

# **BANGLADESH LABOUR ACT, 2006**

# **Bangladesh Labour Act, 2006**

## **(XLII of 2006)**

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# **THE BANGLADESH LABOUR ACT, 2006**

## **(XLII OF 2006)**

11<sup>th</sup> October, 2006.

An Act to consolidate and amend the laws relating to employment of labour, relations between workers and employers, determination of minimum wage, payment of wages and compensation for injuries to workers, formation of trade unions, raising and settlement of industrial disputes, health, safety, welfare and working conditions of workers, and apprenticeship and matters ancillary thereto.

Whereas it is expedient to consolidate and amend the laws relating to employment of labour, relations between workers and employers, determination of minimum wages, payment of wages and compensation for injuries to workers, formation of trade unions, raising and settlement of industrial disputes, health, safety, welfare and working conditions of workers, apprenticeship and matters connected therewith;

It is hereby enacted as follows-

### **CHAPTER I**

### **PRELIMINARY**

1. Short title, commencement and application: (1) This Act may be called the Bangladesh labour Act, 2006

(2) It shall come into force at once.

(3) Save as otherwise specified elsewhere in this Act, it extends to the whole of Bangladesh.

(4) Notwithstanding anything contained in sub-section (3), this Act shall not apply to-

(a) Offices of or under the Government;

(b) Security printing press;

(c) Ordnance factories;

(d) establishments for the treatment or care of the sick, infirm, aged, destitute, mentally disabled, orphan, abandoned child, widow or deserted woman, which are not run for profit or gains;

(e) Shops or stalls in any public exhibition or show which deal in retail trade and which is subsidiary or to the purpose of such exhibition or show;

(f) Shops or stalls in any public fair or bazaar for religious or charitable purpose;

(g) Educational, training and research institutions;

(h) Hostels and messes not maintained for profit or gains;

(i) In respect of chapter, ii, any shop, commercial establishment or industrial establishment owned and directly managed by the government where the workers are governed by conduct rules applicable to government servants;

(j) workers whose recruitments and terms and conditions of service are governed by laws or rules made under article 62, 79, 113, or 133 of the constitution, except, for the purposes of chapters XII, XIII and XIV workers employed by the-

(i) Railway Department

(ii) Posts, Telegraph and Telephone Departments,

(iii) Roads and highways Department, (iv) Public works Department, (v) Public Health Engineering Department,

(vi) Bangladesh Government press.

(k) Workers employed in an establishment mentioned in clauses (b), (c) (d), (e), (f), (g) and (h) but workers other than teachers, employed by any university shall not be subject to the restrictions except the purposes of chapters XII, XIII and XIV;

(l) Seamen, except for the purposes of chapters XII, XIII and XIV;

(m) Ocean going vessels, except for the purpose of chapter XVI;

(n) agricultural farms where less than ten workers are normally employed;

(o) domestic servants; and

(p) establishments run by the owner with the aid of members of his family and without employing any hired labour.

2. Definitions: In this Act, unless there is anything repugnant in the subject or context,-

(i) 'Retirement' Means normal termination of employment of a worker on attaining certain age under section 28 of the Act.

Provided that retirement shall also include voluntary retirement from service on completion of 25 years of service in any establishment.

(ia) 'partial disablement' means, where the disablement is of temporary nature, such disablement as reduces the earning capacity of a worker in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in the First Schedule shall be deemed to result in permanent partial disablement;

(ii) 'manufacturing process' means any of the following processes-

(a) for making, altering, repairing, ornamenting, painting, washing, finishing, packing or otherwise treating any articles or substance with a view to its use, sale, transport, delivery, display or disposal,

(b) for pumping, oil, gas water, sewerage or other fluids or slurries,

(c) for generating, transforming or transmitting power or gas,

(d) for constructing, reconstructing, repairing, refitting, finishing or breaking up of ships or vessels, or

(e) for printing by letter press, lithography, photogravure, computer, photocompose, offset or other similar work or book-binding which is carried on by way or trade or for purposes of gain or incidental to another business so carried on;

(iii) 'officer' in relation to a trade union, means any member of the executive thereof, but does not include an auditor or legal adviser;

(iv) 'hours of work' means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals;

(v) 'working journalist' means a person who is a whole time journalist and is employed as such in, or in relation to, any newspaper establishment, and includes an editor, leader writer, news editor, sub-editor, feature writer, reporter, correspondent, copy tester, cartoonist, news-photographer, calligraphist and proof-reader;



(vi) 'workshop' means any premises, including the precincts thereof, wherein any industrial process is carried on.

(vii) 'factory' means any premises including the precincts thereof whereon five or more workers ordinarily work on any day of the year and in part of which a manufacturing process is being carried on, but does not include a mine;

(viii) 'adolescent' means a person who has completed his fourteenth year but has not completed eighteenth year of age;

(ix) 'mine' means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tram-ways and sidings, whether above or below ground, in or adjacent to or belonging to a mine; provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for pulp making or the dressing of minerals;

(x) 'gratuity' means wages payable on termination of employment of a worker which shall be equivalent to not less than thirty days' wages for every completed year of service or for any part thereof in excess of six months;

It shall be in addition to any payment of compensation or payment in lieu of notice due to termination of services of a worker on different grounds.

(x-a) 'tea plantation' means any land used or intended to be used for growing tea, and includes a tea factory;

(xi) 'retrenchment' means the termination by the employer of services of workers, not as a measure of punishment but on the ground of redundancy;

(xii) 'public utility service' means-

(a) the generation, production, manufacture, or supply of electricity, gas, oil or water to the public,

(b) any system of public conservancy or sanitation,

(c) hospitals and ambulance service,

(d) fire-fighting service,

(e) postal, telegraph or telephone service,

(f) railways, airways, road and river transport,

(g) ports,

(h) watch and ward staff and security services maintained in any establishment,

(i) oxygen acetylene, and

(j) banking;

(xiii) 'Tribunal' means the labour appellate tribunal established under this Act;

(xiv) 'transmission machinery' means any shaft, wheel, drum, pulley system of pulleys, couplings, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or plant's

(xv) 'trade union' means trade union of workers or employers formed and registered under chapter XIII of this Act and shall include a federation of trade unions.

(xvi) 'federation of trade unions' means a federation of trade unions registered under chapter XIII

(xvii) 'discharge' means the termination of services of a worker by the employer for reasons of physical or mental incapacity or continued ill-health of a worker;

(xviii) 'go-slow' means an organized, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner, and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply of normal material and spare parts of machinery;

(xix) 'day' means a period of twenty-four hours beginning at 6.00 am

(xx) 'code of civil procedure' means code of civil procedure, 1908(vof 1908).

(xxi) 'shop' means any premises used wholly or in part for the whole-sale or retail sale of commodities or articles either for cash or credit, or where services are rendered to customers, and includes an office, store-room, godown, warehouse or workplace, whether in the same premises or elsewhere, mainly used in connection with such trade or business, and such other premises as the government may, by notification in the official gazette, declare to be a shop for the purpose of this Act;

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

(xxiii) 'seamen' means any person forming part of the crew of any ship, but does not include the master of the ship;

(xxiv) 'executive committee' in relation to a trade union means the body of persons, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution:

(xxv) 'settlement' means a settlement arrived at in the course of a conciliation proceeding, and includes an agreement between an employer and his worker arrived at otherwise than in the course of any conciliation proceedings, where such agreement is in writing, has been signed by the parties thereto and a copy thereof has been sent to the Director of Labour and the Conciliator;

(xxvi) 'river transport service' means a service carrying passengers or goods by river in vessels for hire or reward;

(xxvii) 'vessel' means any mechanically propelled vessel used or capable of being used for the purpose of river transport and includes a tug or flat or barge;

(xxviii) 'administrative worker' means a person who is employed on a whole-time basis in, or in relation to, any newspaper establishment in any capacity other than that of a working journalist or a newspaper press worker;

(xxix) 'shift' means, where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such periods;

(xxx) ‘dependant’ in relation to a deceased worker, means any of the following relatives, namely;

- (a) a widow, minor child, unmarried daughter, or a widowed mother; and
- (b) if wholly or partly dependant on the earnings of the worker at the time of his death, a widower, father or widowed mother, a daughter if unmarried or minor or widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, a minor child of a deceased daughter where no father of the child is alive or, where no parent of the worker is alive, a paternal grandparent and illegitimate son or illegitimate unmarried daughter;

(xxxii) ‘establishment’ means any shop, commercial establishment, industrial establishment or premises in which workers are employed for the purpose of carrying on any industry;

(xxxiii) ‘group of establishments’ means more than one establishment under different employers, carrying on the same, similar or identical industry;

(xxxiv) ‘regulation’ means regulation made under this Act,

(xxxv) ‘maternity benefit’ means the sum of money payable under the provisions of chapter IV to a woman worker with leave;

(xxxvi) ‘prime mover’ means any engine, motor, or other appliance which generates or otherwise provides power;

(xxxvii) ‘adult’ means a person who has completed eighteenth year of age;

(xxxviii) ‘code of criminal procedure’ means code of criminal procedure, 1898 (v of 1898)

(xxxix) ‘closed’ means not open for service to any customer or to conduct any business;

(xl) ‘dismissal’ means the termination of services of a worker by the employer for misconduct;

(xli) ‘plantation’ means any estate which is maintained for the purpose of growing rubber, coffee or tea and includes agriculture farms other than experimental or research farm, employing ten or more persons;

(xlii) ‘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) a clerical department of a factory or of any industrial or commercial undertaking,
- (b) the office establishment of a person who for the purpose of fulfilling a contract with any commercial establishment or industrial establishment employs workers,
- (c) a unit of a joint-stock company,
- (d) an insurance company, a banking company or a bank,
- (e) a broker’s office
- (f) a stock exchange,
- (g) a club, a hotel or a restaurant or an eating house,
- (h) a cinema or theatre,
- (i) such other establishment or class thereof as the Government may, by notification in the official Gazette, declare to be a commercial establishment for the purpose of this Act;

(xlii) 'rule' means rule made under this Act;

(xliii) 'illegal strike' means a strike declared, commenced or continued otherwise than in accordance with the provisions of chapter XIV;

(xliv) 'illegal lock-out' means a lock-out' means a lock-out declared, commenced or continued otherwise than in accordance with the provisions of chapter XIV;

(xlv) 'wages' means all remuneration, expressed in terms of money or capable of being so expressed, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, and includes any other additional remuneration of the nature aforesaid which would be so payable, but does not include-

- (a) the value of any house accommodation, supply of light, water medical attendance or other amenity or of any service excluded by general or special order of the government,
- (b) any contribution paid by the employer to any pension fund provident fund,
- (c) any traveling allowance on the value of any traveling concession,
- (d) any sum paid to the worker to defray special expenses entitled on him by the nature of his employment;

(xlvi) 'arbitrator' means a person appointed as such under chapter XIV;

(xlvii) 'chief inspector' Deputy chief inspector' 'Assistant chief inspector' and 'inspector' shall respectively mean persons so appointed under chapter xx

(xlviii) 'Director of Labour' Additional director of labour' Joint Director of Labour' Deputy Director of Labour' and Assistant Director of Labour' shall mean persons so appointed under chapter XX

(xlix) 'employer' in relation to an establishment, means any person who employs workers therein and includes-

- (a) a heir, successor, assign, guardian or legal representative, as the case may be, or such person;
- (b) any manager or person responsible for the management and control of the establishment.
- (c) in relation to an establishment run by or under the authority of the Government, the authority appointed in this behalf or where on authority is so appointed ,the head of the Ministry or Division concerned ,
- (d) in relation to an establishment run by or on behalf of a local authority ,the officer appointed in this behalf or ,where no officer is so appointed ,the chief executive officer of that authority,
- (e) in relation to any other establishment ,the owner of such establishment any director, manager ,secretary , agent or other officer or person concerned with the management of the affairs therefore ,and
- (f) in relation to an establishment under the occupation of any person other than the owner ,the person in occupation of that establishment or in ultimate control over the affairs of the

establishment and the manager or other person concerned with the management of the affairs therefore

(L) 'machinery' includes prime movers, transmission machinery and other appliance whereby power is generated, transformed, transmitted or applied;

(Li) 'vehicle' means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport and includes a trolley vehicle and a trailer;

(Lii) 'collective bargaining agent', in relation to an establishment or group of establishments, means the trade union of workers or federation of trade group of establishments in the matter of collective bargaining;

(Liii) 'relay' means, where work of the same kinds is carried out by two or more sets of workers working during different periods of the day, each of such sets;

(Liv) 'registered medical practitioner' means any person registered as such under the medical and dental council Act, 1980 (XVI of 1980)

(Lv) 'registered trade union' means a trade union registered under chapter XIII;

(Lvi) 'award' means the determination by an arbitrator, or a Labour court, or the Tribunal of any industrial dispute or any matter relating there to and includes an interim award; an interim award;

(Lvii) 'lick-out' means the closing of a place of employment or part of such place, or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workers employed by him, where such closing, suspension or refusal occurs in connection with the industrial dispute or is intended for the purpose of compelling workers employed the industrial dispute or is intended for the purpose of compelling workers employed to accept certain terms and conditions of or affecting employment;

(Lviii) 'lay-off) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stock or the break-down of machinery to give employment to a worker;

(Lix) 'power' means electrical energy and any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(Lx) 'industry' means any business, trade, manufacture, calling, service, employment or occupation;

(Lxi) 'industrial establishment' means any workshop or other establishment in which articles are produced, adapted or manufactured or where the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating any article or substance, with a view to their use, transport, sale, delivery or disposal, is carried on or such other class of establishments which the Government may, by notification in the official Gazette, declare to be an industrial establishment of the purpose of this Act, and includes any-

- (a) road transport service or railway transport service,
- (b) river transport service,

- (c) airlines,
- (d) dock, wharf or jetty,
- (e) mine, quarry, gas-field or oil –field,
- (f) plantation,
- (g) factory,
- (h) newspaper establishment;

(i) contractor's or sub-contractor's establishment for the purpose of construction, reconstruction, repair, alteration or demolition of any building, road, tunnel, drain, canal or bridge or ship-breaking or rebuilding or loading or unloading of cargo into vessel or carrying thereof;

(Lxii) 'industrial dispute' means any dispute or difference between employers and employers or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person;

(Lxiii) 'child' means a person who has not completed his fourteenth year of age;

(Lxiv) 'Labour court' means a labour court established under this Act;

(Lxv) 'worker' means any person including an apprentice employed in any establishment or industry, either directly or through a contractor, to do any skilled, unskilled, manual, technical, trade promotional or clerical work for hire or reward, whether the terms of employment be expressed or implied, but does not include a person employed mainly in a managerial or administrative capacity;

(Lxvi) 'week' means a period of seven days beginning at 6.00 pm on Friday or such other night as may be fixed by the government in relation to an establishment in any area.

(Lxvii) 'total disablement' means such disablement, whether of a temporary or permanent nature, as incapacitates a worker for all work which he was capable of performing at the time of the accident resulting in such disablement;

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in the First Schedule where the aggregate percentage of the loss of earning capacity as specified in that schedule against those injuries, amounts to one hundred percent;

(Lxviii) 'road transport service' means a service carrying passengers or goods by road in vehicles for hire or reward;

(Lxix) 'newspaper' means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as the Government may, by notification in the official Gazette, declare to be newspaper;

(Lxx) 'newspaper press worker' means a person who is employed on a whole-time basis in any newspaper establishment for doing any printing work;

(Lxxi) 'Newspaper establishment' means an establishment for the printing, production or publication of any newspaper or for conducting any news agency or news or feature syndicate;

(Lxxii) 'newspaper worker' means a working journalist, an administrative worker or a newspaper press worker;

(Lxxiii) 'Conciliator' means a person appointed as such under chapter XIV;

(Lxxvi) 'Conciliation proceedings' means any proceedings before a conciliator'

(Lxxv) 'serious bodily injury' means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to any limb, or the permanent loss of or injury of the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;

(Lxxvi) 'decision' in relation to a Labour court, means any decision or order of that court, other than an award, finally disposing of a case;

(Lxxvii) 'scheme' means scheme made under this Act;

## **CHAPTER TWO**

### **CONDITIONS OF SERVICE AND EMPLOYMENT**

**3. Conditions of employment :** (1) In every establishment employment of workers and other matters incidental thereto shall be regulated in accordance with the provisions of this chapter:

Provided that any establishment may have its own rules regulating employment of workers, but no such rules shall be less favorable to any worker than the provisions of this chapter.

(2) The service rules in any establishment as mentioned in the proviso to sub-section (1) shall be submitted for approval by the employer of such establishment to the chief inspector who shall, within six months of the receipt thereof make such order therein as he deems fit.

(3) No service rules as mentioned in sub-section (2) shall be put into effect except with the approval of the chief Inspector.

(4) Any person aggrieved by the order of the chief Inspector may, within thirty days of the receipt of the order, may prefer appeal to the Government and the order of the Government on such appeal shall be final.

(5) Nothing provided in sub-section (2) shall apply to an establishment which is owned by or under management or control the Government.

✓ **4. Classification of workers and period probation:** (1) workers employed in any establishment shall be classified in any of the following classes according to the nature and condition of work; namely

- (a) apprentice,
- (b) badli,
- (c) casual,
- (d) temporary,

- (e) probationer, and
- (f) permanent.

(2) A worker shall be called an apprentice if he is employed in an establishment as a learner, and is paid an allowance during the period of his training.

(3) A worker shall be called a badli if he is employed in an establishment in the post of a permanent worker or of a probationer during the period who is temporarily absent.

(4) A worker shall be called a casual worker if his employment in an establishment is of casual nature.

(5) A worker shall be called a temporary worker if he is employed in an establishment for work which is essentially of temporary nature, and is likely to be finished within a limited period.

(6) A worker shall be called a probationer if he is provisionally employed in an establishment to fill a permanent vacancy in a post and has not completed the period of his probation in the establishment.

(7) A worker shall be called a permanent worker if he is employed in an establishment on a permanent basis or if he has satisfactorily completed the period of his probation in the establishment.

(8) The period of probation for a worker whose function is of clerical nature shall be six months and for other workers such period shall be three months:

Provided that in the case of a skilled worker, the period of probation may be extended by an additional period of three months if, for any circumstances, it has not been possible to determine the quality of his work within the first three months' period of his probation.

(9) If any worker, whose service has been terminated during his probationary period, including the extended period, is again appointed by the same employer within a period of three years, he shall, unless appointed on a permanent basis, be deemed to a probationer and the period or periods of his earlier probation shall be counted for determining his total period of probation.

(10) If a permanent worker is employed as a probationer in a new post, he may at any time during the probationary period, be reverted to his old permanent post.

**5. Letter of Appointment and Identity Card :** No employer shall employ any worker without giving such worker a letter of appointment and every such employed worker shall be provided with an identity card with photograph.

**6. Service book :** (1) Every employer shall, at his own cost, provide a service book for every worker employed by him.

(2) Such service book shall be kept in the custody of the employer.

(3) Before employing a worker, the employer shall require from him the previous service book if the worker claims that he has been previously in employment under any other employer.



(4) If such worker has any service book, it shall be handed over to the new employer by him and shall be kept in the custody of the employer, for which a receipt shall be given to him.

(5) If such worker has no service book, a service book shall be provided under sub-section (1)

(6) If the worker desires to keep and maintain a duplicate copy of his service book, he may do it at his own cost.

(7) The employer shall hand over the service book to the worker on the termination of the workers' service with him.

(8) If the service book handed over to the worker or the duplicate thereof maintained by him is lost by the worker, the employer shall provide him with a duplicate service book at the cost of the worker.

(9) Nothing in this section shall apply to an apprentice, badli or casual worker.”

**7. Form of service Book :** (1) The service book shall be of such size and in such form as may be prescribed and photograph of the worker shall be affixed to it.

(2) The service book shall contain the following particulars, namely:

- (a) name of the worker, name of mother and father and address of the worker, (in appropriate case name of husband/ wife shall be written)
- (b) date of birth,
- (c) particulars necessary for identification,
- (d) name and address of the employer under whom previously employed, if any,
- (e) period of employment,
- (f) occupation or designation,
- (g) wages and allowance, if any,
- (h) leave availed, and
- (i) conduct of the worker.

**8. Entries in the service book :** The employer shall at the commencement of the employment and during the continuance of the same, make such entries therein from time to time as are required by this chapter and the Rules and both the employer and the worker shall sign the entries as they are made.

**9. Register of workers and supply of tickets and cards:** (1) The employer of every establishment shall maintain a register of workers, to be available to the Inspector at all times during working hours.

(2) The register of workers shall contain the following:

- (a) the name and date of birth of each worker in the establishment;
- (b) date of appointment;
- (c) the nature of his work;
- (d) the periods of work fixed for him;
- (e) the intervals for rest and meals to which he is entitled;
- (f) the days of rest to which he is entitled;

- (g) the group, if any, in which he is included;
- (h) where his group works on shifts, the relay to which he is allotted; and
- (i) such other particulars as may be prescribed by rules;

(3) If the Inspector is of opinion that any muster roll or register maintained a part of the routine of an establishment gives in respect of all or any of the workers in the establishment the particulars required under sub-section (2), he may, by order in writing, direct that such muster roll or register shall, to the corresponding extent, be maintained in place of, and be treated as, the register of workers, in that establishment.

(4) The Government may make rules prescribing the form of the register of workers, the manner in which it shall be maintained and the period for which it shall be preserved.

(5) The employer shall supply Tickets or cards to every worker in the following manner:

- (a) every permanent worker shall be provided with a permanent departmental ticket showing his number;
- (b) every bodli worker shall be provided with a badli card on which shall be entered the day on which he has worked and which shall be surrendered if he obtains permanent employment.
- (c) every temporary worker shall be provided with a temporary ticket which shall be surrendered on his leaving the job or getting a permanent employment;
- (d) every casual worker shall be provided with a casual card on which shall be entered the days on which he has worked in the establishment; and
- (e) every apprentice shall be provided with an apprentice card which shall be surrendered if he obtains permanent employment or if he leaves his training.

**10. Procedure for leave :** (1) A worker who desires to obtain leave of absence shall apply to the employer for the same in writing stating his leave address therein.

(2) The employer or his authoresses officer shall issue orders on the application whthin seen days of the application or two days prior to the commencement of leave applied for, whichever is earlier; Provided that if due to urgent reasons the leave applied for is to commence on the date of application or within three days thereof the order shall be given on the same day.

(3) If the leave asked for is granted, a leave pass shall be issued to the worker.

(4) If the leave asked for is refused or postponed the fact of such refusal or postponement, and the reasons thereof shall be communicated to the worker before the date on which the leave was expected to be commenced. and shall also be recorded in a register to be maintained by the employer for the purpose.

(5) If the worker, after convincing of leave, desires an extension thereof, he shall, if such leave is due to him, apply sufficiently in advance before the expiry of the leave to the employer who shall, as far as practicable send a written reply either granting or refusing extension of leave to the worker to his leave-address.

**11. Payment of wages for unveiled leave:** If the services of a worker, to whom any annual leave is due, is dispensed with whether as a result of retrenchment, discharge, removal, dismissal, termination, retirement or by reason of his resignation before he has availed of any such leave, the

employer shall pay his wages in lieu of the unveiled leave at the rate he is entitled to the payment of wages during the period of leave in accordance with the provisions of this Act.

**12. Stoppage of work :** (1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery, or stoppage of power supply, epidemics, civil commotion or any other cause beyond his control, stop any section or sections of the establishment, wholly or partly for such period as the cause for such stoppage continues to exist.

(2) In the event of such stoppage occurring at any time beyond working hours, the employer shall notify the workers affected, by notice posted on the notice board in the section or department concerned or at a conspicuous place in such establishment before the work is due to begin next.

(3) In the notice mentioned in sub-section (2) direction shall be given indication as to when the work will be resumed and whether such workers are to remain at their place of work at any time before the actual resumption.

(4) In the event of such stoppage occurring at any time during working hours, the workers affected shall be notified, as soon as practicable, in the manner specified in sub-section (2) indicating as to when the work will be resumed and whether such workers are to leave or remain at their place of work.

(5) In the case where workers have been directed to stay at their place of work following such stoppage, the workers so detained may not be paid for the period of such detention if it does not exceed one hour, and the workers so detained shall be paid wages for the whole period of such detention if it exceeds one hour.

(6) If the period of stoppage of work does not exceed one working day, a worker, unless entitled to wages under sub-section (5), may not be paid any wages.

(7) If the period of stoppage of work continues for more than a working day, a worker affected, other than a casual or badli worker, shall be paid wages for day or day by which it will exceed one working day.

(8) If the period of stoppage of work extends beyond three working days, the workers may be laid-off in accordance with the provisions of section 16.

(9) A lay-off mentioned in sub-section (8) shall be effective from the day of stoppage of work and any wage paid to a worker for the first three days may be adjusted against the compensation payable for such subsequent layoff.

(10) For the piece-rate workers affected, their average daily earning in the previous month shall be taken to be the daily wage for the purpose of the sub-section.

**13. Closure of establishment :** (1) The employer may, in the event of an illegal strike by any section or department of any establishment, close down either wholly or partly such section or department and the workers participated in the illegal strike shall not be paid any wages for such closure.

(2) Where by reason of closing down of any section or department of any establishment under sub-section (1) any other section or department is so affected that it is not possible to keep that section or department open, that section or department may also be closed down and the workers affected thereby shall be paid wages as in the case of lay-off for a period of three days and thereafter they may not be paid any wages for such closure.

(3) The fact of such closure shall be notified by the employer, as soon as practicable, by notice posted on the notice board in the section or department concerned or at a conspicuous place in the establishment and the fact of resumption of work, following such closure, shall likewise be notified.

**14. Calculation of 'One year', 'six months' and 'wages' in certain cases :** (1) For the purpose of this chapter, a worker who, during the preceding twelve calendar months, has actually worked in an establishment for not less than two hundred and forty days and one under and twenty days as the case may be shall be deemed to have completed 'one year' or 'six months' respectively of continuous service in the establishment.

(2) For the purpose of calculation of the number of days on which a worker actually worked in an establishment as mentioned in sub-section (1) the days on which-

- (a) the day during which he has been laid-off;
- (b) he has been on leave with or without wages due to sickness or accident;
- (c) he has been on legal strike or out of work due to illegal lock-out;
- (d) in the case of female worker, she has been on maternity leave not exceeding sixteen weeks; shall be counted.

(3) For the purpose of calculation of compensation under section 19, 20, or 23 or wages under section 22, 23, 26, or 27 'wages' shall mean the average of the basic wages and dearness allowance and ad-hoc or interim pay, if any, paid to the worker during the period of twelve months immediately preceding the date of his retrenchment, dismissal, removal, discharge, retirement or termination of employment, as the case may be.

**15. Restrictions of application of sections 12, 16, 17, and 18. :** Notwithstanding anything contained elsewhere in this chapter, the provisions of sections 12, 16, 17, and 18 shall not apply to any establishment in which five or more workers are not employed, or were not employed on any day of the preceding twelve months.

**16. Right of laid-off workers for compensation :** (1) Whenever a worker, other than a badli or casual worker, whose name is borne on the muster-rolls of an establishment and who has completed not less than one year of continuous service under the employer is laid-off, he shall be paid compensation by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene.

(2) The amount of compensation as mentioned in sub-section (1) shall be equal to half of the total of the basic wages and dearness allowance, and ad-hoc or interim pay, if any, and the full amount of housing allowance, if any, that would have been payable to him had he not been so laid-off.

(3) A badli worker whose name is borne on the muster-rolls of an establishment shall cease to be regarded as 'badli' for the purpose of this section, if he has completed one year of continuous service in the establishment.

(4) No worker shall, unless there is an agreement to the contrary between the worker and the employer, be entitled to the payment of compensation under this section for more than forty-five days during any calendar year.

(5) Notwithstanding anything contained in sub-section (4), if during a calendar year a worker is laid-off for more than forty-five days, whether continuously or intermittently, and the lay off after the expiry of the first forty-five days comprises period or periods of fifteen days or more, the worker shall, unless there is an agreement to the contrary between the worker and the employer, be paid compensation for all the days comprised in every subsequent period of lay-off for fifteen days or more.

(6) The amount of compensation as mentioned in sub-section (5) shall be equal to one-fourth of the total of the basic wages and dearness allowance, and ad-hoc or interim pay, if any, and the full amount of housing allowance, if any.

(7) In any case where, during a calendar year, a worker is to be laid off after the first forty-five days as aforesaid, for any continuous period of fifteen days or more, the employer may, instead of laying-off such a worker, retrench him under section 20.

**17. Muster-roll for laid-off workers :** Notwithstanding that the workers employed in an establishment have been laid-off, the employer shall maintain a muster-roll, and provide for the making of entries therein by or for the laid-off workers whom may present themselves for work at the establishment at the appointed time during normal working hours.

**18. Laid-off workers not entitled to compensation uncertain cases :** (1) Notwithstanding anything contained elsewhere in this chapter, no compensation shall be payable to a worker who has been laid-off-

(a) if he refuses to accept on the same wages, any alternative employment not requiring any special skill or previous experience, in the same establishment for which he has been laid-off, or in any other establishment belonging to the same employer and situated in the same town or village or situated within a radius of eight kilometers from the establishment;

(b) If he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day if so required by the employer.

(2) For the purpose of sub-section (1) (b), every laid-off worker who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself, shall be deemed to have been laid-off for that day within the meaning of this section.

(3) If a laid-off worker who presents himself for work as mentioned in sub-section (2), instead of being given employment at the commencement of any shift for any day, is asked to present himself for the purpose during the second half of the shift for the day, and if he so presents himself, he shall be deemed to have been laid-off only for one-half of that day, the other half being treated as on duty, irrespective of the fact whether he is given work or not.

**19. Death benefit :** If a worker dies while in service after a continuous service of not less than three years, his nominee or in the absence of an nominee, his dependant shall be paid by the employer a compensation at the rate of thirty days wages for every completed year of service, or for any part

thereof in excess of six months or gratuity, if any, whichever is higher, in addition to any other benefit to which the deceased worker would have been entitled had he retired from service:

Provided that if such worker is covered by any compulsory insurance scheme of the establishment, or, if any compensation is payable for such death under chapter XII, the worker shall be entitled to whichever is higher.

**20. Retrenchment :** (1) A worker employed in an establishment may be retrenched from service on the ground of redundancy.

(2) No worker who has been in continuous service for not less than one year under an employer shall be retrenched by the employer unless-

(a) The worker has been given one month's notice in writing, indicating the reasons for retrenchment, or the worker has been paid in lieu of such notice, wages for the period of notice;

(b) a copy of the notice is sent to the chief Inspector or any other officer authorized by him and also to the collective bargaining agent in the establishment, if any; and

(c) he has been paid, compensation which shall be equivalent to thirty days wages or gratuity for every completed year of service if any, whichever is higher.

(3) Notwithstanding anything contained in sub-section (2), in the case of retrenchment of a worker under section 16(7), no notice as mentioned in sub-section (2) (a) shall be necessary; but the worker so retrenched, shall be paid fifteen days wages in addition to the compensation or gratuity, as the case may be, which may be payable to him under sub-section (2) (c).

(4) Where any worker belonging to a particular category of workers is to be retrenched, the employer shall, in the absence of any agreement between him and the worker in this behalf, retrench the worker who was the last person to be employed in that category.

**21. Re-employment of retrenched workers :** where any number of workers are retrenched, and the employer proposes to take into his employ any worker within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workers belonging to the particular category concerned by sending a notice to their last known addresses, to offer themselves for employment, and the retrenched workers who so offer themselves for re-employment shall have preference over other retrenched workers, each having priority according to the length of his service under the employer.

**22. Discharge from service :** (i) A worker may be discharged from service for reasons of physical or mental incapacity or continued ill-health certified by a registered medical practitioner.

(2) If a worker who has completed not less than one year of continuous service is so discharged, he shall be paid by the employer compensation at the rate of thirty days wages for every completed year of service, or gratuity, if any whichever is higher.

**23. Punishment for conviction and misconduct :** (1) Notwithstanding anything regarding lay-off, retrenchment, discharge and termination of service as provided elsewhere in this Act, a worker may be dismissed without prior notice or pay in lieu thereof if he is-

(a) convicted for any criminal offence ; or

(b) he is found guilty of misconduct under section 24.

(2) Any worker found guilty of misconduct may, instead of being dismissed under sub-section (1), in consideration of any extenuating circumstances, be awarded any of the following punishments, namely:

- (a) Removal;
- (b) Reduction to a lower post, grade or scale of pay for a period not exceeding one year;
- (c) Stoppage of promotion for a period not exceeding one year;
- (d) Withholding of increment for a period not exceeding one year;
- (e) fine;
- (f) suspension without wages and subsistence allowance for a period not exceeding seven days;
- (g) censure or warning.

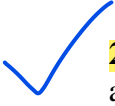
(3) A worker who is dismissed under sub-section (1) or removed as a measure of punishment under sub-section (2) (a) shall, if his continuous service is not less than one year, be paid by the employer compensation at the rate of fourteen days wages for every completed year of service, or gratuity, if any, whichever is higher;

Provided that no compensation shall be payable if the worker is dismissed for misconduct as specified in sub-section (4) (b)

(4) The following acts and omissions shall be treated as misconduct -

- (a) willful insubordination or disobedience, whether alone or in combination with others to any lawful or reasonable order of a superior;
- (b) theft, fraud or dishonesty in connection with the employer's business or property;
- (c) taking or giving bribe in connection with his or any other worker's employment under the employer;
- (d) habitual late attendance;
- (f) habitual breach of any law or rule or regulation applicable to the establishment;
- (g) riotous or disorderly behavior in the establishment, or any act subversive of discipline;
- (h) habitual negligence work;
- (i) habitual breach of any rule of employment, including conduct or discipline, approved by the chief Inspector;
- (j) falsifying, tampering with, damaging or causing loss of employers official records.

(5) If a worker who is dismissed from service under sub-section (1) (a), is acquitted on an appeal, he will be reinstated to his original post without back wages or to any new post suitable to him; and if such reinstatement is not possible, he shall be paid compensation at the rate payable to a person on discharge excluding the compensation already paid to him for his dismissal.

 **24. Procedure for punishment.** – (1) No order of punishment under section 23 shall be made against a worker unless-

- (a) the allegations against him are recorded in writing;
- (b) he is given a copy thereof and not less than seven day's time to explain;
- (c) he is given an opportunity of being heard;
- (d) he is found guilty, after enquiry;
- (e) the employer or the manager approves of such order.

(2) A worker charged for misconduct may be suspended pending enquiry into the charges against him and unless the matter is pending before any court, the period of such suspension shall not exceed sixty days;

Provided that during the period of such suspension, a worker shall be paid by his employer a subsistence allowance equivalent to half of his average wages, and dearness allowance and ad-hoc or interim pay, if any.

(3) An order of suspension shall be in writing and shall take effect immediately on delivery to the worker.

(4) In an enquiry the accused worker may be helped by any person nominated by him who is employed in the establishment.

(5) If in an enquiry, any oral evidence is given on behalf of any party, the party against whom the evidence is given may cross examine the witness.

(6) If, on enquiry, a worker is found guilty and is punished under section 23 (1), he shall not be entitled to his wages for any period of suspension but shall be entitled to the subsistence allowance for such period.

(7) If the charges against the worker is not proved in the enquiry, he shall be deemed to have been on duty for the period of suspension for enquiry, if any and shall be entitled to his wages for such period of suspension and the subsistence allowance shall be adjusted accordingly.

(8) In cases of punishment, a copy of the order infliction such punishment shall be supplied to the worker concerned.

(9) If a worker refuses to accept any notice, letter, charge-sheet, order or any other document addressed to him by the employer, it shall be deemed that such notice, letter, charge-sheet, order or the document has been delivered to him, if a copy of the same has been exhibited on the notice pored and another copy has been sent to the address of the worker as available from the records of the employer, by registered post.

(10) In awarding punishment, the employer shall take into account the previous record of the worker concerned, the gravity of the misconduct, and any other that may exist.

**25. Special provisions relating to fine :** (1) No fine exceeding one-tenth of the wages payable to a worker in respect of a wage-period may be imposed in any one wage-period on any worker.

(2) No fine shall be imposed on a worker who is under the age of fifteen years.

(3) No fine imposed on any worker shall be recovered from him by installments or after the expiry of sixty days from the day on which it was imposed.

(4) Every fine shall be deemed to have been imposed on the day of the commission of the offence in respect of which it was imposed.



(5) All fines and all realizations there of shall be recorded in a prescribed register to be kept by the employer and all such realizations shall be speeded only to such purposes beneficial to the workers employed in the establishment.

**26. Termination of employment by employers otherwise than by dismissal, etc. :** (i) The employment of a permanent worker may be terminated by the employer, otherwise, than in the manner provided else-where in this chapter, by giving to him in writing-

(a) one hundred and twenty days' notice, if he is a monthly rated worker;

(b) sixty days' notice, in case of other worker.

(2) The employment of a temporary worker may be terminated by the employer, otherwise than in the manner provided elsewhere in this chapter, and if it is not due to the completion, cessation, abolition or discontinuance of the temporary work for which he was appointed, by giving to him in writing-

(a) thirty day's notice, if he is a monthly rated worker;

(b) fourteen days notice, in case of other worker.

(3) Where an employer intends to terminate the employment of a worker without any notice, he may do so by paying to the worker, wages in lieu of the notice, which is enquired to be given under sub-section (1) or (2), as the case may be.

(4) Where the employment of a permanent worker is terminated under this section, he shall be paid by the employer compensation at the rate of thirty day's wages for every completed year of service or gratuity, if any, whichever is higher, in addition to any other benefit to which he may be entitled under this Act.

**27. Termination of employment by workers :** (1) A permanent worker may resign from his service by giving to the employer in writing sixty day's notice

(2) A temporary worker may resign from his service by giving to the employer in writing-

(a) thirty days notice, if he is a monthly rated worker;

(b) fourteen days notice in case of other worker.

(3) Where a worker intends to resigns from his service without any notice, he may do so by paying to the employer wages in lieu of the notice which is required to be given under sub-section (1) or (2), as the case may be.

(4) Where a permanent worker resigns from his service under this section, he shall be paid by the employer compensation-

(a) at the rate of fourteen days wages for every completed year of service, if he has completed five years of continuous service or more but less than ten years;

(b) at the rate of thirty days wages for every completed year of service if he has completed ten years of continuous service or more;

or gratuity, if any, whichever is higher, in addition to any other benefit to which he may be entitled under this Act.

**28. Retirement of worker :** (1) A worker employed in any establishment shall, notwithstanding anything contained elsewhere in this chapter, retire from employment ipso facto on the completion of the fifty-seventh year of his age.

(2) For the purpose of counting age of the worker under this section the date of birth recorded in the service book of the concerned worker shall be the conclusive proof.

(3) Every retiring worker under the provisions of section 26(4) or under own service rule of the establishment, shall be paid his benefits due to him.

(4) Appropriate authority, if thinks proper, may afterwards, employ the retiring worker under contract

**29. Payment of provident Fund :** No worker, who is a member of any provident Fund, shall be deprived due to retrenchment, dismissal, removal, discharge or termination of service of the benefit of the provident Fund including the employer's contribution thereto, if he is entitled to it under the rules of that Fund.

**30. Time limit of final payment of worker :** Where the employment of a worker has been ceased due to a retirement, discharge, retrenchment, dismissal and termination etc. all amounts due to him shall be paid within maximum thirty working days by the employer.

**31. Certificate of service :** Every worker other than a casual or badli worker shall be entitled to a certificate of service from his employer at the time of his retrenchment, discharge dismissal, removal, retirement or termination of service.

**32. Eviction from residential accommodation :** (1) A worker occupying a residential accommodation provided by his employer, whose service has been ceased by any means, shall vacate such residential accommodation within a period of sixty days from the date of cessation of employment.

(2) On default of a worker in vacating the residential accommodation within such time, the employer may lodge a complain to the Labour court

(3) The Court, on hearing the parties, may, summarily decide the case and direct the worker to vacate the residential accommodation within reasonable time.

(4) The Court may also pass an order directing a police officer to evict such a worker, if necessary, by force, in case he fails to quit residential accommodation within the specified time.

(5) The police officer, while acting under an order of the court under sub-section (4), shall notify the occupants of the premises in question the contents of the court's order and his intention to enter into such premises and shall allow at least six hours' time to the occupants to vacate the premises and shall give all reasonable facilities to the children before applying any force for taking over the possession of such premises.

**33. Grievance procedure :** (1) Any worker, including a worker who has been laid-off, retrenched, discharged, dismissed, removed, or otherwise removed from employment, who has grievance in respect of any matter covered under this chapter, and intends to seek redress thereof under this section, shall submit his grievance to his employer, in writing, by registered post within thirty days of being informed of the cause of such grievance.

Provided that if the employer acknowledges receipt of the grievance, in that case the service by registered post shall not be essential.

- (2) The employer shall within fifteen days of receipt of such grievance, enquire into the matter, give the worker an opportunity of being heard and communicate his decision, in writing to him.
- (3) If the employer fails to give a decision under sub-section (2) or if the worker is dissatisfied with such decision, he may make a complain in writing to the Labour court within thirty days from the last date under sub-section (2) or within thirty days from the date of the decision, as the case may be.
- (4) The Labour court shall, on receipt of the complaint hear the parties after giving notice to them and make such orders as it may deem just and proper.
- (5) The Labour court, may amongst other relief, direct reinstatement of the complainant in service, either with or without back wages and convert the order of dismissal, removal or discharge to any other Lesser punishment specified in section 23(2).
- (6) Any person aggrieved by an order of the Labour court, may, within thirty days of the order, prefer an appeal to the tribunal, and the decision of the Tribunal on such appeal shall be final.
- (7) No court-fees shall be payable for lodging complaint or appeal under this section.
- (8) No complaint under this section shall amount to prosecution under this Act.
- (9) Notwithstanding anything contained in this section, no complaint shall lie against an order of termination of employment of a worker under section 26, unless such order is alleged to have been made for his trade union activities or passed motivated or unless the worker concerned has been deprived of the benefits specified in that section.

### **CHAPTER : III**

### **EMPLOYMENT OF ADOLESCENT**

**34. Prohibition of employment of children and adolescent : (1)** No child shall be employed or permitted to work in any occupation or establishment.

(2) No adolescent shall be employed or permitted to work in any occupation or establishment unless-

- (a) a certificate of fitness in the prescribed form and granted to him by a registered medical practitioner is in the custody of the employer ; and
- (b) he carries , while at work, a token giving a reference to such certificate.

(3) Nothing in this sub-section (2), shall apply to the employment of any adolescent in any occupation or establishment either as an apprentice or for the purpose of receiving vocational training therein:

(4) The Government may, where it is of opinion that an emergency has arisen and the public interest so requires, by notification in the official Gazette, declare that the provisions of this sub-section (2), shall not be in operation for such period as may be specified in the notification.

**35. Prohibition of certain agreement in respect of children :** Subject to the provisions of this chapter, no person, being the parent or guardian of a child, shall make an agreement, to allow the service of the child to be utilized in any employment.

**36. Disputes as to age :** (1) If any question arises as to whether any person is a child or an adolescent, the question shall, in the absence of a certificate as to the age of a person for decision to a registered medical practitioner.

(2) A certificate as to age of a person granted by a registered medical practitioner as mentioned in sub-section (1), shall be conclusive evidence as to age of the person to whom it relates.

**37. Certificate of fitness :** (1) A registered medical practitioner shall, on the application of any adolescent or his parent or guardian or by the employer whether the concerned adolescent is fit to work in any occupation or establishment, examine such person and shall give his decision as to his fitness:

Provided that when such application is made by the adolescent or his parent or guardian, the application shall be accompanied by a document signed by the employer in whose establishment the adolescent is an applicant, stating that such person will be employed if certified to be fit for work.

(2) any certificate of fitness granted under this section shall remain valid for a period of twelve months from the date on which it was issued. (3) Any Fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the adolescent or his parents or guardians.

**38. Power to require medical examination :** Where an Inspector is of opinion -

(a) that any person working in an establishment is an adolescent, but he has no certificate of fitness, or

(b) that an adolescent working in an establishment with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the employer a notice requiring that such adolescent shall not, be allowed to work until he has been so examined and has been granted a certificate of fitness or has been certified by the registered medical practitioner not to be an adolescent.

**39. Restriction of employment of adolescent in certain work :** No adolescent shall be allowed in any establishment to clean, lubricate or adjust any part of machinery while that part is in motion or to work between moving parts, of any machinery which is in motion.

**40. Employment of adolescent on dangerous machines :** No adolescent shall work at any machine unless-

(a) he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and-

(b) has received sufficient training in work at the machine, or is under adequate supervision by a person who has thorough knowledge and experience of the machine,

(2) This provision shall apply to such machines as may be notified by the government to be of such a dangerous character that an adolescent ought not to work at them unless the requirements of sub-section (1) are complied with.

(3) The Government may from time to time publish in the official gazette the list such of hazardous works where, no adolescent shall be employed.

**41. Working hours for adolescent :** (1) No adolescent shall be required or allowed to work in any factory or mine, for more than five hours in any day and thirty hours in any week;

(2) No adolescent shall be required or allowed to work in any other establishment, for more than seven hours in any day and forty-two hours in any week.

(3) No adolescent shall be required or allowed to work in any establishment between the hours of 7.00 P.M and 7.00 a.m.

(4) If an adolescent works overtime, the total number of hours worked, including overtime shall not exceed-

(a) in any factory or mine, thirty six hours in any week;

(b) in any other establishment, forty eight hours in any week.

(5) the period of work of an adolescent employed in an establishment shall be limited to two shifts which shall not overlap or spread over more than seven and a half hours each.

(6) An adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Inspector, be changed more frequently than once in a period of thirty days.

(7) The provisions of weekly holiday shall apply also to adolescent workers, and no exemption from the provisions of that section shall be granted in respect of any adolescent.

(8) No adolescent shall be required or allowed to work in more than one establishment in any day.

**42. Prohibition of employment of adolescent in underground and under-water work :** No adolescent shall be employed in any underground or underwater work.

**43. Notice of periods of work for adolescent :** (1) In every establishment in which adolescent are employed, there shall be displayed in the manner prescribed by rules, a notice of specified periods of work for adolescent.

(2) The periods shown in the notice under sub-section (1) shall be fixed beforehand in the manner laid down for adult workers and shall be such that adolescent working on those periods would not be working in contravention of this Act.

(3) The relevant provisions laid down for adult workers in the occupation or establishment shall also apply to the notice under sub-section (1).

(4) The Government may make rules to prescribe the form of such notice and the manner in which it shall be maintained.

**44. Exception in certain cases of employment of children :** (1) Notwithstanding anything contained in this chapter, a child who has completed twelve years of age, may be employed in such light work as not to endanger his health and development or interfere with his education; Provided that the hours of work of such child, where he is school going, shall be so arranged that they do not interfere with his school attendance.

(2) All provisions applicable to an adolescent workers under this chapter shall mutatis-mutandis apply to such child workers.

## **CHAPTER : IV**

### **MATERNITY BENEFIT**

**45. Employment of women worker prohibited during certain period :** (1) No employer shall knowingly employ a woman in his establishment during the eight weeks immediately following the day of her delivery.

(2) No woman shall work in any establishment during the eight weeks immediately following the day of her delivery.

(3) No employer shall employ any woman for doing any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health; if-

he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;

she has to the knowledge of the employer been delivered of a child within the preceding ten weeks:

Provided that in case of tea plantation worker, a woman worker can undertake light work if and for so long as the medical practitioner of the concerned tea estate certifies that she is physically fit to do so ; and, for the days that she does such work, she shall be paid at the prevailing rate of pay for such work, and such pay shall be paid to her in addition to the maternity benefit which she may be entitled to receive under existing this Act.

**46. Right to, and liability for, payment of maternity benefit :** (1) every woman employed in an establishment shall be entitled to and her employer shall be liable for, the payment of maternity benefit in respect of the period of eight weeks preceding the expected day of her delivery and eight weeks immediately following the day of her delivery :

Provided that a woman shall not be entitled to such maternity benefit unless she has worked under the employer, for a period of not less than six month immediately preceding the day of her delivery.

(2) No maternity benefit shall be payable to any woman if at the time of her confinement she has two or more surviving children, but in that case she shall be entitled to the leave to which she would otherwise be entitled.

**47. Procedure regarding payment of maternity benefit :** (1) Any pregnant woman entitled to maternity benefit under this act may, on any day, give notice either orally or in writing to her employer that she expects to be confined within eight weeks next following and may therein nominate a person for purposes of receiving payment of maternity benefit in case of her death.

(2) Any woman who has not given such notice and has been delivered of a child, shall within seven days, give similar notice to her employer that she has given birth to a child.

(3) When a notice referred to in sub-section (1) or (2) is received, the employer shall permit the women to absent herself from work-

from the day following the date of notice in the case mentioned in sub-section (1);  
from the day of delivery in the case mentioned in sub-section (2) until eight weeks after the day of delivery.

(4) An employer shall pay maternity benefit to a woman entitled thereto in such one of the following ways as the woman desire, namely :

(a) for eight weeks, within three working days of the production of a certificate signed by registered medical practitioner stating that the woman is expected to be confined within eight weeks of the date of the certificate, and for the remainder of the period for which she is entitled to maternity benefit under this act within three working days of the production of proof that she has given birth to a child; or

(b) for the said period up to and including the day of delivery, within three working days of the production of proof that she has given birth to a child, and for the remainder of the said period, within eight weeks of the production of such proof; or

(c) for the whole of the said period, within three working days of the production of proof that she has given birth to a child:

Provided that a woman shall not be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of proof under this sub-section that she has given birth to a child, unless such proof is produced within three month s of the day of her delivery.

(5) The proof required to be produced under sub-section (4) shall be either a certified extract from a birth register under the births and deaths registration act, 2004 (XXIX of 2004) or a certificate signed by a registered medical practitioner or such other proof as may be accepted by the employer.

**48. Amount of maternity benefit :** (1) The maternity benefit which is payable under this act shall be payable at the rate of daily, weekly or monthly average wages, as the case may be, calculated in the manner laid down in sub-section (2), and such payment shall be made wholly in cash.

(2) For the purpose of sub-section (1) the daily, weekly or monthly average wages, as the case may be, shall be calculated by dividing the total wages earned by the woman during the three months immediately preceding the date on which she gives notice under this act by the number of day she actually worked during the period.

**49. Payment of maternity benefit in case of a woman's death :** (1) If a woman entitled to maternity benefit under this act dies at the time of her delivery or during the next period of 8 months, the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child, and if the child does not survive her; to the person nominated by her under this chapter, or if she has made no such nomination, to her legal representative.

(2) If a woman dies during the period for which she is entitled to maternity benefit but before giving birth to a child, the employer shall be liable only for the period up to and including the day of her death, provided that any sum already paid to her in excess of such liability shall not be recoverable from her legal representative, and any amount due at the woman's death shall be paid to the person nominated by her under this chapter, or if she has made no such nomination, to her legal representative.

**50. Restriction on termination of employment of a woman in certain cases :** If any notice or order of discharge, dismissal, removal or termination of employment is given by an employer to a woman within a period of six month before and eight weeks after her delivery and such notice or order is given without sufficient cause, she will not be deprived of any maternity benefit to which she would have become entitled under this chapter.

## **CHAPTER: V**

### **HEALTH AND HYGIENE**

**51. Cleanliness:** Every establishment shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular-

(a) accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of work-rooms and from staircases and passage and disposed of in a suitable manner;

(b) the floor of every work-room shall be cleaned at least once in every week by washing, using disinfectant where necessary or by some other effective method;

(c) where the floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings, or tops of rooms, and walls, side and tops or passages an staircases shall-

(i) where they are painted or varnished, be repainted or re varnished at least once in every three years,

(ii) where they are painted or varnished and have smooth imperious surface, be cleaned at least once in every fourteenth months, by such methods as may be prescribed,



- (iii) in any other case, be kept white-washed or color-washed and the white-washing or color-washing shall be carried out at least once in every fourteen months; and
- (e) the date on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

**52. Ventilation and temperature :** (1) Effective and suitable provisions shall be made in every establishment for securing and maintaining in every work-room adequate ventilation by the circulation of fresh air;

(2) such temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health.

(3) the walls and roofs, as required by sub-section (2), shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(4) where the nature of the work carried on in the establishment involves, or is likely to involve, the production of excessively high temperature, such adequate measures as are practicable, shall be taken to protect the workers there from by separating the process which produces such temperature from the work-room by insulation the hot parts or by other effective means.

(5) If it appears to the government that in any establishment or class or description of establishments excessively high temperature can be reduced by such methods as white-washing, spraying or insulating and screening outside walls or roofs or windows or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of those or those or other methods to be adopted in the establishment.

**53. Dust and fume :** (1) In every establishment in which, by reason of any manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, effective measures shall be taken to prevent its accumulation in any work-room and its inhalation by workers, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any establishment no stationary internal combustion engine shall be operated unless the exhaust is conducted into open air, and no internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes there from as are likely to be injurious to the workers employed in the work-room.

**54. Disposal of wastes and effluents :** Effective arrangements shall be made in every establishment for disposal of wastes and effluents due to the manufacturing process carried on therein.

**55. Artificial humidification :** (1) In any establishment in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(2) If it appears to an Inspector that the water used in an establishment for increasing humidity which is required to be effectively purified under sub-section (1) is not effectively purified, he may

serve on the employer of the establishment an order in writing, specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

**56. Overcrowding:** (1) No work-room in any establishment shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of the provisions of sub-section (1), there shall be provided for every worker employed in a work-room at least 9.5 cubic metre of space in the establishment.

Explanation : For the purpose of this sub-section no account shall be taken of a space which is more than 4.25 metre above the level of the floor of the room.

(3) If the chief Inspector by order in writing so requires, there shall be posted in each work-room of an establishment a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The chief Inspector may, by order in writing, exempt, subject to such conditions as he may think fit to impose, any work-room from the provisions of this section if he is satisfied that compliance therewith in respect of such room is not necessary for the purpose of health of the workers employed therein.

**57. Lighting :** (1) In every part of an establishment where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every establishment all glazed windows and skylights used for the lighting of the work-room shall be kept clean on both the outer and inner surfaces and free from obstruction as far as possible.

(3) In every establishment effective provisions shall, so far as in practicable, be made for the prevention of-

(a) glare either directly from any surface of light or by reflection from or polished surface, and

(b) the formation of shadows to such an extent as to cause eye strain or risk of accident to any worker.

**58. Drinking water :** (1) In every establishment effective arrangement shall be made to provide and maintain at a suitable point conveniently situated for all workers employed therein, a sufficient supply of wholesome drinking water.

(2) All such points where water is supplied shall be legibly marked 'Drinking water' in Bangla.

(3) In every establishment wherein two hundred fifty or more workers are ordinarily employed, provision shall be made for cooling the drinking water during the hot weather by effective means and for distribution thereof.

(4) Where dehydration occurs in the body of workers due to work near machineries creation excessive heat, there workers shall be provided with oral re-hydration therapy.

**59. Latrines and urinals :** In every establishment-

(a) sufficient latrines and urinals of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are in the establishment.

(b) such latrines and urinals shall be provided separately for male and female workers;

- (c) such latrines and urinals shall be adequately lighted and ventilated;
- (d) all such latrines and urinals shall be maintained in a clean and sanitary condition at all times with suitable detergents and disinfectants.

**60. Dust bean and spittoon :** (1) In every establishment there shall be provided, at convenient places, sufficient number of dust beans and spittoons which shall be maintained in a clean and hygienic condition.

(2) No person shall throw any dirt or spit within the premises of an establishment except in the dust beans and spittoons provided for the purpose.

(3) A notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

## **CHAPTER : VI**

### **SAFETY**

**61. Safety of building and machinery :** (1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in an establishment is in such a conditions that it is dangerous to human life or safety, he may serve on the employer of the establishment an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in the establishment involves imminent danger to human life or safety, he may serve on the employer of the establishment an order in writing prohibiting its use until it has been properly repaired or altered.

**62. Precaution in case of fire :** (1) Every establishment shall be provided with at least one alternative connection stairway with each floor and such means of escape in case of fire and fire-fighting apparatus, as may be prescribed by rules.

(2) If it appears to the inspector that any establishment is not provided with the means of escape prescribed under sub-section (1) he may serve on the employer of the establishment an order in writing specifying the measures which in his opinion, should be adopted before a date specified in the order.

(3) In every establishment the doors affording exit from any room shall not be locked or fastened so that they can be easily and immediately opened from inside while any person is within the room and all such doors, unless they are of the sliding type, shall be constructed to open outwards or where the door is between two rooms, and all such doors, unless they are of the sliding type, shall be constructed to open outwards or where the door is between two rooms, in the direction of the nearest exit from the building and no such door shall be locked or obstructed while work is being carried on in the room.

(4) In every establishment every window, or other exit affording means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in Bangla and in red letters of adequate size or by some other effective and clearly understood sign.

(5) In every establishment every window, door, or other exit affording means of escape in case of fire to every person employed therein.

(6) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the establishment.

(7) In every establishment wherein more than ten workers are ordinarily employed in any place above the ground floor, or explosive or highly inflammable materials are used or stored, effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(8) In factories wherein fifty or more workers and employees are employed shall arrange at least once in a year a mock fire-fighting and the employer shall maintain a book of records in this regards.

**63. Fencing of machinery.** – (1) In every establishment the following shall be securely fenced by the safeguards of substantial construction which shall be kept in position while the part of machinery required to be fenced are in mention or in use, namely-

- (a) every moving part of a prime mover, and every fly wheel connected to a prime mover;
- (b) the head-race and tail-race of every water wheel and water turbine;
- (c) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (d) unless they are in such position or of such construction as to be as safe to every person employed in the establishment as they would be if they were securely fenced-
  - (i) every part of an electric generator,- a motor or rotary converter,
  - (ii) every part of transmission machinery, and
  - (iii) every dangerous part of any machinery:

Provided that, for the purpose of determining whether any part of machinery is safe as aforesaid, account shall not be taken of any occasion when it being necessary to make an examination of the machinery while it is in motion, such examination or operation is made or carried in accordance with the provisions of section 64.

(2) without prejudice to any other provision of this Act relation to the fencing o machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced, to prevent such contact.

**64. Work on or near machinery in motion :** (1) Where in any establishment it becomes necessary to examine any part of machinery referred to in section 61 while the machinery is in motion or as a result o such examination to carry out any mounting or shipping of belts, Lubrication or other adjusting operation while the machinery is in motion such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight-fitting clothing whose name has been recorded in the register prescribed in this behalf and while he so engaged such worker shall not handle a belt at a moving pulley unless the belt is less than fifteen centimeters in width and unless the belt-joint is either laced or flush with the belt.

(2) The Government may, by notification in the official Gazette, prohibit, in any specified establishment, the cleaning, lubricating, or adjusting by any person of specified part of machinery when those parts are in motion.

**65. Striking gear and devices for cutting off power :** (1) In every establishment-

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from cropping back on the first pulleys;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every establishment suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

**66. Self-action machines :** No traversing part of a self-acting machine in any establishment and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or other distance of forty five centimeters from any fixed structure which is not part of the machine:

Provided that the chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

**67. Casing of new machinery :** In all machinery driven by power and installed in any establishment after the commencement of this Act-

(a) every set screw, belt or key or any revolving shaft, spindle wheel or pinion shall be so, sunk, encased or otherwise effectively guarded to prevent danger; and

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe it would be if it were completely encased.

**68. Cranes and other lifting machinery :** The following provisions shall apply in-

(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be-

(i) of good construction, sound material and adequate strength,

(ii) properly maintained,

(iii) thoroughly examined by a competent person at least once in every period of twelve months and a register shall be kept containing the prescribed particulars of every such examination;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly marked thereon; and

(c) while any person is employed or working on or near the wheel-track of a traveling crane in any place, where he would be liable to be struck by the crane, effective measures shall be taken to ensure that crane does not approach within six meter of that place.

**69. Hoists and lifts :** (i) In every establishment every hoist and lift shall be-

(a) of good mechanical construction, sound material and adequate strength,

(b) properly maintained,

- (c) shall be thoroughly examined by competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;
- (2) every hoist way and lift way shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;
- (3) the maximum safe working load shall be plainly marked on every hoist or lift and no load greater than such load shall be carried thereon;
- (4) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;
- (5) every gate referred to in subsection (2) or (4) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.
- (6) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in an establishment after the commencement of this Act, namely-
- (a) Where the cage is supported by rope or chain there shall be at least two ropes or chains separately connected with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;
  - (b) Efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;
  - (c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.
- (7) The chief Inspector may permit the continued use of a hoist or lift installed in an establishment before the commencement of this Act which does not fully comply with the provisions of sub-section (1), (2), (3), (4) and (5) upon such conditions for ensuring safety as he may think fit to impose.

**70. Revolving machinery:** (i) In every room in an establishment in which the process of grinding is carried on, there shall be permanently affixed to, or placed near, each machine in use a notice indicating the following-

- (a) maximum safe working peripheral speed of every grind stone or abrasive wheel;
  - (b) the speed of the shaft or spindle upon which the wheel is mounted;
  - (c) the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.
- (2) The speeds indicated in notices under sub-section (1) shall not be exceeded.
- (3) Effective measures shall be taken in every revolving vessel, cage, basket, flywheel, pulley dice or similar appliance driven by power is not exceeded.

**71. Pressure plant :** If in any establishment any part of the plant or machinery used in manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

**72. Floors, stairs and means of access :** In every establishment -

- (a) all floors, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety steps, stairs, passages and gangways shall be provided with substantial handrails;
- (b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is, at any time, required to work; and
- (c) all floors, ways and stairways shall be clean, wide and clear of all obstructions.

**73. Pits, sumps, opening in floors, etc. :** (1) In every establishment, every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents is or may be a source of danger, shall be either securely covered or securely fenced.

**74. Excessive weights:** No person shall be employed in any establishment to lift, carry or move any load so heavy as to be likely to cause him injury.

**75. Protection of eyes :** The Government may, in respect of any manufacturing process carried on in any establishment, by rules, require that effective screens of suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of a process which involves-

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light or heat.

**76. Powers to require specifications of defective parts or tests of stability :** If it appears to the inspector that any building or part of a building or any part of the ways, machinery or plant in an establishment, is in such a condition that it may be dangerous to human life or safety, he may serve on the employer of the establishment an order in writing, requiring him before a specified date-

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests as may be necessary to determine the strength or quality or any specified parts and to inform the Inspector of the result thereof.

**77. Precautions against dangerous fumes :** (1) In any establishment no person shall enter or be permitted to enter any chamber, tank, vat pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risks of persons being overcome thereby, unless it is provided with a manhole of such size, as may be prescribed or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any establishment for use inside any confined space such as is referred to in sub-section (1) and where the fumes present are likely to be permitted to be used in such confined space.

(3) No person in any establishment shall enter or be permitted to enter any such confined space until all practicable means have been taken to remove any fumes which may be present and to prevent any ingress of fume and unless either-

- (a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or
- (b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall, in every establishment, be kept ready for instant use beside any such confined space. As aforesaid which any person as entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every establishment shall be trained and practiced in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any establishment, any boiler furnace, boiler, flue chamber, tank, at, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

**78. Explosive or inflammable dust, gas, etc. :** (1) where in any establishment any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by- (a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) Exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any establishment the plant or machinery used in a process is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measure shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes,

(3) Where any part of the plant or machinery in an establishment contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely-

(a) before the fastening of any joint of any pipe connected with the part of the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;

(b) Before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce to pressure of the gas or vapour in the part or pipe to atmospheric pressure;

(c) where any such fastening, as aforesaid, has been loosened or removed, effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured; or as the case may be, securely replaced:

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any establishment to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have been first taken to remove such substance and any fumes arising there from o to render such substance shall be allowed to enter such plant, tank or vessel after any such operation until the mental has cooled sufficiently to prevent any risk of igniting the substance.



## **CHAPTER VII**

### **SPECIAL PROVISIONS RELATING TO HEALTH HYGIENE AND SAFETY**

**79. Dangerous operations :** Where the Government is satisfied that any operation carried on in an establishment exposes any person employed in it to a serious risk of bodily injury, poisoning, or disease, it may make rules applicable to such establishment or class of establishments in which such operation is carried on-

- (a) specifying the operation and declaring it to be hazardous;
- (b) prohibiting or restricting the employment of women, adolescents or children in the operation;
- (c) providing for the periodical medical examination of persons employed in the operation and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on and the use of any specified materials or processes in connection with the operation; and
- (e) notice specifying use and precautions regarding use of any corrosive chemicals.

**80. Notice to be given of accidents :** (1) When any accident occurs in an establishment causing loss of life or bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption, outbreak of fire or irruption of water or fumes occurs in an establishment, the employer of the establishment shall give notice of the occurrence to the Inspector within two working days.

(2) Where an accident mentioned in sub-section (1) causes bodily injury resulting in the compulsory absence from work of the person injured for a period exceeding forty eight hours it shall be entered in a register in the prescribed form.

(3) A copy of the entries in the register referred to in sub-section (2) shall be sent by the employer of the establishment, within fifteen days after the 30<sup>th</sup> day of June and the 31<sup>st</sup> day of December in each year, to the chief Inspector.

**81. Notice of certain dangerous occurrences :** Where in an establishment, any dangerous occurrence of such nature as may be prescribed, occurs, whether causing any bodily injury or not, the employer of the establishment shall send notice thereof to the Inspector within three working days.

**82. Notice of certain disease :** (1) Where any working in an establishment contracts any disease specified in the second schedule, the employer or the worker concerned or any person authorized by him in this behalf shall send notice thereof to the Inspector in such prescribed form and within such time as may be prescribed by Rules.

(2) If any registered medical practitioner attends on a person who is, or has been employed in an establishment and who is, or is believed by such medical practitioner to be, suffering from any disease specified in the second Schedule, the medical practitioner shall, without delay, send a report in writing to the chief Inspector stating-

- (a) the name and postal address of the patient;

(b) the disease from which he believes the patient to be suffering;

(c) the name and address of the establishment in which the patient is or was last employed.

(3) The Government may add to or subtract from the Second Schedule any disease by notification in the official Gazette.

**83. Power to direct enquiry into cases of accident or disease :** (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in any establishment or when any disease specified in the second schedule has been or suspected to have contracted in any establishment, the government, if it is of opinion that a formal enquiry into the cases, of, and circumstance attending, the accident or disease ought to be held, may appoint a competent person to holding the enquiry.

(2) The person appointed to hold any such enquiry shall have all the power of a Civil Court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the penal code.

(3) Any person holding an enquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the enquiry.

(4) The person holding enquiry shall make a report to the Government stating the causes of the accident and its circumstances, and adding any observations, which he and any of the assessors may think fit to make.

(5) The Government may, cause report to be punished at such time and in such manner as it may think fit.

**84. Power to take samples:** (1) An Inspector may, at any time during the normal working hours, informing the employer of an establishment, take, in the manner hereinafter provided, a sufficient sample of any substance used or intended to be used in the establishment such use being, in the opinion of the Inspector in contravention of the provisions of this Act or of the rules, or likely to cause bodily injury to or injury to the health of, workers in establishment.

(2) Where the Inspector takes such sample, he shall, in the presence of the employer, unless he willfully absents himself, divide the sample into three portions and effectively seal and suitable mark them shall permit the employer to add his own seal and mark thereon.

(3) The employer shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall forthwith give one portion of the sample to the employer, send the second portion to a Government Analyst for analysis and report thereon and retain the third portion for production to the court before which proceedings, if any are instituted in respect of the substance.

(5) Any document, purporting to be a report under the hand of any Government analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

**85. Powers of Inspector in case of certain danger :** (1) If, in respect of any matter for which no express provision is made by or under this Act, it appears to the Inspector that any establishment or any part thereof or any matter, thing or practice in or connected with the establishment or with the control, management or direction thereof, is dangerous to human life or safety or thereof, is dangerous to human life or safety or defective so as to threaten, or tend, to the bodily injury of any person, he may give notice in writing thereof to the employer of the establishment, and shall state in the notice the particulars in respect of which he considers the establishment, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Inspector may, by order in writing direct the employer prohibiting the extraction or reduction of pillars in any part of such establishment if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the establishment,

(3) If the Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any establishment or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, the employer concerned, until he is satisfied that the danger is removed, the employment in or about the establishment or part thereof of any person whose employment is not, in his opinion, reasonably necessary for the purpose of removing the danger.

(4) The employer, if is aggrieved by the order under sub-section (3) may, within ten days of the receipt of the order, appeal against the same to the chief Inspector who may confirm modify or cancel the order.

(5) The Inspector making an order under sub-section (1) or (3), shall forthwith report the same to the Government and shall inform the employer concerned that such report has been so made.

(6) The chief Inspector, shall forthwith report to the Government any order, except the order of cancellation passed by him under sub-section (4), and shall also inform the employer concerned that such report has been so made.

(7) Any employer, if has any objection against any order made under sub-section (1), or (4) may inform the Government within 20 days of receipt of the order in

Writing with cause thereof and the Government shall sent it to a committee for decision.

(8) The employer shall comply with the order against which objection has been made until such decision of the committee is received.

Provided that on application made by the employer the order passed under sub-section (1) may be suspended, till pending decision of the committee.

**86. Information about dangerous building and machinery :** (1) Where any worker finds that any machinery or building used by the workers in any establishment in which he is employed is in such a dangerous condition that it is likely to cause physical injury to any worker at any time he shall inform the employer of it in writing immediately after it has come to his notice.

(2) if the employer fails to take appropriate action on such information within three days and any injury is caused to any worker because of the use of such equipment, machinery or building, he shall be liable to pay compensation to the worker injured at a rate which may be double the rate of compensation payable for such injury under chapter XII.

**87. Restriction of employment of women in certain work :** The provisions of sections 39, 40 and 42 shall apply to a woman worker as they apply to an adolescent worker.

**88. Power to make rules to supplement this chapter :** The Government may make rules requiring that-

- (a) in any establishment such further devices and measures for securing the safety of the persons employed therein, shall be adopted;
- (b) work on a manufacturing process carried on with the aid of power, shall not be begun, in any building or part of a building in an establishment until a certificate of stability in the prescribed form has been received by the chief Inspector.

## **CHAPTER : VIII WELFARE**

**89. First-aid appliances :** (1) there shall, in every establishment be provided and maintained, so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the contents prescribed by rules.

(2) The number of such boxes or cupboards shall not be less than one for every one hundred fifty workers ordinarily employed in the establishment.

(3) Every first-aid box or cupboard shall be kept in charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the establishment.

(4) A notice shall be affixed in every work-room stating the name of person in charge of the first aid box or cupboard provided in respect of that room and such person shall wear a badge so as to facilitate identification.

(5) In every establishment wherein three hundred or more workers are ordinarily employed, there shall be provided and maintained a sick room with dispensary of the prescribed size, containing the prescribed equipment or similar facilities, in the charge of such medical and nursing staff as may be prescribed.

**90. Maintenance of safety Record Book :** In every establishment factory wherein more than twenty five workers are employed, shall maintain compulsorily, in the prescribed manner, a safety record book and safety board.

**91. Washing facilities :** (1) In every establishment-

- (a) adequate and suitable facilities for washing and bathing shall be provided and maintained for the use of the workers therein;
- (b) separate and adequately screened facilities shall be provided for the use of male and female workers; and
- (c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Government may in respect of any establishment or class or description of establishments or of any manufacturing process, prescribed standards of adequate and suitable facilities for washing.

**92. Canteens :** (1) In every establishment wherein more than one hundred workers are ordinarily employed, there shall be provided adequate number of canteens for the use of the workers.

(2) The Government may make rules providing for-

- (a) the standards in respect of construction, accommodation, furniture and other equipment of the canteen; and
- (b) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen.

(3) The managing committee to be formed under the rules shall determine the foodstuff to be served in the canteen, and the charges therefore,

**93. Shelters, etc. :** (1) In every establishment wherein more than fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms, and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers.

Provided that any canteen maintained in accordance with the provisions of section 92 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exist, no worker shall eat any food in the work room.

(2) The shelters, rest rooms or lunchrooms provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) In the establishments wherein more than 25 female workers are employed, separate shelter rooms are to be maintained and in establishment wherein less then 25 female workers are employed, separate and adequate spaces with screen shall be provided.

**94. Rooms for children :** (1) In every establishment, wherein forty or more workers are ordinarily employed, thee shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, adequately lighted and ventilated and maintained in a clean and sanitary condition and shall be under the charge of woman trained or experienced in the care of children and infants.

(3) Such rooms shall be conveniently accessible to the mothers or the children accommodated therein and so far as is reasonably practicable they shall not be situated in close proximity to a part of the establishment where obnoxious fumes, dust or odors are given off or in which excessively noisy processes are carried on.

(4) Such rooms shall be solidly constructed and all the walls and roof shall be of suitable heat resisting materials and shall be water-proof.

(5) The height of such rooms shall not be less than 360cm from the floor to the lowest part of the roof and there shall be not less than 600sq. cm of floor area for each child to be accommodated.

(6) Effective and suitable provisions shall be made in every part of such room for scouring and maintaining adequate ventilation by the circulation of fresh air.

(7) Such rooms shall be adequately furnished and equipped and in particular there shall be one suitable cot or cradle with necessary bedding for each child, at least one chair or equivalent seating accommodation for the use of each mother while she is feeding or attending to her child and a sufficient supply of suitable toys for the older children.

(8) A suitable fenced and shady open air play-ground shall be provided for the older children;

Provided that the chief Inspector may, by order in writing, exempt any establishment from compliance with this sub-rule if he is satisfied that there is not sufficient space available for the provision of such a playground.

**95. Recreational and educational facilities in tea plantation :** The Government may, in respect of the plantations :

- (a) make rules requiring every employer to make provision for such recreational facilities for the workers and their children as may be prescribed;
- (b) where the children of the tea plantation workers between the ages of six and twelve of the workers exceed twenty-five in number, make rules requiring the employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.
- (c) In every tea plantation there shall be established adequate medical centers for the workers and their children as may be prescribed by rules.

**96. Housing facilities in tea plantation :** Every employer in a tea plantation shall provide housing facilities to every worker and his family residing in the tea plantation.

**97. Facilities for daily necessities, etc. in tea plantation :** Every employer in a tea plantation shall provide facilities within easy reach of the workers for obtaining the daily necessities of life.

**98. Medical care for newspaper workers :** Every newspaper worker and his dependents shall be entitled to medical care at the cost of the newspaper establishment in such manner and to such extent as may be prescribed.

Explanation : For the purpose of this section, 'dependents' means wife, or husband, as the case may be, widowed-mother, invalid parents and legitimate sons and daughters of a newspaper worker residing with him and wholly dependent upon him.

**99. Compulsory Group Insurance :** Government may, in the manner provided by rules, introduce group insurance, in the establishments wherein minimum 200 permanent workers are employed.

## **CHAPTER IX**

### **WORKING HOUR AND LEAVE**

**100. Daily hours :** No adult worker shall ordinarily be required or allowed to work in an establishment for more than eight hours in any day:

Provided that, subject to the provisions of section 108, any such worker may work in an establishment not exceeding ten hours in any day.

**101. Interval for rest or meal :** Any worker in any establishment shall not be liable to work either-

- (a) for more than six hours in any day unless he has been allowed an interval of at least one hour during that day for rest or meal;
- (b) for more than five hours in any one day unless he has been allowed an interval of at least half an hour during that day for rest or meal; or
- (c) for more than eight hours unless he has had an interval under clause (a) or two such intervals under clause (b) during that day for rest or meal.

**102. Weekly hours :** (1) No adult worker shall ordinarily be required or allowed to work in an establishment for more than forty-eight hours in any week.

(2) Subject to the provisions of section 108, an adult worker may work for more than forty-eight hours in a week:

Provided that the total hours of work of an adult worker shall not exceed sixty hours in any week and on the average fifty-six hours per week in any year:

Provided further that in the case of a worker employed in an establishment which is a road transport service, the total hours or overtime work in any year shall not exceed one hundred and fifty hours.

Provided further that the government, if satisfied that in public interest or in the interest of economic development such exemption or relaxation is necessary, in certain industries, by order in writing under specific terms and conditions, may relax the provision of this section or exempt, for a maximum period of six months, from the provision of this section at a time.

**103. Weekly holiday:** An adult worker employed in an establishment-

- (a) which is a shop or commercial establishment, or industrial establishment, shall be allowed in each week one and half days holiday and in factory and establishment one day in a week;
- (b) which is a road transport service, shall be allowed in each week one day's holiday of twenty four consecutive hours; and no deduction on account of such holidays shall be made from the wages of any such worker.

**104. Compensatory weekly holiday:** Where, as a result of the passing of an order or the making of a rule under the provisions of this act exempting an establishment or the workers therein from the provisions of section 103, a worker is deprived of any of the weekly holidays provided for in that section, he shall be allowed, as soon as circumstances permit, compensatory holidays, of equal number to the holidays so deprived of.

**105. Spread over :** The periods of work of and adult worker in an establishment shall be so arranged that, inclusive of his interval for rest or meal under section 101, it shall not spread over more than eleven hours, and subject to such conditions as be may imposed by the Government, either generally or in the case of any particular establishment.

**106. Night shift:** Where, an adult worker in an establishment works on a shift which extends beyond midnight:

- (a) for the purposes of section 103 a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning from the end of his shift; and
- (b) the following day for him shall be deemed to be the period of twenty-four consecutive hours beginning from the end of this shift and the hours he has worked after midnight shall e counted towards the previous day.

**107. Restriction on cumulative hours of work on a vehicle :** No worker shall work or be allowed to work on a vehicle or two or more vehicles in excess of the period during which he may be lawfully employed under this Act.

**108. Extra-allowance for overtime :** (1) Where a worker works in an establishment on any day or week for more than the hours fixed under this Act, he shall, in respect of overtime work, be entitled to allowance at the rate of twice his ordinary rate of basic wage and dearness allowance and ad-hoc or interim pay, if any.

(2) Where any worker in an establishment are paid on a piece rate basis the employer, in consultation with the representatives of the workers, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rates of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) The government may prescribe registers to be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

**109. Limitation of hours of work for women :** No women shall, without her consent, be allowed to work in an establishment between the hours of 10.00PM and 6.00 AM



**110. Restriction on double employment :** No adult worker shall be employed or allowed to be employed for work in more than one establishment on any day, except on permission in writing from the chief Inspector on such terms and conditions as he may impose.

**111. Notice of periods of work for adults and preparation thereof :** There shall be displayed and correctly maintained in every establishment in accordance with the provisions of section 337, a notice of periods of work for adult workers showing clearly the periods which adult workers may be required to work.

(2) The periods shown in the notice shall be fixed beforehand in accordance with the provisions of this section and shall be such that workers working during such periods would not be working in contravention of the provisions of sections, 100, 101, 102, 103 and 105.

(3) Where all the adult workers in an establishment are required to work during the same period, the employer, shall fix those periods generally.

(4) Where all the adult workers in an establishment are not required to work during the same periods, the employer, shall classify them into groups according to the nature of their work, and indicate the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the employer shall fix the period during which the group may be required to work.

(6) Where any group is required to work on a system of shifts, and the relays are not on a undetermined periodical changes, the employer shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is required to work on a system of shifts, and the relays are or are intended to be subject to predetermined periodical changes of shifts, the employer, shall draw up a scheme of shifts, where under the periods during which any relay of the group may be required to work on the relay which will be working at any time of the day shall be known for any day.

(8) A copy of the notice shall be sent in duplicate to the Inspector before the day on which an establishment begins work, for approval of the periods of work by the Inspector.

(9) The Inspector shall return a copy of the notice to the employer within one week of its receipt, indicating modifications if any; the employer shall immediately comply with the modifications, if made and shall preserve the approval in the records of the establishment.

(10) Any proposed change in the system of work in an establishment which will necessitate a change in the notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made,

(11) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the days work.

**112. Special age limit for Road transport Service worker :** (1) No person shall be employed as driver, in an establishment which is a road transport service unless he has attained the age of twenty one years.

(2) No person shall be employed in an establishment which is a road transport service in any other post unless he has attained the age of eighteen years.

**113. Hours of work to correspond with notice and register :** No adult worker shall be required or allowed to work otherwise than in accordance with the notice under section 111(1) and the entries made beforehand against his name in the register maintained under section.

**114. Closure of shops, etc. :** (1) Every establishment which is shop or commercial or industrial establishment shall remain entirely closed for at least one and a half day in each week.

(2) The one and half day on which establishments shall remain entirely closed, shall be fixed for each area by the chief Inspector.

Provided that the chief Inspector may, from time to time, re-fix such day for each area in the public interest.

(3) No shop shall on any day remain open after the hours of 8.00 O'clock post maritime:

Provided that any customer who was being or was waiting in the shop to be served at such hour, may be served during the period of thirty minutes immediately following such hour:

(4) The Government may, on consideration of special circumstances, alter, by notifications in the official Gazette, the closing hours of shops in any area in any season on such conditions as may be imposed.

(5) The provisions of this section shall not apply to-

- (a) docks, wharves or stations and terminal offices of transport services including airports;
- (b) shops dealing mainly in any vegetable, meat, fish, dairy products, bread, pasties, sweetmeats and flowers;
- (c) shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites;
- (d) shops dealing in articles required for funerals, burials or cremation;
- (e) shops dealing mainly in tobacco, cigars, cigarettes, biris, pan, liquid refreshments, newspapers or periodicals sold retail for consumption in the premises, ice;
- (f) petrol pumps for the retail sale of the petrol and automobile service stations not being repair workshops;
- (g) barbers' and hair dressers' shops;
- (h) any system of public conservancy or sanitation,
- (i) any industry, business or undertaking which supplies power, light or water to the public;
- (j) clubs, hotels, restaurants, catering houses cinemas or theatres:

Provided that where several trades or business are carried on in the same shop or commercial establishment and, the majority of them, by their nature, are eligible to exemption under this section, the exemption will apply to the entire shop or commercial establishment:

Provided further that the Chief Inspector may, by a general or special order, published in the official Gazette, fix the opening or closing hours for any of the foregoing establishments or class of establishment.

**115. Casual leave :** Every worker shall be entitled to casual leave the full wages for ten days in a calendar year, and such leave shall not be accumulated and carried forward to the succeeding year:

Provided that nothing in this section shall apply to a worker employed in a tea plantation.

**116. Sick leave :** (1) Every worker other than a newspaper worker, shall be entitled to sick leave with full wages for fourteen days in a calendar year.

(2) Every newspaper worker shall be entitled to sick leave with half wages for not less than one-eighteenth of the period of services.

(3) No such leave shall be allowed unless a registered medical practitioner appointed by the employer or, if no such medical practitioner is appointed by the employer, any other registered medical practitioner, after examination, certifies that the worker is ill and requires sick leave for cure or treatment for such period as may be specified by him.

(4) Such leave shall not be accumulated and carried forward to the succeeding year.

**117. Annual leave with wages :** (1) Every adult worker, who has completed one year of continuous service in an establishment, shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of one day-

- (a) in the case of a shop or commercial or industrial establishment or factory or road transport service, for every eighteen days of work;
- (b) in the case of tea plantation, for every twenty two days of work;
- (c) in the case of a newspaper worker, for every eleven days of work, performed by him during the previous period of twelve months.

(2) Every worker, who is not an adult, who has completed one year of continuous service in an establishment, shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated at the rate of one day-

- (a) in the case of a factory, for every fifteen days of work;
- (b) in the case of a tea plantation, for every eighteen days of work;
- (c) in the case of a shop or commercial or industrial establishment, for every fourteen days of work performed by him during the previous period of twelve months.

(3) A period of leave allowed under this section shall be inclusive of any holiday which may occur during such period.

(4) If a worker does not, in any period of twelve months, take the leave to which he is entitled under sub-sections (1) or (2), either in whole or in part, any such leave not taken by him shall be added to the leave to be allowed to him, in the succeeding period of twelve months.

(5) Notwithstanding anything contained in sub-section (4), an adult worker shall cease to earn any leave under this section, when the earned leave due to him amounts to-

- (a) in the case factory or road transport service, forty days;

(b) in the case of a tea plantation or shop or commercial or industrial establishment, sixty days;

(6) Notwithstanding anything contained in subsection (4) an adolescent worker shall cease to earn any leave under this section, when the earned leave

(a) in the case of a factory or tea plantation, sixty days;

(b) in the case of shop or commercial or industrial establishment, eighty days;

(7) Any leave applied for by a worker but refused by the employer for any reason, shall be added to the credit of such worker beyond the aforesaid limit mentioned in sub-section (5) and (6).

(8) For the purpose of this section a worker shall be deemed to have completed a period of continuous service in an establishment notwithstanding any interruption in service during that period due to-

(a) any holiday;

(b) any leave with wages;

(c) any leave with or without wages due to sickness or accident;

(d) any maternity leave not exceeding sixteen weeks;

(e) any period of lay-off;

(f) a strike which is legal or a lock-out which is not illegal.

**118. Festival holidays :** (1) Every worker shall be allowed in a calendar year eleven days of paid festival holiday.

(2) The days and dates for such festivals shall be fixed by the employer in such manner as may be prescribed.

(3) A worker may be required to work on any festival holiday, but two day's additional compensatory holidays with full pay and a substitute holiday shall be provided for him in accordance with the provisions of section 103.

**119. Calculation of wages and payment during leave or holiday period :** (1) For the leave or holidays allowed to a worker under the provisions of this Act, he shall be paid at the rate equal to the daily average of his full time wages including dearness allowances, and ad-hoc or interim pay, if any, for the days on which he worked during the month immediately preceding this leave but excluding any overtime allowance and bonus:

Provided that if a worker in any establishment is entitled to cash equivalent of any advantage accruing from the supply of food grains, it shall be included in his wages.

(2) A worker who has been allowed annual leave for a period of not less than four days in the case of an adult and five days in the case of an adolescent, at any time, shall, in so far as it is practicable, be paid his wages for the period of the leave so allowed, before his leave begins.

## **CHAPTER : X**

### **WAGES AND PAYMENT**

**120. Special definition of ‘wages’:** In this Chapter, unless there is anything repugnant in the subject or context, ‘wages, means wages as defined in section 2 (XLV), and includes-

- (a) any bonus or other additional remuneration payable under the terms of employment;
- (b) any remuneration payable in respect of overtime work, holiday or leave;
- (c) any remuneration payable under any award or settlement between the parties or under order of any Court;
- (d) any sum payable under this Act or any agreement by reason of termination of employment whether by way of retrenchment, discharge, removal, resignation, retirement, dismissal or otherwise; and
- (e) any sum payable due to lay-off or suspension.

**121. Responsibility for payment of wages :** Every employer shall be responsible for the payment to workers employed by him of all wages required to be paid under this act:

Provided that, except in the case of a worker employed by a contractor, the chief executive officer, the manager or any other person responsible to the employer for the supervision and control of an establishment shall also be responsible for such payment.

Provided further that when the wages of a worker employed by the contractor is not paid by the contractor, the wages shall be paid by the employer of the establishment and the same shall be adjusted from the contractor.

**122. Fixation of wage-periods :** (1) Every person responsible for the payment of wages under section 121 shall fix periods, to be called wage periods, in respect of which such wages shall be payable.

(2) No wage period shall exceed one month.

**123. Time of payment of wages :** (1) The wages of every worker shall be paid before the expiry of the seventh day after the last day of the wage period in respect of which the wages are payable.

(2) Where the employment of any worker is terminated by retirement or by the employer, whether by way of retrenchment, discharge, removal, dismissal or otherwise, the wages payable to him shall be paid before the expiry of the seventh working day from the day on which his employment is so terminated.

(3) All payment of wages shall be made on a working day.

**124. Wages to be paid in current coin or currency notes :** All wages shall be paid in current coin or currency notes or bank cheque.

**125. Deductions which may be made from wages :** (1) No deduction shall be made from the wages of a worker except those authorized by or under this Act.

(2) Deductions from the wages of a worker shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely-

- (a) fines imposed under section 25;
- (b) deductions for absence from duty;
- (c) deduction for damage to or loss of goods expressly entrusted to the worker 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, other than tolls and raw materials required for the purpose of employment, supplied by the employer as the Government may, by general or special order, authorize;
- (f) deductions for recovery of advances or loans of whatever nature or adjustment of over-payments of wages;
- (g) deductions of income-tax payable by the worker;
- (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 provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies or any other recognized provident fund as defined in the Income-tax Act, 1922 (XXVI of 1922), or any provident fund approved in this behalf by the Government, during the continuance of such approval;
- (j) deductions for payments to any co-operative societies approved by the Government or to a scheme of insurance maintained by any Government Insurance Company or Bangladesh Postal Department;
- (k) deductions, made with the written authorization of the workers for the contribution to any fund or scheme constituted or framed by the employer, with the approval of the Government, for the welfare of the workers or the members of their families or both, and
- (l) deduction of subscription for the CBA union through check-off system.

**126. Deductions for absence from duty :** (1) deductions may be made under section 125(2) (b) only on account of the absence of a worker from the place, where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall, in no case bear to the wages payable to the worker in respect of the wage period for which the deduction is made a larger proportion, he was required to work;

Provided that, subject to any rules made in this behalf by the Government, if ten or more workers acting in concert absent themselves without due notice and without reasonable cause, such deduction from any such worker may include such amount not exceeding his wages for eight days as may, by the terms of his employment, be due to the employer in lieu of due notice.

Explanation- For the purposes of this section, a worker shall be deemed to be absent from the place where he is required to work if, although present in such place he refuses, in pursuance of a stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

**127. Deductions for damage or loss :** (1) A deduction under section 125(2) (c) shall not exceed the amount of the damage or loss caused to the employer by neglect or default of the worker and shall

not be made until the worker has been given an opportunity of showing cause and found guilty of the charge in compliance with the principles of natural justice.

(2) All such deductions and all the realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages in such form as may be prescribed by rules.

**128. Deductions for services rendered :** A deduction under section 125(2)(d) and (e) shall not be made from the wages of a worker unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as the Government may impose.

**129. Deductions for recovery of loans or advances :** Deductions under section 125(2) (f) shall be subject to the following conditions, namely:

- (a) recovery of a loan or an advance of money given before employment began shall be made from the first payment or wages in respect of a complete wage period, but no recovery shall be made of such loans or advances given for traveling expenses;
- (b) recovery of loans or any advances of wages not already earned shall be subject to any rules made by the Government regulating the extent to which such loans or advances may be given and the installment by which they may be recovered.

**130. Other deductions from wages :** Deductions under section 125 (2) (j) (k) and (l) shall be subject to such conditions as the Government may impose.

**131. Payment of undisturbed wages in cases of death of workers :** (1) subject to other provisions of this chapter, all amounts payable to a worker as wages shall, if such amounts could not or cannot be paid on account of his death or on account of his whereabouts not being known before payment,-

- (a) be paid to the person nominated by him in this behalf in accordance with the rules;
- (b) where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the labour court who shall deal with the amounts so deposited in such manner as may be prescribed.

(2) Where, in accordance with the provisions of sub-section (1), all amounts payable to a worker as wages are paid by the employer to the person nominated by the worker; or are deposited by the employer with the Labour court, the employer shall be discharged of his liability in respect of payment of those wages.

**132. Claims arising out of deductions from wages or delay in payment of wages :** (1) Where contrary to the provisions of this Act any deduction has been made from the wages of a worker, or any payment of wages has been delayed, or payment of wages or gratuity under any rule or his dues in the provident fund delayed, such person himself, or in case of his death any of his legal heirs or any legal representative, may apply to the Labour Court for recovery of such unpaid wages or delayed wages or any other dues;

(2) Every such application shall be presented within twelve months from the date on which the deduction from the wages was made or from the date on which the Payment of the wages was due to be made, as the case may be, to the Labour Court within whose jurisdiction on the place where the payment was made;

Provided that, any application may be admitted after the said period of twelve months when the applicant satisfies the Labour Court that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (1) is entertained, the Labour Court shall hear the applicant and the employer or other person responsible for the payment of wages under this chapter, or give them an opportunity of being heard and take necessary evidence, and, may, direct the refund to the applicant of the amount deducted, or the payment of the delayed wages.

(4) Any order given under sub-section (3) shall not prejudice any other penalty to which such employer or other person is liable under this Act.

(5) Labour Court in passing an order under sub-section (3) may direct the employer or other person responsible for payment of wages to pay twenty-five per cent of the wages of the worker as compensation.

(6) No direction for the payment of compensation under sub-section (5) shall be made in the case of delayed wages if the Labour Court is satisfied that the delay was due to-

- (a) a bonafide error or bonafide dispute as to the amount payable to the worker, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the worker to apply for or accept payment.

(7) If the Labour court while hearing any application under this section is satisfied that it was either malicious or vexatious, the Labour court may direct that a penalty not exceeding two – hundred taka paid to the employer or other person responsible for the payment of wages by the person presenting the application.

**133. Court fees in proceeding under section 132 :** (1) In any proceedings under section 132, the applicant shall not be liable to pay any Court fees other than fees payable for service of process in respect of such proceedings.

(2) Where the applicant succeeds, in such proceedings the labour Court hearing the application shall calculate the amount of Court fees which would have been payable if the application were a plaint in a civil suit for recovery of money, and direct the employer or other person responsible for payment of the wages under section 121 to pay such amount.

(3) If the amount directed to be paid under sub-section (2) is not paid within the time specified by the Labour Court, it shall be recoverable as a public demand.

**134. Single application in respect of a class of workers whose wages have not been paid or wages deducted :** (1) A single application may be presented under section 132 on behalf of in respect of any number of workers belonging to the same unpaid group whose wages have been delayed or deducted, and in such case compensation that may be awarded under section 132(5),



(2) The labour Court may deal with any number of separate pending applications, presented under section 132 in respect of workers belonging to the same unpaid group, as a single application presented under sub-section (1), and the provisions of that sub-section shall apply accordingly.

(3) For the purpose of this section, 'unpaid workers includes in the same group' shall mean the workers who are borne on the same establishment and if their wages for the same wage-period or period have remained unpaid.

**135. Appeal :** (1) An appeal against an order passed by the Labour court under section 132, may be preferred, within thirty days of the date on which the order was passed, before the Tribunal.

(2) Notwithstanding anything contained in sub-section (1) no appeal by the employer or other person responsible for the payment of wages lie, if the total sum directed to be paid by way of wage and compensation exceeds one thousand taka, or by any worker or, if he has died, by any of his heirs, or by his legal representative, if the total amount of wages claimed exceeds five hundred taka, or

(3) No appeal shall lie unless the memorandum of appeal is accompanied by a certificate of the Labour court to the effect that the appellant has deposited with the Labour court the amount payable under the direction appealed against.

(4) Save as provided in the case of appeal under this section all other orders passed by the Labour court under section 132 shall be final.

(5) The provisions of section 5 of the Limitation act, 1908 (LX of 1908) shall be applicable to appeal under this section.

**136. Conditional attachment of property of employer or other person responsible for payment of wages :** (1) Where at any time-

- (a) after an application has been made under section 132, the Labour court, or
- (b) after an appeal has been filed under section 135, the Tribunal;

is satisfied that the employer or other person responsible for the payment or wages under section 121 is likely to evade payment of any amount that may be directed to be paid under section 132 or 135, the Labour court or the Tribunal, as the case may be, after giving the employer or other person an opportunity of being heard, may direct the attachment of so much of the property of the employer or other person responsible for the payment of wages:

Provided that, if there is possibility of defeating the purpose for the cause of delay, the said Court or Tribunal, before giving the opportunity of being heard, may pass such order of attachment.

Provided further that such amount of property may be attached, which, in the opinion of the Labour Court or the Tribunal, sufficient to satisfy the amount which may be payable under the direction.

(2) All provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to attachment before judgment, apply to any order for attachment

**137. Power to recover from employer in certain cases :** When the Labour Court is unable to recover from any person, other than an employer, responsible under section 121 for the payment of wages any amount directed by such court or tribunal, as the case may be, to be paid by such person, it shall recover the amount from the employer.

## **CHAPTER: XI WAGES BOARDS**

**138. Establishment of Minimum wages Board :** (1) The Government shall establish a board to be called the minimum wages board.

(2) the minimum wages board, hereinafter referred to in this chapter as the wages board, shall consist of-

- (a) a chairman;
- (b) one independent member;
- (c) one member to represent the employers, and
- (d) one member to represent the workers.

(3) For the purpose of discharging the functions specified in section 139, the wages board shall also include-

- (a) one member to represent the employers of the industry concerned; and
- (b) one member to represent the workers engaged in such industry.

(4) The chairman and the other members of the wages board shall be appointed by the Government.

(5) The chairman and the independent member of the wages board shall be appointed from persons with adequate knowledge of industrial labour and economic conditions of the country who are not connected with any industry or associated with any trade union of workers or employers.

(6) The member to represent the employers and the member to represent the workers under sub-section (2) or (3) shall be appointed after considering nominations, if any, of such organizations as the Government considers to be representative organizations of such employers and workers respectively.

Provided that, if no nomination is received for the representatives of the employers or workers inspite of more than one effort, the Government appoint such persons whom the Government considers to be fit in its opinion to be representative of such employers and workers respectively.

**139. Recommendation of minimum rates of wages for certain workers :** (1) Where, in respect of any industry, the Government is of the opinion that, in view of the prevailing rates of wages of workers engaged in that industry, it is reasonable and necessary to fix the minimum rates of wages for all or any class of workers employed in such industry, it may direct the wages Board to

recommend, after such enquiry as the wages board thinks fit, the minimum rates of wages for such workers or class of workers.

Explanation :- The Government, may upon an application made to it, by the employer or workers, or both the parties, consider fixation of minimum rates of wages for the workers employed in that industry.

(2) The wages board shall make its recommendation within a period of six months from the date of receipt of such direction made to it:

Provided that the Government may extend this period if the wages board so request.

(3) In pursuance of a direction under sub-section (1), the wages board may recommend minimum rates of wages for all classes of workers in any grade and, in such recommendation, may specify-

- (a) the minimum rates of wages for time-work and piece-work; and
- (b) the minimum time-rates specifically for the workers employed on piece work.

(4) The time-rates recommended by the wages board may be on hourly, daily, weekly or monthly basis.

(5) In its recommendation the wages board shall indicate whether the minimum rates of wages should be adopted uniformly throughout the country or with such local variations for such areas as are specified therein.

(6) The minimum rates of wages for any industry may be re-fixed after every five years as may be directed by the Government.

**140. Power to declare minimum rates of wages :** (1) Upon receipt of a recommendation of the wages board under section 139, the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended by the wages board for the various workers shall, subject to such exception as may be specified in the notification, be the minimum rates of wages for such workers.

(2) If the Government considers that such recommendation is not, in any respect, equitable to the employers or the workers, if any, within thirty days of receipt of the recommendation, refer it back to the wages board for reconsideration with such comments thereon and giving such information relating thereto as the Government may think fit.

(3) Where a recommendation is referred back to the wages board under sub-section (2), the wages board shall reconsider it after taking into account the comments made and information given by the government and, if necessary, shall hold further enquiry and submit to the government a revised recommendation, or if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons there for.

(4) Upon receipt of the recommendation of the wages board under sub-section (3), the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the wages board for various workers shall, subject to such

modifications and exceptions as may be specified in the notification, be the minimum rates of wages for such workers.

(5) Unless any date is specified for the purpose in the notification under sub-section (4), the declaration there under shall take effect on the date of publication of such notification.

(6) Where after publication of a notification under sub-section (1) or (4) or after minimum rates of wages declared there under have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, it may refer the matter to the wages board and any such reference shall be deemed to be a reference under sub-section (2).

(7) The minimum rates of wages declared under this section shall be final and shall not, in any manner, be questioned by any persons in any Court or before any authority.

**141. Factors to be considered in making its recommendation :** In making its recommendation the wages board shall take into consideration cost of living, standard of living, cost of production, productivity, price of products, business capability, economic and social conditions of the country and of the locality concerned and other relevant factors.

**142. Periodical review of minimum rates of wages :** (1) The wages board shall review its recommendations if any change in the factors specified in section 141 and other relevant factors so demand, and recommend to the Government any amendment, modification or revision of the minimum rates of wages declared under section 140:

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require, and later than three years from such date.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 139 and the provisions of this chapter shall, as far as may be, apply accordingly.

**143. Constitution of Newspaper workers 'wage board:** (1) The Government may, if it thinks fit, by notification in the official Gazette, constitute a separate board, to be called the Newspaper workers' wage board, for fixing rates of wages of newspaper workers.

(2) The Board hereinafter referred to as this Chapter as the Newspaper wage Board, shall consist of a chairman and an equal number of member to represent the employers in relation to newspaper establishments and newspaper workers, to be appointed by the Government.

**144. Fixation of wages for newspaper workers :** (1) In fixing rates of wages in respect of newspaper workers the Newspaper wage board shall take into consideration the cost of living, the prevalent rates of wages of comparable employment's in Government, Corporations and private sectors, the circumstances relating to the newspaper industry in different regions of the country, and to any other circumstances which to the Newspaper wage board may seem relevant.

(2) The Newspaper wage board may fix rates of wages for time work and for piece-work.

(3) The decision of newspaper wage board fixing rates of wages shall be communicated, as soon as practicable, to the Government.

**145. Publication of decision of Newspaper wage board :** (1) The Government shall examine the decision of the Newspaper wage board and shall, within a period of three months from the date of its receipt publish by notification in the official Gazette with modifications as may be deemed necessary.

(2) The decisions of the Newspaper wage board, with modifications, if any, and published under sub-section (1) shall come into operation with effect from such date as may be specified in the notification, and where no date is so specified, it shall come into operation on the date of its publication.

**146. Power of Newspaper wage board to fix interim rates of wages :** (1) Where the newspaper wage board is of the opinion that it is necessary so to do, it may, by notification in the official Gazette, fix interim rates of wages.

(2) Any such interim rate of wages so fixed shall be binding on all employers in relation to newspaper establishments, and every newspaper worker shall be entitled to be paid wages at a rate which shall, in no case, be less than such interim rate of wages.

(3) Any such interim rate of wages fixed, shall remain in force until the decision of the Newspaper wage board comes into operation under section 145(2).

**147. Application to Labour Court :** Where any dispute relating to classification or re-classification of a newspaper or a newspaper establishment arises out of any decision of the board, with modifications if any, and published under section 145(2), any person aggrieved by any such decision may apply to the labour court for adjudication and determination of the dispute.

**148. Minimum wages to be binding on all employers :** The minimum rates of wages declared under section 140 or published under section 145 shall be binding on all employers concerned and every worker shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages so declared or published.

**149. Prohibition to pay wages at a rate below the minimum rate of wages :** (1) No employer shall pay any worker wages at a rate lower than the rate declared or published under this Chapter to be the minimum rate of wages for such worker.

(2) Nothing in sub-section (1) shall be deemed to affect, in any way, the right of a worker to continue to receive wages at a rate higher than the minimum rate declared under this chapter, if, under any agreement or award or otherwise, he is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy.

## **CHAPTER : XII**

### **WORKMEN'S COMPENSATION FOR INJURY BY ACCIDENT**

**150. Employer's Liability for compensation :** (1) If personal injury is caused to a worker by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this chapter.

(2) The employer shall not be liable to pay compensation-

- (a) in respect of any injury which does not result in the total or partial disablement of the worker for a period exceeding three days;
- (b) in respect of any injury, not resulting in death, caused by an accident which indirectly attributable to-
  - (i) the worker having been at the time thereof under the influence of drink or drugs, or
  - (ii) the wilful disobedience of the worker to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of worker, or
  - (iii) the wilful removal or disregard by the worker of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of worker. :

(3) If-

(a) worker employed in any employment specified in part-A of the third Schedule, attacked with any disease specified therein as an occupational disease peculiar to that of employment, or

(b) a worker, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in part- B of the Third schedule, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section, and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

**Explanation :** For the purposes of this sub-section, a period of service shall be deemed to be continuous which has not included a period of service under any other employer in the same kind of employment.

(4) The Government may, by notification in the official Gazette, add any description of employment to the employment's specified in the Third Schedule and shall specify in the case of the employment's so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to these employment's respectively, and the provision of sub-section (3) shall there upon apply as if such diseases had been declared by this chapter to be occupational diseases peculiar to those employment's.

(5) Save as provided by sub-section (3) and (4), no compensation shall be payable to a worker in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(6) Nothing herein contained shall be deemed to confer any right to compensation on a worker in respect of any injury if he has instituted in a Civil court a suit for damages in respect of the injury against the employer or any other person;

(7) No suit for damages shall be maintainable by a worker in any court of law in respect of any injury-

- (a) if he has instituted a claim to compensation in respect of the injury before a labour court; or
- (b) if an agreement has been come to between the worker and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Chapter.

(8) For the purposes of this chapter, 'worker' means any person employed by the employer directly or through contractors who is-

- (a) the railway servant as defined in section 3 of the railways Act, 1890 (IX of 1890), who is not employed in any administrative, district or sub-divisional office of the railway and not employed in any such capacity as is specified in the Fourth Schedule, or
- (b) employed in any such capacity as is specified in the Fourth Schedule, whether the contract of employment is expressed or implied, oral or in writing; and any reference to a worker who has been injured shall, where the worker is dead, include a reference to his dependents or any of them.

Explanation- The exercise and performance of the powers and duties of a local authority or of any department acting on behalf of the government shall, for the purposes of this chapter, unless a contrary intention appears, be deemed to be the trade or business or such authority or department.

**151. Amount of compensation :** (1) Subject to the provisions of this chapter the amount of compensation shall be as follows, namely:

- (a) where death results from the injury, a worker in receipt of monthly wages falling within limits shown in the third column of the Fifth Schedule the amount shown against such limit thereof;
- (b) where permanent total disablement results from the injury-
  - (i) in the case of an adult limits shown in Fifth Schedule the amount shown against such limits in the third column thereof; and
  - (ii) in the case of a minor- taka ten thousand;
- (c) where permanent partial disablement results from the injury-
  - (i) in the case of an injury specified in the first schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement's as is specified therein as being the percentage of the loss of earning capacity caused by that injury;
  - (ii) in the case of an injury not specified in the first schedule, such percentage of the

compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury; and

- (d) where temporary disablement, whether total or partial, results from the injury, a monthly payment payable on the first day of the month following the month in which it is due after the expiry of a waiting period of four days disablement or during a period as specified in the last column of the fifth schedule; whichever period is shorter.

(2) Where more injuries than one are caused by the same accident, the amount of compensation payable under sub-section (1), (c) shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

(3) On the ceasing of the disablement before the date on which any monthly payment falls due, there shall be payable in respect of that month a sum proportionate to the duration of the disablement in that month.

**152. Method of calculating wages :** (1) In this chapter and for the purpose thereof the expression 'monthly wages' means the amount of wages deemed to be payable for a month's service, whether the wages are payable by the month or by whatever other period or at piece rates,

(2) Such wages shall be calculated as follows, namely :

- (a) where the worker has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the worker shall be one-twelfth of the total wages to be paid to him by the employer in the last twelve months of that period;
- (b) where the whole of the continuous period of service immediately preceding the accident during which the worker was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the worker shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a worker employed on the same work by the same employer, or, if there was no worker so employed on similar work in the locality;
- (c) in the cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation : a period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

**153. Review :** (1) Any monthly payment payable under this chapter, either under an agreement between the parties or under the order of a Labour court, may be reviewed by the Labour court, if-

- (a) on the application either of the employer or of the worker accompanied by the certificate of a registered medical practitioner that there has been a change in the condition of the worker, or



- (b) on such application without medical certificate on the ground that the determination of compensation was obtained by fraud or under influence or other improper mean or that in such determination there is a mistake or error apparent on the face of the record.

(2) Any monthly payment may, on review under this section, subject to the provisions of this chapter, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the worker is entitled less any amount which he has already received by way of monthly payment.

**154. Commutation of monthly payments :** (1) The employer may pay lump sum amount as monthly payments, by agreement between the parties or,

(2) If the parties do not agree as such and the payments have been continued for not less than six months, on the application of either party to the Labour court be redeemed by the payment a lump sum of such amount as may be determined by the Labour court.

**155. Distribution of compensation :** (1) No payment of compensation in respect of a worker whose injury has resulted in death, and no payment of a lump sum as compensation to a person under a legal disability, shall be made otherwise than by deposit with labour court.

(2) No such payment made directly by an employer shall be deemed to be a payment of compensation under subsection (12), unless a worker, during the periods of his employment, nominated in the prescribed manner any of his dependents to receive the amount of compensation in the even of an injury resulting in his death:

(3) Not with standing anything contained in sub-section (1), in the case of a deceased worker, an employer may make to any dependent advances on account of compensation and such advances shall be deducted by the labour court from the compensation payable to that dependent and repaid to the employer.

(4) Any other sum which is payable as compensation may be deposited with the labour court on behalf of the person entitled thereto.,

(5) The receipt of the Labour court shall be a sufficient discharge in respect of any compensation deposited with it.

(6) On the deposit of any money under sub-section (1) as compensation in respect of a deceased worker, the Labour court shall, if it thinks necessary, cause notice to be published or to be serviced on each dependent in such manner as it thinks, fit, calling upon the dependents to appear before it on such date as it may fix for determining the distribution of the compensation.

(7) If the labour court is satisfied after any enquiry which it may deem necessary, that no dependant exists, it shall not less than two years after the date of deposit, transfer the balance of the money to such fund or funds for the benefit of workers as the Government may, by notification in the official Gazette, specify or establish.

(8) The labour court shall on application by the employer, furnish a statement showing in detailed all disbursements made.

(9) Compensation deposited in respect of a deceased worker shall, subject to any deduction made under the proviso to sub-section (1), be apportioned among the dependents of the deceased worker or any of them in such proportion as the labour court thinks fit, or may, in the discretion of the labour court, be allotted to any one dependant.

(10) Where any compensation deposited with the Labour court is payable to any person, the labour court shall if the person to whom the compensation is payable is not a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(11) Where any lump sum deposited with the Labour court is payable to a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of such person during his disability, in such manner as the Labour court may direct.

(12) Where a half monthly payment is payable to any person under a legal disability the labour court may, of its own motion or on an application made to it in this behalf, order that the payment be made during the disability to any dependant of the worker or to any other person whom the labour court thinks best fitted to provide for the welfare of the worker.

(13) Where, on application made to it in this behalf or otherwise, the labour court is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependent or for any other sufficient cause, and order of the labour court as to the distribution of any sum paid as Compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Labour court may make such order for the variation of the former order as it thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(14) Where the Labour court varies any order under sub-section (13) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 329.

**156. Compensation not to be assigned, attached or charged :** Save as provided by this chapter, no lump sum or monthly payment payable under the chapter shall in any way, be capable of being assigned or charged or be liable to attachment or pass to any person other than the worker by operation of law, nor shall any claim be set off against same.

**157. Notice and claim :** No claim for compensation shall be entertained by a labour court unless notice of the accident has been given in the manner herein after provided as soon as practicable after the happening thereof and unless the claim is preferred before it within two years of the occurrence of the accident or in case of death, within two years from the date of death.

(2) Where the accident is the contracting of a disease in respect of which the provisions of section 150 (3) are applicable, the accident shall be deemed to have occurred on the first of the days during

which the worker was continuously absent from work in consequence of the disablement caused by the disease.

(3) The want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim-

(a) if the claim is preferred in suspect of the death of a worker resulting from an accident-

- (i) which occurred on the premises of the employer, or
- (ii) at any place where the worker at the time of the accident was working under the control of the employer or of any person employed by him, and the worker died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer of any one of several employers of any person responsible to the employer for the management of any branch of the trade or business in which the injured worker was employed had knowledge of the accident from any other source at or about the time when it occurred.

(4) The Labour court may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time, as provided in the preceding sub-section if it is satisfied that the failure so to give the notice or prefer the claim as the case may be, was due to sufficient cause.

(5) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured worker was employed.

(6) A notice under this section may be served by delivering it at or sending it by registered post addressed to the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

**158. Power to require from employers statements regarding fatal accidents :** (1) Where a labour Court receives information from any source that a worker has died as a result of an accident arising out of and in the course of his employment, it may send by registered post a notice to the workers employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the worker, and indicating whether, in the opinion of the employee, he is or is not liable to deposit compensation on account of the death,

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is liable to deposit compensation, he shall, in his statement, indicate the grounds on which he disclaimed liability.

(4) Where the employer has so disclaimed liability, the Labour Court, after such enquiry as it may think fit, may inform any of the dependents of the deceased worker that it is open to the dependents to prefer a claim for compensation, and may give them such other further information as it may think fit.

**159. Reports of fatal accidents :** Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death the person required to give the notice shall, within seven days of the death, send a report to the Labour Court giving the circumstances attending the death.

**160. Medical examination :** (1) Where a worker has given notice of an accident, the employer shall before the expiry of three days from the time at which service of the notice has been affected, have the worker examined free of charge by a registered medical practitioner, and the worker shall submit himself for such examination,

Provided that where the accident or illness of the worker is of grave nature, the employer shall cause the examination at the place where the workers is.

(2) under this chapter and any worker who is in receipt of a monthly payment under this chapter, shall if so required, submit himself for such examination from time to time.

(3) Where a worker is not examined free of charge as aforesaid, he may get himself examined by a registered medical practitioner and the expenses of such medical examination shall be mutatis-mutandis reimbursed to the worker by the employer.

(4) A worker shall not be required to submit for examination by a registered medical practitioner under sub-section (1) or (2) otherwise than in accordance with rules made under this chapter, or at more frequent interval than may be prescribe.

(5) If a worker, on being required to do so by the employer under sub-section (1) or (2) by the labour court at any time, refuses to submit himself for examination by a registered medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(6) If a worker, before the expiry of the period within which he is liable under sub-section (1) or (2) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(7) Where a worker, whose right to compensation has been suspended under sub-section (5) or (6), dies without having submitted himself for medical examination as required by either of those sub-sections, the Labour Court may, if it thinks fit, direct the payment of compensation to the dependents of the deceased worker.

(8) Where under sub-section (4) or (5) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences

before the expiry of the waiting period referred to in section 151(1) (d), the waiting period shall be increased by the period during which the suspension continues.

(9) Where an injured worker has refused to be attended by a registered medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the worker has not thereafter been regularly attended by a registered medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the worker had been regularly attended by a registered medical practitioner whose instructions he had followed and compensation, if any, shall be payable accordingly.

(10) Where an employer or an injured worker is not satisfied with the report of the medical examination by a registered medical practitioner he may refer the case for re-examination by a medical specialist at least of the rank of an Associate Professor of a Medical college, and the expenses of such examination shall be borne by the employer or the worker, as the case may be.

**161. Compensation on contracting :** (1) Where any person, hereinafter in this section referred to as the principal, in the course of or for the purposes of his trade or business contracts with any other person, hereinafter in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any worker employed in the execution of the work any compensation which he would have been liable to pay if that worker had been immediately employed by him; and where compensation is claimed from the principal, this chapter shall apply as if reference to the principal were substitute for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the worker under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, any other person from whom the worker could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the worker could have recovered compensation and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Labour Court.

**162. Insolvency of employer :** (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Chapter to any worker, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the worker, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however, that the insurers shall not be under any greater liability to the worker than they would have been under to the employer.

(2) If the liability of the insurers to the worker is less than the employer to the worker, the worker may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1), the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract, other than a stipulation for the payment of premium, the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or Liquidation for the amount paid to the worker:

Provided that the provisions of this sub-section shall not apply in any case in which the worker fail to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or Liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 or the Insolvency (Ireland) Act, 1909 (III of 1909), or under section 61 of the Insolvency Act, 1920 (v of 1920), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effects accordingly.

(5) Where the compensation is a monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 151, and a certificate of the Labour Court as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily for the purposes of reconstruction or of amalgamation with another company.

**163. Special provision relating to masters and seamen :** (1) This chapter shall apply in the case of workers who are masters of ships or seamen subject to the following modifications, namely:

(2) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(3) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been last with all hands, within eighteen months the date on which the ship was, or is deemed to have been, so lost.

(4) Where an injured master or seaman is discharged or left behind in a foreign country, any depositions taken by any judge or Magistrate in that part or by any consular officer in the foreign country and transmitted by the person proceedings for enforcing the claim, be admissible in evidence, if-

- (a) the deposition is authenticated by the signature of the judge, Magistrate or consular officer before whom it is made;
- (b) the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witnesses; and
- (c) the deposition was made in the course of a criminal proceeding on proof that the deposition was made in the presence of the person accused;

And it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that opportunity and that it was so made.

(5) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Bangladesh relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(6) No compensation shall be payable under this Chapter in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the war Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War pensions and Detention allowances (Indian seamen, etc.) Scheme, 1941, made under the pensions (Navy, Army, air Force and Mercantile Marine) Act, 1939, or under the War pensions and detention allowances (Indian seamen) scheme, 1942, made by the Government.

(7) Failure to give a notice or made a claim or commence proceeding within the time required by this chapter shall not be a bar to the maintenance of proceedings under this chapter in respect of any personal injury, if-

- (a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and
- (b) the Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made, makes provision for payment, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and
- (c) the proceedings under this chapter are commenced within one month from the date on which the said certificate of the Government was furnished to the person commencing the proceedings.

**164. Returns as to compensation :** The Government may, by notification in the official Gazette, direct that every person employing workers, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the

employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Government may direct.

**165. Contracting out :** Any contract of agreement, whether made before or after the commencement of this chapter, whereby a worker relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this chapter.

**166. Reference to Labour courts :** (1) If any question arises in any proceedings under this chapter as to the liability of any person to pay compensation, including any question as to whether a person injured is or is not a worker, or as to the amount or duration of compensation, including any question as to the nature or extent of disablement, the question shall, in default of agreement, be settled by a Labour court.

(2) No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this chapter required to be settled, decided or dealt with by a labour court or to enforce any liability incurred under this chapter.

**167. Venue of Proceedings :** Where any matter is under this chapter to be done by or before a Labour court, the same shall subject to the provisions of this chapter and any rules be done by or before a labour court having jurisdiction in the injury area in which the accident took place which resulted in the injury:

Provided that, where the worker is the master of a ship or a seaman, any such matter may be done by or before a Labour court having jurisdiction in the area in which the owner or agent of the ship resides or carries on business.

**168. Condition of application :** No application for the settlement of any matter by a labour court under this chapter, other than an application by a dependant for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

**169. Power of Labour Court to require further deposit in cases of fatal accident :** (1) Where any sum has been deposited by an employer as compensation payable in respect of a worker whose injury has resulted in death, and in the opinion of the Labour Court such sum is insufficient, the Labour Court may, by notice in writing stating its reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Labour court, the Labour court may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

**170. Registration of agreements :** (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a monthly payment or otherwise, whether by way of redemption of a monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability a memorandum thereof shall be sent by the employer to the Labour court, which shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:



Provided that-

- (a) no such memorandum shall be recorded before seven days after communication by the Labour Court of notice to the parties concerned;
  - (b) the Labour court may at any time rectify the register;
  - (c) where it appears to the Labour court that an agreement as to the payment of a lump sum whether by way of redemption of redemption of a monthly payment or otherwise, or an agreement as the amount of compensation payable to a person under a legal disability ought not to be register by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, it may make such of order including an order as to any sum already paid under the agreement, as it thinks just in the circumstances.
- (2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the contract Act, 1872 (IV of 1872), or in any other law for the time being in force.

**171. Effect of failure to register agreement :** Where a memorandum of any agreement the registration of which is required by section 170, is not sent to the Labour court as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this chapter, and shall not, unless the Labour court otherwise directs, be entitled to deduct more than half of any amount paid to the worker by way of compensation whether under the agreement or otherwise.

**172. Appeals :** (1) An appeal shall lie to the Tribunal from the following orders of a Labour Court under this Chapter, namely:

- (a) an order awarding as compensation a lump sum whether by way of redemption of a monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
  - (b) an order refusing to allow redemption of a monthly payment;
  - (c) an order providing for the distribution of compensation among the dependents of a deceased worker, or disallowing any claim of a person alleging himself to be such dependant;
  - (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of section 161 (2);
  - (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions; or
  - (f) an order under section 155 (7).
- (2) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the Labour court, or in which the order of the Labour court gives effect to an agreement come to by the parties.
- (3) No appeals by an employer under sub-section (1) (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Labour court to the effect that the appellant has deposited with it the amount payable under the order appealed against.

(4) No appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in sub-section (1) (b) unless the amount in dispute in the appeal is not less than one thousand taka.

(5) The period of limitation for an appeal under this section shall be sixty days.

(6) The provisions of section 5 of the Limitation Act. 1908 (IX of 1908), shall be applicable to appeals under this section.

**173. Withholding of certain payments pending decision of appeal :** Where an employer makes an appeal under section 172 (1) (a), the Labour court may, and if so directed by the Tribunal shall, pending the decision of the appeal, withhold payment of any sum in deposit with it.

**174. Rules to give effect to arrangement with other countries for the transfer of money paid as compensation :** (1) The Government may, by notification in the official Gazette, make rules-

- (a) for the transfer to any other country of money deposited with a Labour Court under this Chapter which has been awarded to, or may be due to, any person residing or about to reside in Bangladesh.
- (b) and for the receipt, distribution and administration in Bangladesh of any money deposited under the law relating to worker's compensation in any other country, which has been awarded to, or may be due to, any person residing or about to reside in Bangladesh:

Provided that no sum deposited under this chapter in respect of total accidents shall be so transferred without the consent of the employer concerned until the Labour Court receiving the sum has passed orders determining its distribution and apportionment under the provisions of section 155(4) and (5).

(2) Where money deposited with a Labour court has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this chapter regarding distribution by the Labour Court of compensation deposited with it shall cease to apply in respect of any such money.

## **CHAPTER – XIII**

### **TRADE UNIONS AND INDUSTRIAL RELATIONS**

**175. Special definition of 'worker' :** In this Chapter, unless there is anything repugnant in the subject or context, 'worker' means a worker as defined in section 2 (LXXV), and includes, for the purpose of any proceedings under this Chapter in relation to an industrial dispute, a person who has been dismissed, discharged, retrenched, laid off or wither wise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment,

lay off or removal has led to that dispute, but does not include a person employed as a member of the watch and ward or security staff or fire-fighting staff or confidential assistant or telex operator or fax operator or cypher assistant or any establishment.

**176. Trade unions of workers and employers :** Subject to the provisions of this Chapter,-

- (a) workers, without distinction whatsoever, shall have the right to form trade union primarily for the purpose of regulating the relations between workers and employers or workers and workers and, subject to the constitution of the union concerned, to joint trade union of their own choosing;
- (b) Employers, without distinction whatsoever, shall have the right form trade union primarily for the purpose of regulating the relations between employers and workers or employers and employers and, subject to the constitution of the union concerned, to join trade union of their own choosing; and
- (c) Trade unions of workers and employers shall have the right to form and join federations and any such union and federation shall have the right to affiliate with any international organization and confederation of worker's or employers organization.
- (d) Trade unions and employers' associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmers;

**177. Application for registration :** Any trade union may, under the signature of its president and secretary, apply for registration of the trade union to trade unions of the concerned area under this chapter.

**178. Requirements for application :** (1) An application for registration of a trade union shall be made to the director of Labour or to the officer authorized in this behalf.

(2) The application shall be accompanied by-

- (a) a statement showing-
  - (i) the name of the trade union and the address of its head office;
  - (ii) date of formation of the union;
  - (iii) the names, ages, addresses, occupations and the posts in the union of the officers of the trade union;
  - (iv) statement of total paid membership;
  - (v) the name of the establishment to which the trade union relates and the total number of member- unions;
  - (vi) in case of a federation of trade unions, the name, addresses and registration numbers of member-unions;
- (b) three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting;
- (c) a copy of the resolution by the members of the trade union authorising its president and secretary to apply for its registration; and
- (d) in case of a federation of trade unions a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.

(3) The Director of Labour or the officer authorized in this behalf shall, on receipt of an application under sub-section (1), forthwith send a copy thereof along with the list of officers of the union to the employer concerned for information.

Provided that in case where the applicant is a federation of trade unions, a public notice showing the names of the officers of the union shall be published at the expenses of the applicant.

**179. Requirements for registration :** (1) A trade union shall not be entitled to registration under this chapter unless the constitution thereof provides for the following matters, namely:

- (a) the name and address of the trade union;
- (b) the objects for which the trade union has been formed;
- (c) the manner in which a worker may become a member of the trade union specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution declaring that he is not a member of any other trade union;
- (d) the sources of the fund of the trade union and statement of the purposes for which such fund shall be applicable;
- (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;
- (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union;
- (g) the manner in which the constitution shall be amended, varied or rescinded;
- (h) the safe custody of the funds of trade union, its annual, audit, the manner of audit and adequate facilities for inspection of the books of account by the officers and members of trade union;
- (i) the manner in which the trade union may be dissolved;
- (j) the manner of election of officers by the general body of the trade union and the term, not less than two years and not exceeding three years, for which an officer may hold office;
- (k) the number of members of the executive which shall not be less than five and more than thirty-five as may be prescribed by rules;
- (l) the procedure for expressing want of confidence in any officer of the trade union; and
- (m) the meetings of the executive and of the general body of the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.

(2) A trade union of workers shall not be entitled to registration under this chapter unless it has a minimum membership of thirty percent of the total number of workers employed in the establishment in which it is formed:

Provided that more than one establishments under the same employer, which are allied to and connected with the another for the purpose of carrying out the same industry irrespective of their place of situation, shall be deemed to be one establishment for the purpose of this sub-section.

(3) Where any doubt or dispute arises as to whether any two or more establishments are under the same employer or whether they are allied to or connected with one another for the purpose of carrying on the same industry the matter may be referred to the director of labour for decision.

(4) Any person aggrieved by a decision of the director of labour under sub-section (3), may, within thirty days of the decision, prefer an appeal to the labour court; and the decision of the labour court shall be final.

**180. Disqualification for being an officer or a member of a trade union :** (1) Notwithstanding anything contained in the constitution of a trade union, a person shall not be entitled to be, or to be elected as a member or an officer of a trade union if-

- (a) he has been convicted of an offence involving moral turpitude or an offence under section 196(2) (d) or section 298 and unless two years have elapsed from the date of his release;
- (b) he is not employed or engaged in that establishment in which the trade union is formed;
- (c) Nothing in sub-section (1) (b) shall apply to any federation of trade unions.

**181. Registered trade union to maintain register, etc. :** Every registered trade union shall maintain the following registers and books in such form as may be prescribed:

- (a) a register of members showing particulars of subscriptions paid by each member;
- (b) an accounts book showing receipts and expenditure; and
- (c) a minute book for recording the proceedings of meetings.

**182. Registration :** (1) The director of Labour, on being satisfied that a trade union has complied with all the requirements of this chapter, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of sixty days from the date of receipt of the application for registration.

(2) If the Director of Labour finds the application to be deficient in any material respect, he shall communicate in writing his objection to the trade union within a period of fifteen days from the receipt of the application and the trade union shall reply thereto within a period of fifteen days from the receipt of the objection.

(3) When the objection raised by the director of Labour has been satisfactorily met, the Director of Labour shall register the trade union as provided in sub-section (1) and if the objection is not met satisfactorily he shall reject the application.

(4) When the application has been rejected or the director of Labour has, after settlement of the objection delayed disposal of the application beyond the period of sixty days provided in sub-section (1), the trade union may, within a period of thirty days from the date of such rejection or the date of expiry of such period, whichever is earlier, appeal to the Labour court.

(5) The Labour court, after hearing the appeal, for reasons to be stated in its judgment, may pass an order directing the director of labour to register the trade union and to issue a certificate of registration within a period of seven days from the date of order or may dismiss the appeal.

(6) Any party aggrieved by the judgment passed by the labour court under sub-section (5) may prefer appeal to the labour appellate tribunal within 30 (thirty) days from the date of receipt of the order of the labour court.

**183. Registration of trade unions in a group of establishment :** (1) Notwithstanding anything contained in this chapter, for the purpose of formation of a trade union any group of establishments shall be treated as an establishment, and no separate trade union shall be formed in any establishment included in the group of establishments.

(2) A group of establishment shall, for the purposes of this section, mean all the establishment, none of which employs more than twenty workers, in a specified area carrying on the same or similar specified industry.

(3) Notwithstanding anything contained in sub-section (2), all the establishments, irrespective of the number of workers employed therein, in a specified area carrying on any of the following industries shall be deemed to be a group of establishments for that area, namely:

- (a) private road transport, including rickshaw;
- (b) private inland river transport;
- (c) tailoring and garments manufacturing industry wherein less than 100 workers are employed;
- (d) tea industry;
- (e) jute bailing;
- (f) tennary;
- (g) bidi;
- (h) handloom;
- (i) hosiery;
- (j) printing process;
- (k) hotels or motels where number of guest rooms does not exceed twenty-five;
- (l) restaurant not forming part of a hotel;
- (m) small-scale metal industry;
- (n) book-binding;
- (o) cinema and theatre;

Provided that the government may, if it deems fit so to do in the national interest, by notification in the official gazette, add any industry to this list of industries.

(4) Specified area as mentioned in sub-section (2) or (3) shall mean such area specified for specific industries published by notification in the official gazette, by the government; and such area may be at national, regional or local level, as may be expedient; and such area may be at national, regional or local level, as may be expedient; and different areas may be specified for different industries.

(5) Specified industries as mentioned in sub-section (2), shall mean such industries which, the Government, may by notification in the official gazette, specify for the purpose.

(6) A trade union for a group of establishments shall be registered, if it has as its members not less than thirty percent of the total number of workers employed in the entire group of establishments taken together;

(7) Notwithstanding anything contained in this chapter a person who is not employed or engaged in an establishment may be entitled to be, or to be elected as, an officer of any trade union, formed

in any group of establishments, if the constitution of such trade union provides for election of such person:

Provided that, the number of such persons shall not in any case be more than one fourth of the total number of its officers.

(8) Subject to this section other provisions of this chapter shall apply to a trade union formed in a group of establishments as they apply to a trade union formed in an individual establishment.

**184. Registration of trade union in civil aviation establishments :** (1) Notwithstanding anything contained in this chapter, where any recognized international organisation exists in respect of any specialised and skilled trade, occupation or service in the field of civil aviation establishment in Bangladesh may form trade union of their own, if such trade union is necessary for affiliation with such international organisation.

(2) Only one trade union may be formed by the workers engaged in each such trade, occupation or service in a civil aviation establishment.

(3) No such trade union shall be registered unless more than half of the total number of workers engaged in the trade, occupation or service concerned apply in writing for such registration stating the international organisation with which it shall be affiliated.

(4) The registration of such trade union shall be liable to be cancelled if it is not affiliated to the international organisation concerned within six months of its registration or has ceased to be so affiliated.

**185. Registration of trade union by seamen :** (1) Notwithstanding anything contained in this chapter, Bangladeshi seamen normally serving in oceangoing ships may form trade union of their own.

(2) No seamen shall be a member of such trade union unless he has a continuous discharge certificate or an appointment letter showing his employment as a seaman in any establishment engaged in merchant shipping.

(3) Only one trade union of seamen shall be registered under this chapter.

**186. Conditions of service to remain unchanged while application for registration pending :**

- (1) No employer shall, while an application for registration of a trade union is pending, alter, without prior permission of the director of labour, to the disadvantage of any worker who is an officer of such trade union the conditions of service applicable to him before the receipt of the application by the director of labour.
- (2) Notwithstanding anything contained in section 26 no employer shall, while an application for registration of a trade union is pending, terminate the employment of any worker who is a member of such trade union under that section.

**187. President. etc.** not to be transferred: Neither the president nor the General Secretary. Organizing Secretary or Treasurer of any trade union shall be transferred from one district to another without his consent.

**188.** Certain changes in the constitution and executive to be notified: (I) Every alteration made in the constitution of a registered trade union, every change of its officers and change of its name and address shall be notified by the trade union by registered post or by hand to the Director of Labour within fifteen days of such alteration or change .and the Director of Labour shall forth with send a copy of the same to the employer concerned.

(2) The Director of Labour may refuse to register such alteration or change if it is in contravention of any of the provision of this Chapter, or if it is in violation of the constitution of the trade union.

(3) Every inclusion or exclusion of any constituent unit of a federation of trade unions shall be notified by the federation by registered post to the director of labour within sixty days of such inclusion or exclusion.

(4) In case there is a dispute in relation to the change of officers of a trade union, or any trade union is aggrieved by the federation by registered post to the Director of Labour under sub-section (2), any officer or member of the trade union may appeal to the labour court.

(5) The Labour court, shall within seven days of receipt of the appeal under sub-section (4), pass an order either directing the director of Labour to register the alteration or change in the constitution or in the officers of the trade union or may, for seasons to be recorded in writing, direct the Director of Labour to hold fresh elections of the union under his supervision.

**189. Certificate of registration :** The Director of Labour, on registering a trade union under section 182, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this chapter.

**190. Cancellation of registration :** (i) Subject to the other provisions of this section, the registration of a trade union may be cancelled by the director of Labour if the trade union has-

- (a) applied for cancellation of registration;
- (b) ceased to exist;
- (c) obtained registration by fraud or by misrepresentation of facts;
- (d) contravened any of the basic provisions of its constitution;
- (e) committed any unfair labour practice;
- (f) a membership which has fallen short of the number of membership required under this chapter; and
- (g) contravened any of the provisions of this chapter or the Rules.

(2) Where the director of Labour is satisfied on enquiry that the registration of a trade union should be cancelled, he shall submit an application to the Labour court praying for permission to cancel such registration.

(3) The Director of Labour shall cancel the registration of a trade union within thirty days from the date of receipt of a permission from the Labour court.

(4) The registration of a trade union shall not be cancelled on the ground mentioned in sub-section (1) (e) if the unfair labour practice is not committed within three months prior to the date of submission of the application to the Labour Court.



**191. Appeal against permission, etc. :** (1) Any person, aggrieved by an order of the Labour court granting the prayer for permission to cancel registration of a trade union or rejecting such prayer under section 190 or by an order of cancellation of the registration of a trade union made by the director of Labour under that section may thirty days from the date of the order, appeal to the tribunal and the decision of the tribunal thereon shall be final.

(2) Where an appeal is filed under sub-section (1), the trade union shall be permitted to function to function as such till the disposal of appeal.

**192. No trade union to function without registration :** (1) No trade union which is unregistered or whose registration has been cancelled shall, subject to section 191 (2), function as a trade union.

(2) No person shall collect any subscription, other than enrollment fee, any fund of a trade union mentioned in sub-section (1).

**193. Restriction on dual membership :** No worker or employer, shall be entitled to enroll himself, as, or to continue to be, a member of more than one trade union at the same time.

**194. Incorporation of registered trade union :** (1) Every registered trade union shall be a body corporate by the name under which it is registered, shall have perpetual succession and common seal and the power to contract and to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(2) The Societies Registration Act, 1860 (XXI of 1860), the co-operative Societies ordinance, 1985 (Ordinance I of 1985) and the companies Act, 1994 (XVIII of 1994), shall not apply to any registered trade union and the registration of any trade union under any of these Acts shall be void.

**195. Unfair labour practices on the part of employers :** No employer or trade union of employers and no person acting on their behalf shall-

- (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union ; or
- (b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not, a member or officer of a trade union; or
- (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union; or
- (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a worker or injure or threaten to injure him in respect of his employment by reason that the worker is or proposes to become, or seeks to persuade any other person to become a member or officer of a trade union, or participates in the promotion,

- (e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
- (f) compel or attempt to compel any officer of the collective bargaining agent to sign a memorandum of settlement or arrive at a settlement, by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods.
- (g) interfere with, or in any way influence the election provided for in section 202;
- (h) recruit any new worker during the period of strike under section 211 or during the currency of a strike which is not illegal, except where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment or a limited number of workers, in the section where the damage is likely to occur;
- (i) deliberately fails to take measures recommended by the participation committee;
- (j) fails to give reply to any communications made by the collective bargaining agent in respect of any industrial dispute;
- (k) transfer the president, general secretary, organizing secretary or treasurer of any registered trade union in contravention of section 187;
- (l) commence, continue, instigate or incite others to take part in an illegal lockout.

**196. Unfair labour practices on the part of workers :** (1) No worker shall engage himself in any trade union activities during his office hours without the permission of his employer:

Provided that nothing in this sub-section shall apply to the trade union activities of the president or the General Secretary of a trade union which is the collective any committee, negotiation, conciliation, arbitration or proceeding under this Act, and the employer has been duly informed of such activities.

(2) No worker or trade union of workers and no person acting on behalf of such trade union shall-

- (a) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or officer of a trade union; or
- (b) induce any person to refrain from becoming, or cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for, such person or any other person; or
- (c) compel or attempt to compel any worker to pay, or refrain from paying, any subscription towards the fund or any trade union by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water or power facilities or such other methods; or

(d) compel or attempt to compel the employer to sign a memorandum of settlement or to accept or agree to 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; or

(e) commence, continue an illegal strike or a go-slow; or instigate or incite others to take part in an illegal strike or a go-slow; or

(f) resort to ghero, obstruction to transport or communications system or destruction of any property in furtherance of any demand or object of a trade union,

(3) It shall be an unfair practice for a trade union to interfere with a ballot held under section 202 by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any other person acting on its behalf.

**197. Law of conspiracy limited in application:** No officer or member of a registered trade union or a collective bargaining agent as a determined by the Director of Labor shall be liable to punishment under section 120B(2) of the Penal Code, 1860 (XLV of 1860) in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in section 179, unless the agreement is an agreement to the commit an offence, or otherwise violate any law other than this Chapter.

**198. Immunity from civil suit in certain case:**(1) No suit or other legal proceedings shall be maintainable in any trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground that-

(a) such act induces some other person to break a contract of employment, or

(b) such act or deed is an interference with the trade, business or employment of some other person or

(c) such act interferes with the right of some other person to dispose of his capital or his labour as he wills.

(2) A trade union shall not be liable in any suit or other legal proceedings in any civil

Court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade union.

**199. Enforceability of agreement :** Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a trade union shall not be void, or violable by reason only that of the objects of the agreement are in restraint of trade.

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, or recovering damages for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.

**200. Registration of federation of trade unions:** (1) Any two or more registries trade unions formed in establishment engaged ,or currying on similar or identical industry may, if heir respective general bodies so resolved , constitute a federation by executing an instrument of federation and apply for the registration of the federation :

Provided that a trade union of workers shall not join a federation which comprises a trade union of employers nor shall a trade union of employers join a federation which comprises a trade union of workers.

(2) An instrument of federation referred to in sub-section (1) shall, among other things, provide for the procures to be followed by the federate trade unions and rights and responsibilities of the federation and the federated trade unions.

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

(4) Subject to this Chapter shall .so far as may be and with necessary modifications, apply to a federation of trade union as they apply to a trade union.

(5) Notwithstanding anything contained in the foregoing sub-sections not less than 20 trade unions formed in different types of industries may .jointly .constitute a federation on national basis.

**201. Returns :** (1) There shall be sent annually to the Director, on or before the 30<sup>th</sup> April of the following year a general statement audited in the prescribed manner, of all receipts and expenditure and of the assets and liabilities of every trade union during the preceding calendar year.

(2) Together with the general statement, there shall be sent to the Director of Labour a statement showing all changes of officers made by the trade union during the year to which the general statement refers, together with a copy of the constitution of the trade union corrected up to the date.

(3) If a registered trade union fails to send the general statement within the time specified in sub-section (1), the Director of Labour shall, by a notice, inform the union of such failure, and if the union fails to submit the general statement within thirty days of the receipt of such notice, its registration shall be liable to be cancelled.

(4) In case the trade union is member of a federation, the name of the federation shall be given in the general statement.

**202. Collective bargaining agent :** (1) Where there is only one trade union in an establishment, that trade union shall, be deemed to be collective bargaining agent for such for such establishment.

(2) Where there are more trade unions than one in an establishment, the Director of Labour shall, upon an application made in this behalf by any such trade union or by the employer, hold a secret ballot, within a period of not more than one hundred and twenty days from the date of receipt of such application, to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment.

(3) Upon receipt of an application under sub-section (2) the director of Labour shall, by notice in writing call upon every trade union in the establishment to which the application relates to indicate,

within such time, not exceeding fifteen days, as may be specified in the notice, whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to the establishment.

(4) If a trade union fails to indicate, within the time specified in the notice, its desire to be a contestant in the secret ballot, it shall be presumed that it shall not be a contestant in such ballot.

(5) If no trade union indicates, within the time specified in the notice, its desire to be a contestant in the secret ballot, the trade union which has made the application shall be declared to be the collective bargaining agent in relation to the establishment concerned, provided it has as its members not less than one-third of the total number of workers employed in the establishment.

(6) Every employer shall on being so required by the Director of labour, submit to him a list of all workers employed in the establishment for not less than a period of three months in the establishment excluding those who are casual or badly workers, and the list shall contain the following particulars; namely:

(7) on being so required Director of Labour, every employer shall submit to the Director of Labour requisite number of additional copies of the list of workers mentioned in sub-section (6) and shall provide such facilities for verification of the list submitted by him.

(8) On receipt of the list of workers from the employer, the director of Labour shall send a copy of the list to each of the contesting trade unions and shall also affix a copy thereof in a conspicuous part of his office and another copy of the list in a conspicuous part of the establishment concerned, together with a notice inviting objections, if any, to be submitted to him within such time as may be specified by him.

(9) The objections, if any, received by the director of Labour within the specified time shall be disposed of by him after necessary enquiry.

(10) The Director of labour shall make such amendments, alterations or modifications in the list of workers submitted by the employer as may be required by any decision given by him on objections under sub-section (9).

(11) After amendments, alteration of modification, if any, made under sub-section (10), or where no objections are received by the director of Labour within the specified time the director of Labour shall prepare a list of worker employed in the establishment concerned duly certified and send copies thereof to the employer and such of the contesting trade unions at least seven days prior to the date fixed for poll.

(12) The list of workers prepared and certified under sub-section (11), shall be deemed to be the list of voters, and every worker whose name appears in that list shall be entitled to vote in the poll to determine the collective bargaining agent.

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

(14) No person shall canvas for vote within a radius of forty-five meters of the polling stations.

(15) For the purpose of holding secret ballot to determine the collective bargaining agent, the Director of Labour shall-

- (a) fix the date for the poll and intimate the same to each of the contesting trade unions and also to every employer;
- (b) on the date fixed for the poll to place in the polling station set up for the purpose the ballot boxes which shall be sealed in the presence of the representatives of the contesting trade unions as to receive the ballot papers.
- (c) Conduct the poll at the polling stations at which the representatives of the contesting trade unions shall have the right to be present;
- (d) After the conclusion of the poll and in the presence of such of the representatives of the contesting trade unions as may be present, open the ballot boxes and count the votes; and
- (e) After the conclusion of the count, declare the trade union which has received the highest number of votes to be the collective bargaining agent;

Provided that no trade union shall be declared to be the collective bargaining agent for an establishment unless the number of votes received by it is not less than one third of the total number of workers employed in such establishment.

(16) Where a registered trade union has been declared under sub-section (14) (e) to be the collective bargaining agent for an establishment, it shall be such collective bargaining agent for a period of two years and no application for the determination of the collective bargaining agent for such establishment shall be entertained within a period of two years from the date of such declaration : provided that, in the case of a group of establishments, the trade union declared to be the collective bargaining agent therefore shall be such collective bargaining agent for three years.

(17) Notwithstanding anything contained in sub-section (16), where a registered trade union desires to be the collective bargaining agent for an establishment after the expiry of the terms of an existing collective bargaining agent or where an existing Collective bargaining agent desires to continue as such for the next term, it may make an application to the director of Labour, not earlier than one hundred and fifty days and not later than one hundred and twenty days immediately before the expiry of the term of the existing collective bargaining agent, to hold a secret ballot to determine the next collective bargaining agent for the establishment.

(18) Where an application under sub-section (17) is made, a secret ballot to determine the next collective bargaining agent shall be held within one hundred and twenty days from the receipt of such application, but the trade union declared to be the next collective bargaining agent shall be the collective bargaining agent from the date of expiry of the term of the existing collective bargaining agent.

(19) Where after an application made under sub-section (17) a collective bargaining agent has not been determined for reasons beyond the control of the director of Labour before the expiry of the term of the existing collective bargaining agent, the existing collective bargaining agent shall continue to function as such till a new collective bargaining agent is determined.

(20) Where no application is made under sub-section (17), the director of Labour may, after the expiry of the term of the existing collective bargaining agent, recognize such collective bargaining agent or any registered trade union to act as collective bargaining agent for the establishment unless

a registered trade union is deemed to be a collective bargaining agent for the establishment under sub-section (1) or until a collective bargaining agent is determined by secret ballot under the foregoing provisions of this section, as the case may be.

(21) Any dispute arising out of any matter in relation to an election for determination of collective bargaining agent shall be referred to the Labour court, and the decision of the Labour court thereon shall be final.

(22) If in any election for determination of collective bargaining agent any contesting trade union receives less than ten percent of the total votes cast, the registration of the trade union shall stand canceled.

(23) A collective bargaining agent may, without prejudice to its own position, impale as a party to any proceeding under this chapter to which it is itself a party any federation of trade unions of which it is a member.

(24) The collective bargaining agent in relation to an establishment shall be entitled to-

- (a) undertake collective bargaining with the employer on matters connected with the employment, non-employment, non-employment, the term of employment or the conditions of work;
- (b) represent all or any of the workers in any proceedings;
- (c) give notice of, and declare, a strike in accordance with the provisions of this chapter; and
- (d) nominate representatives of workers on the board of trustees of any welfare institutions or provident funds, and of the workers participation fund established under chapter XV,
- (e) to conduct cases on behalf of any individual worker or group of workers.

(25) The provisions of this section shall mutatis-mutandis apply to the election or determination of collective bargaining agent in group of establishments under this Act.

**203. Federation of trade unions to act as collective bargaining agent in certain cases :** (1) Notwithstanding anything contained in this chapter, a federation of trade unions shall be deemed to be the collective bargaining agent in any establishment or group of establishments, if its federated unions by resolutions passed in their annual general meetings or in general meetings specially convened for the purpose, by the votes of not less than the majority of the total membership of the union concerned authorize it to act as the collective bargaining agent on their behalf.

Provided that no such authorization shall be permissible unless the constitutions of the federation and also of the federated unions provided for such authorization

(2) A Federation of trade unions shall act as the collective bargaining agent only in the establishments or group of establishments in which its federated unions are collective bargaining agent.

(3) Nothing in this section shall be applicable in case of federation of trade unions formed on national basis under section 200(5).

**204. Check-off :** (1) if a collective bargaining agent so requests, the employer of the workmen who are member of collective bargaining agent- trade union shall deduct from the wages of the workmen

such amounts towards their subscription to the funds of the collective bargaining agent- union as may be specified, with the approval of each individual workman named in the demand statement furnished by the trade union.

(2) An employer making any deduction from the wages under sub-section 91) shall, within 15 days, deposit the entire amount so deducted by him in the account of the collective bargaining agent-union.

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

**205. Participation committee :** (1) The employer in an establishment in which fifty or more workers are normally employed shall constitute in the prescribed manner a participation

(2) Such committee shall be formed with representatives of the employer and the workers.

(3) The number of representatives of worker in such committee shall not be less than the number of representatives of the employer,

(4) The representative of the workers shall be appointed on the basis of nomination given by the trade unions in the establishment.

(5) Each of the trade unions, other than the collective bargaining agent, nominating equal number of representatives and the collective bargaining agent nominating representatives, the number of which shall be one more than the total number of representatives nominated by the other trade unions.

(6) In the case of an establishment where there is no trade union, representatives of the workers on a participation committee shall be chosen in the prescribed manner from amongst the workers engaged in the establishment for which the participation committee is constituted.

(7) Where an establishment has any unit in which at least fifty workers are normally employed, a unit participation committee, may, on the recommendation of the participation committee, be constituted in the manner prescribed by Rules.

(8) Such unit committee shall consist of the representatives of the employer sand the workers employed in or under that unit.

(9) The provisions of this section applicable in case of participation committee shall mutatis-mutandis apply to the unit participation committee.

**206. Function s of participation committee :** (1) The functions of the participation committee shall be of inculcate and develop sense of belonging and workers commitment and, in particular-

- (a) to Endeavour to promote mutual trust, understanding and co-operation between the employer and the workers;
- (b) to ensure application of labour laws;
- (c) to foster a sense of discipline and to improve and maintain safety, occupational health and working condition;
- (d) to encourage vocational training, workers education and family welfare training;



- (e) to adopt measures for improvement of welfare services for the workers and their families;
- (f) to fulfill production target, improve productivity, reduce production cost and wastes and raise quality of products.

(2) A unit participation committee shall, subject to the supervision of the participation committee, discharge, as far as practicable, those functions as the specified in sub-section (1).

**207. Meetings of the participation Committee :** (1) The participation committee shall meet at least once in every two months to discuss and exchange views and recommend measures for performance of the functions under section 202.

(2) The proceedings of every meeting of the participation committee shall be submitted to the Director of Labour and the conciliator within seven days of the date of the meeting.

**208. Implementation of recommendations of participation committee.** (1) The employer and the registered trade union shall take necessary measures to implement the specific recommendation of the Participation committee within the period specified by the committee.

(2) If, for any reason, the employer or the registered trade union finds it difficult to implement the recommendations within the specified period, he or it shall inform the committee about it and make all out efforts to implement the same as early as possible.

## **CHAPTER XIV**

### **SETTLEMENT OF DIPUTES, LABOUR COURT, LABOUR APPELLATE TRIBUNAL, LEGAL PROCEEDINGS, ETC.**

**209. Raising of industrial disputes :** No industrial dispute shall be deemed to exist, unless it has been raised in accordance with this chapter by a collective bargaining agent or an employer.

**210. Settlement of industrial disputes :** (1) If, at any time an employer or a collective bargaining agent finds that an industrial dispute is likely to arise between the employer and workers or any of the workers, the employer, or, as the case may be, the collective bargaining agent shall communicate his or its views in writing to the other party.

(2) Within fifteen days of the receipt of a communication under sub-section (1), the party receiving it shall, in consultation with the representatives of the other party, arrange a meeting for collective bargaining on the issue raised in the communication with a view to reaching an agreement thereon, and such meeting may be held with the representatives of the parties authorized in this behalf.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded by the employer to the Government, the Director of Labour and the Conciliator.

(4) If-

(a) the party receiving a communication under sub-section (1) fails to arrange a meeting with the representatives of the other party for collective bargaining within the time specified in sub-section (2), the other party, or

(b) no settlement is reached through dialogue within a period of one month from the date of the first meeting for negotiation, or, such further period as may be agreed upon in writing by the parties, any of the parties, may, within fifteen days from the expiry of the period mentioned in sub-section (2) or clause (b) of this sub-section, as the case may be, report the matter to the conciliator and request him in writing to conciliate in the dispute and the conciliator shall, within ten days of receipt of such request, proceed to conciliate in the dispute.

(5) The Government shall, for the purposes of this chapter, by notification in the official Gazette, appoint such number of persons as it considers necessary, as conciliator for such specific area or any industrial establishment or industry, and the conciliator shall take up the conciliation to whom the request shall be made for conciliation under sub-section (4),

(6) The conciliator, upon receipt of the request as aforesaid, shall start conciliation and shall call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(7) The parties to the dispute shall appear before the conciliator in person or shall be represented before him by person nominated by them and authorized to negotiate and enter into an agreement binding on the parties.

(8) If any settlement of the dispute is arrived at in the course of the proceedings before him, the conciliator shall send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.

(9) If no settlement is arrived at within the period of thirty days of receipt of request under sub-section (4) by the conciliator, the conciliation proceedings shall fail or the conciliation may be continued for such further period as may be agreed upon in writing by the parties.

(10) If the conciliation proceeding fails, the conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator.

(11) If the parties do not agree to refer the dispute to an Arbitrator, the conciliator shall, within three days of failure of the conciliation proceedings, issue a certificate to the parties to the dispute to the effect that such proceedings have failed.

(12) If the parties agree to refer the dispute to an arbitrator, they shall make a joint request in writing for reference of the dispute to an arbitrator agreed upon by them.

(13) The arbitrator, to whom a dispute is referred under sub-section (12), may be a person borne on a panel to be maintained by the Government or any other person agreed upon by the parties.

(14) The Arbitrator shall give award within a period of thirty days from the date on which the dispute is referred to him or such further period as may be agreed upon in writing by the parties to the dispute.

(15) After he has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government.

(16) The award of the arbitrator shall be final and no appeal shall lie against it.

(17) An award shall be valid for a period not exceeding two years as may be fixed by the arbitrator.

(18) The Director of Labour may, if he deems fit in the interest of settlement of a dispute, at any time, take over any conciliation proceedings pending before any conciliator and proceed to conciliate in the dispute himself or transfer such proceedings to any other conciliator, and the provisions of the preceding subsections shall apply to such proceedings.

(19) Notwithstanding anything contained in this section, collective bargaining agent in the establishments in respect of which trade union of employers or federation of trade unions of employers have been registered shall communicate with such trade union or federation regarding any industrial dispute and a settlement between them shall be binding upon all the employers and workers of those establishments.

**211. Strike and lock-out :** (1) The party which raised the dispute may, within fifteen days of the issue to it a certificate of failure under section 210 (11), either give to the other party a notice of strike or lockout, at the case may be, to commence on a day, not earlier than seven days and not later than fourteen days of the date of such notice, to be specified therein, or make an application to the labour court for adjudication of the dispute:

Provided that no collective bargaining agent shall serve any notice of strike unless three-fourths of its members have given their consent to it through a secret ballot specially held for the purpose, under the supervision of the conciliator, in such manner as may be prescribed.

(2) If a strike or lock-out is commenced, either of the parties to the dispute may make an application to the labour court for adjudication of the dispute.

(3) If a strike or lock-out lasts for more than thirty days, the government may, by order in writing, prohibit the strike or lock-out:

Provided that the Government may, by order in writing, prohibit a strike or lock-out at any time before the expiry of thirty days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.

(4) In the case of any of the public utility services, the Government 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.

(5) In any case in which the Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the Labour court.

(6) The Labour court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not exceeding sixty days from the date on which the dispute was referred to it :

Provided that the labour court may also make an interim award on any matter or dispute :

Provided further that any delay by the labour court in making an award shall not affect the validity of any award made by it.

(7) An award of the labour court shall be for such period as may be specified in the award which shall not be more than two years.

(8) No strike shall be permissible in an establishment for a period of three years from the date of commencement of production, if such establishment is a new one or is owned by foreigners or is established in collaboration with foreigners. But other provisions of this chapter relating to resolving industrial dispute shall apply to such establishments.

**212. Cessation of industrial dispute :** (1) If the party raising an industrial dispute under section 210 fails to-

- (a) make a request of the conciliator to conciliate in the dispute under section 210(4) within in period specified therein; or
- (b) commence strike or lock-out, as the case may be, on the date specified in the notice served under section 211 (1) ; or
- (c) refer the dispute to the Labour court for settlement or serve notice of strike or lock-out, as the case may be, within the period specified in section 211 (1); the dispute shall cease to exist on the expiry of such specified period or date.

(2) when an industrial dispute has ceased to exist under sub-section (1), no fresh dispute on the same subject shall be raised within a period of one year from the date of cessation of such dispute.

**213. Application to Labour court :** Any collective bargaining agent or any employer or worker may apply to the labour court for the enforcement of any right guaranteed or sauced to it or him by or under this act or any award or settlement.

**214. Labour courts :**

(1) For the purposes of this Act, the Government shall, by notification in the official Gazette, establish as many labour courts as it considers necessary.

(2) Where more than one labour court is established under sub-section (1), the Government shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under this act.

(3) A labour court shall consist of a chairman and two members to advise him, but in case of trial of any offence or in disposal of any matter under chapter X and XII it shall be constituted with the chairman only.

(4) The chairman of the labour court shall be appointed by the Government from amongst the District judges or an additional district judges.

(5) The terms and conditions of appointment of the chairman of the labour court shall be determined by the Government.

(6) One of the two members of the labour court shall be the representative of employers and the other shall be the representatives of the workers and they shall be appointed in the manner hereinafter provided in sub-section (9).

(7) The Government shall constitute, in the manner prescribed by rules, by notification in the official Gazette, two panels, one of which shall consist of six representatives of employers and the other of six representatives of the workers.

(8) The panel of members prepared under sub-section 99) shall be reconstituted after every two years, notwithstanding the expiry of the said period of two years, The members shall continue on the panels till the new panels are constituted and notified in the official Gazette.

(9) The chairman of the labour court shall, for hearing or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (7), and persons so selected, together with the chairman, shall be deemed to have constituted the labour court in respect of that specific industrial dispute:  
provided that the chairman may select any member from either of the panels as a member of the labour court in respect of more than one such case pending before the labour court.

(10) A labour court shall have exclusive jurisdiction to (a) adjudicate and determine and industrial dispute or any other dispute or any question which may be or has been referred to or brought before it under this Act.

- (b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the government;
- (c) try offences under this Act; and
- (d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this act or any other law

(11) If any member of the Labour court is absent at the time of its constitution or is absent at the time of its constitution or absent from or is absent at the time of its constitution or absent from or is otherwise unable to attend, any sitting of the court, whether at the beginning of the hearing of a case or during the continuance of the hearing thereof, the proceedings of the court may begin or continue, as the case may be, in his absence and the decision or award of the court may be given in the absence of such member ; and no act, proceeding decision or award of the court shall be invalid or be called in question merely on the ground of such absence or on the ground of any vacancy in, or any defect in the constitution of, the labour court.

Provided that if any member informs the chairman beforehand of his absence, the chairman shall nominate another member from the panel of the concerned parties:

Provided further that the opinions of the members of both the sides shall be mentioned in the judgment.

(12) The provisions of chapter XXXV of the code of criminal procedure, 1898 (V of 1898) shall apply to a labour court shall be deemed to be a civil court.

(13) All labour courts shall be subordinate to the Tribunal.

**215. Procedure and powers of labour courts in trial of offences :** (1) Subject to the provisions of this act, a labour court shall, while trying an offence follow as nearly as possible summary procedure as prescribed under the code of criminal procedure.

(2) A labour court shall, for the purpose of trying an offence under this Act, have the same power as the vested in the court of a magistrate of the first class under the code of criminal procedure.

(3) Notwithstanding anything contained in sub-section (2), for the purpose of imposing penalty a labour court shall have the same powers as are vested in a court of session under that code of criminal procedure.

(4) A labour court shall, while trying an offence hear the case without the members.

**216. Procedure and power of Labour courts in any matter other than trial of offences :** (1) A Labour court shall for the purpose of adjudicating and determining any matter or issue or dispute under this act be deemed to be a civil court and shall have the same powers as are vested in such court under the code of civil procedure, including the powers of-

- (a) enforcing the attendance of any person, examining him on oath and taking evidence;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses or documents;
- (d) delivering ex-parte decision in the event of failure of any party to appear before the court;
- (e) setting aside ex-parte decision;
- (f) setting aside order of dismissal made for non-appearance of any party.
- (g) in order to save the frustration of purpose of the case property the labour court may pass interim order upon any party.

(2) Subject to this act, no court-fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from a labour court,

(3) A labour court shall, by notice to be served through process server or special messenger or by registered post or by both the modes, ask the opposite party to file written objection or written statement, if any, within a period not exceeding ten days from the date of filing of the case.

(4) The court may, for reasons to be recorded in writing, extend the time for filing objection or written statement for a period not exceeding seven days in all;

(5) if any party fails to file any written statement or objection within the time specified in the notice or the extended time the case shall be heard and disposed of expeditiously.

(6) The labour court shall not grant adjournment of the hearing of a case on the prayer of any party for more than seven days in all:

Provided that, if both the parties file application for adjournment, an adjournment for not more than ten days in all may be allowed.

(7) If the party filing the case is absent on the date of hearing, the case shall be dismissed for default.

provided that the court shall have jurisdiction to set aside the order of dismissal if any application is made by the petitioner within three months from the date of such order of dismissal of the case.

(8) If the opposite party is absent on the date of hearing, the case shall be heard and disposed of ex parte. (9) A case which is dismissed for default, shall not bar the filing of a fresh case on the same cause of action, provided such case is filed if not otherwise barred, within a period of three months from the date of dismissal.

(9) A Labour court may, on an application filed by all the parties to a case, and after giving a hearing to them, allow the withdrawal of the case at any stage of the proceedings thereof, if it is satisfied that the dispute has been amicably resolved.

(10) An award or decision or judgment of a labour court shall be given in writing and delivered in open court, and a copy thereof shall be given to each party.

(11) An award or decision or judgment of a labour court shall, in every case, be delivered, unless the parties to the dispute given their consent in writing to extend the time-limit, within sixty days following the date of filing of the case:

Provided that no award or decision or judgment of a labour court shall be invalid merely on the ground of delay in its delivery.

**217. Appeal from judgments etc. of labour courts :** Subject to this act, any party aggrieved by an award, decision, sentence or judgment given or passed by a labour court may prefer an appeal to the labour Appellate tribunal within sixty days of the delivery thereof and the decision of the Tribunal in such appeal shall be final.

**218. Labour appellate tribunal :** (1) For the purpose of this act there shall be a labour appellate tribunal which shall consist of a chairman, and if the government so deems fit, such number of other members as the government may appoint from time to time.

(2) The chairman and the members, if any, of the tribunal shall be appointed by the government by notification in the official gazette on such terms and conditions as the Government may determine.

(3) The chairman of the tribunal shall be a person who is or was a judge or an additional judge of the supreme court, and a member of the tribunal shall be a person who is or was a judge or an additional judge of the supreme court or who is or was a District judge for not less than three years.

(4) If the chairman is absent or unable to discharge his functions for any reason, the senior member of the tribunal, if any, shall perform the functions of the chairman.

(5) Where members are appointed in the tribunal, the chairman may for the efficient performance of the functions of the tribunal, constitute as many benches of the tribunal, consisting of one or more members of the tribunal, including himself where necessary, as he may deem fit.

(6) An appeal or any matter before the tribunal may be heard and disposed of by the tribunal sitting in full bench or by any bench thereof

(7) Subject to this act, the tribunal shall follow as nearly as possible such procedure as are prescribed under the code of civil procedure, for hearing of appeal by an appellate court from original decrees.

(8) If the members of a bench differ in opinion as to the decision to be given on any point-

- (a) the matter shall be decided according to the opinion of the majority, if any; and
- (b) if the members are equally divided, they shall state the point on which they differ and the case shall be referred by them to the chairman for hearing on such point by the chairman himself if he is not a member of the bench, or by one or more of the other members of the tribunal and such point shall be decided according to the opinion of the chairman or member or majority of the members hearing the point, as the case may be.

(9) Where a bench includes the chairman of the tribunal as one of its members and there is a difference of opinion among the members and the members are equally divided, the decision of the chairman shall prevail and the decision of the bench shall be expressed in terms of the chairman.

(10) The tribunal may, on appeal, confirm, set aside, vary or modify the award, decision or sentence or remand a case to the labour court for re-hearing; and shall, save otherwise provided, exercise all the powers conferred by this act on the labour court.

(11) The decision of the tribunal shall be delivered, within a period of sixty days following the filing of the appeal:

(12) The tribunal shall have authority to punish for contempt of its authority, or that of any labour court, as if it were a high court division of the supreme court.

(13) Any person convicted and sentenced by the tribunal under sub-section (12) to imprisonment for any period, or to pay a fine exceeding two hundred taka, may prefer an appeal to the high court division.

(14) The tribunal may, on its own motion or on the application of a party, transfer any application or proceeding from a labour court to any other labour court.

(15) The tribunal shall have superintendence and control over all labour courts.

**219. Form of application or appeal :** An application to a labour court and an appeal to the tribunal may be made in such form as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:

- (a) the names and addresses of the parties.



- (b) a concise statement of the circumstances in which the application is made or appeal is preferred and the relief claimed;
- (c) the provision of the law under which the application or appeal is made and the relief prayed for ;
- (d) in the case of a delay in making the application or appeal, the reason for such delay and the provision of law under which condition of delay is prayed for;
- (e) in a case under chapter X, a statement showing separately the basic wages and dearness allowance or ad-hoc or interim pay, if any, payable to the claimant per month and other sums payable as part of wages;
- (f) in the case of a claim under chapter XII for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in time, the reason for such omission;
- (g) except in the case of an application by dependents for compensation under chapter XII, in any case there under a concise statement of the matters on which agreement has and of those on which agreement has not been arrived at;
- (h) the date on which cause of action has arisen ; and
- (i) a statement showing the labour court has jurisdiction to entertain the application.

**220. Appearance of parties :** Any appearance, filing of application or any act required to be made or done by any person before or to a labour court or the tribunal, other than an appearance of a party which is required for the purpose of his examination as a witness may be made or done on behalf of such person by any person authorized in writing or by a lawyer.

Provided that such representative or lawyer shall not be a representative of the concerned court.

**221. Costs :** All costs, incidental to any proceedings or appeal before a labour court or the tribunal, shall, subject to this act or any rules be awardable in the discretion of the labour court or the tribunal.

**222. Settlement and awards on whom binding :** (1) A settlement arrived at in the course of a conciliation proceeding or an award of an arbitrator or an award, decision or judgment of labour court or the award, decision or judgment of the tribunal shall be binding-

- (a) on all parties to the dispute
- (b) on all other parties summoned to appear in any proceedings before a labour court as parties to the dispute, unless the court specifically otherwise directs in respect of any such party;
- (c) on the heirs, successors or assigns of the employer in respect of the establishment to which the dispute relates where an employer is one of the parties to the dispute; and
- (d) where a collective bargaining agent is one of the parties to the dispute, on all workers who were employed in the establishment to which the dispute relates on the date on which the dispute first arose or who are employed therein after that date

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

**223. Effective date of settlements, awards, etc. :** (1) A settlement shall become effective-

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

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

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute

(3) Such settlement after expiry of the period mentioned in sub-section (2), shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the settlement.

(4) An award of labour court shall, unless an appeal against it is preferred to the tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein.

(5) Arbitrator, labour court or the Tribunal, as the case may be, shall, fix the date from which different demands mentioned in the award shall be effective and the dates by which each of the demands enforced.

(6) If at any time before the expiry of the period mentioned in sub-section (4) or (5) any party bound by an award applies to the labour court which made the award for reduction of the said period on the ground that the circumstances in which the award was made have materially changed, the Labour court may by order made after giving to the other party an opportunity of being heard, terminate the said period on a date specified in the order.

(7) A decision of the tribunal in appeal in respect of the award shall be effective from the date of the award.

(8) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (4) or (5), The award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention no longer to be bound by the award.

(9) Notwithstanding anything contained in this section, no industrial dispute or proceedings in respect thereof shall be raised or commenced before the expiry of one year from the date on which a memorandum of settlement is signed by the parties or the date of expiry of the period of settlement or award, whichever ever is later

**224. Commencement and conclusion of proceedings :** (1) A conciliation proceeding shall be deemed to have commenced on the date on which a request for conciliation is received by the conciliator under section 210(4).

(2) A conciliation proceeding shall be deemed to have included, where a settlement is arrived, on the date on which a memorandum of settlement is signed by the parties to the dispute;

(3) Where no settlement is arrived at, a conciliation proceeding shall be deemed to have concluded-

(a) if the dispute is referred to an arbitrator under section 210 (12), on the date on which the arbitrator has given his award; and

- (b) if the dispute is not referred to an arbitrator, on the date on which the conciliator issues the certificate of failure of conciliation proceeding.

(4) Proceedings before a labour court shall be deemed to have commenced on the date on which any dispute or matter or issue is referred to the labour court.

(5) Proceedings before a labour court shall be deemed to have concluded on the date on which the award or decision or judgment is delivered.

**225. Prohibition on serving notice of strike or lock-outs while proceeding pending :** No notice of strike or lock – out shall be serviced by any party to an industrial dispute while any conciliation proceedings before an arbitrator or a labour court or an appeal to the Tribunal are or is pending in respect of any matter constituting such industrial dispute.

**226. Power of labour court and tribunal to prohibit strike, etc. :** (1) When strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when in respect of such industrial dispute, there is made to, or is pending before labour court any application the labour court may, by an order in writing, prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to the tribunal, the tribunal may, by an order in writing, prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

**227. Illegal strikes and lock-outs :** (1) A strike or lock-out shall be illegal, if-

(a) it is declared, commenced or continued without giving to the other party of the dispute in the prescribed manner a notice of strike or lock-out or before or after the date of strike or lock-out specified in such notice, or in contravention of section 225, or,

(c) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in section 205, or

(d) it is continued in contravention of an order made under section 211 or 226; or

(e) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of the matter covered by a settlement or award.

(2) A lock-out declared in consequence of an illegal strike and a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

**228. Conditions of service to remain unchanged while proceedings pending :** (1) No employer shall, while any conciliation proceeding or proceedings before an arbitrator, a labour court or the tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any worker concerned in such dispute the conditions of service applicable to him before the commencement of the conciliation proceedings or of the proceedings before the arbitrator, the labour court or the tribunal, as the case may be, not shall he save with the permission of the conciliator, while any conciliation proceedings are pending ; or save with the permission of the arbitrator, the Labour court or the tribunal, while any proceedings before the arbitrator, Labor court or the tribunal, while any proceeding before the arbitrator labor court or tribunal are pending discharge, dismiss or

otherwise punish any worker or terminate his service except for misconduct not concerned with such dispute.

(2) Notwithstanding anything contained in sub-section (1) an officer of a trade union shall not during the tendency of any proceedings referred to in sub-section (1), be discharged, dismissed or otherwise punished for misconduct, except with the previous permission of the labour court.

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

(2) Any contravention of the provisions of sub-section (1) may be made the subject-matter of an industrial dispute, and nothing in the constitution of a trade union providing the manner in which any dispute between its executive and members shall be settled, shall apply to proceedings for enforcing any right or exemption granted by sub-section (1).

(3) In any such proceedings, the labour court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the fund of the trade union such sum by way of compensation or damages as the court thinks just.

**230. Representation of parties :** (1) A worker who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this chapter by an officer of a collective bargaining agent and, subject to the provisions of sub-section (2) and (3), any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceeding by a person duly authorized by him.

(2) No party to an industrial dispute may be represented by a legal practitioner in any conciliation proceedings under this chapter.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceeding before the labour court or before an arbitrator, with the permission of the court or the arbitrator, as the case may be.

**231. Interpretation of settlements and awards :** (1) If any difficulty or doubt arises as to the interpretation of any provisions of an award or settlement, it shall be referred to the tribunal.

(2) The Tribunal shall, after giving the parties an opportunity of being heard, decide the matter, and its decision shall be final and binding on the parties.

## **CHAPTER: XV**

### **WORKERS 'PARTICIPATION IN COMPANIES PROFITS**

**232. Application of the chapter :** (1) This chapter shall apply to all establishments which are companies engaged in industrial undertakings which satisfy any one of the following conditions, namely :-

- (a) the number of workers employed by the company in any shift at any time during a year is one hundred or more;
- (b) the paid-up capital of the company as on the last day of its accounting year is one crore taka or more;
- (c) the value of the fixed assets of the company at cost as on the last day of the accounting year is not less than two crore taka or more.

(2) The Government may, by notification in the official Gazette apply this chapter to such other companies as it may specify therein.

**233. Special definitions :** (1) In this chapter, unless there is anything repugnant in the subject or context,-

- (a) 'Participation fund' means the workers 'participation fund established under this chapter;
- (b) 'Welfare fund' means the worker's welfare Fund established under this chapter;
- (c) 'Company' means a company within the meaning of the companies act, 1994, and includes-
  - (i) a body corporate established by or under any law for the time being in force;
  - (ii) any institution, organization or association whether incorporated or not, declared by the Government in the official Gazette to be a company for the purpose of this chapter;
- (d) 'Fund' means the Participation Fund and the welfare fund;
- (e) 'Board' in relation to participation fund and welfare fund, means a board of trustees constituted under this chapter;
- (f) 'Profits' in relation to a company, means such of the net profits as defined in section 87c of the companies act, 1994 as are attributable to its business, trade, undertakings or to other operations in Bangladesh;
- (g) 'Industrial undertaking' means an establishment which involves the use of electrical, mechanical, thermal, nuclear or any other form of energy transmitted mechanically and not generated by human or animal agency and which is engaged in any one or animal agency and which is engaged in any one or more of the following operations, namely;
  - (i) the subjection of goods or materials to any manufacturing, assembly, finishing or other artificial, natural process, which changes their original condition or adds to their value;
  - (ii) ship-building;
  - (iii) the transformation, generation, conversion, transmission, or distribution of electrical energy including hydraulic power; and

- (iv) the working of a mine, oil well or any other source o mineral deposit, including blending, refining and purification of oils and gases;
- (v) the marketing and distribution of gas or oil;
- (vi) the carriage of men or goods by sea or air

and includes any other operation which the government may, by notification in the official Gazette, declare to be an industrial undertaking for the purposes of this chapter;

- (h) ‘Worker’ in relation to a company, means an employee of the company, whatever be his designation o position, who has been in the employment of the company for a period of not less than six months. ; but does not include any such person-
    - (i) Who is employed in a managerial or administrative capacity; or
    - (ii) who, being employed in a supervisory capacity exercises either by nature of the duties attached to the office or by reason of power vested in him, functions mainly of managerial or administrative nature.
- (2) In this chapter, ‘paid-up capital’ and the ‘value of fixed assets’ exercises, either by company situated in Bangladesh but incorporated outside Bangladesh b e construed as the ‘paid-up capital’ and the ‘value of fixed assets’ of the company.

**234. Establishment of Participation Fund and welfare fund :** (1) Every Company to which this chapter applies shall-

- (a) establish a workers’ Participation Fund and a workers’ Welfare Fund in accordance with this chapter within one month of the date of which the chapter becomes applicable to it; and
  - (b) pay every to the participation fund, and the welfare fund, not later than nine months from the close of that year, five percent of its net profits during such year, the proportion of the payment to the participation Fund and the welfare fund being 80:20.
- (2) The amount paid to the Funds under sub-section (1) (b) in relation to a year shall be deemed to have been allocated to the funds on the first day of the next succeeding that year.

**235. Management of Funds :** (1) As soon as may be, after the establishment of the participation fund and the welfare fund, there shall be constituted a board of trustees, consisting of the following members namely;

- (a) two persons nominated by the collective bargaining agent and if there be no collective bargaining agent in the company, two persons elected by the workers of the company from amongst themselves; and
  - (b) two persons nominated by the management of the company of whom at least one shall be a person from the accounts branch of the company.
- (2) The member shall elect for one year a person to be the chairman of the board alternately from amongst the members under sub-section (1) (a) and under sub-section (1) (b) the first chairman being from amongst the members under sub-section (1) (b).
- (3) The board shall manage and administer the funds in accordance with the provisions of this chapter and any rules made in this behalf.

(4) The board shall, in the exercise of its powers and performance of its functions, be subject to such directions by the Government as may, from time to time, give.

(5) The Government, if it is of opinion that the board or a member of the board has been persistently failing in the performance of his or its functions or has generally been acting in a manner inconsistent with the objects and interests of the funds may after giving such member or, as the case may be, the board an opportunity of showing case against it, by order-

- (a) remove such member from his office or direct that the board shall stand superseded for such period as may be specified in the order, and
- (b) direct that, pending the election or nomination of a person in place of the members removed from office or, as the case may be the reconstitution of the board, shall be exercised and performed by a person specified in the order

(6) Upon the supersession of a board under sub-section (5) the members in that board shall cease to hold office and references to the board in this chapter and the rules shall be construed as references to the officer specified in the order.

(7) Before the expiry of the period of suppression, the board shall be re-constituted in accordance with the provisions of this chapter so as to enable it to take over its functions upon the expiry of such period.

**236. Penalty :** (1) Where any company fails to comply with the provisions of section 234, the Government may, by order in writing, require it to comply with those provisions within such time as may be specified in the order.

(2) If the company in relation to which an order has been made, fails to comply therewith within the time specified therein, every director, manager or other officer responsible for the management of the affairs of the company shall, if the Government, by order so directs pay by way of penalty a sum which may extend to ten thousand taka and in the case of continuing failure, a further sum which may extend to one thousand taka for every day after the first during which the failure continues.

(3) A penalty imposed by an order under sub-section (2) shall, if it is not paid within the time specified in the order be recoverable as a public demand.

(4) The Government may, upon an application made in this behalf by any person aggrieved by an order made under sub-section (1) or (2) within a period of six months from the date of the order, review the order and may, upon such review, pass such orders as it may think fit.

**237. power to call for information :** The Government may, at any time call upon a company or a Board of Trustees to furnish it with such information or documents, including the records of the proceedings of the company or the Board, as may be relevant or useful for the purposes of, or necessary, for ensuring proper compliance with, the provisions of this chapter and the rules made in this behalf.

**238. Settlement of disputes, etc. :** (1) Any differences arising between the board and the company relating to the administration of the funds shall be reported to the Government whose decision thereon shall be final.

(2) All claims of a worker relating to the benefits of the funds, where against the board or the company, shall be settled in the same manner as is provided for in chapter, X, for the settlement of claims arising out of deductions from wages.

**239. Delegation of power :** The Government may, by notification in the official Gazette, direct that all or any of its powers or functions under this chapter may, subject to such conditions, if any as may be specified in the notification, be exercised by any of authority so specified.

**240. Investment of Participation Fund. –** (1) The amount allocated or accruing to the participant in fund shall be available to the company for its business operation.

(2) The company may request the board to utilize the amount in the Participation fund for investment under sub-section (11) and the board may decide to so invest the amount.

(3) The company shall pay to the participation fund in respect of the amount in the participation fund available to it for its business operations as aforesaid interest at the rate of two and a half percent above the bank rate or seventy five percent of the rate at which dividend is declared on its ordinary shares, whichever is higher.

(4) In case there is more than one class of ordinary shares on which different rates of dividend have been declared, then the weight average of the different rates of dividend shall be taken for the purpose of determining the rate of interest payable under sub-section (3)-

(5) The interest to the participation fund shall accrue on and from the first day of the year next succeeding the year in which the fund becomes applicable to the company.

(6) When the company does not wish to utilize the amount available to it under sub-section (1), interest of the rate aforesaid shall be payable by the company for the period between the date of allocation of any amount to the participation fund and the date of its investment under sub-section (11).

(7) If, at any time after the establishment of the participation fund, the company raises any additional capital otherwise than through the issue of bonus or bonus shares, the Participation fund shall have the first option to convert any amount available to the company under sub-section (1), or any of the assets of the participation fund into ordinary equity capital up to a ceiling of twenty percent of the paid-up capital, whichever is less.

Explanation : In this sub-section ‘additional capital, does not include any capital offered or to be offered to foreign participant of the company.

(8) For the exercise of the right of conversion under sub-section (7), the board shall be given sufficient time to sell assets of the participation fund to realize the amount needed for subscription to the additional issue of capital by the company.

(9) The shares acquired in the manner set out in sub-section (7) shall participate in future bonus and right issues in the same manner as other shares.



(10) The shares acquired in the manner set out in sub-section (7) shall carry voting rights in the same manner as other shares and such voting rights shall be exercised by the board on behalf of the participation fund.

(11) The amount in the participation fund which, under sub-section (2) the company has requested to be utilized for investment under this sub-section may be invested by the board for the purchase of any of the following, namely:

- (a) I.C.B Mutual Fund Certificates;
- (b) I.C.B Unit Certificates;
- (c) Government securities including Defence and postal saving Certificate;
- (d) Any other securities approved for the purpose by the Government.

**241. Eligibility to benefits :** (1) All workers shall be eligible to the benefits of this chapter and to participate in the funds.

(2) A worker not completing six months of employment with the company during a year of account shall not participate in the funds in respect of that year.

**242. Utilization of participation fund :** (1) Of the total amount deposited in the participation fund every year, two-thirds shall be distributed in equal proportion to all workers in cash and one-third shall be invested in accordance with the provisions to all workers.

(2) If a worker voluntarily leaves the employment of the company he shall receive benefits of the participation fund and the welfare fund as admissible to him under this chapter.

(3) A worker whose services are terminated otherwise than by way of dismissal shall be at par with a worker who retires from the service of the company.

(4) A worker who is dismissed from service shall forfeit his share in the funds.

(5) In the event of transfer of a worker from one office or unit of a company to another office or unit of that company, the benefit accrued to the worker shall be transferred to the funds of the office or unit to which he is transferred and his service in the previous office or unit shall be counted towards his entitlement to the benefits of the funds of the office or unit to which he is transferred.

a worker in the event of his retirement or his nominated beneficiary, in the event of his death while in the employment of the company, shall receive full benefit of this chapter.

**243. Utilization of welfare fund :** The amounts deposited in the welfare fund shall be utilized for such purposes and in such manner as the board may decide and the board shall inform the government of such decision.

**244. Fiscal concessions to the companies :** All companies to whom this chapter applies shall be allowed the allocation made to the fund as a deduction to arrive at the taxable income.

**245. Tax treatment of income of the funds :** The income of the funds including capital gains shall be exempt from income tax.

**246. Tax treatment of income to the workers :** All sums paid out of the funds shall be exempt from income-tax in the hands of the workers.

**247. Working and location of board of trustees :** (1) The office of the board of trustees shall be located at the factory premises, or if there is more than one factory run by the company at the registered head-office of the company.

(2) All expenses of the Board, including the cost of maintaining accounts, shall be borne by the company.

**248. Audit of accounts of the fund :** The funds shall be audited annually at the company's expense in the same manner as the accounts of the company are audited:

Provided that the Government may, at its own cost, appoint independent accountants for a special audit of the accounts of the funds.

**249. Funds' benefits to be in addition to other benefits :** The benefits to a worker under this chapter shall be in addition to, and not in derogation or substitution of, any other benefits to which the worker may be entitled under any other law, contract, terms and conditions of employment or otherwise.

**250. Special provisions for industries working seasonally :** Notwithstanding anything contained in this chapter, the Government may by notification in the official Gazette, make special provisions for the participation of the workers in the profits of companies engaged in industrial undertaking which operate only for a part of the year.

**251. Companies engaged in more than one industrial undertakings :** Notwithstanding anything contained in this chapter, the Government may, at the request of a company which is engaged in more than one industrial undertakings located at different place permit the splitting up of the funds amongst the various undertakings or groups of undertakings and constitution of a board of trustee for each such undertaking or group of undertakings and there upon the provisions of this chapter shall have effect relation to such undertakings or groups as if each such undertaking or group were a company.

**252. Entrustment of management of participation fund to Investment corporation of Bangladesh, etc :** The board may, with the prior approval of the Government, enter into a contract with the Investment corporation of Bangladesh or the sonali Bank, entrusting the management of the participation fund to that corporation or bank on such fee, which shall be payable by the company, and on such fee, which shall be payable by the company, and on such terms and conditions as may be mutually agreed upon.

## **CHAPTER : XVI**

### **REGULATION OF EMPLOYMENT AND SAFETY OF DOCK WORKERS.**

**253. Power to make schemes :** (1) The Government may, by notification in the official gazette, make for the chittagong port and the port of china, a scheme for the regulation of employment of dock workers, and also for the registration of dock workers and employers with a view to ensuring greater regularity of employment and for efficient and economic turn-round of ships and vessels.

(2) In particular and without prejudice to the generality of the foregoing power such scheme may provide for-

- (a) the application of the scheme to such classes of dock workers and employers as may be specified therein;
- (b) defining the obligations of dock worker and employees subject to fulfillment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers;
- (c) regulating the recruitment and entry into the scheme of dock workers;
- (d) registration of dock workers and employers maintenance of register, removal, either temporarily or permanently, of names from the registers and the imposition of fees for registration;
- (e) regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration;
- (f) prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply;
- (g) the training and welfare of dock workers in so far as satisfactory provision there for does not exist apart from the scheme;
- (h) the manner in which and the persons by whom, the cost of operating the scheme is to be defrayed; and
- (i) such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) The government may, by notification in the official Gazette, and to, amend, vary or revoke any scheme.

(4) In this section 'dock workers' means a person employed or to be employed in any port on work in connection with loading, unloading, movement or storage of cargoes into vessels, or making other vessels for the receipt or discharge of cargoes or any other thing.

**254. Dock workers Management Boards :** (1) The Government shall, by notification in the official Gazette, constitute separately for chittagong and mongla port a board to be called the dock workers management board for the purposes of this chapter.

(2) A Dock Workers Management board, hereinafter in this chapter referred to as the board shall be a body corporate having perpetual succession and a common dispose of property, both movable and immovable, and to contract, and shall by its name sue and be sued.

**255. Composition of a board :** (1) A board shall consist of the following members namely-

- (a) a chairman;
- (b) a vice-chairman;
- (c) two members representing the Government, of whom one shall be from the Ministry of Labour and Man power;
- (d) one member representing the chittagong port authority or the port of chalna Authority as the case may be;
- (e) two members representing the employers;
- (f) two members representing the ship owners and shipping agents ; and
- (g) four members representing the dock workers.

(2) All member other than and the chairman, shall be appointed by the Government.

(3) The chairman of the chittagong port authority or the port authority or the port of chalna authority, as the case may be, shall ex-officio be the chairman of a board.

(4) A member of a board, other than its chairman and vice-chairman, shall, unless removed earlier, hold office for a period of two years from the date of his appointment, and shall be eligible for re-appointment

(5) The vice-chairman of a board shall-

- (a) hold office on such terms and conditions as the Government may determine;
- (b) perform such duties as may be specified in the scheme or as may be assigned to him by the board or as may be prescribed.

(6) A member of a board, other than the chairman and the vice-chairman, may resign from office by writing under his hand addressed to the chairman.

**256. Meetings :** (1) The Meetings of a board shall be held at such time and places and in such manner as may be prescribed.

(2) To constitute a quorum at a meeting of a board not less than five members, of whom at least one being a member representing the employers and another being a member representing the workers, shall be present.

(3) At a meeting of a board each member shall have one vote, but in the event of equality of votes the person presiding shall have a second or casting vote.

(4) The meeting of a board shall be presided over by the chairman or, in his absence, by the vice-chairman of the board.

**257. Functions of a board :** (1) A board shall be responsible for the administration of the schemes for the port for which it is constituted.

(2) The board shall exercise such powers and perform such functions as may be specified in the scheme or as may be prescribed.

(3) A board, in exercising its powers and performing its functions, shall be guided by such directions as may be given to it, from time to time by the Government.

**258. Advisory committee :** (1) The Government may constitute an advisory committee to advise on such matters arising out of the administration of this chapter

(2) The number of members of the committee shall be fixed by the Government and they shall be appointed by the Government.

(3) The committee shall advise the Government only on such matters as may be referred to it by the Government for advice.”

**259. Appointment of officers and employees :** A board may appoint such officers and other employees as it may consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed.

**260. Fund :** (1) A board shall have its own fund which shall be utilised by it to meet the charges in connection with its functions under this chapter.

(2) The Fund shall consist of-

- (a) grants made by the Government;
- (b) grants made by the concerned port Authority; and
- (c) receipts from any other source.

**261. Budget :** A board shall, by such date in each year as the Government may direct, submit to the Government for approval a budget, in such form as the Government may specify for each financial year showing the estimated receipts and expenditure during that financial year.

**262. Delegation of powers :** A board may, by general or special order in writing, delegate any or all of its powers, in such circumstances and under such conditions as may be specified in the order, delegate to the chairman, vice chairman, or any member or officer.

**263. Special provisions for safety, etc. of dock-workers :** (1) The Government may by notification in the official Gazette make regulation-

- (a) providing for safety or working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;
- (b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel

- (c) prescribing the measures to be taken to ensure that the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;
- (d) prescribing the nature of the means of access to be provided for the use of the workers from the dock of a ship to a hold in which the processes are carried on;
- (e) Prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them
- (f) Providing for the effective lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed.
- (g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings;
- (h) prescribing the measures to be taken to ensure that no hoisting machine gear, whether fixed or loose, used in connection therewith is employed in the processes on shore or on board ship unless it is in a safe working condition;
- (i) providing for fencing machinery, live electric conductors and steam-pipes;
- (j) regulating the provision of safety appliances on derricks, cranes and winches;
- (k) prescribing the precautions to be observed in regard to exhaust and live steam;
- (l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on which ends or which drums, and providing for the employment of signaler where this is necessary for the safety of the workers;
- (m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unshackling, stowing and unstowing of cargo, or handling in connection therewith;
- (n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo;
- (o) prescribing precautions to be observed in the use of stages and trucks;
- (p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed, or have to deal with or work in proximity to such goods;
- (q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment;
- (r) prescribing the provision to be made for the rescue of immersed workers from drowning;
- (s) prescribing the abstracts of this Act and of the Regulations required by section 8;
- (t) providing for the submission of notices of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished the particulars to be contained in them and the time within which they are to be submitted;
- (u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this section;
- (v) defining the circumstances in which the conditions subject to which exemptions from any regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure; and
- (w) defining the additional powers which inspectors may exercise under clause (c) of section 4; and
- (x) providing for the safety of workers.

(2) Regulations made under this section may make special provisions to meet the special requirements of any particular port of ports.

(3) In making a regulation under this section, the Government may direct that a breach of it shall be punishable with fine which may extend to taka five hundred and when the breach is a continuing breach, with a further fine which may extend to taka twenty for everyday after the first during which the breach continues.

## **CHAPTER XVII PROVIDENT FUNDS**

**264. Provident funds for workers in private sector establishments :** (1) An establishment in the private sector may constitute for the benefits of its worker a provident fund.

(2) Such provident fund shall be constituted in such manner as may be prescribed by rules made by the establishment in this behalf under section 3.

(3) Notwithstanding any thing contained in sub-section 920, the Government may make rules for constitution of provident funds for workers employed in establishments in private sector, and where such rules are made each establishment to which the rules apply, shall comply with the requirements of such rules.

(4) Such provident fund shall be held and administered by a board of trustees.

(5) Such board of trustees shall consist of an equal number of representatives of the employer and workers employed in the establishment, and a person nominated by the government shall be its chairman.

(6) The representatives of the employer shall be nominated by the employer, and the representative of the workers shall be nominated by the collective bargaining agent.

(7) Where there is no collective bargaining agent in an establishment, the representatives of the worker shall be elected by the workers under the supervision of the director of labour.

(8) All the representatives shall hold office for a period of two years.

provided that they shall continue to hold office until their successors enter upon office.

(9) Every permanent worker shall, after the completion of his one year of service in the establishment constituting the provident fund, subscribe to the fund, every month, a sum, unless otherwise mutually agreed, not less than seven per cent and not more than eight per cent of his monthly basic wages. and the employer shall contribute to it an equal amount.

(10) Notwithstanding anything contained in this section an establishment in the private sector shall constitute a provident fund for the benefit of its workers, if three-fourths of the total number of workers employed in it so demand to the employer by an application in writing.

(11) Where a demand for constitution of a provident fund is made under sub-section (10), the employer of the establishment shall make necessary rules for its constitution under section 3 within a period of six months and the fund shall start operation before the expiry of that period.

(12) At least half of the total accumulations in such provident fund shall be invested for the purpose of any of the following, namely:

- (a) I.C.B Mutual Fund Certificates
- (b) I.C.B Unit certificates ; and
- (c) Government securities including defence and postal saving certificate.

(13) The cost of maintenance of the provident fund shall be borne by the employer.

(14) The accounts of the provident fund shall be audited annually at the cost of the establishment in the same manner as the accounts of the establishment are audited:

(15) A statement of accounts of the provident fund, together with the audit report thereon, shall be forwarded to the director of Labour within one month of the submission of audit report.

(16) Where the Government is satisfied that a provident fund constituted by an establishment in the private sector is working satisfactorily and the workers have no complaint against it, the Government may, on the application of the employer of the establishment, by order in writing exempt the establishment from operation of this section.

(17) An establishment constituting a provident fund shall be deemed to be a public institution for the purposes of the provident funds act, 1925 (XIX of 1925).

(18) In this section, establishment in private sector shall mean an establishment which is not owned or managed directly by the government or by any local authority or to which any provident fund rules made by the government or by any local authority does not apply.

**265. Tea plantation workers 'Provident fund:** (1) There shall be established provident fund to be called the Tea plantation workers 'Provident fund.

(2) The Tea plantation workers 'provident fund, hereinafter in this chapter referred to as the fund shall vest in and be administered by, the board of Trustees constituted under section 266.

**266. Board of Trustees :** (1) The Government shall, by notification in the official Gazette, constitute a board of trustees to be called the board of trustees for the tea plantation workers' provident fund.

(2) The board of trustees, shall consist of the following members namely-

- (a) a chairman,



- (b) three representatives of employers
- (c) three representatives of tea plantation workers
- (d) two members who are not connected with tea industry.

(3) Chairman and other members shall be appointed with tea industry.

Provided that the members under sub-section 2 (b) and (c) shall be appointed by the Government in consultation with such organizations of employers and workers as may be recognized by the Government for the purpose.:

(4) The chairman and the other members shall hold office for a term of three years from the date of their appointment:

Provided that, notwithstanding the expiry of such term, they shall constitute to hold office until their successors enter upon office.

(5) The chairman and the other members shall perform such duties as are assigned to them under this chapter or by the rules.

(6) The trustee board shall be a body corporate and have perpetual succession and a common seal and shall be the said name sue and be sued.

**267. Cost of administration :** (1) The trustee board may levy an administrative charge on the basis of contribution.

(2) The Government in consultation with the board, shall fix such percentage of the total employers and workers contributions as cost of administration.

(3) The employers shall, within fifteen days of the close of every months, pay the charge so fixed to the fund by separate bank draft or cheque.

(4) When the payment of the administrative charge is made by a cheque the collection charge, if any, shall be included in the amount for which the cheque is drawn in respect of the administrative charge.

**268. Contributions :** (1) Every employer of a tea plantation, which is in existence for more than three years, shall, in respect of every worker other than an apprentice employed in his tea plantation for more than a year, pay to the fund a contribution at the rate of seven and a half per cent of the basic wages for the time being payable to that worker.

(2) Every worker mentioned in sub-section (1) shall pay to the fund a contribution equal to be contribution payable by the employer in respect of him.

(3) Where the amount of any contribution payable under this section involves a fraction of taka, such fraction shall be rounded off to the nearest taka.

(4) If, in any case, the contribution made at the time of coming into force of this act to an existing provident fund is higher than that provided in this section than that rate of contribution shall continue to be made as if this Act had not been enacted,

(5) The total accumulations in the fund shall be held in deposit and shall be invested in the manner prescribed by rules.

**269. Recovery of damages :** Where an employer makes default in the payment of any contribution to the fund in the payment of any charges payable under any other provision of this chapter or the rules, the board in addition to the amounts of arrears so due may recover from the employer such damages, not exceeding twenty five percent, of the amount of such arrear.

**270. Provident fund not liable to attachment :** (1) The amount standing to the credit of any worker on account of his provident fund accumulation, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the worker not any receiver appointed under the Insolvency act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any worker in his provident fund account at the time of his death shall, subject to any deduction authorized under any law for the time being in force, vests in his nominee and shall be free from any debt or other liability incurred by him or by his nominee before his death.

**271. Priority of payment of contribution over other debts :** The amount due in respect of any contribution under this chapter shall, where the liability has accrued before the employer is adjudged insolvent, or in the case of a company ordered to be wound up before the date of such order, be deemed to be included among the debts which under section 61 of the insolvency act, 1920 (V of 1920) or under section 230 of the companies act, 1994, (VII of 1913) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound, up, as the case may be.

**272. Employer not to reduce wages or other amenities :** No employer shall, by reason only of his liability for payment of any contribution to the fund or any charges under this act or the rules, reduce, whether directly or indirectly, the wages of any worker or other benefit to which the worker is entitled under the terms of his employment.

**273. Provident fund for Newspaper workers :** (1) Every newspaper establishment shall constitute, for the benefit of its newspaper workers, a provident fund in such manner as may be prescribed by rules.

(2) The Provident fund shall be held and administered by a board of trustees.

(3) The board of Trustees shall consist of an equal number of representatives of the employer of the newspaper establishment and of the newspaper workers employed in it, chosen and appointed in such manner as may be prescribed by Rules. (4) Every newspaper worker shall, after the completion of the first two years of his service with any newspaper establishment, subscribe to the Provident fund, every month, a sum not less than seven per cent and not more than eight per cent of his monthly wages, and the employer shall contribute to it an equal amount.

(4) During the first two years of his service, a newspaper worker may or may not, at his option, subscribe to the provident fund, if he so subscribes, the newspaper establishment employing him may or may not, at its option, contribute to it.

(5) A newspaper establishment shall be deemed to be a public instruction for the purpose of the provident fund Act, 1925 (XIX of 1925).

## **CHAPTER : XVIII APPRENTICESHIP**

**274. Application of the chapter :** This chapter shall apply to an establishment, ordinarily employing more than fifty workers, which is in existence for more than two years and employs more than five workers in an apprentice able trade.

**275. Special Definitions.** In this chapter, unless there is anything repugnant in the subject or context, -

- (a) 'competent authority' means such officer as the Government may, by notification in the official Gazette, appoint to be competent authority for the purposes of this chapter.
- (b) 'apprentice' means a person undergoing training through the system of apprenticeship;
- (c) 'apprenticeship' means a system of training in which an employer undertakes to employ a person and to train him or have him trained systematically in an apprentice able trade for a period the duration of which has been fixed in advance and in the course of which the apprentice is bound to work in the employer's service;
- (d) 'apprentice able trade' means such trade or occupation in an establishment as the competent authority may, from time to time declare by notification in the official Gazette, to be an apprentice able trade for the purposes of this chapter;

**276. Tripartite advisory committees :** The Government may, by notification in the official Gazette, constitute in the prescribed manner such tripartite advisory committees to advise the government and the competent authority on matters relating to apprenticeship as it may consider necessary.

**277. Obligations of employers :** Subject to the other provisions of this chapter and the rules an employer-

- (a) shall be bound to ensure proper compliance with the provisions of this chapter and the rules in his establishment;
- (b) shall, in accordance with the rules, introduce and operate an apprenticeship program in his establishment and get the program registered with the competent authority within such time as may be prescribed;
- (c) shall train apprentices in the proportion of a minimum of twenty percent of the total number of persons employed in apprentice able trades, on an average in his establishment, or in such other proportion as the competent authority may, by order in writing, determine in respect of his establishment;

- (d) who has already introduced an apprenticeship program shall modify the program so as to bring it in conformity with the provisions of this chapter and the rules and register such modified program with the competent authority within such time as may be prescribed;
- (e) shall be responsible to ensure that an apprentice receives within the normal working hours related theoretical instruction to the extent of at least twenty percent of the total working hours;
- (f) shall initiate and operate an apprenticeship program entirely at his own cost; and
- (g) shall not, without the approval in writing of the competent authority, engage as an apprentice any person who has been an apprentice with another employer and has left his apprenticeship or been discharged by such other employer on disciplinary grounds.

**278. Relief from income-tax, etc :** (1) Notwithstanding anything to the contrary contained in the Income-tax ordinance, 1984 (XXXVI of 1984), income-tax shall not be payable by an employer in respect of any expenditure incurred by him on the operation of an apprenticeship program in accordance with the provisions of this chapter and the rules.

(2) Notwithstanding anything to the contrary contained in the imports and exports (control) act, 1950 (XXXIX of 1950), or any rule or order, the Government may, by order, make provision for the grant to the employers of incenses for the import of such goods or articles as may in its opinion be required by the employers for operating apprenticeship program under this chapter.

**279. Advice and guidance to employers :** Subject to the provisions of this chapter and the rules, the competent authority shall offer to the employers all possible technical advice and guidance in all matters relating to the apprenticeship program put into operation by the employers in their establishments in accordance with the provisions of this chapter and the rules.

**280. Obligations of apprentices :** (1) Subject to the other provisions of this chapter and the rules, an apprentice-

- (a) shall learn his trade conscientiously and diligently and shall Endeavour to qualify himself as a skilled worker on the completion of his apprenticeship;
- (b) shall attend the practical training and related theoretical instruction according to the program laid down by the employer.
- (c) shall carry out all lawful orders of the employer or his representative relating to his apprenticeship and shall full fill his obligations under the contract of apprenticeship;
- (d) shall submit himself to any test or examination held from time to time for assessing the progress of his training;
- (e) shall not become the member of a trade union of any class of workers other than his own;
- (f) shall, in case of any grievance against his employer arising out of his apprenticeship, approach the competent authority for the redress of the grievance, if the same is not redressed by the employer, and shall abide by the decision of the competent authority ; and
- (g) shall not, without the previous approval in writing of the competent authority, leave his apprenticeship after the completion of his probationary period.

(2) If an apprentice fails to carry out the terms of the contract of apprenticeship, or if at any time during the period of his apprentice voluntarily quits such apprenticeship, or there are continued adverse reports regarding the progress of his studies, or he is discharged for misconduct which shall

include insubordination, breach of the rules, absence from duty or neglect of his work, then he or, as the case may be his parent or guardian and the surety shall jointly and severally be liable to the payment of such refund of expenses and compensation as may be prescribed.

**281. Powers of entry, inspection, etc. :** The competent authority may-

- (a) with such assistants, if any, as it thinks fit, enter, inspect and examine any undertaking or part thereof at any reasonable time;
- (b) examine any apprentice employed therein or require the production of any register, record or other documents maintained in pursuance of this chapter and take on the spot or otherwise statements of any person which it may consider necessary for carrying out the purposes of this chapter;
- (c) make such examination and enquiry as it thinks fit in order to ascertain whether the provisions of this chapter and the rules are being observed in the undertaking; and
- (d) exercise such other powers as may be prescribed.

**282. Delegation of powers :** Subject to any rules made in this behalf, the competent authority may, by order in writing, direct that any power conferred upon it by or under this chapter, shall be exercisable also by such officer subordinate to it and subject to such conditions, if any, as may be specified in the order.

## **CHAPTER : XIX**

### **PENALTY AND PROCEDURE**

**283. Penalty for non-compliance of labour court's order under section -33 :** Whoever refuses or fails to comply, with an order passed by the labour court under section-33 shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to five thousand taka, or with both.

**284. Penalty for employment of child and adolescent :** whoever employs any child or adolescent or permits any child or adolescent to work in contravention of any provision of this act; shall be punishable with fine which may extend to five thousand taka.

**285. Penalty for making agreement in respect of a child in contravention of section -35 :** Whoever, being the parent or guardian of a child, makes an agreement in respect of such child in contravention of section 35, shall be punishable with fine which may extend to one thousand taka.

**286. Penalty for contravention of the provisions of chapter IV by an employer :** (1) If any employer contravenes any provision of chapter IV, he shall be punishable with fine which may extend to five thousand taka.

(2) Whenever a court imposes a fine under this section, the court may, when passing judgment order the whole or any of any of the compensation to the women concerned for any loss or damage caused to her by the contravention for which the fine has been imposed.

**287. Penalty for working for payment during permitted period of absence :** If a woman does any work in lieu of cash or kind during the period she has been permitted by her employer to absent herself under the provisions of chapter IV, she shall be punishable with fine which may extend to one thousand taka.

**288. Penalty for contravention of section 67 :** Whoever sells or lets on hire or as agent of a seller or hire, causes or procures to be sold or let on hire, for use in an establishment any machinery driven by power which does not comply with the provisions of section 67, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand taka, or with both.

**289. Penalty for payment or wages at a rate below the minimum rate of wages :** (1) Any employer who pays any worker wages at a rate lower than the rate declared under chapter XI to be the minimum rate of wages shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand taka, or with both.

(2) Where the court imposes penalty under sub-section (1), while passing judgment order that the employer shall also pay to the worker concerned such sum to represent the differences between the amount actually paid to such worker and the amount which would have been paid to him had there been no such contravention.

**290. Penalty for failure to give notice of accidents :** Whoever, in contravention of any provision of this act fails to give notice of any accidental occurrence, he shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to one thousand taka or if the occurrence results in loss of life, be punishable with imprisonment which may extend to six months, or with fine which may extend to three thousand taka, or with both.

**291. Penalty for unfair labour practices :** (1) whoever contravenes any provision of section 195, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand taka, or with both.

(2) Any worker who contravenes any provision of section 196 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand taka, or with both.

(3) Any trade union which or any person, other than a worker, who, contravenes any provision of section 196, shall be punishable with imprisonment for a term which may extend to two years or with fine which extend to ten thousand taka, or with both.

**292. Penalty for committing breach of settlement etc.:** Whoever commits any breach of term of any settlement award or decision which is binding on him under this act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand taka or with both.

**293. Penalty for failing to implement settlement etc. :** Whoever willfully fails to implement any term of any settlement, award or decision, which is his duty under this act to implement shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand taka or with both.

**294. Penalty for illegal strike or lock-out :** (1) Any worker who commences, continues or otherwise acts in furtherance of an illegal strike shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand taka, or with both.

(2) Any employer who commences continues or otherwise acts in furtherance of an illegal lock-out shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand taka, or with both.

**295. Penalty for instigating illegal strike or lock-out:** Whoever instigates or incites others to take part in or expends or supplies money or otherwise acts in furtherance or support of an illegal strike or lock-out, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand taka or with both.

**296. Penalty for taking part in or instigating go-slow :** Whoever takes part in or instigates or incites others to take part in, or otherwise acts in furtherance of, a go-slow shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand taka, or with both.

**297. Penalty for contravention of section 228 (2) :** Any employer who contravenes the provisions of section 228 (2) shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand taka, or with both.

**298. Penalty for misappropriation of provident funds and trade union funds :** (1) whoever dishonestly embezzles or misappropriates or converts to his own use any money of the workers, provident fund, shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Explanation : Whoever, being an employer, fails duly to deposit his own contribution or the contribution of a worker already deducted from his wages by him to the workers 'provident fund' of his establishment, if any, for a period of more than three months without any reasonable excuse to the satisfaction of the director of labour shall be deemed to have misappropriated the money of that provident fund.

(2) Whoever, being an officer or employee of a trade union of workers or employers embezzles or misappropriates or converts to his own use any money of the trade union fund, shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine

(3) A fine which may be imposed under this section may extend to the amount found by the court to have been embezzled or misappropriated by, or converted to the use of, the accused, and upon realization the amount of fine shall be reimbursed by the court to the provident fund or trade union fund concerned.

**299. Penalty for activities of unregistered trade unions :** Whoever takes part in or instigates or incites others to take part in the activities of an unregistered trade union or of a trade union whose

registration has been cancelled or collects subscription except enrollment fee, for the fund of any such trade union, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka or with both.

**300. Penalty for dual membership of trade unions :** Whoever enrolls himself as or continues to be a member of more than one trade union at the same time shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka or with both.

**301. Penalty for non-compliance with the provisions of section 210 (7) :** any person who fails except for reasons satisfactory to the conciliator, to comply with the provisions of section 210 (7) shall be punishable with imprisonment for a term which may extend to six month or with fine which may extend to two thousand taka. or with both.

**302. Penalty for using false certificates of fitness :** Whoever knowingly uses or attempts or use as a certificate of fitness granted to himself under any provision or whoever, having procured such a certificate, knowingly allows it to be used or allows another person to attempt such a use shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand taka, or with both.

**303. Penalty for false statements, etc. :** Whoever-

- (a) with intent to deceive, makes or causes or allows to be made in any register, record, notice or other document required or prescribed to be maintained under any provision of this act or any rules, regulations or schemes an entry which, he knows or has reason to believe, to be false in any material particular, or
- (b) willfully omits or causes or allows to be omitted from any such register, record, notice or document any entry required to be made therein, or
- (c) maintains or allows to be maintained more than one set of registers, records, notices or documents, except the office copies thereof, or
- (d) willfully sends or causes or allows to be sent to the director of labour, chief Inspector, controller or any officer sub-ordinate to him any application, plan, record, statement, information, return, report, notice or other document required or prescribed to be sent under any provision of this act or any rules, regulations or schemes which he knows, or has reason to believe, to be false in any material particular; or
- (e) willfully neglects or fails to maintain or furnish any plan, list record, register, information, return, report or other document he is required to maintain or furnish under this act or under any rules regulations or schemes,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand taka, or with both.

**304. Penalty for wrongful disclosure of information :** Whoever, in contravention of any provision of this Act, discloses any information relating to any manufacturing or commercial secret coming to his knowledge in the course of his official duties or any result of an analysis made under any provision of this act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka, or with both.



**305. Penalty for general offences by workers:** Subject to other provisions of this act, if any worker employed in an establishment contravenes any provision of this act or any rules regulations or schemes, or any orders, imposing any duty or liability on workers, he shall be punishable with fine which may extend to five hundred taka.

**306. Penalty for obstruction :** (1) Whoever willfully obstructs any officer in discharging his duties under any provision of this act, or the rules regulations or schemes, or refuses or willfully neglects to afford him any reasonable facility for making any entry, inspection, examination or enquiry authorized by or under any provision of this act, or the rules, regulations or schemes, in relation to any establishment, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka, or with both.

(2) Whoever willfully refuses or fails to produce on the demand of any officer mentioned in sub-section (1) any register or other document kept in pursuance of any provision of this act or any rules, regulations or schemes or prevents or attempts to prevent from appearing before or being examined by such person acting in exercise of his powers or in pursuance of his duties under any provision of this act or the rules, regulations or schemes, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand taka or with both.

**307. Penalty for other offences :** Whoever contravenes, or fails to comply with, any of the provisions of this act or the rules, regulations or schemes shall, if no other penalty is provided by this act or by such rules, regulation or schemes for such contravention or failure, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand taka, or with both.

**308. Enhanced penalty after previous conviction :** If any person who has been convicted of any offence punishable under this act or under any rules, regulations or schemes is again convicted of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with double the punishment provided for that offence.

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the subsequent offence.

**309. Penalty for contravention of law with dangerous results :** (1) Notwithstanding anything contained elsewhere in this chapter, whoever contravenes any provision of this act or any rules regulations or schemes, shall be punishable-

- (a) if such contravention results in loss of life, with imprisonment which may extend to four years or with fine which may extend to one lakh taka, or with both; or
- (b) if such contravention results in serious bodily injury, with imprisonment which may extend to two years or with fine which may extend to ten thousand taka or with both; or
- (c) if such contravention otherwise causes injury or danger to workers or other persons in an establishment, with imprisonment which may extend to six months, or with fine which may extend to two thousand taka, or with both.

(2) Any court imposing a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or the case of his death, to his legal representative.

(3) Nothing in this section shall apply to any contravention for which higher penalty is specified in this act or the rules, regulations or schemes.

**310. Power of courts to make orders :** (1) Where the employer of an establishment is convicted of an offence punishable under this act or the rules, regulations or schemes, the court may in addition to awarding any punishment by order in writing require him within a period specified in the order, which may on Application in that behalf, be extended from time to time to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1) the employer of the establishment shall not, during the period specified therein or extended period, if any, be liable under any provision of this act or the rules, regulations or scheme for continuation of the offence for the which he has been convicted.

(3) If the order of the court under sub-section (1) is not fully complied with during the aforesaid period, the employer shall on the expiry of such period, be deemed to have committed further offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka or with both.

**311. Onus as to age :** (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this act, and such person is, in the opinion of the court apparently under or over such age, the burden of proving that such person is not under or over such age shall be on the accused.

(2) A certificate by a registered medical practitioner relating to a worker that he has personally examined him and believe him to be under or over the age set forth in such certificate shall, for the purposes of this act, be conclusive evidence as to the age of the worker.

**312. Offences by companies, etc. :** Where an offence punishable under this act or under any rule, regulation or scheme is committed by a company or other body corporate or by a firm, every director partner manager secretary or other officer or agent thereof shall, if actively concerned in the conduct of the business of such company, body corporate or firm, be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence.

**313. Cognizance of offences :** (1) No court other than a labour court shall try an offence under this act or under any rules regulations or schemes.

(2) No labour court shall take cognizance of an offence under this act or under any rules, regulations or schemes except upon complaint made by-

- (a) the person aggrieved, or aggrieved trade union;
- (b) the Director of Labour, in the case of an offence under chapter XIII or under section 298;
- (c) the chairman of the trustee board or the controller of provident funds, in the case of an offence under chapter XVII;
- (d) Competent authority in the case of an offence under chapter XVIII;
- (e) Any officer authorized in that behalf, in the case of any other offence.

**314. Limitation of prosecution :** Unless otherwise specified elsewhere in this act or in any rules, regulations or schemes, no Labour court shall take cognizance of an offence punishable under this act or under this act or under any rules regulations or schemes, unless complaint there of is made within six months of the date on which the offence is alleged to have been committed.

**315. Report of offences :** Any contravention of , or refusal or omission to carry out, the provisions of this act, or of the rules regulations or schemes by any person may be reported to the Director of Labour, the chief Inspector or controller of provident fund, as the case may be, or to any officer subordinate to him for information or for taking such action as may be deemed fit or proper.

**316. Withdrawal of cases :** No case under this act, or under any rules, regulations or schemes, shall be permitted to be withdrawn except on an application for such withdrawal made by the person on whose complaint the case has been started:

Provided that no such case shall be withdrawn without the permission of the Director of Labour or the chief Inspector or the controller of provident funds as the case may be if such case was filed by any officer subordinate to him.

## **CHAPTER :XX**

### **ADMINISTRATION, INSPECTION, ETC.**

**317. Director of Labour of Labour, etc. :** (1) The Government may, by notification in the official Gazette, appoint a Director of Labour of Labour and such number of additional Director of Labour, joint Directors of Labour, Deputy Directors of Labour and Assistant Directors of Labour as it thinks fit for the purposes of this act.

(2) Where Additional Directors, joint Director, Deputy directors or Assistant Directors are appointed, the Government shall specify in the notify in the notification the area within which each one of them shall exercise powers and perform functions under this act.

(3) The Director of Labour shall have power of supervision and control over all additional director of labour, joint directors of labour, deputy directors of labour and assistant directors of labour.

(4) The following shall be the powers and functions of the Director of Labour-

- (a) to register trade unions under chapter XIII and maintain a register for this purpose;
- (b) to lodge complaints with the labour courts for action against any offence or any unfair labour practice or violation of any provisions of chapter XIII;
- (c) to determine the question as to which one of the trade unions in an establishment or group on establishments is entitled to be certified as the collective bargaining agent in relation to that establishment group of establishments;
- (d) to supervise the election of trade unions executives and the holding of any secret ballot;

- (e) to act as conciliator in any industrial dispute;
- (f) to supervise the functioning of participation committees; and
- (g) such other powers and functions as are conferred by this act or Rules

(5) The Director of Labour may, by general or special order in writing, direct that all or any of his powers and functions, be also exercisable by the additional director of labour, joint director of labour, deputy directors of labour or assistant directors of labour,.

**318. Chief Inspector, etc. :** (1) The Government may by notification in the official gazette, appoint a chief Inspector and requisite number of deputy chief Inspectors, assistant chief Inspectors or Inspectors as it thinks fit for the Purposes of this act.

(2) Where Deputy chief Inspectors, Assistant chief Inspectors or Inspectors are appointed, the Government shall specify in the notification the area within which and the class of establishments in respect of which each one of them shall exercise power and perform functions.

(3) The chief Inspector shall, in addition to the powers conferred on him under this act, have the powers of an Inspector throughout the country.

(4) The chief Inspector shall also have powers of supervision and control over deputy chief Inspectors, Assistant chief and Inspectors.

(5) The chief Inspector may, by general or special order in writing, direct that all or any of his powers and function may, be also exercisable by any deputy chief Inspector, Assistant chief Inspector and Inspector.

(6) All principal officers of the mercantile marine department shall be Inspectors ex-officio for the purpose of regulations made under chapter VI within the limit of their charge.

**319. Powers of chief Inspector, etc. :** (1) for carrying out the purposes of this act, the chief Inspector, a deputy chief Inspector, an assistant chief Inspector or Inspector, shall have the following powers and responsibilities within the area for which he is appointed

- (a) with such assistants, if any, as he thinks fit, enter, inspect and examine any place, premises, vessel or vehicle, at any reasonable time, which is, or which he has reason to believe to be, an establishment or used for an establishment;
- (b) require the production of the registers, records, certificates, notices and other documents kept or maintained in pursuance of this act or the rules, regulations, orders or schemes and seize, inspect, examine and copy any of them;
- (c) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act or the rules, regulations, orders or schemes in respect of any establishment or any worker employed therein are complied with;
- (d) examine in respect of matters pertaining to this act or the rules, regulations, orders or schemes any person whom he finds in any establishment or whom he reason to believe to be or to have been within the preceding two months employed in any establishment;
- (e) require every person so examined to sign the record of such examination by way of verification;

- (f) require such explanation from the employer or any person employed by him in respect of any registers, record, certificates, notices or other documents kept or maintained by him as he deems necessary;
  - (g) exercise such other powers and functions as are conferred by this act or may be prescribed.
- (2) The employer of every establishment, shall furnish such means as may be required by an Inspector for entry, inspection, examination, enquiry or otherwise for the exercise of the powers under this act, and the rules, regulations, orders or schemes.
- (3) Every employer shall produce for Inspection by an Inspector all records, registers and other documents required to be kept or maintained for the purposes of this act and the rules, regulations and schemes, and shall furnish any other information in connection therewith as may be required by such inspector.
- (4) An Inspector shall have the power to call for, or to seize, any record, register or other document of any employer relevant to the enforcement of the provisions of this act or the rules, regulations or schemes as he may consider necessary for the purpose of carrying out his functions under this act and the rules, regulations or schemes.
- (5) The chief Inspector or, if authorized by him in this behalf, any other officer subordinate to him, may lodge complaint with the labour courts for action against any person for any offence or violation or any provisions of this act or of any rules, regulations or schemes.

**320. Controller of Tea Plantation worker' Provident fund :** (1) The Government, shall by notification in the official Gazette, appoint a controller of the tea plantation workers, provident fund.

- (2) The controller shall be the chief executive officer of the said fund.
- (3) The controller shall perform his functions under the general control and superintendence of the trustee board and shall act as the secretary to that board.
- (4) The Controller may take part in the meetings of the board of trustees, but shall not be entitled to vote.
- (5) The controller shall, in consultation with the chairman of the trustee board, convene meetings of the board and keep records of its minutes.
- (6) The aforesaid controller shall be responsible for carrying out the decisions of the trustee board.
- (7) The controller may require an employer to furnish such accounts relevant to the aforesaid provident fund, as he may consider necessary.
- (8) The controller or any person authorized by him may, at any reasonable time and after giving notice of his intention to do so, enter any tea plantation or any premise connected therewith and require any one found in-charge thereof to produce before documents relating to the employment of workers or the payment of wages in such plantation.

(9) The controller or any person authorized by him may examine with respect to any matter relevant to any of the purposes as stated in sub-section (8), the employer, his officer, employee or agent or any other person found in charge of the tea plantation or any premises connected therewith or whom the controller or his authorized officer has reason to believe to be, or to have been, a worker in such plantation.

(10) The controller may exercise such other powers as may be prescribed by rules.

**321. Accounts and audit :** (1) A Board shall maintain its accounts in such manner and form as the Government may direct.

(2) The accounts of a board shall be audited every year by the controller and auditor general of Bangladesh, hereinafter referred to as the auditor general, in such manner as he deems fit.

(3) For the purpose of audit, the auditor general or any person authorized by him in this behalf shall have access to all records, books, documents, accounts, cash, stores, documents and other properties of the Board and may examine any member or any officer or other employee of the board.

(4) The Board shall, at the time of such audit, produce the account books and connected documents and furnish such explanation and information as the auditor General or any officer authorised by him in this behalf may ask for.

(5) The Auditor General shall submit his audit report to the board and shall forward a copy thereof to the government.

(6) The board shall take steps forthwith to rectify any defects or irregularities pointed out in the audit report.

(7) The Government may, at any time, require the Auditor-General to report to it upon the financial affairs of the board.

(8) In this section, board means a dock workers management board or the board of trustees of the tea plantation workers provident fund.

**322. Reports, etc. :** (1) A board mentioned in section 321 shall, as soon as possible after the end of every furnish to the Government a statement of accounts audited by the auditor general together with an annual report giving therein an account of its activity during that year and its proposal for the next financial year.

(2) The Government may require the board to furnish-

- (a) any return, statements, estimate statistics or other information regarding any matter under the control of board.
- (b) a report on any such matter.
- (c) a copy of any document in the custody of the board.

**323. National council for Industrial health and safety :** (1) The Government may, by notification in the official Gazette, constitute a council, to be called the National council for Industrial health and safety.

(2) The council shall consist of the following members namely:

- (a) the minister for Labour and manpower, ex-officio, who shall ex-officio also be its chairman;
- (b) secretary, ministry of labour and manpower, ex-officio
- (c) secretary, ministry of industries, ex-officio
- (d) secretary ministry of health, ex-officio
- (e) secretary, ministry of jute and textile, ex-officio
- (f) Secretary, ministry of shipping, ex-officio
- (g) Secretary, ministry of communications, ex-officio
- (h) seven members representing industries to be nominated by the Government in consultation with such trade union organizations as it may deem fit;
- (i) seven members representing workers, to be nominated by the Government in consultation with such trade union organizations as it may deem fit; and

Provided that at least one Female representative shall be included in the members representing workers, as well as employers;

- (j) chief Inspector, ex-officio, who shall also be its secretary.

(3) The nominated members shall hold office for a term of three years.

(4) The council shall follow its own rules of procedure.

(5) the council shall-

- (a) prepare national policy for ensuring safety in industrial establishments and maintaining healthy and hygienic conditions of work and atmosphere. therein;
- (b) frame guidelines for implementation of its policy.

(6) Every establishment shall take steps necessary for implementation of the policy prepared by the council following the guidelines framed by it.

## **CHAPTER XXI**

### **MISCELLANEOUS**

**324. Power to exempt :** (1) The Government may, by notification in the official gazette, exempt, subject to such conditions and restrictions as it may specify therein, any employer or class of employers or any establishment or class of establishments or any part thereof or any worker or class of workers from the operation of or compliance with all or any provisions of chapter II, V, VI, VII, VIII, IX and XVIII and sections 325, 326, 337 or 338 of chapter XXI.

(2) An order of exemption under sub-section (1) may be made in the public or national interest and shall be in operation for such period not exceeding six month at a time.

(3) The chief Inspector may, by notification in the official Gazette, suspend the operation of all or any provisions of sections 100, 101, 102, 103, 105 or 114 in respect of any establishment or class of establishment with respect to any festival, public fair or exhibition for any such period and conditions as may be specified in the official gazette.

**325. Notice to chief Inspector before commencement of work :** (1) The employer shall, at least fifteen days before he begins or starts work or business in his establishment, send to the chief Inspector a written notice containing-

- (a) name and situation of the establishment,
- (b) name and address of the employer;
- (c) address to which communications relating to the establishment may be sent;
- (d) nature of the work or business to be carried on in the establishment;
- (e) nature and quantity of power to be used;
- (f) name of the manager of the establishment;
- (g) number of workers likely to be employed in the establishment;
- (h) such other particulars as may be prescribed by rules;

(2) An establishment engaged in a manufacturing process, which is ordinarily carried on for less than one hundred and eighty working days in the year, resumes working, the employer shall send a written notice to the chief Inspector containing the particulars specified in sub-section (1) within thirty days before the date of the commencement of work.

(3) Whenever another person is appointed as manager, the employer shall send to the chief Inspector a written notice of the change, within seven days from the date on which such person assumes charge.

(4) During any period for which no person has been designated as manager of the establishment or during which the person so designated does not manage the establishment, any person found acting as manager or if no such person is found, the employer himself, shall be deemed to be the manager of the establishment for the purposes of this act.

### **326. Approval of plans and fees for licensing and registration**

(1) The Government may-

- (a) require that previous permission in writing be obtained in the prescribed manner from the chief Inspector for the construction or extension of any factory or class of factories;
- (b) require registration and licensing of factories or any class of factories and payment of fees for such registration and licensing or for the renewal of licenses, in the proscribed manner.

(2) If, in accordance with the provisions of sub-section (1), an application for permission accompanied by the plans and specifications is sent to the chief Inspector and no order is communicated to the applicant within two months from the date of its receipt by the chief Inspector, the permission applied for in the said application shall be deemed to have been granted.



(3) Where the chief Inspector refuses to grant permission for construction or extension of a factory or to registration and licensing of a factory, the applicant may, within sixty days of the date of such refusal, appeal to the Government.

Explanation.- A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or, within such limits as may be prescribed, of the addition of any plant or machinery.

**327. Appeals from certain orders of Inspectors :** (1) Where an order in writing of an Inspector has been served under this act on an employer he may, within thirty days of the service of the order, appeal against it to the appellate authority which may, subject to rules made in this behalf, confirm, modify or reverse the order.

(2) Subject to such rules as may be framed in this behalf and subject to such conditions as to compliance as the appellate authority may, authority may, authority, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

(3) The Government may make rules for the purpose of this section.

(4) In this section, appellate authority means the Government or such authority as the Government may appoint in this behalf.

**328. Seasonal factories :** The Government may, by notification in the official Gazette, declare any factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

**329. Recovery of money due under this Act :** (1) subject to this Act, any amount directed to be paid by the Labour court or the Tribunal under any section of this Act, or any amount payable by any person under any provision of this Act, or any money due from an employer or any other person under a settlement or agreement or under an award or decision of an arbitrator or of the Labour court or Tribunal under any provision of this Act may, at the option and on the prayer of the applicant entitled to such amount or money , be recovered by or at the direction of the Labour court-

- (a) as a public demand;
- (b) in the prescribed manner, by attachment and sale of the movable property belonging to the person by whom the amount or the money is to be paid;
- (c) if the entire amount is not so recovered, in the prescribed manner, by attachment and sale of the immovable property belonging to such person, or
- (d) as a money decree of a civil court.

(2) Where any worker is entitled to receive from the employer any benefit under a settlement or agreement or under an award or decision of an arbitrator of the Labour court or Tribunal, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rules, be determined and recovered as provided for in sub-section (1) and paid to the worker concerned.

(3) No application for recovery of any money shall be entertained under this section applicant:

Provided that any such application may be entertained after the expiry of the said period of one year, if the labour court is satisfied that the applicant had sufficient cause for not making the application within the said period.

Provided further that there shall be paid the amount due to workmen in highest priority.

**330. No defuction for any facilities provided :** No employer shall, recover any fees or money, from any worker for providing any facilities or supplying of any equipment or appliances to be provided under this Act, except the price for food supplied in the canteen.

**331. Obligation of workers :** No worker in an establishment shall-

- (a) willfully interfere with or misuse any appliance, convenience or other thing provided in the establishment for the purpose of securing the health, safety or welfare of the workers therein;
- (b) willfully and without reasonable cause do anything which is likely to endanger himself or other;
- (c) Willfully neglect to make use of any appliance or other things provided in the establishment for the purposes of securing the health or safety of the worker therein.

**332. Conduct towards female workers :** Where any female worker is employed in any work of the establishment, irrespective of her rank or status, no one of that establishment shall be have with the female worker which may seem to be indecent or repugnant to the modesty or honour of the female worker.

**333. Service of notices and returns :** The Government may make rules-

- (a) prescribing the manner of the service of orders under this Act, and
- (b) requiring employers to submit such return, occasional or periodical, as it may consider necessary for the purposes of this Act.

**334. Certain persons to be public servants :** The chairman, member or officer of a board, by whatever name called, constituted under any provision of this Act, the controller, the Director of Labour, the chief Inspector, the chairman of a Labour court and the chairman of the Tribunal and any person appointed under chapter XX shall be deemed to be public servant within the meaning of section 21 of the penal code, 1860 (XLV of 1860).

**335. Indemnity :** No suit, prosecution or other legal proceeding shall lie against any person or authority for anything which is in good faith done or intended to be done under this rules, regulations or schemes.

**336. Protection of existing conditions of employment :** Nothing in this Act or the rules, regulations or schemes shall affect any right or privilege to which a worker was entitled on the date of commencement of this act under any law repealed by this Act or under any award, agreement, settlement, custom or usage, so long he continues to be employed under the employer under which

he was employed on such date, if such right or privilege is more favorable to him than those provided in this act, or in the rules, regulations or schemes.

**337. Abstracts of the Act, Rules and Regulations to be displayed:** (1) The employer of every establishment shall cause to be displayed in a conspicuous and accessible place at or near the main entrance of the place of work or the establishment, as the case may be, a notice in Bangla containing an abstract of the important provisions of this Act and of the rules and regulation.

(2) All notices displayed under sub-section (1) shall be maintained in a clean and legible condition.

(3) The chief Inspector may, by order in writing served on the employer, require that there shall be displayed in the establishment any other notice or poster relating to the health, hygiene, safety or welfare of the worker employed in the establishment.

**338. Liability of owner of premises in certain circumstances :** (1) Where in any premises separate buildings are leased to different employers for use as separate establishment, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) Where in any premises, independent or self-contained floors or flats are leased to different employers for use as separate establishments, the owner of the premises shall be liable, as if he were the employers of the establishments, for any contravention of the provisions of this Act or the rules in respect of-

- (a) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned.
- (b) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an employer;
- (c) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;
- (d) precautions in case of fire;
- (e) maintenance of hoists and lifts; and
- (f) maintenance of any other common facilities provided in the premises.

(3) The provisions of sub-section (2) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different employers for use as separate establishments;

(4) where in any premises portions of a room or a shed are leased to different employers for use as separate establishments, the owner of the premises shall be liable for any contravention of the provisions of chapter V, except section 53 and 55, and chapter vi, except sections 40, 64, 74, 75 and 77, and section 91:

Provided that in respect of the provisions of sections of section 63, 65 and 72 the owners liability shall be only in so far as such provisions relate to things under this control:

Provided further that the employer shall be responsible for complying with the provisions of chapter VI in respect of plant and machinery belonging to or supplied by him;

(5) The chief Inspector shall have, subject to the control of the Government power to issue orders to the owner of the premises in respect of carrying out the provisions of this section.

(6) In respect of sub-section (3) and (4), while computing for the purpose of any of the provisions of this act the total number of workers employed, the whole of the premises shall be deemed to be a single establishment.

**339. Powers to collect information :** Any Board, or any officer or authority exercising powers under this act or any rules, regulations or schemes, may, for the due discharge of its or his functions, direct any employer to furnish such records, documents or information or do such other acts as it or he, as the case may be, may require, and every such employer or person shall comply with such direction.

**340. Presumption as to employment :** Every person, who is found in a factory at any time, except during intervals meals or rest, when work is going on or the machinery is in motion shall, until the contrary is proved, be deemed, to be at that time employed in factory.

**341. Restriction on disclosure of information :** (1) No person empowered to exercise any power or discharge any duty under this Act or under any rules, regulation or scheme shall, while in service or after leaving the service, disclose other than in connection with the administration of this Act any information relating to any a manufacturing or commercial secret which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the employer of such secret or for the purposes of any legal proceeding including arbitration pursuant to this act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

**342. Certain matters to be kept confidential :** There shall not be included in any report, award, decision or judgment under this act any information obtained by the officer, authority conciliator, arbitrator, Labour court or Tribunal, in the course of any investigation or enquiry as to a trade union or as to business or trade which is not available otherwise than through the evidence given before such authority, if the trade union person, firm or company in question has made a request in writing to the authority that such information shall be treated as confidential, nor shall such proceedings disclose any such information without the consent in writing of the secretary of the trade union or the establishment in question, as the case may be:

Provided that nothing contained in this section shall apply to disclosure of any such information for the purpose of a prosecution under section 193 of the penal code.

**343. Protection of proceedings of Boards :** No act or proceedings of any board, by whatever name called, constituted under any provision of this act, shall be invalid or questioned merely on the ground of existence of a vacancy in, or defect in the constitution or in the appointment or qualification of any member thereof.

**344. General provisions relating to tenure, powers, procedures, etc. of Boards :** (1) Unless otherwise specified in this act, the term of office and the condition of service of the chairman and other members of any board, by whatever name called, constituted or established under any

provisions of this act, the manner of filling casual vacancies therein the procedure and conduct of its business and its committees, if any, the fees or allowances to be paid for attending meetings thereof, shall be such as may be prescribed.

(2) Unless otherwise specified in this act, any such board may for the purpose of performance of its functions,-

- (a) direct any employer to furnish such records, documents or information or do such other acts as it may require;
- (b) enter at all reasonable times, in any establishment;
- (c) inspect any books, registers and other documents relating to such establishments;
- (d) record statements of persons connected with the management of such establishment;
- (e) like a civil court,-
  - (i) enforce the attendance of any person and examine him on oath;
  - (ii) compel the production of documents and material objects; and
  - (iii) issue commissions for the examination of witnesses.

(3) The aforesaid powers of a board may be exercised by its chairman or by any member or officer of the board authorized by it in this behalf.

**345. Payment of equal wages for equal work :** In determining wages or fixing minimum rates of wages for any worker, the principle of equal wages for male and female workers for work of equal nature or value shall be followed and no discrimination shall be made in this respect on the ground of sex.

**346. Court fees in general :** Subject to the provisions of this act, the Government may, by rules, prescribe the amount of court fees or other fees payable for, or in respect of, any appeal, application or proceedings under act.

**347. Restriction Upon certain questionings etc. :** No person shall be compelled under this act to answer any question or make any statement which may tend directly or indirectly to incriminate him.

**348. Training on this Act :** The Government, shall take such steps as may be necessary to organise training courses on this act for officer of trade union of workers and employers.

(2) Every person who is an officer of a trade union of workers shall undertake such training course when invited by the appropriate authority to do so.

(3) The employer of every establishment in which fifty or more workers are ordinarily employed or an officer of such establishment specified by the employer shall undertake such training course when invited by the appropriate authority to do so.

(4) The cost of such training course shall be borne by the Government and the employer in such proportion as the Government may determine.

(5) The period spent on training under this section shall be deemed to be a period spent on duty.

(6) In this section, 'appropriate authority' means the government or any institute or authority established or authorized by the Government to organize or conduct training courses under this section.

(7) Notwithstanding anything contained in this section a collective bargaining agent or a federation of trade unions may organize training courses on this act for officers of trade unions for a period not exceeding seven days with the approval of the director of Labour and any officer attending such course with the permission of the employer concerned shall be deemed to be on duty.

**349. Certain activities of trade union prohibited :** No trade union shall engage in any activities which are not within the aims and objects of the union as specified in its constitution.

**350. Bar to jurisdiction of other courts :** No court shall entertain any suit, complaint or other legal proceeding which is triable or cognizable by the Labour court or by the tribunal under this act.

**351. Power to make rules :** (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this act and for providing for all or any matter which is to be or may be determined or prescribed by rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules-

(a) under chapter V, may provide for-

- (i) Prescribing standards of adequate ventilation and reasonable temperature for an establishment and for maintaining thermometer therein;
- (ii) Prescribing arrangements to be made in an establishment for disposal of its wastes and effluents or for requiring approval from prescribed authority for such arrangements;
- (iii) In the case of an establishment in which humidity of the air is artificially increased,-

(a) Prescribing standards of humidification,

(b) regulating the methods used for artificially increasing the humidity of the air,

(c) test for determining and recording the humidity of the air, and

(d) prescribing methods of sufficient and suitable lighting for an establishment;

(iv) prescribing standards of sufficient and suitable lighting for an establishment;

(v) securing compliance with the provisions relating to drinking water in an establishment;

(vi) prescribing the number of latrines and urinals to be provided in an establishment;

(vii) prescribing the type and number of spittoons to be provided in an establishment and their location and maintenance; and

(viii) additional matters in respect of health and hygiene in an establishment; and

(b) under chapter VI, may provide for-

(i) prescribing additional precautions in respect of any particular machinery or part thereof;

(ii) specifying safeguards to be provided in respect of any dangerous part of any machine;

(iii) prescribing additional requirements to be complied with in respect of any lifting machinery;

- (iv) examination and testing of any plant or machinery and prescribing additional safety measures in relation thereto; and
  - (v) prescribing maximum weights which may be lifted, carried or move by male and female, adult or adolescent workers in an establishment;
- (c) under chapter X, may provide for-
- (i) requiring the maintenance of such records, registers, returns and notices as are necessary for the enforcement of that chapter and prescribe the forms thereof;
  - (ii) requiring display in a conspicuous place or on premises where employment is carried on of notices specifying rates of wages payable to workers on such premises ; and
  - (iii) providing for the regular inspection of the weights, measures and weighting machines used by the employers in checking or ascertaining the wages of workers employed by them;
- (d) under chapter XI, may provide for-
- (i) procedure to be followed by a board in fixing rates of wages;
  - (ii) giving opportunities to persons likely to be affected by the minimum rates of wages to offer comments and make suggestion ; and
  - (iii) maintenance of books, wage slips, registers and other records and prescribing their forms and particulars to be entered therein and the manner of authenticating such entries;
- (e) under chapter XII, may provide for-
- (i) prescribing the manner in which money deposited with a labour court may be invested for the benefit or dependents of a deceased worker and for the transfer of money so invested from one Labour court to another;
  - (ii) prescribing the manner in which any balance of money may, under section 152(5) be transferred to a fund or funds for the benefit of the workers and for the establishment and administration of such fund or funds;
  - (iii) prescribing the form and manner in which memorandum of agreements shall be presented and registered;
  - (iv) withholding by the Labour court, whether in whole or in part, of monthly payments pending decision on applications for review of the same ; and
  - (v) maintenance of registers and records of proceedings by the Labour court;
- (f) under chapter XVII, may provide for-
- (i) the time and manner in which contributions shall be made to a provident fund by the employers and by or on behalf of workers, and the manner in which such contributions may be recovered;
  - (ii) powers and duties of the Board of Trustees for the administration of such fund;
  - (iii) the conditions under which with drywalls from such fund may be made and any deductions or forfeiture may be made and the maximum amount of such deduction or forfeiture;
  - (iv) the forms in which a member shall furnish particulars about himself and his family whenever required;
  - (v) the nomination of persons to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination;

- (vi) the registers and records to be maintained with respect to members and returns to be furnished by the members;
- (vii) the form or design of any contribution card, token or dice and for the issue, custody and replacement thereof; and
- (viii) the conditions under which a member may be permitted to pay premia on life insurance from such fund;

(g) under chapter XVIII, may provide for-

- (i) the selection of apprentices and the conditions and terms of a contract of apprenticeship;
- (ii) the procedure of discipline, welfare, supervision and control of apprentices;
- (iii) the forms of records to be maintained by the employers pertaining to the training of apprentices;
- (iv) the periodical tests and grant of certificates on the successful conclusion of training; and
- (v) the standards for practical and related theoretical training.

**352. Provision for penalty in rules, regulations and schemes :** Rules, regulations or schemes may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand taka, or with both.

- (a) The workmen's compensation Act, 1923 (III of 1923);
- (b) The Children (Pledging of Labour) Act, 1933 (II of 1933);
- (c) The workmen's protection Act, 1934 (IV of 1934);
- (d) The dock Labourers Act, 1934 (XIX of 1934);
- (e) The payment of wages Act, 1936 (IV of 1936);
- (f) The employer's Liability act, 1938 (XXIV of 1938);
- (g) The employment of children Act, 1938 (XXVI of 1938);
- (h) The maternity Benefit Act, 1939 (IV of 1939);
- (i) The Mines maternity Benefit act, 1941 (XIX of 1941);
- (j) The Motor Vehicles (Drivers) Ordinance, 1942 (V of 1942);
- (k) The maternity Benefit (Tea Estate) Act, 1950 (XX of 1950);
- (l) The Employment (Records of services ) Act, 1951 (XIX of 1951);
- (m) The Bangladesh Plantation Employees provident fund ordinance, 1959 (XXXI of 1959);
- (n) The coal Mines (Fixation of Rates of wages) ordinance, 1960 (XXXIX of 1960);
- (o) The road Transport workers ordinance, 1961 (XXVIII of 1961);
- (p) The Minimum wages ordinance, 1961 (XXXIV of 1961);
- (q) The Plantation Labour ordinance, 1962 (XXXIX of 1962);
- (r) The Apprenticeship ordinance, 1962 (LVI of 1962);
- (s) The Factories Act, 1965 (IV of 1965);
- (t) The shops and Establishment Act, 1965 (VII of 1965);
- (u) The employment of Labour (Standing orders) Act, 1965 (VIII of 1965);
- (v) The companies profits (Worker's participation) Act, 1968 (XII of 1968);
- (w) The Industrial Relations ordinance, 1969 (XXIII of 1969);
- (x) The Newspaper Employees (Conditions of Service) Act, 1974 (XXX of 1974); and
- (y) The Dock workers (Regulation of Employment) Act, 1980 (XVII of 1980).

**353. Repeal and savings :** (1) The following laws are hereby repealed, namely :

- (a) The workmen's compensation act, 1923 (III of 1923);



- (b) The children (Pledging of Labour) Act 1833 (II of 1933);
- (c) The dock Labourers Act, 1934 (XIX of 194);
- (d) The Workmen's protection Act, 1934 (IV of 1934);
- (e) The payment of wages act, 1936 (IV of 1936);
- (f) The Employer's Liability Act, 1938 (XXIV of 1938);
- (g) The Employment of children act, 1938 (XXVI of 1938);
- (h) The Maternity Benefit Act, 1939 (IV of 1939);
- (i) The Mines Maternity Benefit act, 1941 (XIX of 1941);
- (j) The Motor Vehicles (Drivers) Ordinance, 1942 (V of 1942);
- (k) The Maternity Benefit (Tea Estate) Act, 1950 (XX of 1950);
- (l) The Employment (Records of service) Act, 1951 (XIX of 1951);
- (m) The Bangladesh (Plantation Employees) Provident fund ordinance, 1959 (XXXI of 1959);
- (n) The coal Mines (Fixation of Rates of wage) ordinance, 1960 (XXXIX of 1960);
- (o) The Road Transport workers ordinance, 1961 (XXVIII of 1961);
- (p) The Minimum wages ordinance, 1961 (XXXIV of 1961);
- (q) The Plantation Labour Ordinance, 1962 (XXXIX of 1962);
- (r) The Employees social Insurance ordinance, 1962 (XXII of 1962);
- (s) The apprenticeship ordinance, 1962 (LVI of 1962);
- (t) The Factories Act, 1965 (IV of 1965);
- (u) The shops and Establishments Act, 1965 (VII of 1965);
- (v) The Employment of Labour (Standing orders) Act, 1965 (VIII of 1965);
- (w) The companies profits (worker's participation) Act, 1968 (XII of 1968);
- (x) The Industrial Relations ordinance, 1969 (XXIII of 1969);
- (y) The Dock workers (Regulation of Employment) Act, 1980 (XVII of 1980).

(2) Notwithstanding the repeal of any law by sub-section (1), and without prejudice to the provisions of section 24 of the General clauses act, 1897 (X of 1897)-

- (a) anything done, any rule, regulation, scheme or appointment made, any notification or order issued, any chairman, member, officer appointed, any court, Tribunal, Board or Fund constituted, any notice given, any proceeding commenced, any trade union registered, any collective bargaining agent elected, any committee formed, any complaint lodged, any application filed, or any other action taken under any provision of any such law shall, so far as it is not inconsistent with the provisions of this act, be deemed to have been done, made, issued, appointed, constituted, given, commenced, registered, elected, formed, lodged, filed or taken, as the case may be under the corresponding provision of this Act, and have effect accordingly until altered, amended, rescinded or repealed;
- (b) all proceedings under any such law pending in any court or tribunal, at the time of commencement of this Act, shall be heard and disposed of by such court or tribunal, as if such laws were not repealed.

**354. Original Text and Authentic English Text :** The original text of this Act shall be in Bangla and there may be an authentic English text.