Court. Any collective bargaining agent or any employer may apply to the Labour

the redressal of any grievance or enforcement of any right guaranteed or secured to it or him by or under settlement.

34. Commencement and conclusion of proceedings.-(1) A conciliation proceeding shall be deemed to have date on which a notice of conciliation 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 and

(b) where no settlement is arrived at,-

(i) if the dispute is referred to an arbitrator under section 30, on the date on which the arbitrator has given or otherwise,

(ii) on the date on which the period of the notice of conciliation expires.

(3) Proceeding 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 31 or 32 or to the date on which it is referred to the Labour Court by a Provincial Government under section 31 or 32; and

(b) in relation to any other matter, on the date on which it is referred to the Labour Court.

(4) Proceedings before the Commission in relation to a dispute referred to it under section 31 or 32 or to a section 56 shall be deemed to have commenced on the date on which the reference is made to it or, as the case may be, on the date on which the dispute is raised before it.

(5) Proceedings before the Commission or a Labour Court shall be deemed to have concluded on the date on which the final decision is delivered under sub-section (1) of section 47.

35. Raising of industrial disputes. No industrial dispute shall be deemed to exist unless it has been raised in a manner by a collective bargaining agent or an employer.

36. Prohibition on going on strike or declaring lock-out while proceedings pending. No party to an industrial dispute shall go on strike or declare a lockout while any conciliation proceedings or proceedings before an arbitrator or a committee of reference are pending in respect of any matter constituting such industrial dispute.

37. Powers of Labour Court and Appellate, Court of competent jurisdiction to prohibit strike, etc.-(1) Where a strike or a lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when an application is made to the Labour Court, there is made to, or is pending before, the Labour Court, an application under section 36, 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 the High Court, the High Court may, by an order in writing, prohibit continuance of any strike or lock-out in pursuance of such an appeal if the strike or lock-out has already commenced and was in existence on the date on which the appeal was preferred.

38. Illegal strikes and lock-outs.-(1) A strike or lock-out shall be illegal if-

(a) it is declared, commenced or continued without giving to the other party to a dispute, in the prescribed manner, notice of the intention to commence or continue the strike or lock-out in pursuance of conciliation or in contravention of section 36; or

(b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided for in section 35; or

(c) it is continued in contravention of an order made under sections 31, 32, 37 or subsection (3) of section 36; or

(d) it is declared, commenced or continued during the period in which a settlement or award is in operation or in contravention 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 be deemed to be illegal.

39. Procedure in cases of illegal strikes or lock-out.-(1) Notwithstanding anything contained in any other law, including any Ordinance or in any other law for the time being in force, an office bearer of the Labour Department not below the rank of a Director, Labour Welfare, hereinafter in this section referred to as the Officer, may make enquiries in such cases into an illegal strike or illegal lock-out in a factory and make a report to the Labour Court.

(2) After completing an enquiry the Officer shall serve a notice on the employer and the collective bargaining registered trade union concerned with the dispute to appear before the Labour Court on a date to be fixed.

(3) The Labour Court may, within ten days following the day on which it receives a report under subsection (2) of this section, consider the report and hearing such of the parties as appear before it, order the strike to be called off or the lock-out to be discontinued.

(4) If the employer contravenes the order of the Labour Court given under subsection (3) and the Labour Court is of the opinion that the continuance of the lock-out is causing serious hardship to the community or is prejudicial to the national interest, it may order for the attachment of the factory and for the appointment of an official receiver for such period as it may be varied from time to time.

(5) The official receiver shall exercise the powers of management and may transact business, enter into contracts, make arrangements for the discharge of all moneys received and do or omit to do all such acts as are necessary for conducting the business of the factory.

(6) The Labour Court may, in appointment and regulating the work of an official receiver, exercise the powers given to it by the Code of Civil Procedure (Act V of 1908).

(7) If the workers contravene the order of the Labour Court given under sub-section (3), the Labour Court may issue an order of dismissal against all or any of the striking workers and, notwithstanding anything to the contrary contained in the Labour Court, after holding such inquiry as it deems fit, records its finding that any registered trade union has been guilty of the commission of such contravention, the finding shall have the effect of cancellation of the registration of the trade union, debarring all office-bearers of such trade union from holding office in that or in any other trade union for the term of the office and for the term immediately following:

Provided that the Labour Court may review its orders if good and sufficient cause is shown by an affected party within 30 days of the orders of dismissal.

(8) Subject to any rules made by a Provincial Government in this behalf, the officer may, for the purpose of carrying out the functions of this section, enter within the local limits for which he is appointed, enter with such assistants, if any, being persons of integrity and knowledge of the language of the people of the area, in a factory where he has reason to believe an illegal strike or lock-out to be in progress, and make an examination of the premises and plant and of any registers maintained therein and take on the spot or otherwise, the statement of any persons and exercise such other powers as he may deem necessary for carrying out the purposes of this section.

(9) The Officer shall have authority to call any party to such dispute to his office or secure his presence in the office of the Labour Court and also have the power to bind any party to the dispute to, appear before the Labour Court.

(10) Where a party to an illegal strike or lock-out, on being required or bound under this section to appear before the Labour Court does not so appear, the Officer or the Labour Court, as the case may be, may besides the other powers which may be admissible under this Ordinance, proceed ex parte.

40. Conditions of service to remain unchanged while proceedings pending.-(1) No employer shall, while any proceedings or proceedings before an arbitrator, the Labour Court or a Court of competent jurisdiction in respect of any dispute are pending, alter to the disadvantage of any workman concerned in such dispute, the conditions of service before the commencement of the conciliation proceedings or the award.

proceedings, before the arbitrator, the Labour Court or, as the case may be, any other Court of competent jurisdiction, (a) save, with the permission of the Conciliator or the Board, while any conciliation proceedings are pending.

(b) save with the permission of the arbitrator, the Labour Court or a Court of competent jurisdiction, while before the arbitrator, the Labour Court or the High Court are pending discharge, dismiss or otherwise punish a workman except for misconduct not connected with such dispute.

(2) Notwithstanding anything contained in sub-section (1), any office-bearer of a registered trade union shall, during the pendency of any proceedings referred to in sub-section (1), be discharged, dismissed or otherwise punished with the previous permission of the Labour Court.

41. Removal of fixed assets. No employer shall remove any fixed assets of an establishment during the course of a lock-out or a strike which is not illegal:

Provided that the Labour Court may, subject to such conditions as it may impose, cause to be removed any fixed assets in safe custody to avoid damage to such assets due to flood, fire, catastrophe or civil commotion.

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

(2) Any contravention of the provisions of sub-section (1) may be made the subject-matter of an industrial dispute by the constitution of a trade union providing the manner in which any dispute between its members shall be settled shall be by the Labour Court, without however, interfering with the power of the Court of law in any way of enforcing any right or exemption granted by sub-section (1).

(3) to any proceedings referred to in subsection (1), the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union, order to be restored to membership and he be paid out of the funds of the trade union, in any way of compensation or damages as the Labour Court thinks just.

43. 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 office-bearer of a collective bargaining agent and subject to the permission of the Court and (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by a legal practitioner 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.

## CHAPTER IV LABOUR COURTS

44, Labour Court.- (1) A Provincial Government may, in consultation with the Chief Justice of the respective notification in the official Gazette, establish as many Labour Courts as it considers necessary and, where one Labour Court, shall specify in the notification the territorial limits within which or the industry or the cla

which, each one of them shall exercise jurisdiction under this Ordinance.

(2) A Labour Court shall consist of one Presiding Officer appointed by a Provincial Government, in consu Justice of the respective High Court.

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

(4) A Labour Court shall-

(a) adjudicate and determine an industrial dispute which has been referred to or brought before it under th

(b) enquire into or adjudicate any matter relating to the implementation or violation of a settlement which a Provincial Government;

(c) try offences under this Ordinance and such other offences under any other law as the Provincial Gover notification in the official Gazette, specify in this behalf; and

(d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to this Ordinance or any other law..

45. Procedure and powers of Labour Court.- (1) Subject, to the provisions of this Ordinance, while trying a case, a Labour Court shall follow as nearly as possible summary procedure as provided under the Code of Criminal Procedure, 1898.

(2) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute be deemed to have the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (Act V of 1898).

of-

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

ond

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

(c) issuing commissions for the examination of witnesses or documents.

(3) A Labour Court shall, for the purpose of trying an offence under this Ordinance or the West Pakistan Industrial Employment (Sanding Orders) Ordinance, 1968 (W.P: Ordinance VI of 1968), or any other law, have the same powers as are vested in the Court of a Magistrate of the First Class specially empowered under section 3 of the Criminal Procedure, 1898 (Act V of 1898).

(4) No court-fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from, a Labour Court.

(5) If the parties to a case, at any time before a final order is passed by a Labour Court, satisfy the Labour Court that the dispute has been resolved by them amicably and that there are sufficient grounds for withdrawing the case, it may

46. Redress of individual grievances.- (1) A worker may bring his grievance in respect of any right guaranteed by or under any law or any award or settlement for the time being in force to the notice of his employer in writing through his Shop Steward or collective bargaining agent, within one month of the day on which cause of such grievance arises.

(2) Where a worker brings his grievance to the notice of an employer himself or through his, Shop Steward or collective bargaining agent, the employer shall, within fifteen days of the grievance being brought to his notice, communicate his decision to the worker.

(3) If an employer fails to communicate a decision within the period specified in sub-section (2) or if a worker fails to receive such decision, the worker or Shop Steward may take the matter to his collective bargaining agent or the Labour Court, as the case may be, and where the matter is taken to the Labour Court, it shall give a decision within seven days from the date on which the matter is brought before it as if such matter were an industrial dispute:

Provided that a worker who desires to take the matter to the Labour Court, he shall do so within a period of one month from the date of the communication of the employer or, as the case may be, from the expiry of the period specified in sub-section (2).

(4) In adjudicating and determining a grievance under sub-section (3), the Labour Court shall go into all the relevant facts and may pass such orders as may be just and proper in the circumstances of the case.

(5) The Labour Court, in case the termination of services of a workman is held to be wrongful, may award him compensation equivalent to not less than twelve months and not more than thirty months basic pay last drawn and house rent allowance and reinstatement of the worker in service.

(6) If a decision under sub-section (4) or an order under sub-section (5) given by the Labour Court or a decision given in an appeal against such a decision or order is not given effect to or complied with within one month or within the period specified in sub-section (5), the defaulter shall additionally be punishable with fine which may extend to ten thousand rupees.

(7) No person shall be prosecuted under sub-section (6) except on a complaint in writing by a workman if the decision in his favour is not implemented within the period specified therein.

(8) For the purposes of this section, workers having common grievance arising out of a common cause of such grievance may apply to the Labour Court for a common award.

47. Awards and decision of Labour Court.- (1) An award or decision of a Labour Court shall be given in writing and read in open Court and two copies thereof shall be forwarded forthwith to a Provincial Government, provided that if the Provincial Government be a party, two copies of the award or decision shall be forwarded to that Government as well.

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

(3) Any party aggrieved by an award given under sub-section (1) or a decision given under section 46 or by an order given under section 33 or a sentence passed in an offence tried by the Labour Court under clause (c) of sub-section (1) of this section, may prefer an appeal to the High Court within thirty days of the delivery or passing thereof and the decision of the High Court on such appeal shall be final.

(4) Save as otherwise expressly provided in this Ordinance, all decisions of, and all sentences passed by final and shall not be called in question in any manner by or before any Court or other authority.

48. Appeal to the High Court.- (1) The High Court may, on appeal, confirm, set aside, vary or modify the a given under section 46 or 33 or a sentence passed under clause (c) of sub-section (4) of section 44 and s conferred by this Ordinance on the Labour Court, save as otherwise provided.

(2) The decision of the High Court shall be delivered as expeditiously as possible, within a period of sixty of an appeal, provided that such decision shall not be rendered invalid by reason of any delay in its delivery.

(3) The High Court may, on its own motion, at any time, call for the record of any case or proceedings under which a Labour Court within its jurisdiction has passed an order, for the purpose of satisfying itself as to the

propriety of such order, and may pass such order, in relation thereto as it thinks fit:

Provided that no order under this sub-section shall be passed revising or modifying any order adversely affecting any person without giving such person a reasonable opportunity, of being heard.

(4) The High Court, subject to its appellate jurisdiction, shall punish for contempt of its authority, or that of any Labour Court with a fine which may extend to twenty five thousand rupees.

(5) Any person if sentenced with a fine exceeding twenty thousand rupees by a Single Bench of a High Court may prefer an appeal to the Division Bench of that High Court.

(6) A High Court may, on its motion or on the application of any party, transfer any application or proceeding of a Labour Court within its jurisdiction to any other Labour Court.

(7) Notwithstanding anything contained in sub-section (3), if, in an appeal preferred to it against the order of the High Court directing the reinstatement of a workman or compensation in lieu thereof, the High Court makes an order of the Labour Court, the High Court shall decide such appeal as soon as possible but not later than

## CHAPTER V

### NATIONAL INDUSTRIAL RELATIONS COMMISSION

49. National Industrial Relations Commission.- (1) The Federal Government shall constitute a National Industrial Relations Commission consisting of not more than eight members, including its Chairman.

(2) The Chairman and the members shall be appointed by the Federal Government.

(3) The qualification and terms and conditions of service for appointment as Chairman and member of the Commission such as may be determined by the Federal Government.

(4) The functions of the Commission shall be to-

(a) adjudicate and determine an industrial dispute to which an industry wise trade union or a federation of trade unions or any other organization of workmen, is a party and any other industrial dispute which, in the opinion of the Federal Government, is of national importance and is referred to it by that Government;

(b) register industry-wise trade unions, federations of such trade unions and federations at the national level, and to maintain a record of the ratings of the trade unions and federations registered by it in terms of their standing and representative character.

(c) determine the collective bargaining agents amongst industry-wise trade unions, federations of such trade unions at the national level;

(d) try offences punishable under-

(i) section 65, other than sub-sections (1) and (5) thereof; and

(ii) any other provisions; insofar as they relate to employers or workers in relation to an industry-wise trade union federation of such trade unions, a federation at the national level or office-bearers of such unions or federations;

(e) deal with cases of unfair labour practices specified in sections 63 and 64 on the part of employers, workers, collective bargaining agents, industry-wise trade unions of either of them or persons acting on behalf of any of them committed individually or collectively, in the manner laid down under section 46 or 33 or in such other way as may be prescribed and to take, in such manner as may be prescribed by regulations under section 55, measures to prevent an employer or workman from committing an unfair labour practice:

Provided that, except during pendency of an industrial dispute, the Commission shall not grant interim relief or take any action mentioned in section 63 (d) of this Ordinance:

(f) advice Government, industry-wise trade unions and federations in respect to the education of workers and healthy trade unionism, including education in respect of their rights and obligations, and to secure the provision of such facilities as may be required therefor;

(g) promote healthy trade unionism whether in establishments within a Province or in more than one Province or in federations of such trade unions;

(h) facilitate the formation of federation at the national level; and

(i) exercise such other powers and perform functions as the Federal Government may by notification in the Gazette assign to it from time to time.

(5) The Commission may, on the application of a party, or of its own motion-

(a) initiate prosecution, trial or proceedings or take action, with regard to any matter relating to its functions;

(b) withdraw from a Labour Court any application, proceedings or appeal relating to unfair labour practices.

(6) For the purpose of dealing with a case of unfair labour practice of which the Commission is seized, the Commission may-

(a) proceed directly with the case;

(b) ask the Registrar within whose jurisdiction the case has occurred or is likely to occur to enquire into it and to report; or

(c) refer the case to the Labour Court within whose jurisdiction the case has occurred or is likely to occur for trial or for disposal.

(7) The Labour Court to whom the case is referred under clause (c) of sub-section(6) shall enquire into it and if the case was referred to it for report, forward its report thereon to the Commission or, if the case was referred to it for trial or for disposal, proceed with the trial or disposal of the case as if the proceedings had originally commenced before it and grant such relief as the Commission has directed.

(8) Save as provided in sub-sections (6) and (7), no Registrar or Labour Court shall take any action, or enter into any proceedings, in respect of any matter which falls within the jurisdiction of the Commission.

(9) Nothing in this section shall be deemed to exclude the jurisdiction of a Labour Court to entertain cases of unfair labour practices on the part of employers or workmen, whether individually or collectively:

Provided that no Court, including a Labour Court, shall take any action or entertain any application or pro-  
case of unfair labourpractice which is being, dealt with by the Commission.

Explanation.-In this section and in the succeeding provision of this Ordinance, the expressions "industry-  
"federation of such trade unions" and "federation at the national level" refer to a trade union, membership  
establishments m more than one Province and a federation of trade unions whose membership extends t  
more than one Province.

50. Benches of the Commission, etc.--(1) The Chairman of the Commission shall exercise general superin-  
affairs.

(2) For the efficient performance of the functions of the Commission, the Chairman of the Commission sh

(a) a Full Bench of the Commission which shall consist of not less than three members of the Commission

(b) as many other Benches of the Commission consisting of one or more members of the Commission as  
(3) The Benches shall-

(a) in relation to cases based on allegations of unfair labour practices brought before the Commission for  
enforcement of, or for redress of individual grievances in respect of any right guaranteed or secured to an  
worker by or under any law or any award or settlement, perform such functions and exercise such powers  
performed and exercised by a Labour Court; and

(b) in relation to industry-wise trade unions, federations of such trade unions, federations at the national level  
referred to the Commission, perform such functions and exercise such powers as are performed and exer-  
Registrar or a Labour Court in relation to trade unions and federations of trade unions within a Province,

and, for this purpose, any reference in this Ordinance to a "Registrar" or "Labour Court", as the case may  
reference to the appropriate Bench of the Commission to which such functions are assigned:

Provided that, in the performance of those functions and in the exercise of those powers, the Benches sh  
provided in this Ordinance, follow the procedure laid down in the regulations to be made under section 55

(4) If any member of the Commission is absent from, or is otherwise unable to attend any sitting of the Commission  
consisting of more than one member of which he is a member, the proceedings of the Commission or Bench  
decision or award may be given or judgment or sentence may be passed in the absence of such member  
decision, or award of the Commission or Bench shall be invalid or be called in question merely on the ground  
existence of vacancy in or any defect in the constitution of the Commission or Bench.

(5) If the members of a Bench differ in opinion as to the decision" to be given on any point-

(a) the point shall be decided according to the opinion of the majority, if there is a majority; and

(b) if the members are equally divided, they shall state the point on which they differ and the case shall be  
to the Chairman for hearing on such point by one or more of the other members of the Commission and shall  
be decided according to the opinion or

the majority of the members of the Commission who have heard the case, including those who first heard

Provided that if upon any matter requiring the decision of a Bench which includes the Chairman of the Commission, there is a difference of opinion among its members and the members so constituting the Bench, the opinion of the Chairman shall prevail and the decision of the Bench shall be expressed in terms of the view of the Chairman.

(6) Any order of decision made, award given, sentence passed, power exercised, function performed or proceedings taken by a Bench of the Commission in accordance with this Ordinance and the order constituting the Bench shall be final decision made, award given, sentence passed, power exercised, function performed or proceedings taken by the Commission.

Explanation.-In this section, the expression 'the Chairman of the Commission includes such member of the Commission as is known as Senior Member) as' the Federal Government may nominate to perform the functions and exercise the powers of the Chairman during his absence.

51. Additional powers of the Commission. In addition to the powers which the Commission has under section

(a) the, Commission shall have power to punish any person who obstructs or abuses its process or disobeys or directions or does anything which tends to prejudice the case of a party before it, or tends to bring it or any members in relation to proceedings of the Commission into hatred or contempt, or does anything which, by law, constitutes contempt of Court, with fine which may extend to forty thousand rupees; and

(b) for the purpose of any investigation, inquiry or adjudication to be made by the Commission under this Ordinance, the Chairman or any member of the Commission may at any time between the hours of sunrise and sunset, a person authorized in writing by the Chairman or any member of the Commission in this behalf may, after reasonable notice, enter any building, factory, workshop, or other place or premises whatsoever and inspect any work, machinery, appliance or article therein or interrogate any person therein in respect of anything therein or any matter relevant to matters before the Commission.

52. Appeals.-  
(1) Notwithstanding anything contained in this Ordinance, or in any other law for the time being in force, aggrieved by an award or decision given or a sentence or order determining and certifying a collective bar, a Bench of the Commission, other than a Full Bench, may, within thirty days of such award, decision, sentence or order, send the same to the Commission.

(2) An appeal preferred to the Commission under sub-section (1) shall be disposed of by the Full Bench of the Commission. The Full Bench shall have the power to confirm, set aside, vary or modify such award, decision, sentence or order.

53. Finality of order. No Court shall entertain any plea as to the jurisdiction of the Commission or an application of the legality or propriety of anything done or purporting to be done by the Commission or any of its Benches., judgment or sentence be called in question in any manner whatsoever, in or before any Court or authority.

54. Determination, etc., of collective bargaining unit.-(1) Where the Commission, on an application made by a trade union of workmen or a federation of such trade unions, or on a reference made by the Federal Government, makes an inquiry as it deems fit, is satisfied that for safeguarding the interest of the workmen employed in an establishment or in establishments belonging to the same employer and the same industry, in relation to collective bargaining, it is feasible to determine one or more collective bargaining units of such workmen in such establishment or in such establishments, it may, having regard to the distribution of workers, existing boundaries of the components of a group of establishments; facilities of communication, general convenience, sameness or similarity of economic and cognate factors-

(a) determine and certify one or more collective bargaining units in such establishment or group of establish-

(b) specify the modifications which, in consequence of the decision under this section, shall take effect in the registration of the trade unions and federations of trade unions affected by among such unions and federations, nomination or election of Shop Stewards, and workers representatives for participation in the management of factories, if any, affected by such decision;

(c) specify the date or dates from and the period for which, all or any of such changes shall take effect:

Provided that the date so specified shall not be a date falling within the period of three years specified in (11) of section 20 in its application to a collective bargaining agent certified in respect of an establishment or establishments:

Provided further that, after the receipt of a reference for determination of a collective bargaining unit, the Commission may, stop or prohibit the proceedings to determine collective bargaining agent under section 20 for any establishment or group of establishments which is likely to be affected by a decision made under this section.

(d) take such measures or issue such directions to the Registrar as may be necessary to give effect to such

(e) determine and certify a collective bargaining agent for each such unit in accordance with section 20, in and with necessary modifications, if such a unit relates to more than one Province, or direct the Registrar to take action, if such a unit relates to only one Province.

(2) Where the Commission issues any directions to the Registrar under in is section, the Registrar shall carry out such period as the Commission may from time to time determine.

(3) After the certification of a collective bargaining unit, no trade union shall be registered in respect of the whole of such unit and no certification or proceedings for determination of collective bargaining agent under a part of a collective bargaining unit or a group of collective bargaining units.

(4) An order of the Commission under this section shall have effect notwithstanding anything to the contrary in any Ordinance.

55. Power to make regulations.-(1) Subject to the provisions of this Ordinance, the Commission may, with the Federal Government, make such regulations relating to its procedure and the performance of its functions.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for making provisions for the following matters, namely:-

- (a) registration on industry-wise trade unions, federations of such trade unions and federations at the national level, and the procedure for such registration;
- (b) determination of collective bargaining units;
- (c) determination of collective bargaining agent from amongst the industry-wise trade unions, federations or, as the case may be, federations at the national level, and the procedure therefor;
- (d) procedure, including rules of evidence, for adjudication of industrial disputes;
- (e) procedure, including rules of evidence, for trial of offences;
- (f) procedure for dealing with unfair labour practices;
- (g) superintendence of the Chairman over the affairs of the Commission;
- (h) forms of registers, processes and returns in respect of matters relating to the functions of the Commission.

56. Raising of industrial dispute by a federation.-(1) Notwithstanding anything contained in this Ordinance,

industry-wise trade unions or a federation at the national level may, if it is a collective bargaining agent, raise a dispute in respect of any matter affecting all employers or workers of the establishments represented by that federation and a decision of the Commission in respect of any such dispute shall be binding on all such employers and workers.

(2) No collective bargaining agent shall, at any time when a decision of the Commission in respect of any such dispute is not in force, be entitled to raise a demand relating to that matter.

## CHAPTER VI AUTHORITIES

57. Registrar of trade unions. For the purpose of this Ordinance, a Provincial Government may, by notification in the Provincial Gazette, appoint as many persons as it considers necessary to be Registrars of trade unions and where it is necessary to have more than one Registrar, it shall specify in the notification the area within which each one of them shall exercise and perform the functions of the Registrar under this Ordinance.

58. Powers and functions of Registrar. The functions and powers of the Registrar shall be-  
(a) to register the trade unions under this Ordinance and maintain a register for that purpose;

(b) to lodge, or authorize any person to lodge, complaints, with the Labour Court for action, including prosecution of any person, including trade unions, employers, workers or other persons for any alleged offence or any unfair labour practice or for contravention of any provision of this Ordinance or for expending the funds of a trade union in contravention of the provisions of this Ordinance;

constitution;

(c) to determine as to which one of the trade unions in an establishment or group of establishments or an association of workers in an establishment or group of establishments is to be certified as the collective bargaining agent in relation to that establishment or group of establishments;

(d) to inspect the accounts and records of the registered trade unions, investigate or hold such inquiry as may be necessary for that purpose, and to do so himself or through any officer subordinate to, and authorized in writing in this behalf by him; and

(e) to perform such other functions and exercise such other powers as may be prescribed.

## CHAPTER VII DECISIONS, SETTLEMENTS AND AWARDS

59. Settlement and awards on whom binding.-(1) A settlement arrived at in the course of a conciliation process between employer and a collective bargaining agent or an award of arbitrator published under section 30 of a Labour Court delivered under section 47, or the decision of a High Court under section 48 shall be-

- (a) binding on all parties to an industrial dispute;
- (b) binding on all other parties summoned to appear in any proceeding before a Labour Court as parties to a dispute, unless the Labour Court specifically otherwise directs in respect of any such party;
- (c) binding on the heirs, successors or assigns of an employer in respect of the establishment to which an industrial dispute relates where the employer is one of the parties to that dispute; and
- (d) binding, where a collective bargaining agent is one of the parties to a dispute, on all workmen who were employed in the establishment or industry to which an industrial dispute relates on the date on which the dispute first arose and employed thereafter that date:

Provided that, where a collective bargaining agent or a trade union performing the functions of a collective bargaining agent under section 20 exists, the employer shall not enter into a settlement with any other trade union, and any contravention of this provision shall be deemed to be an unfair labour practice under section 63.

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

### EFFECTIVE DATE OF SETTLEMENT, AWARD, ETC

60. Effective date of settlement, award, etc.-(1) A settlement shall become effective-

(a) on the date, if a date is agreed upon by the parties to the dispute to which it relates; and

(b) on the date on which the memorandum of the settlement is signed by the parties, if a date is not agreed upon.

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of two years from the date on which the memorandum of settlement is signed by the parties to the settlement. The settlement shall not be binding on the parties after the expiry of the aforesaid period until the expiry of two months from the date on which one party

informs the other party in writing of its intention no longer to be bound by the settlement.

(3) An award given under sub-section (1) of section 47 shall, unless an appeal against it is preferred to the Labour Commission, become effective on such date and remain effective for such period; not exceeding two years, as may be specified by the arbitrator.

(4) The arbitrator, the Labour Court or, as the case may be, the High Court, shall specify dates from which the demands shall be effective and the limits by which it shall be implemented in each case:

Provided that if, at any time before the expiry of the said period any party bound by an award applies to the arbitrator for reduction of the period on the ground that the circumstances in which the award was made changed, may, by order, after

giving to the other party an opportunity of being heard, terminate the said period on a date specified in the

(5) A decision of the High Court in appeal under sub-section (3) of section 48 shall be effective from the date

(6) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3), the award

is to be binding on the parties until the expiry of two months from the date on which either party informs the other

of its intention no longer to be bound by the award.

61. Interpretation of awards and settlements.-(1) If any difficulty or doubt arises as to the interpretation of an award or settlement, it shall be referred to the High Court.

(2) The High Court to which a matter is referred under sub-section (1) shall, after giving the parties an opportunity to be heard, decide the matter and its decision shall be final and binding on the parties.

62. Recovery of money due from an employer under an award or settlement.-(1) Any money due from an employer under an award, settlement or decision of the arbitrator, Labour Court or High Court may be recovered as arrears of wages by public demand if, upon an application for the recovery of the money, the Labour Court so directs.

(2) Where any workman is entitled to receive from the employer any benefit, under an award, settlement or decision of the arbitrator, the Labour Court or High Court, which is capable of being computed in terms of money, the amount so due shall be computed may, subject to, the rules made under this Ordinance, be determined and recovered as arrears of wages and paid to the workman concerned by a specified date.

## CHAPTER VIII PENALTIES AND PROCEDURES

63. Unfair labour practices on the part of employers.-(1) No employer or an association of employers and their agents 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 the 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 office-bearer of a trade union; or

(c) discriminate against any person in regard to any employment, promotion, condition of employment or transfer of employment on the ground that such person is or is not, a member or office-bearer of a trade union; or

(d) dismiss, discharge, remove from employment or transfer a workman or injure him in respect of his employment for any reason that the workman-

(i) is or proposes to become a member or office-bearer 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 office-bearer of a trade union or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or for any other person; or

(f) compel or attempt to compel any office-bearer of a collective bargaining agent to arrive at a settlement by intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power or telephone facilities or by such other methods: or

(g) interfere with or in any way influence the balloting provided for in section 20; or

(h) recruit any workman during the period of notice of strike under section 31 or during the currency of a strike or lock-out, or during the period of notice of lock-out under section 32, except where the lock-out is illegal except where the Conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installations, permitted temporary employment of a limited number of workmen in the place where the damage is likely to occur; or

(i) close down the whole of an establishment in contravention of Standing Order 11-A of the West Pakistan Commercial Employment (Standing Orders) Ordinance, 1968 (West Pakistan Ordinance No. VI of 1968); or

(j) commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise support or encourage, an illegal lock-out.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon whom a promotion to managerial position shall cease to be, and shall be disqualified from being, a member or office-bearer of a trade union of workmen.

64. Unfair labour practices on the part of workmen.-(1) No workman, a trade union of workmen or any of its office-bearers, or any other person 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 office-bearer of a trade union: or

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

(d) compel or attempt using intimidation, coercion, pressure, threat, confinement or ouster from place, disconnection of water or power facilities or by such other methods; or

(e) compel or attempt to compel any member of a body, bipartite or tripartite or of any composition relating to the functioning of the industry or is in place for the benefit of workers, to accept any demand by using intimidation, coercion, pressure, threat, confinement or ouster from a place, dispossession, assault; physical injury or other methods; or

(f) commence, continue, instigate or incite others to take part in or expend or supply money or otherwise support or encourage, an illegal strike or adopt go-slow measures; or

(g) carry any arms or weapons within the premises of an employer 'without any legal authority.'

Explanation.-In clause (f) the expression 'go slow' means an organized, deliberate and purposeful slowing down of work or the deterioration of the normal quality, of work by a body of workmen acting in a concerted manner, but not including a slowdown of normal output, or the deterioration of the normal quality, of work which is due to mechanical failure, machinery, failure or defect in power supply or in the supply of normal materials and spare parts of the machinery.

(2) It shall be an unfair labour practice for a trade union to interfere with a ballot held under section 20 by influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

65. Penalty for unfair labour practices.-(1) Whoever contravenes the provisions of section 10 shall be punishable with fine which may extend to twenty thousand rupees.

(2) Whoever contravenes the provisions of section 63 shall be punishable with fine which may extend to twenty thousand rupees.

(3) Whoever contravenes the provisions of section 64, other than those of clause (d) of sub-section (1) thereof, shall be punishable with fine which may extend to twenty thousand rupees.

(4) An office-bearer of a trade union, a workman, or a person other than a workman, who contravenes, or causes to be contravened, the provisions of clause (d) of sub-section (1) of section 64 shall be punishable with fine which may extend to twenty thousand rupees.

(5) Where the person accused of an offence under sub-section (4) is an office-bearer of trade union, the Commission may, in addition to any other punishment which it may award to such person under that subsection, direct that he shall cease to be an office-bearer and be disqualified from holding any office in any trade union during the term immediately following the period in which he so ceases to hold the office.

(6) Whoever contravenes the provisions of section 41 shall be punishable with fine which may extend to twenty thousand rupees.

(7) Nothing in this Ordinance shall be deemed to exclude the jurisdiction of a Labour Court or the Court of a Magistrate in any case under this section if it is authorized to do so by a general or special order of the Commission.

(8) Notwithstanding anything to the contrary contained in any law, custom, usage, constitution of a trade union, Articles of Association of a company or agreement, no fine paid or payable due to conviction under this Ordinance shall be recoverable against the accounts of any establishment.

66. Penalty for committing breach of settlement. Whoever commits any breach of any term of any award, decision or order which is binding on him under this Ordinance shall be punishable with a fine of twenty thousand rupees.

67. Penalty for failing to implement settlement, etc. Whoever wilfully fails to implement any term of any settlement or decision which it is his duty under this Ordinance to implement, shall be punishable with a fine which may extend to twenty thousand rupees, and, in the case of continuing failure, with a further fine which may extend to five thousand rupees for each day during which the failure continues.

68. Penalty for false statements, etc. Whoever wilfully makes or causes to be made in any application or statement or certificate or document or information submitted under this Ordinance or the rules made 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 under this Ordinance or the rules, shall be punishable with fine which may extend to ten thousand rupees.

69. Penalty for offences under section 40. Any employer who contravenes the provisions of section 40 shall be liable to a fine which may extend to twenty thousand rupees.

70. Penalty for embezzlement or misappropriation of funds.-(1) Any office-bearer or any other employee of a trade union, guilty of embezzlement or misappropriation of the trade union funds shall be liable to a fine double the amount of the embezzled or misappropriated funds.

(2) Upon realization of the amount of fine referred to in sub-section (1), it may be reimbursed by the Court to the concerned.

71. Penalty for other offences. Whoever contravenes, or fails to comply with any of the provisions of this Ordinance, other than the offences referred to in sub-section (1), shall be liable to a fine which may extend to twenty thousand rupees.

72. Offences to be non-cognizable. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no police officer shall be competent to arrest without warrant an employer or a worker for an offence other than the offence of illegal strike or illegal lock-out continued in contravention of an order made under sub-section (1).

73. Offences by corporations. Where the person guilty of any offence referred to in this Ordinance is a company or a corporation, every director, manager, secretary or other officer or agent thereof shall, unless he proves that he was ignorant of the fact or that he exercised all due diligence to prevent the commission of the offence, be deemed guilty of such offence:

Provided that, where a company has intimated to Government in writing the name of any of its directors or managers whom it has nominated for the purpose of this section and the offence is committed while such director or manager is acting, only such director shall be deemed to be guilty of such offence.

74. Trial of offences. Save as provided in this Ordinance, no Court other than a Labour Court or any other Court having jurisdiction shall try any offence punishable under this Ordinance.

## CHAPTER IX MISCELLANEOUS

75. Certain matters to be kept confidential. There shall not be included in any report, award or decision under this Ordinance any information obtained by an arbitrator, Inspector, Registrar, Conciliator, Labour Court or High Court in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person or firm) which is not available otherwise than through the evidence given before such authority, if the concerned trade union or association has made a request in writing to the authority that such information shall be treated as confidential, nor shall any person present at or concerned in such proceedings disclose any such information.

without the consent in writing of the Secretary of such trade union or the person, firm or company, as the

Provided that nothing contained to this section shall apply to disclosure of any such information for the purpose under section 193 of the Pakistan Penal Code (Act XLV of 1860).

76. **Indemnity.** No suit, prosecution or other legal proceedings shall lie again any person for anything which he or intended to be done in pursuance of this Ordinance or any rules made thereunder.

77. **Registrar, etc., to be public servants.** A Registrar, Conciliator, Board of Conciliators, the Presiding Officer of a Labour Court, and the Chairman and members of the Commission shall be deemed to be public servants under section 21 of the Pakistan Penal Code. (Act XLV of 1860).

78. **Limitation.** The provisions of section 5 of the Limitation Act, 1908 (IX of 1908), shall apply in computing the time within which an application is to be made, or any other thing is to be done, under this Ordinance.

79. **Power to make rules.**-(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance, in relation to the Commission.

(2) Except as provided in sub-section (1), a Provincial Government may, in consultation with the Federal Government, make rules for carrying out the purposes of this Ordinance, provided that such rules shall not be inconsistent with the rules made by the Federal Government under subsection (1).

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

80. **Repeal and savings.**-(1) The Industrial Relations Ordinance, 1969 (XXIII of 1969), is hereby repealed.

(2) Notwithstanding the repeal of the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter to be referred to as the repealed Ordinance, and without prejudice to the provisions of sections 6 and 24 of the General Clauses Act, 1897, the following shall apply:

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

(b) anything done, rules made, notification issued, officer appointed, Court constituted, notice given, application made, commenced or other actions taken under the repealed Ordinance shall be deemed to have been done, made, appointed, constituted, given, commenced or taken, as the case may be, under the corresponding provisions of this Ordinance; and

(c) any document referring to the repealed Ordinance relating to industrial relations shall be construed as referring to the corresponding provisions of this Ordinance.

(d) The appeals pending in the Labour Appellate Tribunals shall stand transferred to the respective, High Court or the Court of Appeal, as the case may be, on the date of commencement of this Ordinance and it shall not be

necessary for the High Court to recall any witness or to record any evidence that may have been recorded.

81. Former registration offices, officers, etc., to continue.-(1) The offices existing at the commencement of the registration of trade unions shall be continued as if they had been established under this Ordinance.

(2) Any person appointed to any office under, or by virtue of the provisions of the repealed Ordinance shall be appointed to that office under or by virtue of this Ordinance.

(3) Any books of accounts, book, paper, register or document kept under the provisions of the repealed Ordinance by companies shall be deemed to be part of the books of accounts, book, paper, register or document to be kept.

82. Removal of difficulties. If any difficulty arises in giving effect to any provisions of this Ordinance, the Governor may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Ordinance, as may be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of two years from the coming into force of this Ordinance.

83. Observance of workers and employers reciprocal rights and obligations.-(1) Notwithstanding anything to the foregoing provisions of this Ordinance and any other law in force, workers and employers of an establishment shall respect each other's rights and promote the interests of their enterprise for reasonable return on investment and growth.

(2) The rights and duties of workers and employers shall be such as given in Schedule-II and as may be agreed by them.

(3) Workers and employers both shall promote and foster an atmosphere of mutual trust, confidence, understanding and cooperation and shall make every effort to avoid conflict or dispute amongst them and resolve their differences through bilateral dialogue and shall strive to develop good industrial relations for the efficiency and increased output of the enterprise.

(4) Workers and employers in their individual capacity as well as through participative approach, shall take all necessary steps to ensure compliance with mutual agreements arrived at between them and follow agreed procedures, to achieve maximum productivity in the interest of the growth of the enterprise.

#### **THE SCHEDULE-I**

[See sections 2(xxiii) and 32]

#### **PUBLIC UTILITY SERVICES**

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 services.
4. Fire-fighting services.

3. Any postal telegraph and telephone services.

6. Railways and Airways.

7. Ports.

8. Watch and ward staff and security services maintained in any establishment.

THE SCHEDULE - II

[See section 83 (2)]

## RIGHTS AND DUTIES OF WORKERS AND EMPLOYERS EMPLOYER'S RIGHTS

(a) Right to conduct business. The employer shall have the right to manage, control and use the property of the enterprise and conduct his business in any manner considered appropriate by him.

(b) Right to manage. The employer shall have the right to use available resources including human resources efficiently and effectively in the best interest of the enterprise.

## EMPLOYER'S DUTIES

(a) While exercising the right to conduct business and the right to manage the enterprise; the employer shall do so in accordance with the law and shall comply with the law faithfully.

(b) The employer shall protect rights of the workers as guaranteed under the law or secured to them by an agreement or settlement in force.

(c) The employer shall protect and safeguard the interest of his workers and take measures within his resources for their socio-economic uplift and welfare. He shall create an environment congenial for enhanced productivity of labour and maximum output of the enterprise.

(d) The employer shall respect the right of the workers to employment, wages, decent living and better quality of working life.

## WORKER'S RIGHTS

(a) Right to work, wage and welfare. It is the right of a worker to work according to the job assigned and to receive wages as per agreed terms and conditions of employment and to such welfare benefits and safety measures as one is entitled to according to law, agreement, settlement and award.

(b) Right to freedom of association and collective bargaining and other rights secured or guaranteed under this Ordinance and other laws. Worker has inherent right to trade unionism and collective bargaining and the right to enjoy the benefits guaranteed to him under the law, rules and regulations, settlement, award or agreement.

a ae ae Oe ee Oe