

THE [KHYBER PAKHTUNKHWA] FAIR PRICE SHOPS
(FACTORIES) ORDINANCE, 1983.

*[KHYBER PAKHTUNKHWA] ORDINANCE NO. I OF 1983.

[8th January, 1983]

AN
ORDINANCE
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THE '[KHYBER PAKHTUNKHWA] FAIR PRICE SHOPS

(FACTORIES) ORDINANCE, 1983.

*[KHYBER PAKHTUNKHWA] ORDINANCE NO. I OF 1983.

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AN
ORDINANCE

to provide for the establishment of fair price shops in certain factories in the

[Khyber Pakhtunkhwa].

WHEREAS it is expedient to provide for the establishment and maintenance of fair price shops for the sale of certain articles of daily use at cheaper rates to the workers employed in certain factories in the "[Khyber Pakhtunkhwa]";

AND WHEREAS the Governor of the [Khyber Pakhtunkhwa] is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the Governor of the "[Khyber Pakhtunkhwa]" is pleased to make and promulgate the following Ordinance:

1. (1) This Ordinance may be called the '[Khyber Pakhtunkhwa] Fair Price Shops (Factories) Ordinance, 1982.

(2) It shall extend to whole of the [Khyber Pakhtunkhwa] Province.

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

2 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

3 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

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7 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

8 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Preamble.

Short title, extent
and
commencement.

(3) It shall come into force on such date, in such areas and shall apply to such factories or class of factories as Government may, by notification in the official Gazette, specify in that behalf.

2. In this Ordinance, unless the context otherwise requires:—

(a) "Chief Inspector" means a Chief Inspector appointed under section 12 and includes a person appointed by Government to perform all or any of the functions of a Chief Inspector in any area;

(b) "Collective Bargaining Agent" means a registered trade union of workers in a factory to act as an agent or representative of workers in matters of collective bargaining with the employer and where there are more than one registered trade unions in a factory, the trade union, which as a result of a referendum held under section 22 of the Industrial Relation Ordinance, 1969, has been determined as a collective bargaining agent;

(c) "employer" means a person or body of persons whether incorporated or not, who or which employs workers in a factory and includes an owner, occupier, manager, agent, representative, or any other person who is ultimately in supervision, control and management thereof;

(d) "essential articles" mean articles mentioned in the Schedule to this Ordinance and include any other article which Government may, by notification, declare to be an essential article for the purpose of this Ordinance;

(e) "factory" means any premises of a factory, to which this Ordinance applies, including a part thereof, on which any manufacturing process is carried on with the aid of power but does not include a mine;

(f) "fair price" means the price at which an essential article is purchased or procured by the employer under section 7, or controlled price, if any, fixed Government for the same essential article, whichever is less, and where an _ essential article manufactured or produced in a factory is to be supplied by that factory for the fair price shop thereof, the ex-factory wholesale price of such article;

Definitions.

(g) "fair price shop" means a shop established and maintained by an employer in or near a factory for selling essential articles at fair price to the workers of his factory and includes any room or premises where stock of essential articles is kept or stored;

(h) = "family" means—

(i) wife or husband, as the case may be, and children of a worker; and

(ii) parents, brothers and sister of a worker residing with and wholly dependent upon him;

(i) "Government" means the Government of the '[Khyber Pakhtunkhwa];

Gj) "Inspector" means an Inspector appointed under

section 12;

(kx) "Managing Committee" means a Managing Committee constituted under section 10;

() "prescribed" means prescribed by rules made under this Ordinance;

(m) "section" means a section of this Ordinance; and

(n) "worker" means a person, other than an employer, employed in a factory for doing any skilled, unskilled, manual or clerical work for hire or reward, and employed whether directly or through a contractor, on the terms of employment either expressed or implied and includes an apprentice and a laid off worker.

3. Every employer shall, within one month from the date of Establishment of application of this Ordinance, establish and maintain a fair price shop for the workers of his factory:

Provided that Government may, for sufficient reasons by an order in writing, extend the said period in respect of any factory or class of factories.

1 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

4. An employer shall at all times keep and maintain or cause to be kept or maintained in the fair price shop sufficient stock and quantity of all essential articles to cater for the needs of the workers.

5. Every employer shall cause to be prepared in Urdu and displayed prominently inside and outside the fair price shop, lists showing the fair price of each and every essential article and no such article shall be sold, or allowed to be sold at a price higher than the price entered therein.

6. A worker may in a month buy from the fair price shop of the factory in which he is employed such length, number or quantity of all or any of the essential articles as may be determined by the Managing Committee.

7. (1) | For the purpose of maintaining adequate supply at a fair price shop, the employer shall purchase or procure manufactured essential articles from the manufacturing factory at whole-sale ex-factory price and agricultural and other essential articles from the nearest whole sale market at the minimum rates prevalent in such market at the time of purchase or procurement.

(2) In the purchase or procurement of essential articles under sub-section (1), the employer shall make interest free investment.

8. The essential articles at the fair price shop shall be sold to the workers at the fair price and employer shall not charge or allow to be charged any profit whatsoever thereon, nor he shall include or add to the price of such articles any rent of the fair price shop, salary of the staff employed therein, water and electricity charges in respect thereof, fees or commission for auditing and maintenance of accounts, price of stationery, furniture or fixtures used therein, or any packing, handling, transportation or other incidental charges in respect of such articles.

9. Notwithstanding anything contained in the Payment of Wages Act, 1936, a worker shall, during every month, be entitled to purchase on credit basis from the fair price shop essential articles of the value not exceeding twenty-five percent of his monthly wages:

Keeping of sufficient stocks.

Display of list of fair prices.

Monthly quota for a worker.

Purchase and procurement of

essential
articles.

Sale of essential
articles.

Purchase of
articles on credit
basis.

Provided that unless a worker has paid the price of essential articles purchased on credit in a month, he shall not be entitled to purchase such articles on credit in the following month or months and the employer in that case shall be competent to deduct the outstanding amount of credit from his wages.

10. (1) As soon as may be, for every factory, there shall be constituted a Managing Committee consisting of four members and a Chairman:

Provided that Government may, for sufficient reasons, by notification, increase or decrease the number of members of all or any of such Committees.

(2) Out of the total number of members of the Managing Committee, half of the members shall be nominated by the collective bargaining agent and the remaining half by the employer:

Provided that where the collective bargaining agent, or the employer, as the case may be, fails to nominate all or any of their members to the Managing Committee within the time specified by the Chief Inspector, such members shall be nominated by the Chief Inspector himself:

Provided further that where there is no collective bargaining agent in a factory, the representatives of workers in the Managing Committee shall be elected in the prescribed manner.

(3) Members of the Managing Committee may, in the prescribed manner, unanimously nominate in writing a person other than a person from amongst themselves, to the Chairman of such Committee and shall convey their nomination to the Chief inspector within the prescribed period.

(4) In case the members are unable to nominate the Chairman under sub-section (3), the Chief Inspector shall nominate a person, other than a member of the Managing Committee, as the Chairman.

(5) The normal terms of the Managing Committee shall be two years from the date of its constitution:

Provided that Government may, for sufficient reasons, reduce or enhance its normal term or dissolve it before the expiry of the

Constitution
of managing
committee.

term and reconstitute it according to the provisions of this Ordinance.

(6) The Chairman and the members of the Managing Committee shall not be paid any remuneration or compensation for the functions performed by them under this Ordinance and the rule made thereunder.

11. (1) | The functions of the Managing Committee shall be— — Function of the managing committee.

(a) to determine the quality and quantity of essential articles to be purchased or procured by the employer at a time and the quantity of such articles which should normally be available for sale to the workers at a fair price shop;

(b) to check the quality of essential articles sold at the fair price shop;

(c) to determine the length, number and quality of different essential articles which a worker shall be entitled to purchase from the fair price shop for himself and his family during a month;

(d) to fix opening and closing hours of the fair price shops and to regularise transaction of business therein; and

(e) to perform any function which Government may, by a general or special order, deem fit to assign.

(2) — The provisions of clause (d) of sub-section (1) shall take effect notwithstanding anything to the contrary contained in the West Pakistan Shops and Establishments Ordinance, 1969, or any other law for the time being in force.

12. (1) Government may appoint Inspectors for the purposes of Appointment of this Ordinance and the Inspectors so appointed shall have jurisdiction Choetines and

in such area or areas as Government may specify. Cher inspectors

; ; functions.

(2) The Inspectors appointed under sub-section (1) shall

have the powers—

(a) to enter a fair price shop and to check the quantity and examine the quality of essential articles being sold or stocked for sale therein; and

(b) to check and examine documents record or registers kept and maintained in the fair price shop and, if necessary, to take extracts therefrom.

(3) | Government shall appoint a Chief Inspector for the Province or in any part thereof, who, in addition to his exclusive powers conferred on him under this Ordinance, shall exercise all or any of the powers of an Inspector throughout the Province or in any part thereof.

(4) — All the Inspectors and the Chief Inspector shall, while exercising power under this Ordinance and the rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

13. (1) Whoever contravenes any of the provisions of this Ordinance or the rules made thereunder, shall be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both, and in case of a continuing offence, with a further fine which may extend to one hundred rupees for every day after the first day during which the offence continued.

(2) | Whoever having been convicted of any offence under this Ordinance again commits such offence shall, on conviction, be liable to double the punishment provided for under sub-section (1).

14. (1) ~~ No Court inferior to that of a Magistrate of the First Class shall try an offence under this Ordinance or any rule made thereunder.

(2) No Court shall take cognizance of any offence under this Ordinance or the rules made thereunder, except on the report in writing of the facts constituting such offence, made by the Inspector or the Chief Inspector.

15. No suit, prosecution, or other legal proceedings shall be made against any person for anything which is in good faith done or intended to be done under this Ordinance.

Penalty.

Cognizance
and trial of
offence.

Indemnity.

16. Government may, by notification in the official Gazette, Exemption. exempt any factory from all or any of the provisions of this Ordinance for such period and on such condition as it may deem fit.

17. (1) Government may make rules for the purpose of Power to make carrying in to effect the provisions of this Ordinance. tules.

(2) Without prejudice to the generality of the power conferred by sub-section (1), such rules may provide for all or any of the following matters:—

(a) procedure for holding ballots for the election of representatives of workers to the Managing Committee in case there is no collective bargaining agent in any factory;

(b) procedure for nominating the Chairman of a Managing Committee;

(c) procedure for convening and holding of meetings by the Managing Committee;

(d) | manner in which questions raised before the Managing Committee shall be decided, minutes of meetings shall be recorded and its decisions shall be implemented;

(e) manner and form in which the record and accounts shall be maintained and scrutinized;

(f) manner in which the Chief Inspector and the Inspectors shall exercise their powers under this Ordinance; and

(g) | any other matter consequential or incidental to the aforesaid matters

SCHEDULE.

[See Section 2 (d).]

Serial No. Name of essential articles

1. Wheat.

2. Wheat Atta.

3. Sugar.

Peshawar,
dated the
08 JANUARY, 198

Pulses.

Vegetable Ghee.
Coarse Cloth.

Laundry Soap.
Kerosine Oil.

Tea.

Dry Milk.

Cigarettes.

Salt.

Biscuits (Packed).
Electric Lamps (Bulbs).
Oil Stoves.

Safety Matches 40/50 sticks.
Towel.

Shaving Blades.

Shoe Polish.

Exercise Books of all Sorts.
Gur.

Cold Drinks.

Packed Masala.

Rice.

LIEUTENANT GENERAL FAZLE HAQ
GOVERNOR OF THE KHYBER PAKHTUNKHWA