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PART I

Acts, Ordinances, President's Orders and Regulations NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 10th February, 1975

The following Act of Parliament received the assent of the President on the 6th February, 1975, and is hereby published for general information:—

ACT No. XVI OF 1975

An Act further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Industrial Relations (Amendment) Act, 1975.

(2) It shall come into force at once.

2. **General.**—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter referred to as the said Ordinance, for the words "Central Government", wherever occurring, the words "Federal Government" shall be substituted and shall be deemed to have been so substituted on the 14th August, 1973.

3. **Amendment of section 2, Ordinance XXIII of 1969.**—In the said Ordinance, in section 2,—

(a) after clause (v), the following new clauses shall be inserted namely:—

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

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(vaa) "Commission" means the National Industrial Relations Commission constituted under section 22A ;"

(b) in clause (ix), after the word "industry" at the end, the words and commas "and, except in section 22EE, includes a collective bargaining unit, if any, constituted under that section in any establishment or group of establishments" shall be added ;

(c) in clause (xiii), after the word "person" at the end, the words and commas "and is not in respect of the enforcement of any right guaranteed or secured to him by or under any law, other than this Ordinance, or any award or settlement for the time being in force" shall be added ; and

(d) after clause (xxvii), the following new clause shall be inserted, namely :—

"(xxviii) "Wage Commission" means a Wage Commission constituted under section 38A ;"

4. Amendment of section 10, Ordinance XXIII of 1969.—In the said Ordinance, in section 10,—

(a) in sub-section (1),—

(i) in clause (i), after the word "contravened", the commas and words ", or has been registered in contravention of," shall be inserted ;

(ii) in clause (iii), for the semi-colon and word " ; or " a full stop shall be substituted ; and

(iii) clause (iv) shall be omitted ; and

(b) after sub-section (2), the following new sub-section shall be added, namely :—

"(3) The registration of a trade union shall be cancelled by the Registrar if, after holding such inquiry as he deems fit, he finds that such trade union has dissolved itself or has ceased to exist."

5. Substitution of section 11, Ordinance XXIII of 1969.—In the said Ordinance, for section 11 the following shall be substituted, namely :—

"11. *Appeal against cancellation.*—Any trade union aggrieved by a decision given—

(a) by the Labour Court under sub-section (1) or sub-section (2) of section 10, may appeal to the Tribunal, or

(b) by the Registrar under sub-section (3) of section 10, may appeal to the Labour Court."

6. Amendment of section 13, Ordinance XXIII of 1969.—In the said Ordinance, in section 13,—

(a) for clause (b) the following shall be substituted, namely :—

"(b) to lodge, or authorise any person to lodge, complaints with the Labour Court or Commission for action, including prosecution,

against trade unions, employers, workers or other persons for any alleged offence or any unfair labour practice or violation of any provision of this Ordinance or for expending the funds of a trade union in contravention of the provisions of its constitution;"; and

(b) in clause (c), the word "and" at the end shall be omitted and thereafter the following new clause shall be inserted, namely:—

"(cc) to inspect the accounts and records of the registered trade unions, or investigate or hold such inquiry as he deems fit, either himself or through any officer subordinate to, and authorised in writing in this behalf by, him; and".

7. Amendment of section 15, Ordinance XXIII of 1969.—In the said Ordinance, in section 15, in sub-section (1),—

(a) in clause (f), for the words "compel any officer of the collective bargaining agent to sign a memorandum of" the words "compel or attempt to compel any officer of the collective bargaining agent to arrive at a" shall be substituted; and

(b) in clause (h), for the full stop at the end a semi-colon shall be substituted, and thereafter the following new clauses shall be added, namely:—

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

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

8. Amendment of section 16, Ordinance XXIII of 1969.—In the said Ordinance, in section 16, in sub-section (1),—

(a) for the words "trade union of workmen and no person acting on behalf of such trade union" the words "other person or trade union of workmen" shall be substituted;

(b) in clause (c), after the word "by" occurring for the first time, the words "intimidating or" shall be inserted; and

(c) for clause (d) the following shall be substituted, namely:—

"(d) compel or attempt to compel the employer to accept any demand by using intimidation, coercion, pressure, threat, confinement to, or ouster from, a place, dispossession, assault, physical injury, disconnection of telephone, water or power facilities or such other methods;

(e) commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise act in furtherance or support of, an illegal strike or a go-slow.

Explanation.—In this clause, 'go-slow' means an organized, deliberate and purposeful slowing down of normal output, or the deterioration of the normal quality, of work by a body of workmen acting in a concerted manner, but does not include the slowing down of normal output, or the deterioration of the normal quality, of work which is due to mechanical defect, break-down of machinery,

failure or defect in power supply or in the supply of normal materials and spare parts of machinery.”.

9. Amendment of section 17, Ordinance XXIII of 1969.—In the said Ordinance, in section 17, for the word “determined” the word “certified” shall be substituted.

10. Amendment of section 22, Ordinance XXIII of 1969.—In the said Ordinance, in section 22,—

(a) in sub-section (1), for the words “be deemed” the words “upon an application made in this behalf be certified by the Registrar in the prescribed manner” shall be substituted;

(b) in sub-section (2), in the proviso, for the full stop a colon shall be substituted and thereafter the following new proviso shall be added, namely:—

“Provided further that the Registrar shall not entertain any application under this sub-section in respect of an establishment or group of establishments, consisting of, or including, a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (XXV of 1934), unless such application is made during the month in which the number of workmen employed in such factory in a year is usually the maximum.”;

(c) in sub-section (9),—

(i) in clause (e), for the word “declare” the word “certify” shall be substituted; and

(ii) in the proviso, for the word “declared” the word “certified” and for the full stop at the end a colon shall be substituted and thereafter the following new provisos shall be inserted, namely:—

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

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

(d) after sub-section (9) amended as aforesaid, the following new sub-section shall be inserted, namely:—

“(9a) If no trade union indicates under clause (a) of sub-section (3) that it desires to be a contestant in the secret ballot, the Registrar shall certify the trade union which has made the application under sub-section (2) to be the collective bargaining agent.”;

(e) in sub-section (10), for the word “declared” the word “certified” and for the word “declaration” the word “certification” shall be substituted; and

- (f) in sub-section (12), in clause (a), after the word "work" at the end, the words and commas "other than matters which relate to the enforcement of any right guaranteed or secured to it or any workman by or under any law, other than this Ordinance, or any award or settlement" shall be added.

11. Amendment of section 22A, Ordinance XXIII of 1969.—In the said Ordinance, in section 22A,—

- (a) in sub-section (1), the comma and words "hereafter referred to as the Commission" shall be omitted;
- (b) in sub-section (8), for clauses (f) and (g) the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"(f) to try offences of unfair labour practices punishable under—

- (i) section 53, other than sub-sections (1) and (5) thereof; and
 (ii) any other section, in so far as they relate to employers or workers in relation to an industry-wise trade union, a federation of such trade unions, a federation at the national level or officers of such union or federation;

(g) to deal with cases of unfair labour practices specified in sections 15 and 16 on the part of employers, workmen, trade unions of either of them or persons acting on behalf of any of them, whether committed individually or collectively, in the manner laid down under section 25A or section 34 or in such other way as may be prescribed, and to take, in such manner as may be prescribed by regulations under section 22F, measures calculated to prevent an employer or workman from committing an unfair labour practice;"

- (c) for sub-section (9) the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"(9) The Commission may, on the application of a party, or of its own motion,—

- (a) initiate prosecution, trial or proceedings, or take action, with regard to any matter relating to its functions; and
 (b) withdraw from a Junior Labour Court or Labour Court any application, proceedings or appeal relating to unfair labour practice." ; and

- (d) in sub-section (10a), after the word "it" at the end, the words "and grant such relief as the Commission has the power to grant" shall be substituted and shall be deemed always to have been so substituted.

12. Amendment of section 22B, Ordinance XXIII of 1969.—In the said Ordinance, in section 22B, in sub-section (3), in clause (a),—

- (i) after the word "for", occurring for the first time, the words and comma "trial of offences, or" shall be inserted; and
 (ii) the words, figures, letter and commas "in respect of proceedings under section 25A or, as the case may be, section 34" shall be omitted.

13. **Amendment of section 22D, Ordinance XXIII of 1969.**—In the said Ordinance, in section 22D,—

- (a) in sub-section (1),—
 - (i) for the word “sentence”, occurring for the first time, the words “a sentence or order determining and certifying a collective bargaining unit” shall be substituted; and
 - (ii) for the words “or sentence”, occurring for the second time, the comma and words “, sentence or order” shall be substituted; and
- (b) for sub-section (2) the following shall be substituted, namely:—

“(2) An appeal preferred to the Commission under sub-section (1) shall be disposed of by the Full Bench of the Commission which shall,—

- (a) if the appeal is from an order determining and certifying a collective bargaining unit, have the power to confirm, set aside, vary or modify such an order; and
- (b) if the appeal relates to any other matter, have the same power in relation to the appeal as the Labour Court, the Tribunal or the High Court, as the case may be, would have had if the matter to which the appeal relates were a matter in relation to which an appeal can be preferred to the Labour Court, the Tribunal or the High Court.”

14. **Amendment of section 22E, Ordinance XXIII of 1969.**—In the said Ordinance, in section 22E, after the word and comma “order,” the word and comma “decision,” shall be inserted.

15. **Insertion of new section 22EE, Ordinance XXIII of 1969.**—In the said Ordinance, after section 22E, amended as aforesaid, the following new section shall be inserted, namely:—

“22EE. **Determination, etc., of collective bargaining unit.**—(1) Where the Commission, on an application made in this behalf, by a trade union of workmen or a federation of such trade unions, or on a reference made by the Federal Government, after holding such inquiry as it deems fit, is satisfied that for safeguarding the interest of the workmen employed in an establishment or group of establishments belonging to the same employer and the same industry, in relation to collective bargaining, it is necessary, just and feasible to determine one or more collective bargaining units of such workmen in such establishment or group, it may, having regard to the distribution of workers, existing boundaries of the components of such establishment or group, facilities of communication, general convenience, sameness or similarity of economic activity and other cognate factors,—

- (a) determine and certify one or more collective bargaining units in such establishment or group;
- (b) specify the modifications which, in consequence of the decision under this section, will take effect in regard to the registration of the trade unions and federations of trade unions affected by such decision and certification of collective bargaining

agents among such unions and federations, nomination or election of shop stewards, and workers' representatives for participation in the management of the factories, if any, affected by such decision ;

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

Provided that the date so specified shall not be a date falling within the period of two years specified in sub-section (10) of section 22 in its application to a collective bargaining agent certified in respect of an establishment or establishments :

Provided further that, after the receipt of a reference for determination of a collective bargaining unit, the Commission may stop or prohibit the proceedings to determine collective bargaining agent under section 22 for any establishment or group of establishments which is likely to be affected by a decision under this section.

- (d) take such measures or issue such directions to the Registrar as may be necessary to give effect to such modifications ; and
- (e) determine and certify a collective bargaining agent for each such unit in accordance with section 22, in so far as applicable and with the necessary modifications, if such a unit relates to more than one Province, or direct the Registrar to take such action, if such a unit relates to only one Province.
- (2) Where the Commission issues any directions to the Registrar under this section, the Registrar shall comply with them within such period as the Commission may from time to time determine.
- (3) After the certification of a collective bargaining unit, no trade union shall be registered in respect of that unit except for the whole of such unit and no certification or proceedings for determination of collective bargaining agent under section 22 shall take place for a part of a collective bargaining unit or a group of collective bargaining units.
- (4) An order of the Commission under this section shall have effect notwithstanding anything to the contrary contained in this Ordinance."

16. **Amendment of section 22F, Ordinance XXIII of 1969.**—In the said Ordinance, in section 22F, in sub-section (2), after clause (a), the following new clause shall be inserted, namely :—

"(aa) determination of collective bargaining units ;"

17. **Amendment of section 33, Ordinance XXIII of 1969.**—In the said Ordinance, in section 33, for sub-section (1) the following shall be substituted, namely :—

- "(1) The Federal Government in the case of a strike or lock-out relating to—
- (a) an industrial dispute of national importance, or
- (b) an industrial dispute in respect of any of the public utility services,

which the Commission is competent to adjudicate and determine, and the Provincial Government in the case of a strike or lock-out relating to an industrial dispute in respect of any of the public utility services which the Commission is not competent to adjudicate and determine, may, by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out."

18. Amendment of section 35, Ordinance XXIII of 1969.—In the said Ordinance, in section 35, sub-section (6) shall be omitted.

19. Amendment of section 36B, Ordinance XXIII of 1969.—In the said Ordinance, in section 36B, after sub-section (5), the following new sub-section shall be added, namely :—

"(6) Any proceeding before a Junior Labour Court shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and a Junior Labour Court shall be deemed to be a civil court for the purposes of sections 195 and 480 of the Code of Criminal Procedure, 1898 (Act V of 1898)."

20. Insertion of new sections 38A, 38B, 38C, 38D, 38E, 38F, 38G, 38H and 38I Ordinance XXIII of 1969.—In the said Ordinance, after section 38, the following new sections shall be inserted, namely :—

"38A. *Wage Commission.*—(1) The Federal Government may, whenever it so considers necessary, by notification in the official Gazette, constitute a Wage Commission for fixing rates of wages and determining all the other terms and conditions of service, in accordance with the provisions of this Ordinance in respect of the workers of a bank or such other workers as the Federal Government may, by notification in the official Gazette, specify.

(2) The Wage Commission shall consist of a Chairman appointed by the Federal Government, who shall be a person who has been or is a Judge of a High Court, and such other members possessing the prescribed qualifications as may be appointed by the Federal Government.

(3) The Wage Commission shall give its decision within a period of six months from the day of its constitution, or within such extended period, not exceeding a further period of six months, as the Federal Government may, by notification in the official Gazette, specify and the decision shall be immediately communicated to the Federal Government.

(4) All questions at a meeting of the Wage Commission shall be determined by a majority of the members present and voting :

Provided that the Chairman shall have a second or a casting vote in the event of an equality of votes.

(5) No act or proceeding of the Wage Commission, whether done or taken before or after the commencement of the Industrial Relations (Amendment) Act, 1974, shall be invalid by reason only of any defect in the constitution of the Wage Commission.

- 38B. *Fixation of Wages, etc.*—In fixing rates of wages and determining other terms and conditions of service of workers, the Wage Commission may take into consideration the cost of living, the prevalent rates of wages of comparable employments, the circumstances relating to the industry in different regions of the country and any other circumstances which to the Wage Commission may seem relevant.
- 38C. *Publication, etc., of the decision of the Wage Commission.*—(1) The decision of the Wage Commission shall, within a period of one month from the date of its receipt by the Federal Government, be published in such manner as may be prescribed.
- (2) The decision of the Wage Commission published under sub-section (1) shall come into operation on such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication and shall remain in force for three years or until it is modified or varied by a later decision of the Wage Commission published in the manner provided in sub-section (1), whichever is later.
- (3) No industrial dispute shall be raised in respect of any matter which is under consideration of the Wage Commission nor shall any dispute be raised in respect of any matter on which the decision of that Commission is in operation.
- (4) Any industrial dispute in respect of any matter which is under consideration of the Wage Commission which may be pending before the National Industrial Relations Commission or any Labour Court or Tribunal shall abate.
- 38D. *Decision of Wage Commission to be deemed to be an award of the Commission.*—A decision of the Wage Commission published under section 38C shall be deemed to be an award of the Full Bench of the Commission and the provisions of this Ordinance applicable to such award, including the provisions of sections 51 and 55, so far as may be and with the necessary modifications, shall apply to the decision of the Wage Commission.
- 38E. *Special powers of the Commission.*—(1) Notwithstanding anything contained in this Ordinance, the Commission shall have power—
- (a) to try an offence punishable under section 55, if the offence relates to failure to implement any decision of the Wage Commission;
- (b) of its own motion or on the application of a party, to withdraw from any court (except the Supreme Court or a High Court) any application, proceeding or appeal relating to such an offence and dispose of it; and
- (c) to refer any such application, proceeding or appeal to any competent court for disposal.
- (2) Any court to which any application, proceeding or appeal is referred under clause (c) of sub-section (1) shall enquire into it and dispose of the case as if the application or appeal had originally been made to it or, as the case may be, the proceeding had originally commenced before it.

(3) For the trial of an offence referred to in sub-section (1), the Commission shall follow the same procedure and exercise the same powers as it follows and exercises for the trial of an offence under this Ordinance, and the provisions of this Ordinance, other than the provisions of sub-section (9) of section 22A, shall, so far as may be and with the necessary modifications, apply to such trial.

38F. *Powers and procedure of the Wage Commission.*—Subject to any rules of procedure which may be prescribed, the Wage Commission may, for the purpose of fixing rates of wages and determining other terms and conditions of service, exercise the same powers and follow the same procedure, so far as may be and with the necessary modifications, as the Commission may exercise or follow for the purpose of adjudicating an industrial dispute under this Ordinance.

38G. *Decision of the Wage Commission to be binding on all employers.*—The decision of the Wage Commission shall be binding on all employers concerned with the decision in relation to their workers and every such worker shall be entitled to be paid the wages and governed by the terms and conditions determined by the Wage Commission.

38H. *Powers of Wage Commission to fix interim rates of wages, etc.*—(1) Notwithstanding anything contained in this Ordinance, where the Wage Commission is of the opinion that it is necessary so to do, it may, by notification in the official Gazette, fix interim rates of wages and the terms and conditions of service of workers in respect of whom it is constituted.

(2) Any interim rates of wages and the terms and conditions of service so fixed shall be binding on all employers concerned with such fixation in relation to their workers and every such worker shall be entitled to be paid wages at a rate equal to the interim rate of wages and to the terms and conditions of service fixed under sub-section (1).

(3) Any interim rate of wages and the terms and conditions of service fixed under sub-section (1) shall remain in force until the decision of the Wage Commission comes into operation under sub-section (2) of section 38C.

38I. *Effect of laws and agreements inconsistent with sections 38A, 38B, 38C, 38D, 38E, 38F, 38G and 38H.*—The provisions of sections 38A, 38B, 38C, 38D, 38E, 38F, 38G and 38H shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of the Industrial Relations (Amendment) Ordinance, 1974.”

21. **Amendment of section 46, Ordinance XXIII of 1969.**—In the said Ordinance, in section 46, in sub-section (1), in clause (c), for the words and figure “or section 45” the comma, words, figures, brackets and letter “”, section 45 or sub-section (3) of section 46A” shall be substituted.

22. **Amendment of section 46A, Ordinance XXIII of 1969.**—In the said Ordinance, in section 46A, in sub-section (7), after the word “workers” occurring for the second time, the following shall be inserted, namely :—

“; and, notwithstanding anything to the contrary contained in this Ordinance, if the Court, after holding such inquiry as it deems fit,

records its finding that any registered trade union has committed or abetted the commission of such contravention, the finding shall have the effect of cancellation of the registration of such trade union and debarring all officers of such trade union from holding office in that or in any other trade union for the unexpired term of their offices and for the term immediately following".

23. Amendment of section 47A, Ordinance XXIII of 1969.—In the said Ordinance, in section 47A, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

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

24. Amendment of section 52, Ordinance XXIII of 1969.—In the said Ordinance, in section 52, for the word "ascertained" the word "certified" shall be substituted.

25. Amendment of section 53, Ordinance XXIII of 1969.—In the said Ordinance, in section 53,—

(a) in sub-section (1A), for the word "five" the word "ten" shall be substituted ;

(b) in sub-section (2),—

(i) for the words "any workman who contravenes the provisions of section 16" the words, figures, commas, brackets and letter "Whoever contravenes the provisions of section 16, other than those of clause (d) of sub-section (1) thereof," shall be substituted ; and

(ii) for the word "two" the word "five" shall be substituted ; and

(c) after sub-section (6), the following new sub-section shall be added, namely :—

"(7) Notwithstanding anything to the contrary contained in any law, custom, usage, constitution of a trade union, memorandum and articles of association of a company or agreement, no fine paid or payable due to conviction under this Ordinance shall be debitable against the accounts of any establishment."

26. Omission of sections 57, 58 and 59, Ordinance XXIII of 1969.—In the said Ordinance, sections 57, 58 and 59 shall be omitted.

27. Amendment of section 62A, Ordinance XXIII of 1969.—In the said Ordinance, in section 62A, after the word "Ordinance" at the end the words, brackets, figures and letter "other than the offence of illegal strike or illegal lock-out continued in contravention of an order made under sub-section (3) of section 46A" shall be added.

28. Amendment of section 64, Ordinance XXIII of 1969.—In the said Ordinance, in section 64, for the word "No" the words and comma "Save as provided in this Ordinance, no" shall be substituted.

29. **Amendment of section 66, Ordinance XXIII of 1969.**—In the said Ordinance, in section 66, in sub-section (1), after the word "Commission", the words "and the Wage Commission" shall be inserted.

30. **Repeal.**—The Industrial Relations (Amendment) Ordinance, 1974 (XIX of 1974), is hereby repealed.

ASLAM ABDULLAH KHAN,

Secretary.