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THE INDUSTRIAL AND COMMERCIAL EMPLOYMENT
(STANDING ORDERS) ORDINANCE, 1968

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THE INDUSTRIAL AND COMMERCIAL EMPLOYMENT (STANDING ORDERS) ORDINANCE, 1968
WEST PAKISTAN ORDINANCE NO. VI OF 1968
[18" May, 1968]

AN
ORDINANCE

to amend and consolidate the law relating to industrial employment in the Province of West Pakistan.

Preamble. WHEREAS it is expedient to amend and consolidate the law relating to industrial employment in the Province of West Pakistan;

AND WHEREAS the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement— (1) This Ordinance may be called the [* *] Industrial and Commercial Employment (Standing Orders) Ordinance, 1968.

(2) It extends to the whole of the 7[Pakistan] [* * *].

(3) It shall come into force at once.

(4) It applies to—

4[(a) every industrial establishment or commercial establishment wherein twenty or more workmen are employed, directly or through any other person whether on behalf of himself or any other person, or where so employed on any day during the preceding twelve months;]

(c) such class or classes of other industrial and commercial establishments as Government may, from time to time, by notification in the official Gazette, specify in this behalf:

Provided that nothing in this Ordinance shall apply to industrial and commercial establishments carried on by or under the authority of the *[Federal] or any Provincial Government, where statutory rules of service, conduct or discipline are applicable to the workmen employed therein “[:]

‘Omitted by the Finance Act, 2008 (Act No. I of 2008),s.4, (w.e.f. 01-07-2008).

*Substituted by the Federal Adaptation of Laws Order, 1975 (P. O. No. 4 of 1975), Article 2 read with Sch

Omitted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), Article 2 read with
4Substituted by Act No. XXIII of 1973, s. 2.

‘Substituted by Act No. XLVIII of 1974, s.2.

‘(Provided further that the provisions of Standing Orders 10B and 11, clauses (6) and (8) of Standing Order 12 and Standing Order 15 shall not apply, in the first instance, to any industrial establishment wherein not more than forty-nine persons were employed on any day during the preceding twelve months but Government may, by notification in the official Gazette, extend all or any of the said provisions to any such industrial establishment or any class of such establishment].

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

(4)

(6)

*[(bb)

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“collective agreement” means an agreement in writing, intended to specify the conditions of employment, and entered into between one or more employers on the one hand, and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other;

“commercial establishment”? means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs workmen, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker’s office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Ordinance;

“construction industry” means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundations of, any such work or structure;]

“employer” means the owner of an industrial or commercial establishment to which this Ordinance for the time being applies, and includes—

(i) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), as manager of the factory;

(ii) in any industrial establishment under the control of any department of the >[Federal] or any Provincial Government, the authority appointed by such Government in this behalf, or where no such authority is so appointed, the head of the department;

‘Added by Act No. XXIII of 1973, s. 2.

*Added by Act No. XXIII of 1973, s. 3.

3Substituted by Act No.XLVIII of 1974, s.2.

(iii) in any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such

establishment;

(d) “go-slow” means an organised, deliberate and purposeful slowing down of normal output or work by a body of workers in concerted manner and which is not due to any mechanical defect, break-down of machinery, failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;

(e) “Government” means the ![Provincial Government];

(f) “industrial establishment” means—

(i) an industrial establishment as defined in clause (77) of section 2 of the Payment of Wages Act, 1936 (IV of 1936); or

(ii) a factory as defined in clause (7) of section 2 of the Factories Act, 1934 (XXV of 1934); or

(iii) a railway as defined in clause (4) of section 3 of the Railways Act, 1890 (IX of 1890); or

*[(iv) the establishment of a contractor who, directly or indirectly, employs workmen in connection with the execution of a contract to which he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on; *[or]
Explanation.— “Contractor” includes a sub-contractor, headman or agent.]

4l(v) ~ the establishment of a person who, directly or indirectly, employs workmen in connection with any construction industry;]

(g) | “Standing Orders” means the orders contained in the Schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;

5[(h) “trade union” means a trade union for the time being registered under the

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Industrial Relations Ordinance, 1969 (XX/II of 1969);]

“workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical *[work] for hire or reward.

‘Substituted by the Federal Adaptation of Laws Order, 1975 (P. O. No. 4 of 1975), Article 2 read with Sch
?Substituted by the Labour Laws (Amendment) Act, 1972 (Act No. V of 1972), s. 2 read with Schedule.
Added by Act No. XXIII of 1973, s. 3.

4Added by Act No. XXIII of 1973, s. 3.

‘Substituted by Act No. XXIII of 1973, s. 3.

'Substituted by Act No. XXIII of 1973, s. 3.

3. Enforcement of Standing Orders.— In every industrial or commercial establishment, conditions of the employment of workmen and other incidental matters shall subject to the other provisions of this Ordinance, be regulated in accordance with the Standing Orders.

4. Modification of Standing Orders.— The Standing Orders may be modified by means of a collective agreement and not otherwise:—

Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workmen under the provisions of the Schedule.

5. Posting of Standing Orders.— The text of the Standing Orders shall be prominently posted and kept in a legible condition by the employer in English and Urdu, in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial or commercial establishment and in all departments thereof where the workmen are employed.

6. Inspectors.— (1) The Inspectors of Mines appointed under section 4 of the Mines Act, 1923 (IV of 1923), the Inspectors appointed under section 10 of the Factories Act, 1934 (XXV of 1934), and such other persons, not being '[conciliators appointed under the Industrial Relations Ordinance, 1969 (XXIII of 1969)]', as Government may, by notification in the official Gazette, appoint, shall be the Inspectors for the purposes of this Ordinance within the local limits assigned to each.

(2) An Inspector may at all reasonable hours enter on any premises and make such examination of any register or document relating to the maintenance or enforcement of the Standing Orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance.

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

7. Penalties and. procedure.— (1) An employer who modifies the Standing Orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes any of the provisions of this Ordinance shall, if no other penalty is elsewhere provided by or under this Ordinance for such contravention, be punishable with fine which may extend to one hundred rupees.

'Substituted by Act No. XXIII of 1973, s. 4.

(4) Whoever, having been convicted of any offence punishable under sub-section (1), (2) or (3), again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-sections.

(5) No prosecution for an offence punishable under this Ordinance shall be instituted except by, or with the previous permission in writing of, the Inspector.

11(6) No court other than a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall try any offence under this Ordinance].

7A. [Omitted]

8. Power to exempt.— Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishments from all or any of the provisions of this Ordinance.

9. Protection to existing conditions of employment — Nothing in this Ordinance shall affect any law, custom, usage, award or agreement inforce immediately before the promulgation of this Ordinance in so far as such law, custom, usage, award or agreement ensure conditions of employment more favourable to workmen than those provided in the Standing Orders.

10. Repeal.— The Industrial and Commercial Employment (Standing Orders) Ordinance, 1960 (II of 1960), in its application to the Province of West Pakistan, is hereby repealed.

‘Substituted by the Labour Laws (Amendment) Act, 1976 (Act No. XI of 1976), s. 2 read with Schedule. Omitted by Act No. XXIII of 1973, s. 5.

SCHEDULE
STANDING ORDERS

[SECTION 2(g)]

1. Classification of workmen.— (a) Workmen shall be classified as—

- (1) permanent,
- (2) probationers,
- (3) badlis,
- (4) temporary,
- (5) apprentices.

1[(6) contract worker].

(6) A “permanent workman” is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment *[and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months].

(c) A “probationer” is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A “badli” is a workman who is appointed in the post of a permanent workman or probationer, who is temporarily absent.

(e) A “temporary workman” is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a period not exceeding nine months.

3(f) An “apprentice” is a person who is an apprentice within the meaning of the Apprenticeship Ordinance, 1962 (LVI of 1962);]

‘Added by the Finance Act, 2006 (Act No. III of 2006), s. 6. (w. e. f. 1-7-2006).

*Added by Act No. XXIII of 1973, s. 6.

3Substituted by Act No. XXIII of 1973, s. 6.

'T(g) a contract worker means a workman who works on contract basis for a specific period of remuneration to be calculated on piece rate basis;]

2. Tickets— (1) Every workman employed in an industrial establishment shall be given a permanent ticket unless he is a probationer, a badli, a temporary workman or an apprentice.

(2) Every permanent workman shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorised by the employer to inspect it.

(3) Every badli shall be provided with a badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a 'temporary ticket' which he shall surrender on his discharge.

(5) Every apprentice shall be provided with an apprentice card, which shall be surrendered if he obtains permanent employment.

°[2A. Terms and conditions of service to be given in writing:— Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service.]

3. Publication of working time.— The periods and hours of work for all classes of workmen in each shift shall be exhibited in Urdu and in the principal language of workmen employed in the industrial or commercial establishment on notice boards maintained at or near the main entrance of the establishment and at the time- keeper's office, if any.

4. Publication of holidays and pay days.— Notices specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice boards.

5. Publication of wage rates — Notices specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

6. Shift working. More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer.

If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given prior to such discontinuance, provided that no such notice shall be necessary if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workmen are to be discharged they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restricted, a week's notice thereof shall be given by posting a notice at the

'Added by the Finance Act, 2006 (Act No. III of 2006), s. 6. (w. e. f. 1-7-2006).

*Inserted by Act No. XXIII of 1973, s. 6.

main entrance of the establishment and the time-keeper's office, if any, and the workmen, discharged as a result of the discontinuance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preference in being re-employed, having regard to the length of their previous service under the establishment, those with the longest term of service being re-employed first.

7. Attendance and late coming.— All workmen shall be at work at the establishment at the time fixed and notified under Standing Order 3. Workmen attending late shall be liable to the deductions provided for in the Payment of Wages Act, 1936 (IV of 1936).

8. Leave.— '[(1) Holidays and leave with pay shall be allowed as hereinafter specified:—

(a) Annual holidays, festival holidays, casual leave and sick leave as provided for in Chapter IVA of the Factories Act, 1934 (XXV of 1934); and

(b) other holidays in accordance with the law, contract, custom and usage)].

(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the workman. If the leave is refused or postponed, the fact of such postponement or refusal and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available, and if such reply is likely to reach him before the expiry of the leave originally granted to him.

21(4) * * * * *

9. [Omitted]

10. Payment of wages.— (1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen shall be paid wages on a working day before the expiry of the 7th or 10th day after the last day of the wage period, in respect of which the wages are payable if the total number of workmen employed in the establishment is 1,000 or less or exceeds 1,000 respectively.

4110A. Group incentive scheme.— (1) In every industrial establishment which is a factory and in which fifty or more workmen are employed there shall be introduced from such date as may be

'Substituted by Act No. XXIII of 1973, s. 6.

2Omitted by Act No. XXIII of 1973, s. 6.

3Omitted by Act No. XXIII of 1973, s. 6.

'Inserted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), Article 2 read w

specified by the Provincial Government, by notification in the official Gazette, a group incentive scheme to provide incentive for greater production to groups of workmen employed in the factory. The scheme shall provide the manner in which the performance of different groups of workmen, whether in the same section, shop, department or shift or in different sections, shops, departments or shifts shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the group of workmen whose production exceeds that of the other groups or the average of all the groups. The incentive shall be according to such scales as may be prescribed and shall be related to the extent of the excess production achieved by the group with the best performance.

'1110B. Compulsory Group Insurance.— (1) The employer shall have all the permanent workmen employed by him insured against *[natural death and disability and] death and injury arising out of contingencies not covered by the Workman's Compensation Act, 1923 (VIII of 1923), or the 3[Provincial Employees' Social Security Ordinance] 1965 (W. P. Ordinance No. X of 1965).

(2) The employer shall in all cases be responsible for the payment of the amount of premia and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which each workman shall be insured shall not be less than the amount of compensation specified in Schedule IV to the Workmen's Compensation Act, 1923 (VIII of 1923)].

41(4) Where the employer fails to have a permanent workman employed by him insured in the manner laid down in clauses (1), (2) and (3) and such workman suffers death or injury arising out of contingencies mentioned in clause (1), the employer shall pay, in the case of death, to the heirs of such workman, or in the case of injury, to the workman, such sum of money as would have been payable by the insurance company had such workman been insured.

(5) All claims of a workman or his heirs for recovery of money under clause (4) shall be settled in the same manner as is provided for the determination and recovery of compensation under the Workmen's Compensation Act, 1923 (VIII of 1923).]

5[10C. Payment of bonus.— (1) Every employer making profit in any year shall pay °[for that year within three months of the closing of] that year to the workman who have been in his employment in that year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workmen.

(2) The amount of the bonus payable shall—

(a) if the amount of the profit is not less than the aggregate of one month's wages of the workmen employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit;

'Inserted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), Article 2 read with Schedule.

*Inserted by the Labour Laws (Amendment) Act, 1976 (Act No. XI of 1976), s. 2 read with Schedule.

*Substituted by the Federal Adaptation of Laws Order, 1975 (P. O. No. 4 of 1975), Article 2 read with Schedule.

4Added by Act No. XLVIII of 1974, s. 3.

'Inserted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), Article 2 read with Schedule.
Substituted Act No. XXIII of 1973, s. 6.

'Tillustration 1.— If the profit is Rs. 1,20,000.00 and the aggregate of one month's wages of the workmen is Rs. 30,000.00, the amount of bonus payable shall be not less than the aggregate of one month's wages, that is to say Rs. 30,000.00.

Illustration 2.— If the profit is Rs.30,000.00 and the aggregate of one month's wages of the workmen is also Rs.30,000.00, the amount of bonus payable shall be not less than thirty per cent of the profit, that is to say Rs. 9,000.00.]

(b) if the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen per cent of such profit.

(3) The bonus payable to a workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid either in cash or in N. I. T. Units of equivalent value at the option of such workman.

(4) Nothing in this section shall be deemed to affect the right of any workman to receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969).

Explanation.— For the purpose of this section, —

(a) "N. L. T. Units" means the Units referred to in the National Investment (Unit) Trust Ordinance, 1965 (VII of 1965);

(d) "Profit" means the "net profits" as defined in section 87C of the Companies Act, 1913 (VII of 1913); and

(c) "Wages" does not, for the purpose of calculating the bonus payable to a person under clause (1), include the bonus referred to in clause (vi) of section 2 of the payment of Wages Act, 1936 (UV of 1936).]

11. Stoppage of work.— (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially, for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the departments concerned or of the office of the employer, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour, the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for

"Inserted by Act No. XXIII of 1973, s. 6.

the previous month shall be taken to be the daily wage. Wherever practicable reasonable notice shall be given of resumption of normal work.

1T(3) In cases where workmen are laid-off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one-half of their daily wages during the first fourteen days of lay-off as compensation. When, however, the workmen have to be laid-off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them due notice or pay in lieu thereof].

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

°[11A. Closure of establishment — Notwithstanding anything contained in Standing Order 11, an employer shall *[terminate the employment of more than fifty percent of the workmen or] close down the whole of the establishment without prior permission of the Lahore Court in this behalf, except in the event of fire, catastrophe, stoppage of power supply, epidemics or civil commotion.

Explanation. 'Close down' in this Standing Order includes lay-off of workmen beyond fourteen days where such lay-off results in closure of an establishment but does not include lock-out declared, commenced or continued in accordance with the provisions of the Industrial Relations Ordinance, 1969 (XXIII of 1969).]

4[12. Termination of employment.— (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month's notice shall be given either by the employer or the workman. One month's wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in lieu of notice.

(2) No temporary workman, whether monthly-rated, weekly-rated, daily-rated or piece-rated, and no probationer or badli, shall be entitled to any notice if his services are terminated by the employer, nor shall any such workman be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employments of his own accord.

(3) The services of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken. In case a workman is aggrieved by the termination of his services or removal, retrenchment, discharge or dismissal, he may *[take action in accordance with the provisions of] section 25A of the Industrial Relations Ordinance, 1969 (XXVII of 1969), and thereupon the provisions of said section shall apply as they apply to the redress of an individual grievance.

'Substituted by Act No. XXIII of 1973, s. 6.

7Inserted by Act No. XXIII of 1973, s. 6.

3Inserted by the Labour Laws (Amendment) Act, 1976 (Act No. XI of 1976), s. 2 read with Schedule.

4Substituted by the Labour Laws (Amendment) Act, 1972 (Act No. V of 1972), s. 2 read with Schedule.
'Substituted by Act No. XXIII of 1973, s. 6.

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment for unavailed leave as defined in clause (1) of Standing Order 8, shall be paid before the expiry of the second working day from the day on which his services are terminated.

(5) The services of permanent or temporary workman shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in Standing Order 15.

(6) Where a workman resigns from service or his services are terminated by the employer, for any reason other than misconduct, he shall, in addition to any other benefit to which he may be entitled under this Ordinance or in accordance with the terms of his employment or any custom, usage or any settlement or an award of a Labour Court under the Industrial Relations Ordinance, 1969 (XXIII of 1969), be paid gratuity equivalent to '[thirty days], wages, calculated on the basis of the 7[wages admissible to him in the last month of service if he is a fixed-rated workman or the highest pay drawn by him during the last twelve months if he is a piece-rated workman] , for every completed year of service or any part thereof in excess of six months:

Provided that, where the employer has established a Provident Fund to which the workman is a contributor and the contribution of the employer to which is not less than the contribution made by the workman, no such gratuity shall be payable for the period during which such Provident Fund has been in existence *^[**] 4[:]

‘(Provided further that if through collective bargaining the employer offers and contributes to an “Approved Pension Fund” as defined in the Income Tax ordinance, 2001 (XLIX of 2001), and where the contribution of the employer is not less than fifteen per cent of the limit prescribed in the aforesaid Ordinance, and to which the workman is also a contributor for the remaining fifty per cent or less, no gratuity shall be payable for the period during which such contributions has been made.]

(7) A workman shall be entitled to receive the amount standing to his credit in the Provident Fund, including the contributions of the employer to such Fund, even if he resigns or is dismissed from service.]

5[(g) Where workman dies while in service of the employer, his dependant shall be paid gratuity in accordance with the provisions of clause (6):

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the Commissioner who shall proceed with the allocation of the deposit to the dependant of the deceased in accordance with the provisions of section 8 of the Workmen’s Compensation Act, 1923 (VIII of 1923).

(9) If the employer fails to deposit the amount of the gratuity under clause (8), the dependant of the deceased may make an application to the Commissioner for the recovery of the amount thereof.

‘Substituted by the Labour Laws (Amendment) Act, 1994 (Act No. XI of 1994), s. 2 read with Schedule.

*Substituted by Act No. XXIII of 1973, s. 6.

3Omitted by Act No. XXIII of 1973, s. 6.

4Substituted by the Finance Act, 2007 (Act No. IV of 2007) (w.e.f. 1.7.2007), s. 6.

Added by Act No. XXIII of 1973, s. 6.

Explanation.— “Commissioner” and “dependant” in this Standing Order shall have the same meanings as are respectively assigned to them in the Workmen’s Compensation Act, 1923 (VIL of 1923).]

13. Procedure for retrenchment.— Where any workman is to be retrenched and he belongs to a particular category of workmen, the employer shall retrench the workman who is the last person employed in that category.

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

>[Provided that, in the case of a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season *[shall be given preference for employment] by the employer “[:]]

5[Provided further that, in the case of such a seasonal factory, the employer may by sending notice by registered post to the last known address of a workman who was retrenched in one season require him to report on a day specified in the notice, not being earlier than ten days before resumption of work in such factory, and if such workman so reports he shall be given preference for employment and paid full wages from the day he reports.]

§[14A. Special provision for construction workers. Where any workman is retrenched or discharged by a contractor or any employer engaged in the construction industry due to completion, cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge:

Provided that where a workman is re-employed within the one month of his retrenchment or discharge, he shall be deemed to have been in continuous service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharged but no wages shall be paid to him for the period of interruption.]

15. Punishments.— (1) A workman may be reprimanded or fined in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), up to three paise in the rupee of the wages payable to him in a month, for any of the following acts or omissions, namely:—

‘Substituted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), s. 2 read with First Schedule.
Added by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), s. 2 read with First Schedule.

*Substituted by the Labour Laws (Amendment) Act, 1972 (Act No. V of 1972), s. 2 read with Schedule.

4Substituted by Act No. XLVIII of 1974, s. 3.

Added by the Act No. XLVIII of 1974, s. 3.

‘Inserted by Act No. XXIII of 1973, s. 6.

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(ii)

in cases where the Payment of Wages Act, 1936 (IV of 1936), is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned;

in other cases, the following shall be the list of acts and omissions:—

- (a) disregard or disobedience of rules or orders;
- (b) improper behaviour, such as drunkenness;
- (c) making false or misleading statements;
- (d) inefficient, dilatory, careless or wasteful working;
- (e) malingering.

(2) A workman found guilty of misconduct shall be liable to any of the following punishments:—

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(ii)

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fine in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), upto three paise in the rupee of the wages payable to him in a month;

withholding of increment or promotion for a specified period not exceeding one year;

reduction to a lower post; or

dismissal without payment of any compensation in lieu of notice.

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

(4)

(6)

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wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;

theft, fraud, or dishonesty in connection with the employer's business or property,

wilful damage to or loss of employer's goods or property;

taking or giving bribes or any illegal gratification;

habitual absence without leave or absence without leave for more than ten days;

habitual late attendance;

habitual breach of any law applicable to the establishment;

riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline;

habitual negligence or neglect of work;

(/) frequent repetition of any act or omission referred to in clause (1);

(k) striking work or inciting others to strike in contravention of the provisions of any law, or rule having the force of law;

(l) go-slow.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct '[within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer] and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and 7[the employer shall] institute independent inquiries before dealing with charges against a workman °[:]

‘(Provided that the workman proceeded against may, if he so desires for his assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.]

(5) Where, for the purposes of conducting an inquiry into the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time *[so, however, that the total period of such suspension shall not exceed four weeks except where the matter is pending before an Arbitrator, a Labour Court, Tribunal or Conciliator for the grant of permission under section 47 of the Industrial Relations Ordinance, 1969 (XXIII of 1969),]. The order of suspension shall be in writing and may take effect immediately on delivery to the workman. During the period of suspension, the workman concerned shall be paid by the employer °[* * * *] to the same wages as he would have received if he had not been suspended.

16. Eviction from residential accommodation.— (1) Notwithstanding the provisions of any law for the time being in force, including those of the West Pakistan Urban Rent Restriction Ordinance, 1959 (W.P. Ordinance No. VI of 1959), a workman occupying residential accommodation provided by his employer, who has resigned or retired, or has been retrenched, discharged or dismissed, or whose services have been terminated, shall vacate such accommodation within a period of two months from the date of his retrenchment, discharge, dismissal or termination of services, as the case may be, provided that in case of reinstatement of the workman, the employer shall be bound to provide him with similar-residential accommodation from the date of such reinstatement or pay him per mensem, an allowance in lieu thereof at the rate of three times the wages of the last full working day.

(2) If a workman, who has been retrenched, discharged or dismissed, or whose services have been terminated, fails to vacate any residential premises provided by the employer, within the period specified in clause (1), the employer may lodge a complaint with a Magistrate of the first class having jurisdiction in the area where such residential accommodation is located.

‘Inserted by the Labour Laws (Amendment) Act, 1976 (Act No. XI of 1976), s. 2 read with Schedule.

*Substituted by Act No. XXIII of 1973, s. 6.

3Substituted by Act No. XXIII of 1973, s. 6.

4Added by Act No. XXIII of 1973, s. 6.

‘Inserted by the Labour Laws (Amendment) Act, 1976 (Act No. XI of 1976), s. 2 read with Schedule.

‘Omitted by the Finance Act, 2008 (Act No. I of 2008) (w.e.f. 1.7.2008), s. 4.

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

(4) Where a Magistrate passes an order for the eviction of a workman, he may also pass an order directing a police officer to evict such workman and any other person occupying through such workman the residential accommodation in respect of which the order of eviction is made, if the workman or such other person fails to vacate the accommodation within the time allowed under clause

(3).

(5) A police officer acting under an order of the Magistrate under clause (4), shall notify the occupants of the premises in question, the contents of the Magistrate's order and his intention to enter on such premises, and shall allow at least two hours' time to the occupants to vacate the premises and shall give all reasonable facilities to the children and female occupants, if any, to withdraw therefrom before applying any force for taking over possession of such premises.

(6) Where a workman occupying residential accommodation provided to him by the employer dies, the procedure prescribed in this Standing Order shall mutatis mutandis and so far as applicable, apply, for evicting any person, who was occupying the premises through such workman, and after his death continues to remain in occupation thereof.

17. '[Omitted]

18. 7[Omitted]

19. Certificate of termination of service — Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge, retrenchment or retirement from service.

20. Liability of employer.— The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the Standing Orders, whether or not the workmen of such establishment are employed through contractors.

'Omitted by the Labour Laws (Amendment) Act, 1972 (Act No. V of 1972), s. 2 read with Schedule.

Omitted by the Labour Laws (Amendment) Ordinance, 1972 (Ordinance No. IX of 1972), s. 2 read with F