

# Labor Laws Compliance



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Government of Pakistan**

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## INTRODUCTION OF SMEDA

The Small and Medium Enterprise Development Authority (SMEDA) was established with the objective to provide fresh impetus to the economy through the launch of an aggressive SME development strategy. Since its inception in October 1998, SMEDA had adopted a sectoral SME development approach. A few priority sectors were selected on the criterion of SME presence. In depth research was conducted and comprehensive development plans were formulated after identification of impediments and retardants. The all-encompassing sectoral development strategy involved overhauling of the regulatory environment by taking into consideration other important aspects including finance, marketing, technology and human resource development.

After successfully qualifying in the first phase of sector development SMEDA reorganized its operations in January 2001 with the task of SME development at a broader scale and enhanced outreach in terms of SMEDA's areas of operation. Currently, SMEDA along with sectoral focus offers a range of services to SMEs including over the counter support systems, exclusive business development facilities, training and development and information dissemination through a wide range of publications. SMEDA's activities can now be classified into the three following broad areas:

1. *Creating a Conducive Environment*; includes collaboration with policy makers to devise facilitating mechanisms for SMEs by removing regulatory impediments across numerous policy areas
2. *Cluster/Sector Development*; comprises formulation and implementation of projects for SME clusters/sectors in collaboration with industry/trade associations and chambers
3. *Enhancing Access to Business Development Services*; development and provision of services to meet the business management, strategic and operational requirements of SMEs.

SMEDA has so far successfully formulated strategies for sectors, including fruits and vegetables, marble and granite, gems and jewellery, marine fisheries, leather and footwear, textiles, surgical instruments, transport and dairy. Whereas the task of SME development at a broader scale still requires more coverage and enhanced reach in terms of SMEDA's areas of operation.

Along with the sectoral focus a broad spectrum of services are now being offered to the SMEs by SMEDA, which are driven by factors like enhanced interaction amongst the stakeholders, need based sectoral research, over the counter support systems, exclusive business development facilities, training and development for SMEs and information dissemination through wide range of publications.

## ROLE OF SMEDA LEGAL SERVICES CELL

The Legal Services Cell (LSC) is a part of Business Development Division of SMEDA and plays a key role in providing an overall facilitation and support to SMEs. The LSC provides guidance based on field realities pertaining to SMEs in Pakistan and other parts of the world.

LSC believes that information dissemination among the SMEs on the existing regulatory environment is of paramount importance and it can play a pivotal role in their sustainable development.

In order to facilitate SMEs at the Micro Level LSC has developed user-friendly systems, which provide them detail description of the Laws, and Regulations including the process and steps required for compliance.

The purpose of this document is to provide SMEs either individuals or companies with information pertaining to Labor Laws as applicable in Pakistan. Entrepreneurs interested in enhancing their understanding about the procedures and rights can also use the document.

## **DISCLAIMER**

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## **COMPLIANCE UNDER LABOR LAWS**

There are three categories of laws, firstly the law that regulates the relations between employer and employee; secondly those laws that provide for compulsory levies and thirdly those that provide for minimum standards for employees; the same are as follows:

1. Labor Laws regulating the Relation of Employer and Employee
2. Labor Laws Assigning Levies;
3. Labor Laws Assigning Standards for Wages;
4. Labor Laws Setting Standards for Work Place;

### **1- Labor Laws Regulating the Relationship between Employer & Employee**

There is only one labor law that regulates the relationship between employer and employee; the same is:

#### **Industrial Relations Ordinance (IRO), 2002**

The law operates in following three areas:

- Regulation of formation of trade unions;
- Regulation and improvement of relations between employer and workmen;
- Avoidance and settlement of any differences or disputes arising between the employer and workmen

#### **Applicability**

The law is applicable to all persons employed in an establishment or group of establishments or industry except those employed:

- In the police or any of the defense services of Pakistan;
- By the Pakistan Security Printing Corporation of the Security Papers Limited or Pakistan Mint;
- In the administration of the State other than those employed as workmen by the Railways, Post, Telegraph and Telephone Departments
- By the institutions working for the rehabilitation of the disabled except those institutions running on commercial basis;
- By an institution established for payment of employees excluding those run on commercial basis;
- By an institution established for employees old age pension or for workers welfare;
- As a member of The Watch and Wards, Security or Fire Service Staff of an Oil Refiner or of any establishment engaged in the production, transaction or

- distribution or natural gas or liquefied petroleum or gas products or of sea port or air port; and
- By the Pakistan Army directly or indirectly.

**The federal government has the power to suspend the application of the Ordinance to any establishment or industry in public interest for a period not exceeding six months**

### **Important definitions under the Ordinance**

**“Employer”** Section 2(x):- in relation to an establishment 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 “any person responsible for the direction, administration, management and control of the authority including every director, manager, secretary, agent or office bearer, a contractor who procures labor for use by another person or establishment”.

**“Establishment”** Section 2(xi):- 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 including all its departments and branches.

**“Industry”** Sec. 2(xvii) means any business, trade manufacture, calling service, occupation or employment engaged in an organized economic activity of producing goods or services for sale excluding those set up for charitable purposes.

**“Industrial Dispute”** Sec. 2(xvi) means any dispute or difference between employers 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 enforcement of any right guaranteed or accrued to workers by or under any law, other than this Ordinance, or any award or settlement for the time being in force.

### **Responsibilities or Employer under IRO 2002**

- ✓ Not to transfer, dismiss, discharge or punish any office bearer of a trade union during pendency of application for registration of trade union. (section 10)
- ✓ To provide list of employees working for more than three months to the registrar within 15 days of the requirements. (Section 20 (4a))
- ✓ To provide for all the facilities as may be required by registrar for the conduct of poll for determination of the Collective bargaining agent and not to interfere in the polling for such determination. (section 20(7))
- ✓ After an application for determination of collective bargaining agent 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. (section 20(15))

- ✓ To deduct amount of subscription to the funds of trade union on request of collective bargaining agent and deposit the same to the account of trade union. (section 21)
- ✓ To provide for all the facilities as may be required for the holding of ballot for the election of shop steward (applicable only to establishment employing fifty or more workmen are employed (sec. 23)
- ✓ To set up a Joint Works Council consisting of not more than ten members in which workers participation shall be to the extent of forty percent and the Convener of the Council from the management. (applicable where fifty or more workers are employed. (section 24)
- ✓ To try to settle the dispute by bilateral negotiations in case of complaint as to settlement of an industrial dispute from the employees. (section 25)
- ✓ Not to declare a lock out while any conciliation proceedings or proceedings before an arbitrator or a Labor court is pending in respect of an industrial dispute. (section 36)
- ✓ Not to discharge, dismiss or otherwise punish any workman or change his conditions of service during pendency of proceedings before an arbitrator, conciliator or the Labor Court or a Court of Competent Jurisdiction regarding an industrial dispute. (section 40)
- ✓ Not to remove any fixed assets of the establishment during the currency of an illegal lock-out or a strike which is not illegal. (section 41)
- ✓ To communicate his decision in writing within fifteen days of a complaint being brought to his notice by a workman either himself, through his shop steward or through collective bargaining agent. (section 42(2))
- ✓ Not to indulge in unfair labor practices such as restraining a workman from joining a trade union or to dismiss, discharge or punish a workman by reason of his taking part in the activities of a trade union etc. (section 63)

### **Penalties under IRO 2002 for employer**

- Rs. Twenty thousand for violation of section for unlawful transfer etc during pendency of application for registration 10.
- Rs. Thirty thousand for violation of section 63 regarding unfair labor practices.
- Rs. Fifty thousand for illegal removal of stock etc. under section 41.
- Rs. Twenty thousand for committing breach of settlement, award or decision binding under the Ordinance. (section 66)
- Rs. Twenty thousand for failing to implement any term of a settlement, award or decision binding under the Ordinance and in case of continuing failure further fine or Rs. Five thousand for every day during which the default continues. (section 67)
- Rs. Ten thousand for willful false statement submitted under the Ordinance. (section 68)
- Rs. Twenty thousand for illegal change in conditions of service etc. under section 40. (section 69)

- Rs. Five thousand where no penalty is provided for an offence under the Ordinance. (section 70)

### **Order Of Labor Court Where Termination Held Wrongful (Section 46 (5))**

In case the termination of services of a workman is held to be wrongful, the labor Court may award compensation equivalent to not less than twelve months and not more than thirty months basic pay last drawn and house rent, if admissible, in lieu of reinstatement of the worker in service.

### **2- Labor Laws Assigning Levies**

Following are the labor laws assigning levies on the employers for the benefit of their employees or workers:

- Employees' Old Age Benefit Act, 1976 (EOBI)
- (Provincial Employees Social Security Ordinance, 1965 (ESSO))
- Workers Welfare Fund Ordinance, 1971 (WWF)
- West Pakistan Maternity Benefits Ordinance, 1972
- Workers Children (Education) Ordinance, 1972
- Companies Profit (Worker's Participation) Act, 1968
- Workers Compensation Act, 1923

### **Employees' Old Age Benefit Act, 1976 (EOBI)**

EOBI applies to industry or establishment employing **Five or more** persons directly or indirectly. The law continues to apply even if the number of persons employed is subsequently reduced to less than Five.

#### **Purpose of the law**

The law provides benefit to employees in the following areas:

- Pension for old-age
- Old Age grant
- Invalidity Pension
- Widow's Pension

#### **Payment of Contribution**

- Every registered employer is required to pay 5% per month, in respect of every person in his employment as contribution for every employee having salary Rs. 6000/-, to the department. The department also receives 1% of the wages from the employee. Government of Pakistan also contributes in the shape of grant to EOBI in this respect.

**Maximum EOBI contributions after Finance Act, 2008**

<b>Sr. No.</b>	<b>Contribution By</b>	<b>Maximum Contribution</b>	<b>Minimum Wages</b>	<b>Total Contribution</b>
<b>1</b>	<b>Employer (sec.9)</b>	<b>5% of Minimum Wages</b>	<b>6000</b>	<b>300</b>
<b>2</b>	<b>Employee (sec.9B)</b>	<b>1% of Minimum Wages</b>	<b>6000</b>	<b>60</b>
<b>Total</b>				<b>360</b>

- The employer shall submit above-mentioned amount of contribution in the designated branch of bank for a month before 15<sup>th</sup> of every next month.

**Penalty for non-payment**

Under EOBI there are two sorts of penalties, one is the additional amount which is payable in case the prescribed amount is not paid until the due date. The additional amount could go up to 50 percent of the actual amount due. In addition, EOBI also imposes a penalty of Rs. 10,000/- or imprisonment of up to two years for the employer or both.

**Registration requirement under the EOBI**

An employer to whom the Act becomes applicable is required to be registered with the Institution within thirty (30) days from the day on which the Act becomes applicable to such employer.

In addition such employer is also required to get registered every ensured person employed by it.

**Procedure of Registration**

The employer is required to communicate to the Institution the name and particulars of the industry or establishment in Form PR-01 and of every insured person employed therein in Form PE-01 and in the case of Form PE-01 give the receipt appended to the Form to the Insured Person.

The institution on receipt of such Forms, registers the name of the Industry or establishment and the insured person and issue to the employer a Certificate of Registration in Form P1-02 and to each insured person a Registration Card in Form P1-03.

## **Maintenance of Records and Submission of Returns by employers**

Every employer must maintain and keep the following records for inspection and verification by the Institution or its authorized officials:

- i. Full particulars of all persons employed by him including the persons in his insurable employment, their occupations, wages attendance, dates of entry and exit, insured person's registration numbers and such other particulars as may be necessary for the proper identification of all persons in his insurable employment;
  - ii. Pay roll of all persons employed showing therein full details of the disbursement of wages to them;
  - iii. Duplicate copies of the returns submitted to the institution;
  - iv. Such other records which the employer is or may be required to maintain under the Act or the rules or the regulations or which the institution may require the employer to maintain from time to time
- ✓ In addition every employer must submit to the Institution a quarterly return in Form PR-02 (Annex-E) containing full particulars of every person in his insurable employment accompanied by receipted copies of the Contribution Payment Slips in Form PR-03 (Annex-F) in respect of each month of the relevant quarter, within fifteen days of the end of the quarter to which it relates.
  - ✓ Quarter means a period of 3 calendar months commencing from 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July and 1<sup>st</sup> October each year.

## **Employees Social Security Ordinance, 1965 (ESSO)**

### **Applicability of the Ordinance**

This law applies to all classes of person, industries or establishments having five or more employees.

### **Purpose of the law**

The purpose of the Ordinance is to provide benefit to certain employees under the following circumstances:

- In the event of sickness
- Maternity benefits
- Employment injury or death
- All matters ancillary to the above.

### **Applicability of the Ordinance**

The law is applicable on employees including permanent, daily wages, contract employees and contractor's employees whose wages is up to PKR 10,000/-

### **Payment of Contribution**

Establishment having **5 or more** employees automatically fall under the ambit of Social Security law as per **Industrial Policy 2003**, announced by the Government of the Punjab. This amount is contribution is to be deposited on monthly basis with the ESSI.

### **Fixed Slab System for SMEs**

- Vide Industrial Policy 2003 a fixed slab system for SMEs was introduced. According to this system SMEs employing 5 to 50 employees have been made responsible to make payment of contributions at the rates as mentioned in schedule-1 to the ESS (Contribution) Rules, 1966. (These rates vary from Rs. 83.33/- to Rs. 198.41/-). All such establishments will not be inspected for three years so long as they keep paying the contributions as enumerated in schedule of Punjab Social Security (Contribution) Rules, 1966.
- For establishments employing more than 50 workers falling within this scheme, no inspection shall be carried out during the first six months of the year and contribution shall be paid by them at the rate of 6% of the wages not exceeding Rs. 10,000/- of the employees.
- There is also a self assessment scheme applicable under which an employer may pay Rs. 360/- as his contribution and Rs. 20/- as contribution on behalf of the employee.
- A simple declaration in English or Urdu will be submitted by the employer on monthly basis along with contribution and contribution schedule to the local and sub-offices of Social Security Institution.

### **Mode of Submission of Returns AND Payments**

As per Rule 4 (1) (i) of the Provincial Employees' Social Security (Contributions) Rules, 1966, the employer is required to show the amount of contribution payable by him as follows:

- i. By submitting a form of pay roll approved by the Institution, by writing registration numbers of the secured persons against their names as shown thereon, together with the amount of the employer's and employees contributions applicable thereto and submit a true copy of such form to the Institution; or
  - ii. By completing and submitting to the Institution a contribution schedule, available from the local office of the Institution, at which the employer is registered and which shall provide for the submission of such information as the Institution may, from time to time require.
- The aforesaid return is required to be submitted to the Institution within fifteen days of the end of each month or such extended period not exceeding forty five days, as the Institution may allow on good cause being shown for such extension, and at the same time shall pay, the total amount of contribution shown thereon as due.

### **Procedure for Registration under ESSO**

- Within ten (10) days of the Notification, the establishment is required to file an application for registration in the local office of ECCI on the prescribed Form R-1 (Annex-G) indicating therein the approximate number of his employees liable to become secured persons. It is pertinent to note that in respect of scheme under Industrial Policy 2003, persons opting for scheme shall have only to file Declaration in the prescribe form as noted above.

- Within fifteen (15) days of the acceptance of application for registration, the employer files with the Institution Secured Person's Registration Form (Form-R2) (Annex-H) in respect of each employee liable to become a secured person.
- On receipt of the Secured Person's Registration Form, the Institution issues Secured Person's Registration Card in Form-R5 (Annex-I) to the employer who shall distribute them to each of the employees named thereon, ensuring that the signature or thumb-print of the secured person is clearly impressed on the appropriate space on page 01 of the Card.

**Penalties**

Two kinds of penalties are payable under the ESSO. One is the additional amount payable in case of failure to pay the amount due on due date. The additional amount can be up to 50% of the amount due. ESSO can impose a penalty up to PKR 1000/- or imprisonment of upto three months or both.

**Workers Welfare Fund Ordinance, 1971 (WWF)****Applicability**

WWF is applicable to all industrial establishments whose total income is not less than Rs. 500, 000/- annually.

**Purpose of the Ordinance**

Money in the fund shall be used to

- Establish housing estates
- For the welfare measures, including education, training, teaching new skills etc for the workers.

**Payment of Contribution**

The rate of contribution under WWF is two (2) percent annually of the total income of the establishment as is assessed under the Income Tax Ordinance, 2001 to which the law is applicable. The establishments have to deposit the amount with the income tax officer having jurisdiction in the area, while submitting a return of total income.

**Penalties**

Under the WWF, the industrial establishment is fined an additional eight percent of the amount due in case of late payment.

**West Pakistan Maternity Benefits Ordinance, 1958**

The law is applicable to female workers across the board within all establishments.

**Purpose of the Law**

To require establishment to grant mandatory benefits to women workers.

**Payment of contribution**

Every employers is liable for payment of maternity benefits at the rate of her wages last paid during the period of six weeks immediately preceding and including the day on

which the female worker delivers a child, and for each day of six weeks succeeding the day.

Furthermore, the employee is entitled to additional six week paid leave either before or after delivery.

### **Method of Payment**

All payments against claims for maternity benefit shall be made in cash against receipt.

### **Maintenance of Record**

Every employer of a factory where women are employed is required to maintain in English or Urdu a Muster Roll in Form A (Annex-J) stating particulars about women from whom notice of confinement is received.

### **Penalty**

The penalty for non-compliance is PKR 500/-

## **Workers Children (Education) Ordinance, 1972**

### **Applicability of the Ordinance**

This law is applicable to establishments employing ten or more workers. The definition of “worker” for applicability of this law is limited to a worker receiving PKR 3,000 per month or less.

### **Purpose of the Ordinance**

The purpose of the Ordinance is to raise funds for the education of the children of the workers. The fund is required to provide educational facilities to the workers’ children and assist with the improvement of schools located in or attached to the industrial undertakings.

### **Payment of Contribution**

Rs. 100/- per worker per annum are payable by every employer.

### **Procedure for Submission of Returns**

Establishments have to submit documentation about the number of employees employed quarterly. This return is to be submitted in Form EC-1 (Annex-K) by every employer of an establishment if the number of workers employed by him at any time during the quarter to which the return relates, is 20 or more.

The return shall be submitted within one month of the close of each quarter of the year and shall be accompanied by a treasury receipt or a cheque drawn on a scheduled bank representing payment of the cess worked out at the rate of Rs. 25 per quarter per worker shown in the return.

✓ Social Security Institution is responsible to administer the Fund.

**Penalty**

No penalty is provided, however, since the law requires Social Security Institution to collect the amount, the ESSO penalty clause may apply.

**Companies Profit (Worker's Participation) Act, 1968****Applicability**

This Act applies to all companies which are engaged in industrial undertaking, if they fall within any of the following categories:

- 50 or more workers
- Have a paid up capital of not less than Rs. 2 million; or
- Value of fixed assets of the company are not less than Rs 4 million

**Purpose of the Act**

The purpose of the law is to share profits of the company with its employees according to their categories.

**Procedure**

Every company to which this Act applies is required to establish a fund and pay five percent of its profits to the fund. The account has to be submitted to Federal Government and the Board created under the Act, not later than nine months of the closing year.

If a company utilizes the amount of Fund for its business operations, it shall pay to Fund for its business operations, it shall pay to the Fund interest at the rate of 2.5% above the bank rate or 75% of the rate at which dividend is declared on its ordinary shares, whichever is higher.

- ❖ Benefit up to maximum of Rs. 6000/- is available to all employees drawing average wages up to Rs. 5000/- per month.

**Penalty**

In case of failure to pay contributions under the Act, every director, manager or other officer responsible for the management of the affairs of the company shall be liable to pay a sum which may extend to Rs. 5000/- and in case of continuous failure, a further sum which may extend to Rs. 1000/- per day may be imposed.

**Workman's Compensation Act, 1923****Applicability**

The law is applicable to persons employed for wages of less than Rs. 3000/-.

**Purpose**

This Act provides compensation to be paid by employer to the workers or their legal heirs who contract an injury, disease or death during working in an establishment.

**Mode of payment of compensation under the Act**

There are four categories defined under the Act for payment of compensation; the same are:

- Death resulting from injury to the worker. In this case, the heirs of the workers shall be paid compensation of Rs. 200,000/-.
- Permanent total disablement resulting from injury to worker. In this case, the worker shall be paid compensation of Rs. 200,000/-
- Permanent partial disablement resulting from injury to worker. In this case the injuries are defined under schedule I and IV of the Act and the compensation is calculated in accordance with the proportion of the injury so defined.
- Temporary disablement. In this case, a half-monthly payment is payable for the period of disablement not exceeding five years.

**Submission of Returns**

Every Employer is required to submit return in the Form S (Annex-L) to the Chief Inspector of Factories. This return shall relate to a calendar year and shall be furnished on or before 1<sup>st</sup> February following the year to which return relates. The Return shall be signed by:

- The employer, or where there is more than one employer by any employer; or
- By any person directly responsible to the employer or employers for the management of the establishment to which it relates.

**Penalty**

In case of contravention, a fine up to Rs. 100/- may be imposed.

**3- Labor Laws Assigning Standards for Wages**

There are three main laws dealing with payment and fixation of minimum wages:

- The payment of wages Act, 1936
- The minimum wages Ordinance, 1961
- Pakistan minimum wages for unskilled workers Ordinance, 1969.

**The Payment of Wages Act, 1936**

This law regulates the payment of wages to persons employed in the industry. It provides the time of payment of wages, mode of payment of wages and the deductions that can be made while paying wages.

**Applicability of the Ordinance**

The law is applicable to all employees employed by an industry or establishment including the executives.

**Admissible Deductions under the Act**

The Act provides following deductions that can be made from wages by an employer:

- a) Fines;
- b) Deductions for absence from duty;
- c) Deductions for damages to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- d) Deductions for house accommodation supplied by the employer
- e) Deductions for such amenities and services supplied by the employer as the Provincial Government may by general or special order authorise;
- f) Deductions for recovery of advances or for adjustment of overpayment of wages;
- g) Deductions of income tax payable by the employed person;
- h) deductions required to be made by order of a Court or other authority competent to make such order;
- i) deductions for subscriptions to, and for repayment of advances from, any approved Provident Fund;
- j) Deductions for payment to co-operative societies approved by the Provincial Government or to a scheme of insurance maintained by the Pakistan Post Office; and deductions made with the written authorisation of the employed person, in furtherance of any war saving scheme approved by the Provincial Government.

**Penalty**

In case of violation of the provisions of the Ordinance or wrongful deduction, a penalty not exceeding **Ten Times** the amount deducted shall be paid to the employee by the employer.

**The Minimum Wages Ordinance, 1961**

This law provides machinery for the regulation of minimum rates of wages that an establishment must follow. Under the Ordinance a Minimum Wages Board has been constituted which recommends to the Provincial Government to fix the minimum rates of wages for the workers in respect of any particular industry. Upon recommendations from the Board, the Provincial Government by notification in the official gazette, declares the minimum rates of wages for such workers.

- ❖ In the **Budget 2008-09** the minimum wages of an employee has been fixed as Rs. 6000/-

### **Forms of Register and Records under the Ordinance**

- a) A Wage Register in Form I have to be maintained by an employer;
- b) Every employers shall issue to the employees employed in any industry in respect of which minimum rates of wages have been fixed under the Provisions of the Ordinance, Wage Slips in Form II;
- c) The employer must obtain the signature or thumb-impression of every employee on the Wage Register;
- d) Entries in the Wage Register and Wage Slips must be authenticated by the employer or a person authorised by him in this behalf.
- e) In addition, a Muster Roll in Form III must be maintained by the employer at the place of employment in respect of all employees regarding which minimum wages have been fixed;

### **Pakistan minimum wages for unskilled workers Ordinance, 1969.**

The law prescribes minimum rate of wages which must be paid by an establishment to worker and not less than that. The minimum wages fixed by the Government at present is Rs. 6000/-. This law is applicable to every commercial and industrial establishment.

### **4- Labor Laws Setting Standards for Work Place**

There are mainly eight labor laws setting minimum standards to be maintained at the work place by the employer:

- The Shops and Establishments Ordinance, 1965
- West Pakistan Industrial and Commercial Employment (Standing Order) Ordinance 1968
- The Factories Act, 1934
- The Employment (Record of Services) Act 1951
- The Employment of Children Act, 1991
- The Apprenticeship Ordinance, 1962

### **The Shops and Establishments Ordinance, 1965**

#### **Purpose of the Ordinance**

The purpose of this Ordinance is to provide basic standards relating to payment of wages, working hours, overtime, weekly holidays, sick leave, festival holidays, termination of employment and other ancillary matters.

**Applicability**

The law applies to all the establishments. However, the government may grant exemption to any establishment from the operation of the provision of this Ordinance.

**Registration under the Act**

Every establishment, under the Act, other than a one man shop and factories employing clerical staff within the factory premises, is required to be registered with the Deputy Chief Inspector for the area within which such establishment is situated.

An application for registration of an establishment shall be made by the employer in Form 'A' and shall be accompanied by a Treasury Challan Under Head XXXVI-Miscellaneous Departments—G. Miscellaneous—(S) Receipts under the West Pakistan Shops and Establishment Ordinance, 1969 for an amount of—

- ✓ Rs.2.00 in case of an establishment employing 1 to 5 workers.
- ✓ Rs. 3.00 in case of establishments employing 6 to 10 workers.
- ✓ Rs. 5.00 in the case of establishments employing 11 to 20 workers.
- ✓ Rs. 10.00 in case of establishments employing more than 20 workers

**Records and Registers under the Act**

Every employer is required to maintain following Records and Registers under the Act:

- a) Register of Employment and remuneration in Form IV
- b) Register of Leave in Form V
- c) Inspection Book in Form VI (for establishments excluding shops)

**Weekly Holidays in Establishments**

Every establishment must remain close for one day in a week.

In addition every employ shall be entitled for a one day holiday in a week (other than annual, casual or sick leaves) and such holiday may be on the day on which the establishment is closed. The day on which an establishment may be entirely closed shall be either Friday or Sunday.

**Other Leaves under the Act**

- ✓ **Annual Leave** Fourteen (14) days with full wages. Any leave not allowed shall be added to succeeding year's leave up to maximum of 30 days. **Provided that** encashment of the leave during service is not allowed.
- ✓ **Casual Leave** Ten (10) days with full wages in a calendar year but not to be granted for more than three days at a time and shall not be accumulated.
- ✓ **Sick Leave** Eight Days in every year with full wages. If not availed, may be carried forward but total accumulation of such leave shall not exceed sixteen days at any one time.
- ✓ **Festival holidays** Ten (10) days in a year with full wages. The days and dates for such festival holidays shall be notified to employees by the employer in the beginning of the calendar year.

**Penalties**

The Ordinance provides two kinds of penalties, one for violation of the provisions pertaining to weekly holidays, number of working hours, termination without notice, and employment of children in an establishment, the amount of penalty for such violations is three months imprisonment or with fine which may extend to Rs. 250 for the first offence and Rs. 500 for subsequent offence. For other offences, imprisonment of 3 months and fine up to Rs. 150 and for subsequent offence Rs. 250 or both may be imposed.

**West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968****Purpose of the Ordinance**

The purpose of the Ordinance is to provide minimum service conditions for certain establishments as specified by the Ordinance. This law also provides specification of terms and conditions of service by employer like issuance of tickets to a permanent workman, publication of working time, holidays, pay days, rate of wages, provision of terms and conditions of service in writing etc.

**Applicability**

This law applies to every industrial or commercial establishment wherein twenty or more workers are employed.

**Definition of Workman under the Ordinance**

Means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical work for hire or reward.

**Classification of Workmen in Standing Orders**

- ✓ Permanent
- ✓ Probationers
- ✓ Badlis,
- ✓ Temporary
- ✓ Apprentices

**Important Standing Orders**

- Tickets/cards shall be given to every workman showing his or her nature of employment.
- Terms and conditions of service be provided in writing to an employee at the time of appointment, transfer or promotion.
- The periods and working hours for all classes of workmen be exhibited in Urdu and in the principle language of workmen on notice boards at or near the main entrance of the establishment and shopkeeper's office, if any.

- Notice specifying the (a) pay days and (b) holidays shall be pasted on the notice board.
- Notice specifying the rates of wages payable to all classes of workmen be displayed on the notice board.
- In case of shift working, no shift working shall be discontinued without notice of one month. However, no such notice is necessary where no permanent employee shall be discharged as a result of such discontinuance of shift. In case of discharge of service of an employee, regard must be had to the length of their service, those with the shortest term of service being discharged first i.e. last in first out.
- Annual holidays, festival holidays, casual and sick leave shall be as provided in Factories Act, 1914; and
- Other holidays in accordance with the law, contract, custom and usage.
- **Group Incentive Scheme:** To provide incentive for greater production to group of workmen in the factory. Such incentive shall be additional wages or additional leave with wages or in both such forms. However, this provision is applicable to industrial establishments where **fifty or more** workmen are employed.
- **Compulsory Group Insurance:** Every employer is required to have all the permanent workmen insured against natural death and disability and death and injury arising out of contingencies not covered by the Workmen's Compensation Act, 1923 or the Provincial Employees Social Security Ordinance, 1965.
- **Payment of Bonus:** Every employer earning profit in any year shall pay for that year within three months of the closing of that year to the workmen who have been in his employment in that year for a continuous period of not less than ninety days' bonus in addition to the wages payable to such workmen which shall be up to one month's wages.
- **Termination of Employment:** One month's prior notice or one month's wages in lieu of such notice be given for termination of employment for any reason other than misconduct by employer or the workman as the case may be.
- **Payment of Gratuity:** To be paid in case a workman resigns or his services are terminated for any reason other than misconduct. The gratuity shall be paid equivalent to one month wages calculated on the basis of the 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 month if he is a piece-rated workman for every completed year of service or any part thereof in excess of six months. **PROVIDED** that the provisions of this Standing Ordinance 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 except notified by the Government.

### **Penalties**

Penalty for violation of any provision of the standing orders may be up to Rs. 5000 and in case of continuous violation up to Rs. 200 for every day to which default continues.

### **The Factories Act**

**Purpose of the Act**

The purpose of the Act is to regulate and standardize the condition in factories falling under the Act. The categories regulated are,

- (a) basic standards for health and safety
- (b) disposal of waste
- (c) ventilation and temperature
- (d) dust and fume
- (e) overcrowding
- (f) lighting
- (g) availability of drinking water
- (h) toilet facilities
- (I) compulsory vaccination
- (j) provision of canteens
- (k) precaution in case of fire
- (l) fencing of machinery
- (m) working hours.

This law is very comprehensive and covers almost all the aspect of a healthy working environment.

**Applicability of the Act**

The law applies to all factories employing 10 or more workers.

**Definition of Worker under the Act:**

Means a person employed directly or indirectly or through an agency whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, but does not include any person solely employed in any other kind of work whatsoever, incidental to or connected with the subject of manufacturing process, *but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried out.*

**Notice to Inspector before Commencement of Work**

Before the commencement of work in a factory, the occupier thereof is required to give a written notice in Form A to the labor Inspector.

**Penalties**

The law provides different penalties for different offences which may vary from PKR 25 to Rs. 1000.

**Working Hours and Weekly Holidays in Factories**

- **Weekly hours:** No worker shall be allowed to work for more than forty eight hours in any week, or where the factory is seasonal one, for more than fifty hours in any week.

- **Weekly holiday:** Shall be Sunday; however, a worker may be allowed or required to work on Sunday if he had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday.
- **Compensatory holidays:** Where a worker is deprived of any of the weekly holidays as a result of the passing of an order or the making of a rule under the Provisions of this Act exempting the factory or the workers from weekly holidays, such worker shall be allowed as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.
- **Daily Hours:** Nine hours in a day ordinarily which may be extended to ten hours in a seasonal factory.
- **Intervals for rest:** One hour or two intervals of half an hour each.
- **Notice of Period of Work:** To be displayed and correctly maintained in the factory and copy of such notice be sent to Inspector.
- **Register of Adult Workers:** Must be maintained showing the name, age, nature of work, the group, if any, of workers etc.
- ✓ **Annual Holidays:** Fourteen (14) days with full wages after completion of 12 months continuous service. Any leave not allowed shall be added to succeeding year's leave up to maximum of 28 days.
- **Casual Leave** Ten (10) days with full wages in a calendar year but not to be granted for more than three days.
- **Festival holidays:** Entitlement as declared by the Provincial Government.
- **Sick Leave** Sixteen (16) days on half average pay in a year.

### **The employment (Record of Services) Act, 1951**

#### **Purpose of the Act**

The Act requires employers to maintain records of personnel employed in different classes of employment.

#### **Applicability/Procedure of the Act**

It applies to all employers and employees in areas specified by provincial Government. Employers are required to maintain a service book on each employee. However, on termination of the employment, the service book is to be handed over to the employee. Details of employment record covered in the service book are:

- Scale of pay or rate of wages
- Any increment in wages
- Record Keeping for transfer of employment
- Grant of leave other than casual leave
- Discharge, dismissed or has resigned or retired from employment
- Any fine or punishment.

**Penalties**

Under this Act both employer and employee can be liable. In case employer violates the provisions of the Act, it shall be punishable with fine which may extend to Rs. 50 and in case of employee, he shall be liable for a fine extending to Rs. 5.

**The Employment of Children Act, 1991**

This Act imposes ban on employment of children in certain occupations and regulates working conditions of children (aged 14 years) where they are allowed to work.

**Applicability**

The law applies to all the establishments through out Pakistan.

**Working Hours**

Under the Act, following working hours have been fixed for employment of children:

- ❖ In a workshop factory or a Farm up to 05 hours
- ❖ In a shop or commercial establishment up to 06 hours

**Notice to Inspector**

Every employer or establishment which employs any child is required to give notice of such employment to the Inspector within whose jurisdiction such establishment is situated. Such notice must be given within thirty days of the commencement of such employment and must contain the following particulars:

- a) The name, location and address of the establishment;
- b) The name of the person in actual management of the establishment;
- c) The address to which the communications relating to the establishment should be sent; and the nature of the occupation or processes carried out in the establishment.

**Maintenance of Register**

Under the Act, every employer is required to maintain a register in respect of children employed or permitted to work by such employer. The register must be available for inspection by an Inspector at all times during working hours showing:

- a) The name and date of birth of every child so employed or permitted to work;
- b) Hours and periods of work of any such child and the intervals of rest to which he is entitled;
- c) The nature of work of any such child; and
- d) Such other particulars as may be prescribed by the Government.

**Penalties**

Imprisonment up to one year or fine up to Rs. 20,000/- or both for violation of the provisions of the Act.

**The Apprenticeship Ordinance, 1962**

