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PROVINCIAL ASSEMBLY OF THE PUNJAB

NOTIFICATION

February 10, 2026

No. PAP/Legis-2(70)/2025/683. The Punjab Labour Code 2025, having been passed by Provincial Assembly of the Punjab on February 04, 2026, and assented to by Governor of the Punjab on February 10, 2026, is hereby published as an Act of Provincial Assembly of the Punjab.

THE PUNJAB LABOUR CODE 2026

ACT IX OF 2026

[First published, after having received the assent of the Governor of the Punjab, in the Gazette of the Punjab (Extraordinary) dated February 10, 2026.]

An**Act**

to consolidate, simplify and rationalise the laws relating to rights of the workers and elimination of all forms of forced and compulsory labour in Punjab.

It is necessary to consolidate, simplify and rationalise the laws relating to fundamental rights at work, such as freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, the elimination of discrimination in respect of employment and occupation, and a safe and healthy working environment; employment of workers; minimum wages and payment of remuneration; regulation of working time; regulation of working conditions of the specific categories of workers; labour welfare; dispute resolution mechanisms; and matters ancillary thereto.

Be it enacted by Provincial Assembly of the Punjab as follows:

PART I

OPERATION AND DEFINITIONS

CHAPTER 1.1

TITLE, EXTENT, COMMENCEMENT AND EFFECT

1. **Short title, extent and commencement.**— (1) This Code may be cited as the Punjab Labour Code 2026.

(2) It shall extend to whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, specify.

2. Application and summary of operation.- (1) The Code shall apply to all workers, employers, principals, occupiers at all workplaces in all sectors within the Punjab, other than:

- (a) civil servants, regulated under the Punjab Civil Servants Act, 1974 (VIII of 1974);
- (b) defence services of Pakistan and any services or installations exclusively connected with or incidental to defence services of Pakistan; and
- (c) Police service including law enforcement agencies and civil armed forces.

(2) The provisions of the Code shall apply to all establishments operating in the Punjab.

(3) The Code shall apply to workplaces belonging to the Government and such other workplaces within the territorial limits of the Punjab.

3. The Code cannot be excluded by contract or agreement.- (1) Any provision in a contract, internal work regulations, collective agreement or other agreement, whether made before or after the commencement of the Code shall be void in so far as it purports to:

- (a) exclude or limit the operation of any provision of the Code; and
- (b) preclude a person from bringing proceedings before a dispute resolution body constituted under the Code.

(2) Any contract, internal work regulations, collective agreement or other agreement, whether made before or after the commencement of the Code, whereby a worker relinquishes any right conferred by the Code shall be null and void in so far as it purports to deprive that worker of such right.

(3) Nothing in the Code shall prevent the parties from concluding any contract, internal work regulations, collective agreement or other agreement which contains terms more favourable than those in the Code.

CHAPTER 1.2

KEY DEFINITIONS AND LEGAL RESPONSIBILITIES

4. Meaning of "worker" and "wage".- (1) For the purposes of the Code, "worker" means:

- (a) a person who is engaged, directly or indirectly, to carry out work for an employer, principal or occupier; or
- (b) a person who is otherwise self-employed.

(2) A person is a worker under sub-section (1) irrespective of the contractual basis of the engagement and includes:

- (a) an employee;
- (b) a contractor or sub-contractor;
- (c) an employee of a contractor or sub-contractor;
- (d) an agency worker or contract worker;
- (e) a self-employed worker;
- (f) an apprentice or intern;
- (g) a person working on a casual or temporary basis;
- (h) a person engaged through a digital labour platform; or
- (i) a volunteer, only in relation to Part II and Part VI.

(3) A person is a worker under sub-section (1) irrespective of the nature of the work and work includes, but is not limited to:

- (a) skilled, unskilled, intellectual, clerical, professional, managerial, administrative and any other kind of work;
- (b) on-line work and work mediated electronically or by means of algorithm;
- (c) work in the formal and informal sectors;
- (d) construction work;
- (e) domestic work;
- (f) homebased work; or

- (g) agricultural work.
- (4) A person is a worker irrespective of his citizenship.
- (5) A person is a worker for the purposes of Part VI of the Code irrespective of whether his work engagement has been terminated.
- (6) For the purposes of the Code, "wage" means all remuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include:
 - (a) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;
 - (b) any travelling allowance or the value of any travelling concession;
 - (c) any sum paid to such person to defray special expenses incurred by him in respect of his employment;
 - (d) any sum paid as statutory bonus or otherwise;
 - (e) any gratuity payable on discharge; and
 - (f) any sum paid as reward or award and any facility granted or any sum in lieu thereof paid on special occasion or performance.

5. Meaning of "employee".- (1) For the purposes of the Code, "employee" means:

- (a) a person who undertakes to perform any work for an employer under an employment agreement in return for remuneration or any other form of consideration and includes apprentices, supervisors, managerial and administrative employees;
 - (b) officers and employees of the Government or a local authority who are not covered by the Punjab Civil Servants Act, 1974 (VIII of 1974) or any provincial statutory service rules; and
 - (c) any person or class of persons which the Government may, by notification in the official Gazette, specify.
- (2) For the purposes of the Code, "managerial or administrative employee" means an employee whose employment agreement requires or permits him to hire, transfer, promote, suspend, lay off, dismiss, reward, discipline or adjudge the grievances of other employees, or to make direct recommendations on these matters to the employer.

6. Meaning of "employment agreement".- (1) An employment agreement refers to an agreement between an employer and employee establishing an employment relationship under section 134.

- (2) An employment agreement is a legally binding contract of service.
- (3) An employment agreement may be expressed or implied and, subject to section 140, may be oral or in writing.
- (4) The legal relationship of "master and servant" and the "rule of master and servant" are abolished.

7. Meaning of "employer", "principal" and "occupier".- (1) For the purposes of the Code, "employer" means any person who employs an employee under an employment agreement.

- (2) For the purposes of the Code, "principal" means a person who in connection with any trade, business, profession or undertaking carried on by him, engages any other person otherwise than under an employment agreement, including under a contract for services:

- (a) to provide any labour for gain or reward; or
- (b) to do any work for gain or reward; and includes a person that engages a contractor or sub-contractor.

- (3) For the purposes of the Code, "person" in sub-sections (1) and (2) means a natural person and any entity which is a legal person, whether incorporated or not, including a digital labour platform.

- (4) A principal that engages a worker through a contractor shall be deemed to be the employer of that worker if:

- (a) the arrangement is a device to deprive the workers of their legitimate rights and benefits as an employee of the principal; or

- (b) the contractor provides the workers to the core operations of the principal; or
 - (c) the principal retains or has assumed control over the means and method by which the work of a contractor is performed.
- (5) For the purposes of the Code, "occupier" means a natural person who has charge, management or control of part or all of a workplace:
- (a) either on the person's own account or as an agent of another person; and
 - (b) whether or not the person is also the owner of that workplace; and
 - (c) whether or not the person is also an employer or principal.
- (6) An occupier may include:
- (a) a person who has ultimate control over the affairs of a factory;
 - (b) a builder, principal contractor or sub-contractor on a construction site;
 - (c) a person who manages a shopping centre or other major installation;
 - (d) a franchisor who exercises control, wholly or in part, over the establishments of franchisees;
 - (e) a person who is the chief executive officer of a hospital, school, training institution, college, university or other Government institution;
 - (f) an agent appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof;
 - (g) the head of a Government department; and
 - (h) a person in charge of a digital labour platform.
- (7) More than one person can be an occupier in relation to a workplace if more than one person has charge, management or control of the workplace.
- (8) Where the entity which has charge, management or control of a workplace is a company, the company may give notice to an Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case in Pakistan to be the occupier of the workplace for the purposes of the Code, and such director or shareholder shall, so long as he is so resident, be deemed to be the occupier of the workplace for the purposes of the Code until further notice cancelling his nomination is received by the Inspector or until he ceases to be director or shareholder.
- (9) If no nomination is given under sub-section (8), any one of the directors thereof, or, in the case of a private company, any one of the shareholders thereof, may be prosecuted for any contravention for which the occupier is punishable.
- 8. Meaning of "engaged".-** A person engages a worker if:
- (a) the person is an employer and enters into an employment agreement with the worker; or
 - (b) the person is a principal and enters into a contract for services with the worker; or
 - (c) the person otherwise enters into an arrangement with the worker whereby the worker performs work for them, irrespective of the contractual arrangement.
- 9. Legal responsibility of persons in relation to an employer, principal and occupier.-**
- (1) The rights and duties of an employer, principal or occupier under the Code are exercised by:
- (a) in the case where an employer, principal or occupier is a natural person, that natural person; and
 - (b) in the case where an employer or principal is a legal entity, every person who was in charge of, and was responsible to the legal entity for the conduct of the business of the legal entity.
- (2) A person in clause (a) of sub-section (1) includes a reference to an heir, successor or assignee, as the case may be, of such person or body.
- (3) A person in clause (b) of sub-section (1) includes a reference to:
- (a) in relation to an establishment run by a body corporate, any director, manager or other officer of the company;
 - (b) in relation to an establishment run by a partnership, a partner;

- (c) in relation to an establishment run by or under the authority of any department of the Government, the authority appointed in this behalf or, where no authority is so appointed, the head of the department;
- (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 establishment;
- (e) in relation to any legal entity not referred to in clauses (a) to (d), a person who makes, or participates in making decisions that affect the whole, or a substantial part, of the business of the legal entity; and
- (f) an agent.

(3) A person in sub-section (1) shall exercise due diligence in relation to duties under the Code to ensure that the employer complies with the duties in accordance with section 413.

10. Responsibilities where multiple persons have obligations.—Where the Code, or any rule, regulation, award, collective agreement, or order made under it imposes obligations on more than one person, each person shall jointly and severally be responsible for ensuring compliance, and jointly and severally liable in the event of contravention.

11. Meaning of "contractor" and "self-employed".—(1) For the purposes of the Code, "contractor" means any person, natural, legal or a body, whether incorporated or not, who contracts with a principal to carry out the whole or part of any work undertaken by the principal in the course of or for the purpose of the principal's trade or business and includes sub-contractors, whether or not that person employs other persons.

(2) For the purposes of the Code, "self-worker" means an individual who works or provides services in person for gain or reward otherwise than under an employment agreement including a freelancer.

12. Meaning of "workplace", "premises" and "establishment".—(1) For the purposes of the Code, "workplace" means any establishment or premises where work is carried out, by one or more persons and includes premises:

- (a) where a worker is paid, takes a rest break or uses washroom facilities;
- (b) used for work-related trips, travel, training, events or social activities;
- (c) where work is performed by use of information and communication technologies;
- (d) used for accommodation provided by an employer, principal or occupier; or
- (e) used for the storage of tools, machinery, equipment or substances.

(2) Save as otherwise provided in the Code, a person shall be deemed to be in a workplace wherever the person may perform work, including a place that the person moves through.

(3) For the purposes of the Code, "premises" means any place and precincts thereof and includes:

- (a) a piece of land, a building or part of any building;
- (b) a vehicle;
- (c) an installation on land including the foreshore and other land intermittently covered by water and any other installation whether floating or resting on other land covered with water or the subsoil thereof; and
- (d) a moveable structure of any kind whatsoever or a tent.

(4) For the purposes of the Code, "establishment" means any establishment, mine, business, trade, profession, service, calling, or any other activity being carried out whether for the purpose of profit or gain or otherwise and includes charitable organizations of whatsoever nature and any establishment which the Government may notify.

CHAPTER 1.3 OTHER DEFINITIONS

13. Other definitions.—(1) In the Code:

- (a) "accident" means an incident that happens unexpectedly and unintentionally and thereby causes damage or harm;

- (b) "alternative dispute resolution" means procedure for settling disputes without adjudication, and includes conciliation and mediation out of the court;
- (c) "arbitrator" means a person appointed as an arbitrator under the Code;
- (d) "Authority" means the Payment of Wages Authority established under the Code;
- (e) "award" means the determination by a Labour Court, Arbitrator or Tribunal of any collective rights dispute or any matter relating thereto and includes an interim award;
- (f) "coercion" means, in addition to its definition in section 15 of the Contract Act, 1872 (IX of 1872), any and all forms of threat, violent or non-violent, that may be used in order to force a party to act in any manner against his will, and may include but is not limited to:
 - (i) the threat of harm to or physical restraint of any person;
 - (ii) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint of any person;
 - (iii) threat due to the vulnerable position of a person;
 - (iv) psychological pressure; and
 - (v) deliberate or reckless deduction or withholding of remuneration
- (g) "collective agreement" means any agreement in writing concerning terms and conditions of engagement and any other matter of mutual interest concluded between an employer or principal, a group of employers or principals, or one or more employers' or principals' organisations, on the one hand, and one or more trade unions, on the other;
- (h) "collective bargaining" means all negotiations which take place between:
 - (i) an employer or principal, a group of employers or principles, or one or more employers' or principles' organisations, on the one hand, and
 - (ii) one or more trade unions, on the other;
 for determining working conditions, terms of engagement, regulating relations between employers or principals and workers; and includes bargaining conducted at the levels set out in section 99.
- (i) "collective bargaining agent" means the trade union which under section 100 is the certified agent of workers in the establishment or group of establishments, in the matter of collective bargaining;
- (j) "collective bargaining unit" means those workers or group of workers whose terms and conditions of engagement are, or could appropriately be, the subject of collective bargaining;
- (k) "Chief Inspector" means the Director General of Labour Welfare and Mines Labour Welfare Commissioner appointed under the Code for their respective jurisdictions;
- (l) "competent forum" means the bodies referred to in Chapters 6.1 and 6.2 that have jurisdiction with respect to the grievance;
- (m) "conciliation proceedings" means any proceedings before a conciliator;
- (n) "conciliator" means a person appointed as conciliator under Chapter 6.1 of the Code;
- (o) "Council" means the Works Council established under Chapter 3.7 of the Code;
- (p) "Court" means the Labour Court established under the Code;
- (q) "Department" means the Labour and Human Resource Department or the Mines and Minerals Department, Government of the Punjab in their respective jurisdictions;
- (r) "discrimination" means any distinction, exclusion or preference made on the basis of a prohibited ground which has the effect of nullifying or impairing

equality of opportunity or treatment in employment or occupation and includes:

- (i) refusing to engage a person;
 - (ii) dismissing a person;
 - (iii) denying access to education, vocational guidance and training;
 - (iv) providing inferior terms and conditions of engagement;
 - (v) by otherwise limiting a person's access to an opportunity or subjecting them to a detriment; and
 - (vi) limiting opportunity of advancement and career progression;
- in this definition, the terms employment and occupation include remuneration, access to vocational training, access to employment and to particular occupations, and terms and conditions of employment;
- (s) "essential services" means services, by whomsoever rendered, and whether rendered to the Government or to any other person, the interruption of which would endanger the life, health or personal safety of the whole or part of the population, as specified in Schedule 4;
 - (t) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;
 - (u) "exploitation" means seeking benefits from prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, forced or compulsory labour or services, or any other similar practices resulting in forced extortion, regardless of such person's consent;
 - (v) "factory" means any premises, including the precincts thereof whereon five or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily carried on with or without the aid of power, but does not include a mine subject to the operation of the Mines Act, 1923 (IV of 1923) for the time being in force;
 - (w) "go-slow" is a form of strike means an organized, deliberate and purposeful slowing down of normal output, or the deterioration of the normal quality of work by a body of workers acting in a concerted manner but does not include the slowing down of normal output, or the deterioration of the normal quality of work which is due to circumstances outside the control of workers.
 - (x) "Government" means Government of the Punjab;
 - (y) "group of establishments" means establishments belonging to the same employer or principal in the same sector;
 - (z) "industry" means any business, trade, manufacture, calling, service, employment or occupation of producing goods or rendering services including those set up for not-for-profit purposes;
 - (aa) "Inspector" means an Inspector appointed under Chapter 6.4 of the Code;
 - (bb) "Inspector authorised in this behalf" means Director, and in the absence of Director of the Division or Region or District, the Deputy Director or the Assistant Director Labour or the officers from the Mines and Minerals Department in their respective jurisdiction;
 - (cc) "harm" means illness, disease, injury or a combination of these and includes physical or mental harm caused by any work-related incident, system or practice;
 - (dd) "hazard" means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation or substance, whether arising or used at a workplace, that is an actual or potential cause or source of harm;
 - (ee) "Labour Court" means a Labour Court established under Chapter 6.2 of the Code;
 - (ff) "lock-out" means the closing of a place of employment or part of such a place, or the suspension, wholly or partly, of work by an employer or

- principal, or refusal, absolute or conditional, by an employer or principal to continue to engage any number of workers employed by such an employer or principal, when it occurs in connection with an industrial dispute;
- (gg) "mediation" means a process which is conducted confidentially in which a mediator actively assists parties in working towards a negotiated agreement of a dispute or difference other than an industrial dispute, with the parties in ultimate control of the decision to settle the terms of resolution, the mediator having no decision-making power or authority to impose solutions on the parties or force settlement between the parties;
- (hh) "mineral establishment or a 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, tramways 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 coke making or the dressing of minerals;
- (ii) "Occupational Safety and Health Council" means the Punjab Council of Occupational Safety and Health constituted under section 311 of the Code;
- (jj) "office-bearer" in relation to a trade union, means any member of the executive thereof but does not include an auditor or legal adviser;
- (kk) "organization" means any organization of workers or employers or principals for furthering and defending the interests of workers or of employers or principals;
- (ll) "prescribed" means prescribed by the rules made under the Code;
- (mm) "public utility service" means any of the services specified in Schedule 3;
- (nn) "registered trade union" means a trade union registered under the Code;
- (oo) "Registrar" means a Registrar appointed under Chapter 6.3 F of the Code;
- (pp) "regulations" means the regulations framed under the Code;
- (qq) "remuneration" means the ordinary wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash, negotiable instrument or in kind, by an establishment to an employee in respect of his employment or of work done in such employment, capable of being expressed in terms of money; and which is payable, or would, if the terms of the employment agreement, express or implied, were fulfilled, be payable:
- provided that 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 Department; any travelling allowance or the value of any travelling concession; and any sum paid to the person employed to defray special expenses entailed on him by the nature of the employment shall not constitute part of the remuneration;
- (rr) "risk" means the probability that injury or damage may occur;
- (ss) "rules" means rules made under the Code;
- (tt) "safety and health representative" means a safety and health representative elected pursuant to section 53;
- (uu) "Safety and Health Rules" means rules made pursuant to section 70;
- (vv) "seasonal establishment" means any establishment, having ten or more employees, which operates for a continuous period of 180 days, or less during a calendar year including but not limited to:
- (i) a factory, which is predominantly engaged in one or more of the following manufacturing processes, namely, cotton ginning, the decortication of groundnuts, the manufacture of sugar including gur;
 - (ii) dressing of fruits for local and export purposes;
 - (iii) summer recreation camps;
 - (iv) resorts operating during a particular season;

- (v) tourist operations; and
- (vi) any other establishments, prescribed in rules;
- (ww) "sector" means a sector of the economy, including, but not limited to:
 - (i) agriculture; plantations; other rural sectors;
 - (ii) basic metal production;
 - (iii) chemical industries;
 - (iv) commerce;
 - (v) construction;
 - (vi) education;
 - (vii) financial services; professional services;
 - (viii) fisheries;
 - (ix) food; drink; tobacco;
 - (x) forestry; wood; pulp and paper;
 - (xi) health services;
 - (xii) hotels; tourism; catering;
 - (xiii) mining (coal; other mining);
 - (xiv) mechanical and electrical engineering;
 - (xv) media; culture; graphical;
 - (xvi) oil and gas production; oil refining;
 - (xvii) postal and telecommunications services;
 - (xviii) public service;
 - (xix) textiles; clothing; leather; footwear;
 - (xx) transport;
 - (xxi) transport equipment manufacturing;
 - (xxii) utilities; and
 - (xxiii) other sectors, as may be prescribed;
- (xx) "strike" means the partial or complete concerted refusal to work, or the slowing of work, by workers in defence of their interests that may form the subject matter of an industrial dispute;
- (yy) "trade union" means an organization of workers, with a purpose to promote and protect the economic and social interests of its members, including by seeking to regulate relations between workers and those who engage them, and includes a federation of two or more trade unions and a confederation of two or more federations;
- (zz) "Tribunal" means a Labour Appellate Tribunal constituted under Chapter 6.2 of the Code;
- (aaa) "unlawful lock-out" means a lock-out which is unlawful under section 122 of the Code;
- (bbb) "unlawful strike" means a strike which is unlawful under section 122 of the Code; and
- (ccc) "violence and harassment" refers to:
 - (i) a range of unacceptable behaviours and practices, or threats thereof, whether as a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, violating the dignity of such person or of creating an intimidating, hostile, degrading, humiliating or uncomfortable environment, and includes gender-based violence and harassment; For the purposes of this definition, "gender-based violence and harassment" means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment;
 - (ii) For the purposes of this definition "sexual harassment" means:
 - (a) any unwelcome sexual advance, request for sexual favours or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning behaviours;

- (b) creating an intimidating, hostile or offensive work environment; and
- (c) the attempt to punish the complainant for refusal to comply to such a request or to comply with such a request a condition for employment.

PART II

FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

CHAPTER 2.1

PROVISIONS APPLYING TO ALL WORKERS AND ALL WORKPLACES

14. Object of this Part.— (1) This Part sets out fundamental principles and rights at work and it is intended to give effect to the fundamental instruments of the International Labour Organization pertaining to:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour;
- (d) the elimination of discrimination in respect of employment and occupation; and
- (e) a safe and healthy working environment.

(2) This Part applies to all persons and workplaces to which the Code applies, including, but not limited to employers, principals, occupiers, contractors, sub-contractors, and workers as defined in Chapter 1.2.

CHAPTER 2.2

BONDED, FORCED OR COMPULSORY LABOUR

15. Definitions.— In this Chapter, unless there is anything repugnant in the subject or context:

- (a) "advance" means an advance whether in cash or in kind, or partly in cash or partly in kind, made by one person, hereinafter referred to as the creditor, to another person, hereinafter referred to as the debtor, under this Chapter;
- (b) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded worker under, or in pursuance of, the bonded labour system:
Provided that advance as defined in section 18 of the Code shall not be treated as bonded debt;
- (c) "bonded labour" means any labour or service rendered under the bonded labour system;
- (d) "bonded worker" means a worker who incurs, or has, or is presumed to have, incurred, a bonded debt and who performs bonded labour;
- (e) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have entered into an agreement with the creditor to the effect that:
 - (i) in consideration of an advance obtained by the debtor whether or not such an advance is evidenced by any document and in consideration of the interest, if any, due on such an advance; or
 - (ii) in pursuance of any customary or social obligation; or
 - (iii) for any economic consideration received by the debtor; the debtor would:
 - (a) render, by him, or any person dependent on him, labour or service to the creditor or for the benefit of the creditor for a specified period or for an unspecified period, either without remuneration or for remuneration lower than the applicable minimum wage; or
 - (b) forfeit the freedom of employment or adopting other means of livelihood for a specified period or for an unspecified period; or
 - (c) forfeit the right to move freely from place to place; or

- (d) forfeit the right to appropriate or sell at market value any of the debtor's property or product of the debtor's labour or any person dependent on the debtor; and includes the system of forced, or partly forced labour under which a surety for a debtor enters, or has or is presumed to have entered into an agreement with the creditor to the effect that, in the event of the failure of the debtor to repay the debt, the surety will render the bonded labour on behalf of the debtor;
- (f) "forced or compulsory labour" means all work or service which is exacted from any person through coercive and exploitative practices under the menace of penalty and for which the said person has not offered themselves voluntarily and forced labour may take the form of:
 - (i) bonded labour;
 - (ii) forced overtime beyond normal limits as defined in Chapter 2.2 except in the event of force majeure or emergency;
 - (iii) engagement of a child in any of the worst forms of child labour as per section 25 of Chapter 2.3; and
 - (iv) involuntary servitude, slavery or practices similar to slavery: provided that the following shall not be considered forced or compulsory labour:
 - (i) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (ii) any work or service which forms part of the normal civic obligations of the citizens;
 - (iii) any work or service exacted from any person as a consequence of a conviction in a court of law;
 - (iv) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; and
 - (v) minor communal services performed by the members of the community in the direct interest of the said community: provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services; and
- (g) "voluntarily" means the willing agreement of an individual of sound mind to the proposal or desires of another without the use of fraud, coercion or threat.

16. Prohibition on forced labour.— (1) No person shall engage a worker under forced or compulsory labour.

(2) No person shall assist any other person to recruit or use forced or compulsory labour.

17. Abolition of bonded labour system.— (1) Bonded labour in any form shall be prohibited.

(2) No person shall engage a worker under bounded labour.

(3) No person shall assist any other person to recruit or use bounded labour.

(4) Any custom or tradition or practice or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of the Code, by virtue of which any person is required to do any work or render any service as a bonded worker shall be void and inoperative.

18. Regulation of advance.— No employer shall make any advance to any employee except as provided under:

- (a) advance may be extended or taken as interest free loan not exceeding three times the applicable minimum wage for unskilled workers, notified by the Government from time to time;
- (b) the instalments of recovery of the advance shall not exceed one-fifth (20%) of the remuneration of the worker;
- (c) an employer, principal or occupier shall maintain a proper record of the advances and recoveries thereof in respect of each worker separately in the prescribed manner;
- (d) the payment of advance and its recovery shall be made through banking channels including digital transaction channels:
provided that any payment made other than banking channel shall not be considered as advance under this section and shall be treated as illegal payment in contravention of the Code liable to penalty; and
- (e) no further advance shall be extended or taken till final repayment of the previous advance.

19. Liability to repay bonded debt to stand extinguished.— (1) On the commencement of the Code, every obligation of a bonded worker, if any, to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall stand extinguished.

(2) After the commencement of the Code, no suit or other proceeding shall lie in any civil court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Where, before the commencement of the Code, possession of any property belonging to a worker or any person dependent on the worker was forcibly taken by any creditor for the recovery of any bonded debt, such property is restored with immediate effect to the possession of the person from whom it was seized.

20. Eviction from residential accommodation.— (1) Notwithstanding the provisions of any other law, a worker, whether released, resigned, retired, retrenched, discharged, dismissed, terminated or otherwise, occupying residential accommodation provided to the worker shall not be evicted for a period of two months from the date of occurrence of any of the above eventualities, failing which the employer, principal or occupier, without prejudice to any other liability, shall pay to the worker compensation at such rate as may be prescribed.

(2) If the person concerned fails to discharge his obligations or if a worker fails to vacate any residential accommodation provided to the worker after the expiry of the period specified in sub-section (1), the person concerned or, as the case may be, the worker, may lodge a complaint to the Magistrate of the First Class having jurisdiction in the area where such residential accommodation is located.

(3) The Magistrate may, after hearing the parties, notwithstanding anything contained in any other law, summarily decide the case and may pass an order directing the person concerned to pay compensation to the worker or directing the worker to vacate the premises within such time as the court may determine.

(4) Where a worker occupying a residential accommodation provided to him by the person concerned, dies, the provisions of sub-sections (1), (2) and (3) shall, with such modifications as may be necessary, apply to the dependents of the deceased worker, occupying such accommodation.

21. Notification of authorized officer and functions.— (1) The Department in consultation with the Board of Revenue and Home Department shall, by notification, authorize officers, not below the rank of BS-17 of such Departments in a District to exercise such powers and perform such functions as may be necessary for the effective implementation of the provisions of this Chapter.

(2) The authorized officer may associate officer subordinate to him, in the local limits, to perform his functions and duties for the purpose of this Chapter.

(3) The authorized officer shall, as far as practicable, take necessary measures to promote the welfare of the persons if freed from bonded or forced labour by securing and protecting the economic interests of such persons.

(4) On the directions of the authorized officer, the associated officer shall inquire about engagement of bonded or forced or compulsory labour by or on behalf of any person within the local limits of his jurisdiction and if, he finds such engagement in any form, he shall forthwith report the matter to the authorized officer for necessary action.

(5) An Inspector shall:

- (a) enter any premises for which he has reasonable cause to believe to be liable to inspection; and
- (b) during the course of inspection of a workplace, shall inquire about engagement of bonded or forced or compulsory labour by or on behalf of any person within the local limits of his jurisdiction and if, he finds such engagement in any form, he shall forthwith report the matter to the authorized officer for necessary action.

(6) The authorized officer after affording an opportunity of hearing may refer the matter to the Police Station concerned for lodging first information report under the Code of Criminal Procedure, 1898 (XLV of 1898) and also bring into notice of the District Vigilance Committee.

CHAPTER 2.3

ELIMINATION OF CHILD LABOUR

22. **Definitions.**- In this Chapter:

- (a) "child" means a person who is under 16 years of age;
- (b) "family", in relation to an employer, principal or occupier, means the spouse, son, daughter or sibling;
- (c) "hazardous work" means the work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of young persons and is mentioned in Schedule 2;
- (d) "light work" means work which is:
 - (i) not likely to be harmful to the health or development of a child; and
 - (ii) not such as to prejudice a child's attendance at school, the child's participation in vocational orientation or training programmes approved by the Government or the child's capacity to benefit from the instruction received;
- (e) "young person" means a person who has attained the age of sixteen years but has not attained the age of eighteen years;
- (f) "worst forms of child labour", for the purposes of the Code, include the following:
 - (i) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, and serfdom, including forced or compulsory recruitment of children for use in armed conflict;
 - (ii) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
 - (iii) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
 - (iv) debt bondage and forced or compulsory labour; and
 - (v) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

23. **Minimum age for admission to work.**— (1) No child shall be engaged or permitted to work in any occupation or process.

(2) Nothing in this section shall apply to the work done by children and young persons in schools for general, vocational or technical education or in other training institutions, where such work is carried out in accordance with conditions prescribed by the Government, after consultation with the organisations of employers, principals and workers concerned, where such exist, and is an integral part of:

- (a) a course of education or training for which a school or training institution is primarily responsible; or

- (b) a Government approved programme of training mainly or entirely in an undertaking; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

(3) The Department, after consultation with the organisations of employers or principals and workers concerned, may exclude from the application of this Chapter limited categories of work in respect of which special and substantial problems of application arise, including but not limited to work in family undertakings and work carried out in small-scale agriculture producing for local consumption and not regularly employing hired workers.

(4) The employer, principal or occupier shall arrange the hours of work in such manner that the working hours are not in conflict with the timings of the educational or vocational institution where the child or young person is enrolled.

(5) A child attending compulsory education may, only with the prior approval of the Department, participate for a fee in the activities of filming, advertising, preparing and performing artistic performances or similar cultural activities and sports competitions, in a manner and to the extent that such participation does not endanger their health, safety, morals, schooling or development.

(6) The permission referred to in sub-section (2) shall be issued by the Department upon the request of the legal representative of the child.

24. Engagement of child in light work.— A child, not below the age of 14 years, may be engaged to perform light work, provided that they shall:

- (a) work only for a maximum of four hours per day and twenty hours per week;
- (b) not be engaged for work during school hours; and
- (c) be engaged in works, as specified in SCHEDULE 1.

25. Prohibition on the worst forms of child labour.— (1) Notwithstanding any provision of any other law, no person shall be permitted to engage, use, procure or offer a child or a young person in any activity which constitutes the worst forms of child labour, or in work that is in contravention of the minimum age for work.

(2) All cases of the worst forms of child labour, as described in sub-clauses (i), (ii) and (iii) of the clause (f) of section 22 shall be immediately referred by the inspector to the concerned department and agency of the Government for further investigation and necessary action, in accordance with the law.

26. Prohibition on hazardous work.— (1) No person shall engage or permit a child or young person to perform any hazardous work in the establishment, as mentioned in Schedule 2.

(2) If an Inspector finds any child or young person engaged in hazardous or abusive work, the Inspector shall disengage such child or young person and refer him to an institution where an environment is provided to educate such child or young person.

27. Restriction on working time.— (1) The total period of work of a young person in a day, including the mandatory interval for rest of one hour, shall not exceed seven hours.

(2) The periods of work of a young person shall not exceed three hours before the worker has an interval of rest lasting at least one hour.

(3) Daily uninterrupted rest time for a young person shall be at least 12 consecutive hours.

(4) A person who engages a young person to work, he shall:

- (a) not require or permit a young person to work during night hours between 7.00 pm to 8.00 am, overtime work, work on weekly rest days and public holidays; and
- (b) not require or permit a young person to work in the establishment on any day on which the said young person has worked in any other establishment for at least six hours.

28. Dispute as to age.— Any dispute about the age of the child or a young person engaged or is permitted to work in an establishment shall be decided on the basis of Form-B issued by the National Database and Registration Authority or the birth certificate issued by the competent authority, but, in the absence of such a document, the Inspector shall refer the matter to the

prescribed medical authority for determination of the age and the decision of such an authority shall be conclusive proof of the age of the child or young person.

29. Power to require medical examination.— (1) Where an Inspector is of the opinion that :

- (a) any person working in an establishment without a certificate of fitness is a young person; or
- (b) a young person working in an establishment with a certificate is no longer fit to work in the capacity stated therein;

the Inspector may serve on the occupier a notice requiring that such a person, or that such a young person, shall be examined by a certifying surgeon or by a medical practitioner authorized under the Code, and such a person, or such a young person shall not, if the Inspector so directs, be allowed to work in any establishment until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

(2) The costs of the medical examination shall be borne by the occupier.

30. Maintenance of register.— The occupier shall maintain a register in respect of young persons engaged or permitted to work in the establishment and shall make the register available for inspection to an Inspector at all times showing:

- (a) the name and date of birth of every young person engaged or permitted to work;
- (b) hours and periods of work of any such young persons and their intervals of rest;
- (c) the nature of work of the young person; and
- (d) such other particulars as may be prescribed.

31. Notice to Inspector.— Every occupier of the establishment in which a young person is engaged or permitted to work shall, within a period of thirty days from the commencement of the Code or engagement of the young person, whichever is later, send to the Inspector, within whose local limits the establishment is situated, a written notice on paper or electronically, containing the following particulars:

- (a) the name, location and address of the establishment;
- (b) the name of the person who is actually responsible for the management of the establishment;
- (c) the name, designation, remuneration and other particulars of the young person; and
- (d) the nature of the occupation or process carried on in the establishment.

32. Presumption of work.— (1) Subject to sub-section (2), if a child or a young person is found present within the premises of a workplace, it shall be presumed that the child or the young person is engaged or is permitted to work in the establishment.

(2) Nothing in this section shall apply to the students visiting an establishment for educational purposes under the direction or supervision of an educational institution.

(3) If, upon inspection, an Inspector finds a child employed contrary to the Code, the Inspector shall get the child removed from work immediately.

(4) The Inspector shall make preliminary assessment of the child's mental and physical condition, and may refer the child to an educational or welfare institution, with or without consent of the parent or the legal guardian, as the case may be.

CHAPTER 2.4

EQUALITY OF OPPORTUNITY AND TREATMENT

33. Anti-discrimination obligations.— (1) An employer, principal or occupier shall not discriminate against a worker.

(2) A worker shall not discriminate against another worker.

(3) In assessing whether a distinction, exclusion or preference has a discriminatory effect, it is irrelevant:

- (a) whether or not the effect was intended; and
- (b) whether the effect was the result of an act or an omission.

(4) Any distinction, exclusion or preference based on the inherent requirements of a particular job does not constitute discrimination.

(5) Special measures of protection and assistance for the purpose of promoting or realising equality shall not be deemed to be discrimination.

34. Direct and indirect discrimination.- (1) The obligations in section 33 include both direct and indirect discrimination.

(2) Direct discrimination occurs when less favourable treatment is explicitly or implicitly based on one or more prohibited grounds and includes sexual and other forms of harassment.

(3) Indirect discrimination occurs when a person imposes, or proposes to impose an apparently neutral requirement, condition or practice that:

- (a) has, or is likely to have, the disproportional effect of disadvantaging persons on the basis of a prohibited ground; and
- (b) is not reasonable having regard to the inherent requirements of the job.

(4) The burden of proving that:

- (a) less favourable treatment is unrelated to discrimination; and
- (b) the requirement, condition or practice referred to in clause (b) of sub-section (3) is reasonable and shall rest on the employer, principal or occupier.

35. Prohibited grounds.- (1) The prohibited grounds referred to in this Chapter shall be:

- (a) race;
- (b) colour;
- (c) sex and gender;
- (d) pregnancy;
- (e) age;
- (f) family responsibilities;
- (g) religion including sect and creed;
- (h) political opinion;
- (i) national extraction;
- (j) ethnicity;
- (k) social origin including caste;
- (l) participation or non-participation in trade union activities;
- (m) language including dialect;
- (n) disability; and
- (o) physical appearance.

(2) For the purposes of the Chapter, "family responsibilities" in sub-section (1) refer to:

- (a) men and women workers with responsibilities in relation to their dependent children, including during periods of maternity and paternity leave; and
- (b) men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support.

(3) An employer, principal or occupier does not discriminate against another person on the basis of family responsibilities only because he refuses, on reasonable business grounds, to accommodate a request from that person with respect to their family responsibilities.

(4) For the purposes of the Code, "disability" has the same meaning as in the Punjab Empowerment of Persons with Disabilities Act 2022 (XLII of 2022).

(5) An employer, principal or occupier discriminates against other person on the basis of disability where the employer, principal or occupier fails to provide reasonable facilities including necessary assistive aid and equipment which a person with disabilities would reasonably require to perform his duties.

36. Equal remuneration obligation.- (1) An employer, principal or occupier shall pay equal remuneration to workers of all genders for work of equal value.

(2) The term equal remuneration for work of equal value refers to rates of remuneration established without discrimination based on sex.

(3) For the purposes of sub-section (1), remuneration includes utility and contingent allowances.

(4) Differential rates between workers which correspond, without regard to sex, to differences as determined by objective job appraisal in the work to be performed do not

constitute a violation of the principle of equal remuneration for men and women workers for work of equal value.

(5) For the purpose of ascertaining whether, under sub-section (1), work is of equal value, regard shall be had to factors including but not limited to professional ability and skills; work effort; responsibilities and working conditions.

(6) For the purpose of sub-section (4), "job appraisal" means a process that objectively compares jobs to determine the relative position of one job to another in a wage or salary scale. The job appraisal method shall provide a classification of jobs without regard to sex and ensure the enforcement of the principle of equal remuneration for work of equal value.

(7) The Government shall, in consultation with representatives of workers and employers, develop guidelines with respect to the matters in this provision.

37. Instruments made under the Code to have regard to equal remuneration.- Any award, decision, judgment, settlement, collective agreement, regulation, rule or other instrument made under the Code, insofar as it applies to remuneration, shall implement the principle of equal remuneration to men and women for work of equal value.

CHAPTER 2.5

OCCUPATIONAL SAFETY AND HEALTH

38. Definitions.- In this Chapter, "prescribed" means prescribed in the Safety and Health Rules.

A. Duties regarding safety and health at work.

39. Management of risks.- A duty imposed on a person to ensure safety and health requires the person:

- (a) to eliminate risks to safety and health, so far as is reasonably practicable; and
- (b) if it is not reasonably practicable to eliminate risks to safety and health, to minimise those risks so far as is reasonably practicable.

40. Meaning of "reasonably practicable".- "Reasonably practicable", in relation to a duty to ensure safety and health, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring safety and health, taking into account and weighing up all relevant matters including:

- (a) the likelihood of the hazard or risk concerned occurring;
- (b) the degree of harm that might result from the hazard or the risk;
- (c) what the person concerned knows, or ought reasonably to know about:
 - (i) the hazard or risk; and
 - (ii) ways of eliminating or minimising the risk;
- (d) the availability and suitability of ways to eliminate or minimize the risk; and
- (e) after assessing the extent of the risk and the available ways of eliminating or minimizing the risk, the cost associated with available ways of eliminating or minimizing the risk, including whether the cost is grossly disproportionate to the risk.

41. Concurrent and overlapping duties.- (1) To avoid doubt, it is declared that a person may at any one time be two or more of the following with respect to a duty under this Chapter:

- (a) an employer;
- (b) a principal;
- (c) an occupier of a workplace;
- (d) a contractor;
- (e) a subcontractor;
- (f) a self-worker;
- (g) a designer, manufacturer or supplier of any machinery, equipment or hazardous substance for use at work;
- (h) an erector, installer or a modifier of machinery or equipment for use at work;
- (i) an owner, a hirer or lessee of machinery moved by mechanical power or a person who maintains such machinery for use at work;

and the Code may impose duties or liabilities on the person accordingly.

(2) Each duty holder shall comply with that duty to the standard required by the Code even if another duty holder has the same duty. A duty or liability imposed by the Code on any person is not diminished or affected by the fact that it is imposed on one or more other persons, whether in the same capacity or in different capacities.

(3) If more than one person has a duty with respect to a matter in the same workplace, each person:

- (a) retains responsibility for the person's duty in relation to the matter; and
- (b) shall discharge the person's duty to the extent to which the person has the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

(4) Whenever more than one person referred to in sub-section (1) engages in activities simultaneously at one workplace, they shall collaborate to carry out their duties in this Chapter.

42. Interaction between duties, Safety and Health Rules and other material.— (1) In performing one or more duties set out in this Chapter, a person shall comply with the Safety and Health Rules made in accordance with section 70.

(2) A person shall comply with the duties set out under this Chapter notwithstanding the absence of any relevant Safety and Health Rule made in accordance with section 70.

(3) A person shall comply with any additional duties assigned by Government, from time to time, and follow standards, guidelines and code of practices laid down by Government.

43. Duties of employers, principals and occupiers.— (1) Every person shall ensure, so far as is reasonably practicable, the health and safety of the workers are at work:

- (a) workers engaged, or caused to be engaged by the person, including through a contractor; and
- (b) workers whose activities in carrying out work are influenced or directed by the person.

(2) Without limiting the scope of sub-section (1), it is the duty of every employer to take, so far as is reasonably practicable, such measures as are necessary to ensure the safety and health of the employer's employees at work.

(3) Subject to sub-section (4) and without limiting the scope of sub-section (1), it is the duty of every principal to take, so far as is reasonably practicable, such measures as are necessary to ensure the safety and health of:

- (a) any contractor engaged by the principal when at work;
- (b) any direct or indirect subcontractor engaged by such contractor when at work; and
- (c) any employee employed by such contractor or subcontractor when at work.

(4) The duty imposed on the principal in sub-section (3) only applies where the contractor, subcontractor or employee mentioned in that sub-section is working under the direction of the principal as to the manner in which the work is carried out.

(5) Every person who is an employer or principal shall ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out under the direction or control of the employer or principal.

(6) Without limiting the scope of sub-section (1), every occupier shall ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under his control are safe and without risk to health with respect to all persons in or near the workplace.

(7) Without limiting the duties in this section, every person who is an employer, principal and occupier shall, so far as is reasonably practicable:

- (a) ensure systematic and effective identification of the existing and new physical and psychosocial hazards in the system of work or the work process on a regular basis;
- (b) eliminate or, if it is not reasonably practicable to do so, minimize the risks so identified;
- (c) implement systematic work health and safety management processes in order to ensure provision and application of processes, systems of work and tasks to be safe and without risks of harm to health;

- (d) ensure that the work environment is free from violence and harassment, including sexual harassment, in accordance with section 50;
- (e) if section 53 applies, arrange for training of health and safety representatives, including arranging for them to attend health and safety training every year as approved by the Chief Inspector and shall bear all expenses thereof;
- (f) provide appropriate training in work health and safety to all workers;
- (g) get, at that person's own expense, the workers under that person's control vaccinated and inoculated against work related diseases at such intervals as may be prescribed;
- (h) ensure provision and maintenance of tools, machinery, equipment and appliances which are safe and without risks of harm;
- (i) make arrangements to control and prevent workers and other persons from being exposed to physical, chemical, biological, radiological, ergonomics, psycho-social or any other kinds of hazards;
- (j) provide such information, instructions, training and supervision, as is necessary or required under the Code and the Health and Safety Rules;
- (k) keep the work environment in safe, clean orderly and harm-free condition, and provide and maintain safe means of access to and egress from the places where workers carry out work;
- (l) inform all workers under that person's direction or control, in an understandable manner and in accessible written form, before any work commences, the hazards associated with their work, risks involved and the preventative and protective measures that need to be taken;
- (m) provide where necessary to all workers under that person's direction or control, at that person's own expense, if hazards cannot otherwise be eliminated or controlled, adequate protective clothing and protective equipment as may be approved by the Occupational Safety and Health Council, to prevent every risk of harm and of adverse effects on health;
- (n) maintain in the general register particulars of all incidents resulting in injury or disease, and all dangerous occurrences, including while commuting, and suspected cases of work-related occupational diseases, and submit to the inspector and a copy thereof to the Employees Compensation Commissioner;
- (o) provide where necessary measures including adequate first aid arrangements to deal with emergencies, dangerous occurrences, incidents resulting in injury, illness and death, and industrial disasters; and
- (p) take all practical measures for the prevention of fires or explosions and for the provision of safety measures in the event of fire or explosions as well.

(5) The employer, principal or occupier shall record particulars of an accident or harm which occurs at a workplace in accordance with section 59 and shall take all reasonably practicable steps to ensure that the event is investigated so as to determine the cause of accident or harm and submit such inquiry report to the Inspector.

44. Written statement of safety and health policy.— Every employer, principal and occupier to whom the Code applies, except in such cases as may be prescribed by Government, shall declare a written statement of a general policy with respect to the safety and health of all persons at the workplace under their control or direction and such statement shall include provisions with respect to consultation, to resolving disputes on safety at the workplace and to reporting procedures for fatalities, injuries and near misses. The policy shall be reviewed and revised when:

- (a) introducing or altering the procedures for managing risk to safety; and
- (b) changes that may affect safety, health or welfare are proposed to the premises where persons work, to the systems or methods of work or to the plant or substances used for work, but as a minimum after the period, as

prescribed, and to bring the statement and revisions of it to the notice of all persons in the workplace in languages understood by all.

- 45. Duties of workers.**— Every worker at the workplace shall:
- ensure reasonable care for his own safety and that of other persons who may be affected by the worker's acts or omissions at the workplace without willfully doing anything to endanger him or other persons;
 - cooperate with the employer, principal or occupier in relation to safety and health obligations;
 - report to the employer, principal or occupier any accident, injury to health or dangerous occurrence;
 - not engage in violence or harassment, including sexual harassment, in accordance with section 50;
 - ensure proper use of any protective clothing and protective equipment;
 - not willfully interfere with or misuse of any means, appliances, equipment or any other thing; and
 - escape from a place of danger, in such case the worker shall report the situation forthwith to the immediate supervisor.
- 46. Duties of self-workers.**— A self-worker shall:
- determine the responsibilities in relation to the health and safety of all workers at the workplace;
 - cooperate with employers, occupiers, principals, sub-contractors, other self-workers, safety and health representatives and safety and health committees in protecting the health and safety at the workplace;
 - conduct work in a way which does not endanger anyone's health and safety at the workplace; and
 - provide information which may affect the health and safety of others to the occupier, contractor, subcontractors, other self-workers, safety and health representatives and safety and health committees.
- 47. Duties of persons in control of certain premises to persons other than their workers.**— Every person not being a worker but using a premises, shall, so far as is reasonably practicable ensure that the premises, all means of access thereto or egress therefrom available for use by persons using such premises and any plant or substance in the premises is or are used in a safe manner and without risks to health.
- 48. Duties of manufacturers regarding articles and substances.**— Every person who manufactures, assembles or installs or erects any tool, machinery, equipment or stores a substance for use at a workplace, shall ensure that:
- the assembly, installation, erection or storage is done in a safe manner; and
 - the person who shall use such tools, machinery, equipment or handle such substance is provided with all information as regards handling, commissioning, use and maintenance of the same.
- 49. Duties of suppliers as regards articles for use at work.**— (1) In this section:
- "article" means tools, machinery, equipment or substance including chemical and biological substances for use at work; and
 - "supplier" means a person who supplies, sells, leases, distributes any tool, equipment, machine, device or any biological, chemical or physical agent to be used by a worker or at a workplace.
- (2) It shall be the duty of supplier who supplies any article for use at workplace to take specified steps sufficient to:
- ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to health when properly used;
 - carry out or arrange for carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding clause;

- (c) secure that there may be available in connection with the use of the article at work adequate information about the use for which it is designed and has been tested, and about any condition necessary to ensure that, when put to that use, it may be safe and without risk to health.

(3) In this section supply of tools, machinery and equipment includes handling, assembling, installing, erecting and testing.

50. Duties of all persons with respect to violence and harassment at work.- (1) A person shall not engage in violence and harassment, including sexual harassment, while at work.

(2) Every employer, principal and occupier shall, so far as is reasonably practicable, ensure that workplaces are free from violence and harassment, including sexual harassment.

(3) Every employer, principal or occupier shall:

- (a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;
- (b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health;
- (c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them;
- (d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned accordingly; and
- (e) post in the workplace or on the internal website the information on the procedures that exist at level of establishment for reporting and dealing with such forms of behaviour, as well as the contact details for the competent forum.

51. Grievance Redressal Committee.- (1) In every establishment of more than ten employees, the employer, principal or occupier, as the case may be, shall constitute a Grievance Redressal Committee to enquire into complaints with regard to discrimination and violence and harassment and the Committee shall consist of three members of whom one member shall be from senior management and one shall be a representative of the workers and depending on the presence of women in the workforce, at least one member shall be a woman.

(2) The Committee shall receive, investigate and manage every complaint or related report showing zero tolerance for discrimination, violence and harassment, with confidentiality and in a way that respects human dignity, as well as not hindering the receipt, investigation and management of such complaints or reports.

(3) On receipt of a written complaint, the Grievance Redressal Committee shall follow the same procedure, as identified in Part III regarding disciplinary measures.

(4) Nothing in this section limits the functions and powers of safety and health representatives, and safety and health committees with respect to preventing violence and harassment at the workplace.

B. Consultation arrangements at the workplace to implement safety and health duties

52. Consultation with workers.- (1) Employers, principals and occupiers shall, so far as is reasonably practicable, consult with workers who carry out work for them and who are, or are likely to be, directly affected by a matter relating to work safety or health under their control.

(2) Consultation requires that:

- (a) relevant information about the matter is shared with workers; and
- (b) workers be given a reasonable opportunity to express their views and to raise work safety or health issues in relation to the matter; and contribute to the decision-making process relating to the matter;
- (c) the views of workers are taken into account by the person conducting the business or undertaking; and
- (d) the workers consulted are advised of the outcome of the consultation in a timely manner.

(3) Consultation shall involve any safety and health representative and occupational safety and health committee with responsibility for the workers who are, or are likely to be, directly affected by the matter which is the subject of the consultation.

53. Safety and health representatives.— (1) At every workplace with thirty or more workers, one or more safety and health representatives may be appointed by:

- (a) if there is a collective bargaining agent, the collective bargaining agent; or
- (b) if there is no collective bargaining agent, by election from the workers;

and such representatives shall represent the workers in that workplace in all matters relating to safety, health and welfare at work.

(2) A safety and health representative is entitled to represent workers in the same workplace whether or not they are engaged by the same employer or principal.

(3) An election can be initiated by:

- (a) an employer, principal or occupier who engages workers at the workplace;
- (b) a worker; or
- (c) a collective bargaining agent or a trade union, where no collective bargaining agent exists.

(4) The parties shall agree on:

- (a) the number of safety and health representatives to be appointed;
- (b) the term of office of safety and health representatives;
- (c) the groups of workers for which one or more safety and health representatives will be responsible; and
- (d) where clause (b) of sub-section (1) applies, a timely election procedure:

provided that an election is not required if the number of nominations for a vacancy equals the number of vacancies.

(5) The term "parties" in sub-section (4) refers to:

- (a) the collective bargaining agent, and if there is no collective bargaining agent, the workers and their unions, if any; and
- (b) the employer, or, if there are multiple parties at the workplace, the occupier with overall control of the workplace.

(6) If no agreement can be reached between the parties with respect to the matters in sub-section (4) within 30 days of the initiation of an election under sub-section (2), any of the parties may request an Inspector to make a determination in relation to the matters, which shall be binding on the parties.

(7) Employers, principles and occupiers shall ensure, to the extent that they exercise control over matters at the workplace, that the safety and health representative:

- (a) is given adequate information on safety and health matters, enabled to examine factors affecting safety and health, and encouraged to propose measures on the subject;
- (b) is consulted when major new safety and health measures are envisaged and before they are carried out, and seek to obtain the support of the workers for such measures;
- (c) is consulted in planning alterations of work processes, work content or organisation of work, which may have safety or health implications for the workers;
- (d) is able to contribute to the decision-making process at the level of the undertaking regarding matters of safety and health;
- (e) has access to all parts of the workplace and is able to communicate with the workers on safety and health matters during working hours at the workplace;
- (f) is free to contact labour Inspectors;
- (g) is able to contribute to negotiations in the undertaking of occupational safety and health matters;
- (h) has reasonable time during paid working hours to exercise their safety and health functions and to receive training related to these functions; and

- (i) has recourse to specialists to advise on particular safety and health problems.
- (8) Employers and principals shall, at least once in two years, allow occupational safety and health representatives engaged by them to attend health and safety training as approved by the Government and shall bear all expenses thereof including paid leave, course fee, lodging boarding, travelling, etc.
- (9) A safety and health representative shall resign if:
 - (a) an Inspector determines that the safety and health representative has:
 - (i) engaged in serious misconduct; or
 - (ii) unreasonably failed to perform his duties in accordance with the Code; or
 - (b) a majority of workers in the group for which the safety and health representative is responsible require his resignation;
 in which case an election for a new safety and health representative shall be conducted.
- (10) A safety and health representative is not personally liable for anything done or omitted to be done in good faith:
 - (a) in exercising a power or performing a function under the Code; or
 - (b) in the reasonable belief that the thing was done or omitted to be done in the exercise of a power or the performance of a function under the Code.

54. Safety and health committees.- (1) At every workplace having fifty or more workers in the preceding twelve months, the employer, or, if there are multiple parties at the workplace, the occupier with overall control of the workplace, shall establish a bi-partite safety and health committee, consisting of not more than 15 workers but not less than 3 workers, within thirty days.

(2) A safety and health committee may be established, and shall be established if more than fifty workers so request:

- (a) at the level of different departments or sections; and
- (b) in the case of platform work or work conducted on line, with respect to a group of workers in a particular area or region.
- (3) The structure of, and appointment to, the safety and health committee may be determined as prescribed in the Safety and Health Rules.
- (4) If there is a safety and health representative at a workplace, that representative, if he consents, is a member of the committee.
- (5) At least half of the members of the committee shall be workers who are not nominated by the employer or occupier.
- (6) The functions of a safety and health committee are:
 - (a) to facilitate co-operation between the occupier and workers in instigating, developing and carrying out measures designed to ensure safety and health at the workplace;
 - (b) to collaborate with the occupier in the development of the written statement of safety and health policy referred in section 44;
 - (c) to assist in developing standards, rules and procedures relating to safety and health that are to be followed or complied with at the workplace; and
 - (d) any other functions prescribed by the Safety and Health Rules or between occupier and the committee.

(7) The employer, or, if there are multiple parties at the workplace, the occupier with overall control of the workplace, shall provide members of the safety and health committee with sufficient time and information for them to be able to carry out their functions.

(8) A safety and health committee shall meet at least once every three months and at any reasonable time at the request of at least half of the members of the committee.

(9) Where a Works Council has been established in accordance with section 200, the Works Council may constitute the safety and health committee for the purposes of this section, provided that at least one safety and health representative shall be a member of the Works Council.

55. Protection of workers with safety and health responsibilities.- (1) A person who is an employer, principal or occupier shall not dismiss or take other measures prejudicial to a worker (including deduction of salary) because:

- (a) the worker is, has been, or proposes to be a safety and health representative;
- (b) the worker is, has been, or proposes to be a member of a safety and health committee;
- (c) the worker exercises, has exercised, or proposes to exercise a power or perform a function under this Chapter;
- (d) the worker raises, has raised, or proposes to raise an issue or concern about safety and health with:
 - (i) the employer, principal or occupier;
 - (ii) an inspector;
 - (iii) a safety and health representative or a member of a safety and health committee;
 - (iv) a trade union or collective bargaining agent; or another worker;
- (e) the worker exercise rights under section 67; and
- (f) the worker is involved in a proceeding under Part VI.

(2) The burden of proving that dismissal or other prejudicial action against a worker has not been taken for a reason in sub-section (1) shall rest on the employer, principal or occupier, as the case may be.

(3) The Breach of this provision is punishable under section 392.

56. Appointment of safety and health officer and welfare officers.- At every workplace prescribed by the Safety and Health Rules, the person having ultimate control shall:

- (a) appoint one or more competent persons to function as safety and health officer at the workplace in the prescribed manner; and
- (b) employ such number of welfare officers, having such qualifications, to perform such duties and on such terms and conditions as may be prescribed.

C. Occupational health.

57. Precautions against contagious or infectious diseases at workplaces.- (1) Each worker and volunteer shall be provided with a "Hygiene Card" in which during the month of January and July every year entries shall be recorded after examination by medical practitioner to the effect that the workers are not suffering from any contagious, infectious and occupational disease. The fee for such an examination shall be fixed by Government and shall be borne by the person who has engaged the worker at the workplace.

(2) If the worker is found to be suffering from any contagious, infectious and occupational disease on an examination under sub-section (1), the person who has engaged the worker shall provide him appropriate medical treatment with paid leave.

(3) Every worker shall be vaccinated and inoculated against such diseases and at such intervals as may be prescribed and expenses of such vaccination and inoculation, if any, shall be borne by the occupier of the workplace.

(4) The Chief Inspector may, owing to the size of a workplace or other circumstances, by written order, relax or modify the section in respect to certain categories of workplaces.

58. Certifying surgeons.- (1) The Government may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of the Code within such local limits as it may assign to them respectively.

(2) A certifying surgeon may authorize any registered medical practitioner to exercise any of his powers under the Code:

Provided that a certificate of fitness for employment granted by such authorized practitioner shall be valid for a period of three months only, unless it is confirmed by the certifying surgeon himself after examination of the person concerned.

(3) In this section a "registered medical practitioner" means a medical practitioner duly registered with Pakistan Medical and Dental Council.

D. Reporting, notification and investigation.

59. Notification and investigation of accidents, dangerous occurrences and occupational illness.- (1) An employer or principal shall maintain a register of accidents and harm in the prescribed manner and shall record in the register the prescribed particulars relating to:

- (a) every accident that harmed or, as the case may be, might have harmed any worker engaged by them at work; and
- (b) every occurrence of harm to a worker engaged by them as a result of any hazard to which a worker was exposed in the workplace.

(2) An occupier shall maintain a register of accidents and harm in the prescribed manner and shall record in the register the prescribed particulars relating to:

- (a) every accident that harmed or, as the case may be, might have harmed any person in a workplace controlled by the occupier; and
- (b) every occurrence of harm to a person as a result of any hazard to which the person was exposed in a workplace controlled by the occupier.

(3) The register referred to in sub-sections (1) and (2) shall record of any accident that occurs in a workplace which:

- (a) causes loss of life;
- (b) disables any person from reporting to normal work for more than seven days; and
- (c) makes any person unconscious as a result of any action or process related to work.

(4) Every self-worker shall maintain a register of accidents and harm in the prescribed form and shall record in the register the prescribed particulars relating to:

- (a) every accident that harmed or as the case may be might have harmed the self-worker at work;
- (b) every accident resulting from the work of the self-worker that harmed or as the case may be might have harmed any person; and
- (c) every occurrence of harm to the self-worker:
 - (i) while at work; or
 - (ii) as a result of any hazard to which the self-worker was exposed while at work.

(5) Every accident shall be reported to the Inspector in the prescribed manner within twenty-four hours of the occurrence of the accident by:

- (a) if a worker was affected by the accident, the employer or principal who engaged the worker;
- (b) if the worker was self-employed and not engaged by an employer or principal, the self-worker; and
- (c) in any case, the occupier of the workplace in which the accident occurred.

(6) Where an accident referred to in sub-section (5) results in disablement or death of person at the workplace, a notice in writing of such disablement or death shall be sent by the relevant person specified in that sub-section to the Inspector, Chief Inspector and Employees Compensation Commissioner within twenty-four hours of the communication of the disability or death.

(7) At any workplace where there is the possibility of the workers being subjected to special risks or hazards to safety and health at work, the inspector or the Chief Inspector may require such workers to undergo pre-employment and periodic medical examinations suited for the circumstance and at periods so determined, and the occupier and the workers shall comply.

(8) The medical examination shall be performed at a hospital authorized by Government and the cost thereof shall be paid by:

- (a) if the worker is engaged by an employer or principal, the employer or principal; or
- (b) in any other case, the occupier.

60. No interference at accident scene.- Where an accident occurs at workplace, no person shall, unless authorized to do so by an Inspector, remove or in any way interfere with or disturb any wreckage, articles, substance or thing related to the incident except to the extent necessary:

- (a) to save the life of, prevent harm to, or relieve the suffering of, any person; or
- (b) to maintain the access of the public to an essential service or utility; or
- (c) to prevent serious damage to or loss of property.

61. Power to direct formal investigation of incidents, accidents and cases of disease.- Government may direct a formal investigation into any accident occurring or any occupational disease or any other disease contracted or suspected to have been contracted in a workplace and of its causes and circumstances, and with respect to any such investigation the following provisions shall have effect:

- (a) Government may appoint a competent person or persons possessing technical, legal or special knowledge to act as Assessor for holding such investigations;
- (b) the person or persons so appointed as Assessor shall hold the investigation in open session in such manner and under such conditions as the Assessor may think most effectual for ascertaining the causes and circumstances of the incident, accident or case of disease, and for enabling the court to make the report; and
- (c) the person appointed to hold any such inquiry shall have all the power of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908) to direct formal investigation of incidents, accidents and cases of disease.

62. Burden of proof.- (1) Where any entry is required by this Chapter, the Safety and Health Rules or a regulation or order, to be made in the general register or in any other register or record, the entry made by the employer, principal or occupier of a workplace or by a person on their behalf shall, as against the employer, principal or occupier, be admissible as evidence of the facts therein, and the fact that any entry so required with respect to the observance of any provision of the Code or of any regulation or order made there under has not been made, shall be admissible as evidence that provision has not been complied with.

(2) The burden of proving that any examination or notification required under this Chapter, the Safety and Health Rules or a regulation or order, has been carried out in accordance with the provisions of the relevant section, or regulation or order shall be on the duty holder.

63. Display at the establishment.- (1) There shall be kept posted at the entrances to the workplace or any other place where workers legitimately gather, notice of the postal addresses and the telephone numbers of the health and safety representative, the occupational safety and health committee (where existing) and the Government.

(2) In addition to the notice required to be displayed under the rules, there shall be displayed in every establishment a notice containing abstracts of the Code and rules made there under.

(3) An updated copy of the Code and any rules made under the Code shall be maintained at the place of work and made available for reference by any worker.

E. Compliance powers.

64. Improvement notices.- (1) If an Inspector is of the opinion that a person:

- (a) is contravening one or more of the provisions of this Chapter or of the Safety and Health Rules; or
- (b) has contravened one or more of those provisions or Rules in circumstances that make it likely that the contravention will continue or be repeated:

the Inspector may issue an improvement notice indicating the contravention and requiring the person to:

- (a) remedy the contravention; or
- (b) prevent a likely contravention from occurring; or

- (c) remedy the things or operations causing the contravention or likely contravention within a specified time frame that is reasonable in all the circumstances.

(2) If a person is contravening this Chapter or the Safety and Health Rules and an Inspector cannot attend the workplace within a reasonable time, having regard to all the circumstances, a safety and health representative or the safety and health committee can issue a provisional improvement notice which takes effect until an Inspector is able to attend:

Provided that a safety and health representative or safety and health committee shall consult with the person engaged in the contravention prior to issuing the notice.

(3) The person to whom an improvement notice or provisional improvement notice is issued shall comply with the notice within the period specified in the notice.

(4) Subject to sub-section (5), where any of the relevant statutory provisions applies to a building or any matter connected with a building and an inspector proposes to serve an improvement notice relating to a contravention of that provision in connection with that building or matter, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to secure conformity with the requirements of any building regulations for the time being in force to which that building or matter would be required to conform if the relevant building were being newly erected unless the provision in question imposes specific requirements more onerous than the requirements of any such building regulations to which the building or matter would be required to conform as aforesaid:

Provided that in this sub-section "the relevant building", in the case of a building, means that building, and, in the case of a matter connected with a building, means the building with which the matter is connected.

(5) An Inspector may, in connection with any premises used or about to be used as a place of work, serve a notice requiring or likely to lead to take measures affecting the means of escape in case of fire with which the premises may or ought to be provided.

65. Prohibition notices. - (1) If an Inspector reasonably believes that:

- (a) an activity is occurring at a workplace that involves or will involve a serious risk to the safety or health of a person emanating from an immediate or imminent exposure to a hazard; or
- (b) an activity may occur at a workplace that, if it occurs, will involve a serious risk to the safety or health of a person emanating from an immediate or imminent exposure to a hazard:

the Inspector may give a person who has full or partial control over the activity a direction prohibiting the carrying on of the activity, or the carrying on of the activity in a specified way, until an Inspector is satisfied that the matters that give or will give rise to the risk have been remedied.

(2) A direction may include an order that workers leave the workplace.

(3) The direction may be given orally but shall be confirmed by written prohibition notice issued to the person as soon as practicable.

(4) If:

- (a) an activity is occurring, or may occur, at a workplace that involves or may involve a serious risk to the safety or health of a person emanating from an immediate or imminent exposure to a hazard; and
- (b) an Inspector cannot attend the workplace within a reasonable time, having regard to all the circumstances:

a safety and health representative may issue a provisional prohibition notice which takes effect until an Inspector is able to attend:

Provided that a safety and health representative shall consult with the person who has control over the activity, or the carrying on of the activity, prior to issuing the notice if the circumstances reasonably permit.

(5) The person to whom a prohibition notice or provisional prohibition is issued shall comply with the notice immediately.

66. Power to deal with cause of imminent danger. - (1) Where, in the case of any article or substance found by an Inspector in any workplace which he has power to enter and the inspector

has reason to believe that in the circumstances in which he finds it, the article or substance is a cause of imminent danger or serious personal injury, the inspector may seize and render it harmless and take corrective measures which may include destruction, demolition, dismantling, removing and repairing.

(2) Before any article that forms part of a batch of similar articles or any substance is rendered harmless under this section, the inspector shall, if it is practicable for the Inspector to do so, take a sample thereof and give to the occupier at the premises where the article or substance was found by the Inspector a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as may be after any article or substance has been seized and rendered harmless under this section, the Inspector shall prepare and sign a written report given particulars of the circumstances in which the article or substance was seized and so dealt with by him, and shall give a signed copy of the report to the occupier of the workplace and unless that person is the owner of the article or substance, also serve a signed copy of the report on the owner; and where the Inspector is unable after reasonable enquiry ascertain the name or address of the owner, he may serve the copy of notice on him by giving it to the occupier of the workplace.

67. Rights of workers with respect to imminent dangers.- (1) Where a worker reports to the worker's immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to the worker's life or health, an employer, principal or occupier cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

(2) Where a safety and health representative or safety and health committee has reasonable justification to believe that a situation presents an imminent and serious danger to life or health of workers, the representative or the committee may direct a worker to cease work: Provided that the safety and health representative or the committee shall first consult with the occupier unless it is not reasonable to do so given the immediacy of the risk.

(3) Where work ceases under this section, the employer, principal or occupier may allow the workers to undertake temporary alternative work on the same terms and conditions and continue their work provided it is safe to do so.

(4) Nothing in this section shall be deemed to affect the continuance in engagement of a person whose engagement in or about the workplace or part thereof is prohibited under that sub-section.

68. Powers to require specifications of defective parts or tests of stability.- If it appears to an Inspector that any building or part of a building, or any part of the ways, machinery or plant in a workplace, is in such a condition that it may be dangerous to human life or safety, the inspector may serve on the occupier an order in writing, requiring that person 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 of any specified parts and to inform the Inspector of the results thereof.

69. Assistance by other agencies.- For the enforcement of the provisions of the Chapter, the Chief Inspector or an inspector or may seek assistance from any other body, authority or agency responsible for the performance of statutory functions or obligations subject to such procedures as may be prescribed.

F. Power to make safety and health rules

70. Safety and Health Rules.- (1) The detailed standards and processes with respect to the matters dealt with in this Chapter shall be set out in rules which shall be cited as the Safety and Health Rules.

(2) The Safety and Health Rules shall not be inconsistent with the provisions of the Code.

(3) Without limiting the general power to make rules in the Code, the Government may:

- (i) at the request of occupational, safety and health Council; or
 - (ii) at its own initiative, in consultation with the OSH Council:
- amend the Safety and Health Rules by notification in the official Gazette in order to:
- (a) address matters not already covered in the Safety and Health Rules; or
 - (b) improve existing standards and processes in the Safety and Health Rules.

(4) The Safety and Health Rules may include but are not limited to the following matters:

- (a) safety and health management systems;
- (b) matters relating to hazards and risks including:
 - (i) the prescribing of standards relating to the use of or exposure to any physical, biological, chemical or psychological hazard;
 - (ii) matters relating to safety cases, safety management plans and safety management systems; and
 - (iii) matters relating to measures to control risks;
- (c) violence and harassment in the workplace, including sexual harassment;
- (d) reporting and notification of safety and health incidents, occupational diseases and any other matter required to be recorded or notified under this Chapter;
- (e) safety and health officers;
- (f) consultation between employers, principals, occupiers and workers, including safety and health committees and safety and health representatives;
- (g) dispute resolution;
- (h) safety and health inspection;
- (i) authorisations, including licences, registrations, certificates and permits;
- (j) instructions, training and supervision in relation to safety and health;
- (k) prohibition of admission to any specified class of establishment of children who cannot lawfully be engaged there;
- (l) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (m) establishment of emergency plans;
- (n) stores of first aid appliances, and instructions for their proper custody and use;
- (o) occupational health, including first-aid treatment and supervision of the health of workers;
- (p) welfare facilities connected with occupational safety and health, including the matters in sub-section (6):

Provided that no rule may exclude any duty under Heading A of this Chapter.

(5) The matters relating to hazards and risks specified in clause (b) of sub-section (4) include, but are not limited to matters pertaining to:

- (a) prevention of harmful physical or mental stress due to conditions of work;
- (b) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;
- (c) proper working space, overcrowding, confined spaces, falling objects, pits, sumps, opening in floors and allied things;
- (d) control of the atmosphere and other ambient factors of workplaces, including lighting, ventilation, odour, temperature, noise, dust, fume, airborne contaminants, artificial humidification, cleanliness of workplaces and disposal of wastes and effluents;
- (e) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their removal and transfer, including electrical equipment,

- automated machines, electronic devices and work at or near machinery in motion;
- (f) certificates of stability, including requiring that work carried on shall not be begun in any building or part of a building until a certificate of stability in the prescribed form, signed by a person possessing the prescribed qualifications, has been sent to an Inspector;
 - (g) handling, stacking and storage of loads and materials, including excessive weights, manually or mechanically;
 - (h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, including chemical and biological agents, lead and asbestos, disposal of their wastes and residues and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
 - (i) prevention and control of hazards due to high and low barometric pressures and underwater work;
 - (j) prevention of fires and explosions and measures to be taken in case of fire or explosion, including explosives or inflammable dust, gas and precaution against dangerous fumes etc; and
 - (k) work systems and processes in construction and demolition, including work at height or in excavation and installation and use of equipment and materials such loading and earth moving machinery, cranes, hoist, lifts and other lifting operations and scaffolding.
- (6) The matters specified in clause (p) of sub-section (4) include, but are not limited to:
- (a) safety and health at labour camps;
 - (b) adequate shelters for the use of workers during periods of rest, and such rules may prescribe the standards of such shelters, provided that separate shelter facility shall be provided for female workers irrespective of their number and number of workers;
 - (c) canteens; and
 - (d) suitable rooms for the use of children where they are cared for by worker, including the standards for such rooms and the nature of the supervision to be exercised over the children therein.
- (7) Where Government is satisfied that any operation in any workplace exposes any persons engaged in it to a serious risk of bodily injury, poisoning or disease, it may make rules:
- (a) specifying the operation and declaring it to be hazardous;
 - (b) prohibiting or restricting the employment of women, adolescents or children upon the operation;
 - (c) providing for the medical examination of persons engaged or seeking to be engaged upon the operation and prohibiting the engagement of persons not certified as fit for such engagement; and
 - (d) providing for the protection of all persons engaged in the operation or in the vicinity of the places where it is carried on.

71. Safety and Health Rules.- The provisions of the rules, not contrary to the provisions of the Code, made under the following repealed Acts shall remain in force till the time the rules are made under the section 70:

- (a) The Factories Act, 1934; and
- (b) The Punjab Occupational Safety and Health Act 2019.

72. Review of the Safety and Health Rules.- (1) The Occupational Safety and Health Council shall at least once every two years review the Safety and Health Rules having regard to:

- (a) national and provincial policies and programs with respect to safety and health;

- (b) the need to create a comprehensive framework of up-to-date safety and health standards which address safety and health risks in different industry contexts;
 - (c) improvements in safety and health technology and processes;
 - (d) occupational injury and disease statistics; and
 - (e) such other matters as the Occupational Safety and Health Council thinks fit.
- (2) The Occupational Safety and Health Council may, following a review, propose amendments to the Safety and Health Rules focusing on:
- (a) matters which, on the basis of occupational injury and disease statistics, pose the greatest risk to safety and health; and
 - (b) sectors which present a high risk of safety and health, particular those sectors that are not addressed in existing rules.

73. Publication of the Safety and Health Rules.- The Safety and Health Rules shall be notified in the official Gazette and published on the website of the Department.

CHAPTER 2.6

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

A. Freedom of association and the right to organise

74. The right to organise.- (1) Subject to the provisions of the Code and notwithstanding any other law, all workers, without distinction whatsoever, including self-workers, may form and, subject to the rules of the organization, may join associations of their own choice without previous authorization:

Provided that the managerial employees in an establishment shall be entitled to separately establish and, subject to the rules of the organization concerned, join trade unions of their own choice without previous authorization.

(2) Subject to the provisions of the Code and notwithstanding any other law, all employers, without distinction whatsoever, may form and, subject to the rules of the organization, may join organizations of employers of their choice without previous authorization.

(3) A worker shall not be entitled to be a member of more than one trade unions at any one time at the same workplace and on joining another trade union, earlier membership of the other trade union shall stand cancelled. Moreover, any person who is not actually employed in the establishment for which the trade union is registered shall not hold office in more than two trade unions.

(4) Every trade union and employers' association shall frame its own constitution and rules to elect its representatives in full freedom to organize its administration and activities and to formulate its programmes.

(5) Workers' or employers' organizations may establish and join federations and confederations and any such organization, federation or confederation may affiliate with international organizations and confederations of workers' or employers' organizations. The federations and confederations may be established at the sectoral level, provincial level or at any other level, within the jurisdiction of the province, as may be decided by their constituent organizations;

(6) Workers' and employers' organizations shall not interfere in establishment, functioning or administration of each other's respective organizations.

(7) A trade union shall not discriminate among its members on any of the grounds, specified in section 78, *inter-alia* to become an officer of such trade union.

75. Basic worker's rights.- (1) Every worker shall have the right to:

- (a) take part in the formation of a trade union;
- (b) be member of a trade union, subject to its rules;
- (c) take part in lawful activities of a trade union of which he is a member;
- (d) seek and hold office in any trade union of which he is a member, subject to its rules;
- (e) take part in the election of shop steward, works council, etc.;
- (f) be elected or appointed and serve as a workers' representative; and
- (g) exercise any other right conferred by the Code.

(2) The managerial employees shall not have such rights in regard to a union that represents non-managerial employees.

76. Basic employer's rights.- Every employer has the right to:

- (a) take part in the formation of an employers' organization;
- (b) be a member of any such organization, in accordance with its rules;
- (c) take part in the lawful activities of any such organization of which it is a member;
- (d) hold office in any such organization of which it is a member, in accordance with its rules; and
- (e) exercise any right conferred by the Code.

77. Unfair labour practices on the part of employers and principals.- No employer or principal, no association of employers or principals and no person acting on behalf of either shall:

- (a) impose any condition in a contract seeking to restrain the right of a person who is a party to such contract to join a trade union or continue membership of a trade union;
- (b) refuse to engage or refuse to continue to engage any person on the ground that such person is, or is not a member or office-bearer of a trade union;
- (c) discriminate against any person in regard to any work, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or office-bearer of a trade union;
- (d) dismiss, discharge, remove from work or transfer or threaten to dismiss, discharge or remove from work or transfer a worker or injure or threaten to injure him in respect of his work by reason that the worker:
 - (i) is or proposes to become, or seeks to persuade any other person to become, a member or office-bearer of a trade union; or
 - (ii) participates in the promotion, formation or activities of a trade union when the referendum is due;
- (e) induce any person to refrain from becoming, or to cease to be a member or office-bearer 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 office-bearer of the collective bargaining agent to arrive at a collective agreement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power or telephone facilities or such other methods;
- (g) interfere with or in any way influence the balloting provided for in section 100;
- (h) recruit any new workers during the period of a notice of strike or during the currency of a strike which is not unlawful in contravention of section 118 except where the Chief Inspector having been satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, has permitted temporary employment of a limited number of workers in the section where the damage is likely to occur;
- (i) close down the whole of the establishment in contravention of section 122;
- (j) commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise act in furtherance or support of, an unlawful lock-out;
- (k) interfere in workers' trade union affairs, including its establishment, functioning or administration or provide any financial assistance; or
- (l) refuse to bargain collectively in good faith with a collective bargaining agent in contravention of section 107; or
- (m) not cooperate or provide requisite facilities to the Registrar as may be provided in the Code in relation to holding of referendum in an establishment carried out under section 100.

78. Unfair labour practices on the part of workers.- (1) No worker or other person or trade union of workers shall:

- (a) persuade a worker to join or refrain from joining a trade union during working hours and in disruption of work;
- (b) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or office-bearer of a trade union;
- (c) induce any person to refrain from becoming, or cease to be a member or office-bearer of a trade union, by intimidating or conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
- (d) compel or attempt to compel the employer to accept any demand by using intimidation, coercion, pressure, threat, confinement to, or ouster from a place, dispossession, assault, physical injury, disconnection of telephone or water or power facilities or such other methods;
- (f) commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise act in furtherance or support of, an unlawful strike or an unlawful go-slow; or
- (g) refuse to bargain collectively in good faith with an employer.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under section 100 by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

79. Law of conspiracy limited in application.- No office-bearer or member of a registered trade union or a collective bargaining agent as certified by the Registrar shall be liable to punishment under sub-section (2) of section 120-B of the Pakistan 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 83, unless the agreement is an agreement to commit a serious offence, or otherwise violates any other law.

80. Immunity from civil suit in certain cases.- (1) No suit or other legal proceedings shall be maintainable in any civil court against any registered trade union or a collective bargaining agent or any office-bearer or member thereof in respect of any action done in contemplation or furtherance of a labour dispute to which the trade union is a party on the ground only that such an act induces some other person to break an employment agreement, or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour.

(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 good faith in contemplation or furtherance of a labour dispute by an agent of the trade union unless it is proved that such person acted with the knowledge of, or according to the express instructions given by the executive of the trade union.

81. Check off.- (1) If a collective bargaining agent so requests, the employer or principal of the workers who are members of a trade union shall deduct from the remuneration of the workers such amounts towards their subscription to the funds of the trade union as may be specified, with the written consent of each individual worker named in the demand statement furnished by the trade union.

(2) An employer or principal making any deductions under sub-section (1) shall, within fifteen days of the end of the period for which the deductions have been made, deposit the entire amount so deducted in the account of the trade union on whose behalf the employer or principal has made the deductions.

(3) The collective bargaining agent shall maintain with a branch of any of the scheduled banks an account to which shall be credited the entire amount deducted by the employer under sub-section (1) from the remuneration of the workers:

Provided that the scheduled banks shall facilitate the registered trade unions in opening and maintenance of such accounts.

(4) The employer or principal shall provide facilities to the collective bargaining agent and the Registrar for ascertaining whether deductions from the remuneration of the workers are being made under sub-section (1).

B. Registration of trade unions and employer organisations.

82. Application for registration.- (1) Any trade union or employer organisation may, under the signatures of its president and secretary, apply to the Registrar for registration under the Code.

(2) The procedure for registering an employer organisation shall be as prescribed.

83. Requirements for applications by trade unions.- Every application for registration of trade union shall be made to the Registrar, on paper or electronically, and shall be accompanied by:

- (a) a statement showing:
 - (i) the name of the trade union and the address of its head office;
 - (ii) the date of formation of the trade union;
 - (iii) the titles, names, ages, and occupations of the office-bearers of the trade union;
 - (iv) statement of total paid membership;
 - (v) where the union is organised in an establishment or group of establishments, the name of the establishment or group of establishments to which the trade union relates along with a statement of the total number of workers employed therein;
 - (vi) for trade unions other than those mentioned in sub-clause (v), the name of the category of work to which they belong, including but not limited to, a specific category in Part IV;
 - (vii) in case of a federation of trade unions, the names, addresses and registration numbers of member trade unions; and
 - (viii) in case of a confederation of federations, the names, addresses and registration numbers of member-federations;
- (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 Chairperson of the meeting;
- (c) a copy of the resolution by the members of the trade union authorizing its president and the secretary to apply for its registration;
- (d) in case of a federation of trade unions, a copy of the resolution from each of the constituent trade unions agreeing to become a member of the federation; and
- (e) in case of a confederation of federations, a copy of the resolution from each of the constituent federations agreeing to become a member of the confederation.

84. Requirements for registration.- (1) A trade union shall not be entitled to registration under the Code unless the constitution thereof provides for the following matters:

- (a) the name and address of the trade union;
- (b) the objects for which the trade union has been formed;
- (c) the purposes for which the general funds of the union shall be utilized;
- (d) in the case of a union of employees formed within an establishment or a group of establishments, the number of persons forming the executive shall include not less than eighty percent from amongst the workers actually engaged or employed in the establishment or group of establishments in which the trade union has been formed:
 Provided that a person who is not from among the workers in the establishment or group of establishments is not required to be a worker engaged in any establishment:
 Provided further that a third-party contract worker engaged by an establishment or group of establishments shall be deemed to be actually engaged by the establishment or group of establishments.
- (e) for trade unions not referred to in clause (d), the number of persons forming the executive shall not exceed ten percent of the trade union members or

twenty-five, whichever is less, provided that in any case the executive shall not comprise less than five;

- (f) 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;
- (g) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the office-bearers and members of the trade union;
- (h) the manner in which the constitution shall be amended, varied or rescinded;
- (i) the safe custody of the funds of the trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the office-bearers and members of the trade union;
- (j) the manner in which the trade union may be dissolved;
- (k) the manner of election of office-bearers by the general body of the trade union and the term, not exceeding two years, for which an office-bearer may hold office upon his election or re-election;
- (l) the procedure for expressing no confidence in any office-bearer of the trade union; and
- (m) the meeting of the executive and of the general body of the trade union so that the executive and general body shall meet periodically in accordance with the constitution or bye-laws of the trade union.

(2) Subject to sub-section (1), where the trade union is organised in an establishment or group of establishments, the trade union shall not be entitled to registration under the Code:

- (a) unless all its members are workers actually engaged in the establishment or group of establishments; and
- (b) unless its membership is at least five percent of the total workers employed in the establishment, group of establishments or twenty workers engaged in such establishment, group of establishments, whichever is less; and
- (c) unless it has included the women workers in its executive body, at least in proportion to their numerical strength in the workforce of the establishment, group of establishments, provided that women are employed as workers in the establishment, group of establishments with which the trade union is connected.

(3) In the case of a trade union not referred to in sub-section (2), at least twenty workers belonging to the same category of work.

(4) Nothing in sub-section (2) or sub-section (3) shall be taken to limit the membership of a federation or confederation.

85. Disqualification for being an office-bearer of a trade union.— Notwithstanding anything contained in the constitution or rules of a trade union, a person who has been convicted of heinous offence under the Pakistan Penal Code 1860 (XLV of 1860) shall be disqualified from being elected as, or from being, an office-bearer of a trade union:

Provided that an office-bearer of the trade union who has been convicted for the offence of embezzlement or misappropriation of funds shall be disqualified from holding office for the un-expired term of office and for the term immediately following such term.

For the purposes of this section, "heinous offence" means an offence which is serious, gruesome, brutal, sensational in character or shocking to public morality and which is punishable under the Pakistan Penal Code, 1860 (XLV of 1860) or any other law for the time being in force with death or imprisonment for life or imprisonment for more than seven years with or without fine.

86. Registration.— (1) The Registrar, on being satisfied that the trade union has complied with all the requirements of the Code, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of fifteen days from the date of receipt of the application.

(2) In case the application is found by the Registrar to be deficient in a material respect, the Registrar shall communicate in writing the objections 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 objections.

(3) When the objections raised by the Registrar have been satisfactorily met, the Registrar shall register the trade union as provided in sub-section (1) and issue a certificate of registration in the prescribed form within fifteen days of the date of the communication of reply of objections.

(4) In case of further delay, the Registrar shall register the applicant trade union provisionally till further orders.

(5) In case the replies to the objections of the Registrar are not satisfactory, the Registrar may reject the application.

(6) In case the application has been rejected or the Registrar has delayed disposal of the application beyond the period of fifteen days provided in the above sub-sections or has not issued a certificate of registration within such period or has not registered the applicant trade union provisionally, the trade union may file an appeal in the Labour Court which may, for reasons to be stated in its judgment, pass an order within 30 days directing the Registrar to register the trade union and to issue a certificate of registration or may dismiss the appeal.

(7) Notwithstanding anything contained in any other provision of the Chapter 2.6 of Part II of the Code, every alteration or change made in the constitution of a registered trade union and every proceedings of election of its office-bearers or change of its office-bearers or otherwise, the trade union shall, by registered post or electronically, notify to the Registrar within fifteen days of such election or change for the approval of the Registrar.

(8) The Registrar may refuse to register such election of office-bearers or change of office-bearers or alteration or change made in the constitution, if it is in contravention of any of the provisions of the Code, or if it is in violation of the constitution of the trade union.

(9) Subject to the provision of sub-section (8), every inclusion or exclusion of any constituent unit of a federation of trade unions or confederation of federations, the federation or confederation shall, by registered post or electronically, notify to the Registrar within fifteen days of such inclusion or exclusion.

(10) In case there is a dispute in relation to the election of the office-bearers or change of office-bearers or alteration made in the constitution of a trade union, the Registrar or any trade union, any office-bearer or member of the trade union may apply or appeal to the Labour Court which shall within seven days of the receipt of the application or appeal, pass an order either directing the Registrar to register the change or alteration in the constitution or in the office-bearers of the trade union or may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the trade union under their supervision.

(11) In case the approval of election of office bearers or change of office bearers or an amendment in constitution has been obtained by the members of the trade unions through misrepresentation or fraud, the registrar on representation or complaint by the members of trade union may recall its approval by giving parties the opportunity of being heard within fifteen days of the receipt of complaint. The party aggrieved by the order of the registrar may appeal before the Labour Court within thirty days.

87. Registration of federations and confederations.- (1) Any two (2) or more registered trade unions may, if their respective general bodies so resolve, constitute a federation by executing an instrument of federation and apply to the Registrar, on paper or electronically, for the registration of the federation.

(2) Any two or more employer organisations may if their respective general bodies so resolve, constitute a federation by executing an instrument of federation and apply to the Registrar, on paper or electronically, for the registration of the federation.

(3) A federation in sub-section (1) may be a federation:

- (a) in respect of a single employer; or
- (b) in respect of multiple employers at the level of
 - (i) an occupation, profession, sector or sectors; or
 - (ii) the province or part of the province.

(4) A federation in sub-section (2) may be a federation at the level of:

- (i) sector or sectors; or

(ii) the province or part of the province.

(5) Any two or more registered federations may, if their respective federated trade unions so resolve, constitute a confederation by executing an instrument of confederation and apply to the Registrar for the registration of the confederation.

(6) 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.

(7) A federation of trade unions of workers shall not join a confederation which comprises a federation of employers; nor shall a federation of employers join a confederation which comprises a federation of workers.

(8) An instrument of federation or confederation referred to in sub-sections (1), (2) and (5) shall, among other things, provide for the procedures to be followed by the federated trade unions and federations, the rights and responsibilities of the federation or confederation and the federated trade unions or federations.

(9) An application for the registration of a federation of trade unions shall be signed by the presidents of all the trade unions constituting the federation or by the office-bearers of these trade unions respectively authorized by the trade unions on this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

(10) An application for the registration of a confederation shall be signed by the presidents of all the federations constituting the confederation or by the office-bearers of these federations respectively authorized by the federations on this behalf and shall be accompanied by three copies of the instrument of confederation referred to in sub-section (2).

(11) Subject to this section, the provisions of the Code shall, so far as may be and with the necessary modifications, apply to a federation of trade unions and to a confederation, as they apply to a trade union.

(12) For every inclusion or exclusion of any constituent unit of a federation of trade unions or confederation of federations, the federation or confederation shall, by registered post, notify to the Registrar within fifteen days of such inclusion or exclusion.

88. Change of name.- Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of this Chapter, change its name, as prescribed.

89. Amalgamation of Trade Unions.- Any two or more registered trade unions may become amalgamated together, as prescribed, as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them, provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded, and that at least sixty percent of the votes recorded are in favour of the proposal.

90. Effects of change of name and of amalgamation.- (1) The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them.

91. Protection of members and office-bearers of trade union during pendency of application for registration.- Save with the prior permission of the Registrar, no members or office-bearer of a trade union of workers shall be transferred, discharged, dismissed or otherwise punished during the pendency of an application for registration of the trade union with the Registrar provided that the trade union has notified the names of its members and office-bearers to the Registrar in writing.

92. Certificate of registration.- The Registrar, on registering a trade union under the Code shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that trade union has been duly registered under the Code.

93. 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 a

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 Cooperative Societies Act, 1925 (VII of 1925) and the Companies Act, 2017 (XIX of 2017), shall not apply to any registered trade union and the registration of any trade union under any of these laws shall be void.

94. Registered trade union to maintain register.- Every registered trade union shall maintain 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.

95. Trade union annual returns.- (1) A registered trade union shall annually send to the Registrar for his approval, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of the trade union during the year ending on the 31st day of December, next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of December, as may be prescribed.

(2) Together with the general statement, the registered trade union shall send to the Registrar a statement showing all changes of office-bearers made by the trade union during the said year, together also with statement of the total paid membership and an updated copy of the constitution of the trade union.

(3) A copy of every alteration made in the constitution of a registered trade union and of a resolution of the general body having the effect of a provision of the constitution, shall be sent to the Registrar within fifteen days of the making of the alteration or adoption of the resolution.

(4) In case the annual return is found by the Registrar to be deficient in a material respect, he shall communicate, in writing, his objections to the trade union within a period of fifteen days from the receipt of the annual return and the trade union shall reply thereto within a period of fifteen days from the receipt of the objections.

(5) When the objections raised by the Registrar have been satisfactorily met, the Registrar shall approve the annual return as provided in sub-section (1) within fifteen days of the date of the communication of the reply of objections.

(6) In case replies to the objections of the Registrar are not satisfactory, the Registrar may reject the annual return.

(7) In case, the Registrar rejects the annual return, the Registrar may de-register an office bearer.

(8) In case the registered trade union is member of a federation, the name of the federation shall be given in the annual statement.

(9) In case the registered federation is member of a confederation, the name of the confederation shall be given in the annual statement.

96. Cancellation of registration.- (1) The registration of a trade union shall be cancelled, if the Labour Court so directs upon a complaint in writing made by the Registrar that the trade union has:

- (a) contravened or has been registered in contravention of any provisions of the Code or the rules;
- (b) contravened any of the provisions of its constitution;
- (c) made in its constitution any provision which is inconsistent with the Code or rules made thereunder; and
- (d) where any person who is disqualified under section 85 from being elected as, or from being an office bearer of a trade union is elected as an office bearer of registered trade union.

(2) The registration of a trade union shall be cancelled by the Registrar, by giving reasons for such cancellation in writing, after holding an inquiry, if necessary, he finds that any trade union has:

- (a) dissolved itself or has ceased to exist; or

- (b) not been a contestant in a referendum for the determination of a collective bargaining agent; or
- (c) not applied for determination of collective bargaining agent under section 100 after expiry of two years tenure of collective bargaining agent in the establishment or group of establishment; or
- (d) not applied for determination of collective bargaining agent within two months of its registration as another trade union or from the commencement of the Code whichever is earlier, provided that there does not already exist a collective bargaining agent in an establishment or group of establishment; or
- (e) secured less than fifteen percent of polled votes as final list of voters, during two consecutive referendums for the determination of collective bargaining agent.

97. Trade union compliance orders.— (1) Five or more trade union members (in this section called "the applicant"), when they consider that the executive of a trade union has failed to comply with its constitution or the Code may file a complaint with the Registrar in writing to direct the executive to duly comply within fourteen days of the date of the complaint.

(2) If the executive refuses or fails to comply with the orders of Registrar, the Registrar may dissolve the whole of the executive body or any of the executive found to be responsible or may direct to hold election of the vacant executive or otherwise as he may deem necessary by specifying a date by which the order should be complied with.

(3) Before making an order under this sub-section, the Registrar shall give an opportunity of being heard to any person against whom the order or direction is sought or made.

98. Appeal against cancellation.— Any trade union aggrieved by an order passed:

- (a) by the Labour Court under sub-section (1) of section 96 may prefer an appeal to the Tribunal within thirty days of the passing of such order; and
- (b) by the Registrar under sub-section (2) of section 96, may prefer an appeal to the Labour Court within thirty days of passing of such order.

C. Collective bargaining

99. Levels of collective bargaining.— The Collective bargaining may be conducted at the level where the parties agree on and including at the following levels:

- (a) an establishment or a group of establishments; or
- (b) in the case of collective bargaining by a federation or confederation of unions with an organisation or organisations of employers:
 - (i) an occupation, profession, sector or sectors; or
 - (ii) the province or part of the province.

100. Determining the collective bargaining agent for an establishment or group of establishments.— (1) Where there is only one registered trade union in an establishment or a group of establishments, that trade union shall, if it has as its members not less than one-third (33%) of the total number of workers employed in such establishment or group of establishments upon an application made in this behalf, be certified by the Registrar in the prescribed manner to be the collective bargaining agent for such establishment or group of establishments.

(2) Where there is more than one registered trade union in an establishment or a group of establishments, the Registrar shall upon an application made in this behalf by any such trade union which has as its members not less than one-fifth (20%) of the total number of workers employed in such establishment or group of establishments or by the employer or the Government, hold within fifteen days from the making of the application, a secret ballot to determine as to which one of such trade unions shall be the collective bargaining agent for the establishment or group of establishments.

(3) The Registrar may, in the case of a large establishment having its branches in more than one city, hold the secret ballot within thirty days from the making of the application.

(4) The Registrar shall not entertain any application under sub-section (2) in respect of an establishment or group of establishments, consisting of, or including, a seasonal

establishment unless such application is made during the month in which the number of workers employed in such establishment in a year is usually the maximum.

(5) Upon receipt of an application under sub-section (2), the Registrar shall, by notice in writing, call upon every registered trade union in the establishment or group of establishments to which the application relates:

- (a) to indicate within ten days whether it desires to be a contestant in the secret ballot to be held for determining the collective bargaining agent in relation to such establishment or group of establishments; and
- (b) if it so desires, to submit to the Registrar within twenty days a list containing names of its members showing, in respect of each member, the section or department and the place in which the worker is employed and the date of becoming a member and if the union is a federation of trade unions, a list of its affiliated trade unions together with a list of members of each such trade union showing in respect of each such member the said particulars.

(6) Every employer shall:

- (a) on being so required by the Registrar, submit a list of all workers employed in the establishment or group of establishments excluding those whose period of employment in the establishment or group of establishments is less than three months and showing, in respect of each worker, the worker's age, the section or department and the place of employment and the date of employment in the establishment or group of establishments; and
- (b) provide such facilities for verification of the lists submitted by the employer and the trade unions as the Registrar may require.

(7) In computing the period of three months referred to in sub-section (6) in the case of a worker employed in a seasonal establishment, the period during which the worker was employed in that establishment during the preceding season shall also be taken into account.

(8) The Registrar shall, after verification of the lists submitted by the trade unions, prepare a list of voters in which shall be included the name of every worker whose period of employment as computed in accordance with sub-section (6), is not less than three months and who is a member of any of the contesting trade unions and shall, at least four days prior to the date fixed for the poll, send to each of the contesting trade unions a certified copy of the list of voters so prepared.

(9) Every worker who is a member of any of the contesting trade unions and whose name appears in the list of voters prepared under sub-section (8) shall be entitled to vote at the poll to determine the collective bargaining agent.

(10) Every employer shall provide all such facilities including actual expenditures in its establishment as may be required by the Registrar for the conduct of the poll but shall not interfere with, or in any way influence, the voting.

(11) No person shall canvass for votes within a radius of fifty meters of the polling station.

(12) For the purpose of holding a secret ballot to determine the collective bargaining agent, the Registrar 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, place ballot boxes in the polling station set up for the purpose, seal the ballot boxes in the presence of the representatives of the contesting trade unions;
- (c) conduct the poll at the polling station 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, certify the trade union which has received the highest number of votes to be the collective bargaining agent for two years.

(13) A trade union shall not be certified to be the collective bargaining agent for an establishment or group of establishments unless the number of votes received by it is at least one-third (33%) of the total number of workers employed in such establishment or group of establishments.

(14) If no trade union secures such number of votes in the first poll, a run-off poll shall be held between the trade unions which secure the two highest numbers of votes in the first poll and the trade union which secures a majority of the votes cast at the run-off poll shall be certified in the prescribed manner to be the collective bargaining agent.

(15) If the number of votes secured by two or more trade unions securing the highest number of votes is equal, further polls shall be held between them until one of them secures a majority of the votes cast at such further poll.

(16) If no trade union indicates under clause (a) of sub-section (5) that it desires to be a contestant in the secret ballot, the Registrar shall certify the trade union which has made the application under sub-section (2) to be the collective bargaining agent.

(17) A trade union shall be certified to be the collective bargaining agent for an establishment, or group of establishments under sub-section (16) unless it has as its members not less than one-third of the total number of the workmen employed in the establishment or group of establishments.

(18) Where a registered trade union has been certified under sub-section (1) and clause (e) of sub-section (12) to be the collective bargaining agent for an establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group of establishments shall be entertained within a period of two years from the date of such certification except where the registration of such a registered trade union is cancelled before the expiration of the period.

(19) A federation of trade unions which covers only one employer (formerly referred to as an "industry-wise federation") may apply to the Registrar for certification of collective bargaining agent under this section.

(20) The Registrar may authorize in writing an officer to perform all or any of the functions under this section.

101. Rights of collective bargaining agent. - (1) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to:

- (a) undertake collective bargaining with the employer or employers on matters connected with employment, non-employment, the terms of employment or the conditions of work other than matters which relate to the enforcement of any right guaranteed or secured to it or any worker by or under any law, or any award or collective agreement;
- (b) represent all or any of the workers in any proceeding;
- (c) give notice of, and declare, a strike in accordance with the provisions of the Code;
- (d) nominate representatives of workers on the board of trustees of any welfare institutions or Provident Funds and of the Workers' Profit Participation Fund established under the Code;
- (e) nominate safety and health representatives under section 53; and
- (f) exercise any other functions specified in the Code.

(2) The collective bargaining agent shall ensure full and proper representation of the interests of all workers covered by the collective agreement whether or not they are members of the organization.

102. Trade union functions and powers pending ascertainment of collective bargaining agent. - Any act or function which is by the Code required to be performed by or has been conferred upon a collective bargaining agent, including exercise of the powers conferred under this section or may, until a collective bargaining agent has been certified under the provisions of the Code, be performed by a registered trade union which has been recognized by the employer or employers.

103. Determination of collective bargaining unit. - (1) The Government may by general or special order authorize a Registrar to exercise the powers, on an application made in this behalf, by a trade union or a federation of trade unions, or an employer or on a reference made by the

Department, after holding an inquiry in consultation with workers' and employers' representatives, is satisfied that for safeguarding the interest of the workers employed in an establishment or group of establishments belonging to the same employer, in relation to collective bargaining, it is necessary, just and feasible to determine one or more collective bargaining units of such workers in such establishment or group, it may, having regard to the distribution of workers, existing boundaries of the components of such establishment, or group, facilities of communication, general convenience, sameness or similarity of economic activity and other cognate factors:

- (a) determine and certify one or more collective bargaining units in such establishment or group;
- (b) specify the modifications which, in consequence of the decision under this section, shall take effect in regard to the registration of the trade unions and federations of trade unions affected by such decision and certification of collective bargaining agents among such unions and federations, nomination or election of shop stewards, and workers' representatives for Works Councils of the establishments, if any, affected by such decision;
- (c) specify the date or dates from and the period, for which all or any of such changes shall take effect but the date so specified shall not be a date falling within the period of two years specified in sub-section (18) of section 100 in its application to a collective bargaining agent certified in respect of an establishment or group of establishments;
- (d) stop or prohibit the proceedings to determine the collective bargaining agent under section 100 for any establishment or group of establishments which is likely to be affected by a decision under this section; and
- (e) take such measures or issue such directions to other Registrar as may be necessary to give effect to such modifications.

(2) After the certification of a collective bargaining unit, no certification or proceedings for determination of collective bargaining agent under section 100 shall take place for a part of a collective bargaining unit or a group of collective bargaining units.

(3) An order of the Registrar under this section shall have effect notwithstanding anything to the contrary contained in the Code.

104. Appeals relating to collective bargaining units.- (1) Notwithstanding anything contained in the Code or in any other law, any person aggrieved by an order determining a collective bargaining unit passed by the Registrar, may within thirty days of such order appeal to the Labour Appellate Tribunal.

(2) An appeal filed with the Tribunal under sub-section (1) shall be disposed of by the Tribunal which shall have the power to confirm, set aside, vary or modify such an order.

105. Collective bargaining by federations and confederations of trade unions extending beyond one employer.- (1) A federation or confederation of trade unions may bargain collectively with an organisation or organisations of employers if the parties consent, at any level referred to under section 99.

(2) Where a federation or a confederation of trade unions has requested an organisation or organisations of employers, the parties may determine their own procedure.

(3) The government may, in consultation with representatives of workers and employers, determine guidelines for negotiations under this section.

(4) The following provisions, *mutatis mutandis*, shall apply to collective bargaining under sections 109, 110, 111, 112 and 113.

106. Commencement of collective bargaining.- (1) Collective bargaining negotiations are taken to have commenced when an employer or a collective bargaining agent makes a written request to the other party to reach a collective agreement with respect to terms and conditions of employment and other matters of mutual interest.

(2) The party which has the request in sub-section (1) shall enter into talks within seven calendar days after the receipt of the request by sending their reply to the initiator of the collective negotiations naming the persons who will represent them in the collective negotiations.

(3) No employer or collective bargaining agent shall, at any time when a decision of the Labour Court or Tribunal in respect of any matter is effective, be entitled to raise a demand relating to that matter.

107. Conduct of collective bargaining negotiations.- (1) All parties to the negotiation of a collective agreement shall bargain in good faith and make every reasonable effort to conclude a collective agreement.

(2) For the purposes of sub-section (1), "bargain in good faith" means:

- (a) attending, and participating in, meetings at reasonable times;
- (b) disclosing relevant information (other than confidential or commercially sensitive information) in a timely manner;
- (c) responding to proposals made by the other party for the agreement in a timely manner;
- (d) giving genuine consideration to the proposals of other party for the agreement giving reasons for the responses to those proposals; and
- (e) refraining from capricious or unfair conduct that undermines freedom of association or collective bargaining.

(3) The good faith bargaining does not require:

- (a) a party to make concessions during bargaining for the agreement; or
- (b) a party to reach agreement on the terms that are to be included in the agreement.

(4) An employer or organisation of employers shall, on demand, make available to workers' representatives for collective bargaining purposes all information on their financial position which is significant for the conclusion of the collective agreement and any information disclosed for the purpose of collective bargaining, which is not publicly available, shall be treated as confidential by the party receiving the information, and shall not be disclosed to any third party. During conciliation proceedings, the employer or organisation of employers shall share all such information to the conciliator which is significant for the conclusion of the collective agreement.

108. Reference of collective bargaining dispute to the Works Council.- (1) If at any time, an employer or a collective bargaining agent finds that a dispute has arisen or is likely to arise in relation to any of the matters being negotiated in an establishment or group of establishments in which a Works Council has been established under section 200, the employer or the collective bargaining agent, may communicate their views in writing to the Works Council. A copy of the views shall also be sent to the other party.

(2) On receipt of the communication under sub-section (1), the Works Council shall try to settle the dispute by bilateral negotiations within thirty days of receipt of the communication or within such further period as may be agreed upon by the parties.

109. Assistance of mediator or conciliator.- (1) Where a collective agreement is not reached between an employer and a collective bargaining agent, after thirty days have elapsed from the commencement of bargaining, the employer or the collective bargaining agent may refer the matter to a mediator appointed under section 290; or a conciliator appointed under section 291.

(2) The mediator or conciliation may take such measures as he thinks fit to assist the parties to reach a collective agreement.

(3) The parties in section 105 may use the procedure in sub-section (1) at any time.

110. Conclusion of collective agreements.- (1) Where the parties reach a settlement with respect to the matters raised under section 105 and section 106, they shall record their settlement in a collective agreement signed by their duly authorised representatives.

(2) A copy of the collective agreement shall, within seven days from the day of signature, be sent by a representative of the employer or organisation of employers to the Department for registration and the entering into force of the collective agreement is not affected by the fact of the registration.

111. Form and content of collective agreements.- (1) A collective agreement shall:

- (a) be in writing and signed by the parties to the agreement;
- (b) specify the parties and the workers which it covers;
- (c) specify the date on which it is to become effective and the period it covers;

- (d) remuneration, terms and conditions of employment, relations between the parties;
- (e) contain procedures for the settlement of disputes between the parties regarding the interpretation, application and administration of the agreement; and
- (f) provide for such other matters as are agreed between the parties.

(2) Any provision of a collective agreement that is inconsistent with the Code shall be null and void and of no legal effect.

112. Binding effect of collective agreements.- (1) A collective agreement arrived at under section 110 shall be binding on:

- (a) all parties;
- (b) the heirs, successors or assignees of the parties;
- (c) in the case of an agreement concluded by an organisation of employers, all employers that have authorised the organisation to represent them;
- (d) in the case of an agreement concluded by a federation or confederation of trade unions, all trade unions that have authorised the federation or confederation to represent them; and
- (e) all workers engaged by employers covered by the agreement.

(2) Where a collective bargaining agent or a trade union performing the functions of a collective bargaining agent under section 100 exists, an employer shall not enter into a collective agreement with any other trade union at the level of an establishment or group of establishments in respect of the matters covered by that agreement, and any contravention of this provision shall be deemed to be an unfair labour practice under section 77.

(3) Notwithstanding sub-section (2), a collective agreement at the level of an establishment or group of establishments may be negotiated that contains terms not less favourable to those of a collective agreement concluded between a federation or confederation of trade unions and an organisation of employers.

(4) The parties shall take appropriate steps to bring to the notice of the workers concerned the texts of the applicable collective agreement.

(5) The employer, or organisation of employers, shall deposit collective agreements and any subsequent changes made therein with the Conciliator who shall maintain a special register for the purpose, as prescribed.

113. Effective date of collective agreement or award.- (1) A collective agreement 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 collective agreement is signed by the parties.

(2) A collective agreement shall be binding for such period as is agreed upon by the parties but not exceeding two years, and if no such period is agreed upon for a period of one year from the date on which the collective agreement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the aforesaid period until the expiry of two months from the date on which either party informs the other party in writing of its intention to no longer to be bound by the said collective agreement.

114. Variation of collective agreement by consent.- A collective agreement that has taken effect may be varied by consent by the parties to the agreement.

115. Collective bargaining between principals and workers.- Workers engaged by principals may bargain collectively with them in accordance with:

- (a) Part IV of the Code; or
- (b) if the provisions of Part IV are not applicable, in the manner prescribed.

D. Strike and lock-out

116. Right to strike.- (1) Subject to section 122, a collective bargaining agent shall have a right to strike while:

- (a) collective bargaining negotiations are deadlocked; or

- (b) there is an industrial dispute not about a collective agreement and negotiations are deadlocked.
- (2) Negotiations are taken to be deadlocked if forty-five days have passed from the commencement of bargaining and no collective agreement has been reached.
- (3) An "industrial dispute not about a collective agreement" means a dispute about a matter;
 - (i) which is not covered by an existing collective agreement; and
 - (ii) which is not the subject of negotiations about a collective agreement.
- (4) A cessation of work under:
 - (a) section 67; and
 - (b) section 153 (employer in breach of obligation to pay remuneration) is not a strike and may not be the subject of an industrial dispute.

117. Protection of the right to strike.— (1) Subject to sub-section (3), a worker may not be terminated or prejudiced in their employment because he has exercised, is exercising, or proposes to exercise the right to strike under section 116 unless the worker continues the strike after it has been declared unlawful by the Labour Court.

(2) If a worker who has participated in a strike in conformity with the Code or who has been locked out by the employer, reports for work after the end of the strike or lockout, the employer shall, within a reasonable period, reinstate such employee in the employment on the post held immediately prior to the strike or lockout.

(3) An employer is obliged to pay a worker under the Code while the worker is on a lawful strike, unless the Labour Court or an arbitrator directs otherwise.

(4) Where workers provide a minimum service under section 125, employers shall pay those workers who provide that service.

118. Temporary replacement of labour prohibited.— An employer shall not engage any person to perform the work of an employee participating in a strike or who is locked out, unless such work is necessary to maintain minimum maintenance services, the interruption of which would result in material damage to a working area or machinery.

119. Requirement of conciliation before certain strikes.— (1) A collective bargaining agent shall undertake conciliation under section 351 for at least fourteen days prior to exercising the right to strike except in the case of an imminent danger to safety and health.

(2) An employer may not organise a lockout unless fourteen days have passed since the commencement of conciliation proceedings under section 351.

120. Declaration of a strike.— The decision to go on a strike shall be taken by the executive body of the collective bargaining agent and a strike notice thereof shall be communicated to the employer, as per section 121.

121. Notice of strike and lock-out before certain strikes.— (1) A collective bargaining agent shall give a notice of strike.

(2) An employer may not organise a lockout unless a notice of lockout has been served.

(3) The period of a notice of strike or lockout shall be:

- (a) in the case of a collective bargaining deadlock:
 - (i) for strike other than a go-slow fourteen days; and
 - (ii) for a go-slow, five days;
- (b) in the case of a persistent failure to pay wages, five days.

(4) After expiry of notice period, the workers may go on strike, or the employer may declare a lockout, as the case may be.

122. Unlawful strike or lock-out.— (1) A strike or lock-out, other than a strike with respect to an imminent danger to health and safety, shall be unlawful if:

- (a) it is declared, commenced or continued during the period in which a collective agreement or award is in operation in respect of any of the matters covered by a collective agreement or award;
- (b) it is declared, commenced or continued without undertaking conciliation under section 119;

- (c) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out under section 121;
- (d) before the date of strike or lock-out specified in such notice; or
- (e) it is continued in contravention of the provisions of sections 123, 124, 125, 126 or 127; and
- (f) the strike was not authorised by the collective bargaining agent.

(2) A lock-out declared in consequence of an unlawful strike and a strike declared in consequence of an unlawful lock-out shall not be deemed to be unlawful.

123. Strikes causing serious hardship to the community or is prejudicial to the national interest.— (1) Where a strike or lock-out lasts for more than thirty days, the Department may refer the matter to the Labour Court for appropriate orders if it considers that the strike constitutes serious hardship to the community or is prejudicial to the national interest.

(2) The Department may, if it is satisfied that the continuance of such a strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest, refer the matter at any time before expiry of thirty days to the Labour Court for appropriate orders.

(3) 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 thirty days from the date on which the dispute was referred to it.

(4) The Labour Court may also make an interim award on any matter in dispute.

124. Strike or lockout in cases of essential services.— No employee or employer engaged in an essential service shall take action by way of strike or lockout.

125. Strike or lock-out in public utility services.— (1) An employer or employee carrying on or engaged in a public utility service, shall maintain a minimum service which shall not be less than forty percent of the employees, during the currency of a strike or lockout.

(2) The minimum service shall be such as to ensure that the life, health and personal safety of the population is adequately safeguarded.

(3) The parties shall seek to reach agreement on the number and kind of posts that need to be filled in the event of a strike and the persons who will be required to remain at work for this purpose.

(4) If the parties fail to reach agreement on minimum service, either party or Government may refer the issue to the Labour Court for a determination of the matter.

126. Prohibition on serving notice of strike or lock-out while proceedings are pending.— No notice of strike or lock-out shall be served by any party to an industrial dispute while any formal proceeding before a conciliator, an Arbitrator, a Labour Court or an appeal in the Tribunal is pending in respect of any matter constituting such industrial dispute.

127. Application to Labour Court and Tribunal after strike or lockout has already commenced.— (1) When a strike or lock-out in pursuance of an industrial dispute, whether or not it is an industrial dispute about collective bargaining, 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, a Labour Court an application under:

- (a) section 353; or
- (b) or section 354;

the Labour Court may, by an order in writing prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of a matter under sub-section (1) is made to a Tribunal under section 304, 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 made.

128. Procedure in case of unlawful strike or lock-out.— (1) A person specified in sub-section (2) may apply to the Labour Court for an order declaring a strike or lockout to be unlawful under section 122.

(2) For the purposes of sub-section (1), a person is:

- (a) an officer of the Department not below BS-17; or
- (b) an employer, a trade union including a collective bargaining agent with respect to which the strike or lockout action was taken.

(3) The Labour Court may, within ten days following the day on which it receives an application under sub-section (1), after hearing such of the parties as appear before it, determine whether the strike or lock-out contravenes section 122.

(4) If the Court determines that a strike or deadlock is unlawful under sub-section (3), the Court may order the strike to be called off or the lock-out to be lifted.

(5) If the employer contravenes the order of the Labour Court under sub-section (4) and the Court is satisfied that the continuance of the lock-out is causing serious hardship to the community or is prejudicial to the national interest, it may issue an order for the attachment of the establishment or group of establishments and for the appointment of an official receiver for such period as it deems fit, and such period as may be varied from time to time.

(6) The official receiver shall exercise the powers of management and may transact business, enter into contracts, give valid discharge of all moneys received and do or omit to do all such acts as are necessary for conducting the business of the establishment or group of establishments.

(7) The Labour Court may, in appointing and regularizing the work of an official receiver, exercise the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908).

(8) If the workers seriously contravene the order of the Labour Court under sub-section (4), the Court may pass orders of dismissal against all or any of the striking workers and notwithstanding anything to the contrary contained in the Code, if the Court, after holding such inquiry as it deems fit, records its finding that any registered trade union has committed or abetted the commission of such contravention, the finding shall have the effect of debaring the contravening office-bearers of such trade union from holding office for the un-expired term of their offices.

(9) The Labour Court may review its order under sub-section (8), if good and sufficient cause is shown by an affected worker within fifteen days of an order of dismissal.

(10) Subject to any rules made by the Government in this behalf, the officer may, for the purposes of sub-section (1), within the local limits for which the said officer is appointed, enter with such assistants, if any, being persons in the service of Pakistan in an establishment or group of establishments, where the officer has reason to believe an unlawful strike or lock-out to be in progress, and make such examination of the premises and plant and of any registers maintained therein and take on the spot or otherwise such evidence of persons and exercise such other powers as necessary for carrying out the purposes of this section.

(11) Where a party to an unlawful strike or lock-out, on being required to appear before the officer or the Labour Court, does not so appear, the Labour Court may, besides taking such other action as may be admissible under the Code, proceed *ex-parte*.

129. Removal of fixed assets.— (1) No employer shall remove any fixed assets of the establishment during the currency of an unlawful lock-out or a strike which is not unlawful.

(2) The Labour Court may, subject to such conditions as it may impose, cause to be removed any such fixed assets for safe custody to avoid damage to such assets due to flood, fire, catastrophe or civil commotion.

PART III EMPLOYMENT CHAPTER 3.1

APPLICATION AND DEFINITIONS

130. Application of Chapter 3.— If no specific exclusion is provided, the provisions in this Part shall apply to:

- (a) employers including contractors and employees; and
- (b) such other persons that are specified in this Part and as may be prescribed.

131. Definitions.— In this Chapter:

- (a) "comparable full-time employee" means a full-time employee in the same establishment having the same type of employment agreement or relationship, who is engaged in the same or a similar work or occupation, due regard being given to other considerations which may include seniority, qualification and skills;

- (b) "core operations" means operations that are integral to an establishment's function, as may be notified by the respective establishment to the Department;
- (c) "employment agency" means a company, agency or contractor, that:
 - (i) procures employment for job-seekers;
 - (ii) recruits employees, including domestic workers, home-based workers, etc., for an employer; or
 - (iii) supplies workers to work under an agreement with a principal on the basis that:
 - (i) the employment agency is the employer of the workers; and
 - (ii) the principal is not the employer of those workers;
- (d) "hours of work" means the period during which an employee is at the disposal of the employer, excluding any rest breaks prescribed or agreed on within the limits fixed by the Code or the rules made under it;
- (e) "internal work regulations" means internal work regulations of an establishment framed by such establishment;
- (f) "job-seeker" means a person who is registered with an employment agency for the purpose of looking for an employment or who is offered an employment or has accepted an offer of employment, but does not include other than a Pakistani;
- (g) "micro-enterprise" means any establishment wherein less than ten employees are employed, directly or through any other person, or who were so employed on any day during the preceding twelve months;
- (h) "minimum wage" means the minimum wage for different categories of workers notified by the Government from time to time that an employer is required to pay to employees for the work performed during a given period;
- (i) "night employee" means an employee who works, on average, at least three hours of night work within 24 consecutive hours;
- (j) "night work" means any work done between 10 pm and 6 am: provided that for young employees, the night work means any work done between 7 pm and 8 am;
- (k) "overtime" means work beyond normal working hours, as indicated in the Code, collective agreement or internal work regulations of an employer, provided that no such agreement or internal work regulations shall have the effect of enhancing the normal working hours or overtime;
- (l) "public employment service" means any office, agency or service set up and maintained by the Government to find or procure employment for job-seekers;
- (m) "recruiting" means activities which have been carried on by an employment agency, including advertising activities, as intermediaries between an employer and a job-seeker to offer to look for an employment, offer employment or obtain employment, for a job-seeker;
- (n) "relay and shift" where work of the same kind is carried out by two or more sets of employees working during different periods of the day, each of such sets is called a "relay", and the period or periods for which it works is called a "shift";
- (o) "security guard" includes any watchman or other person engaged for the protection of persons or property or to prevent theft or robbery;
- (p) "shop" means any premises used wholly or in part for the whole-sale or retail sale of commodities or articles, either for cash or on credit, or where services are rendered to customers, and includes an office, a store room, godown, warehouse or place of work, whether in the same premises or otherwise, mainly used in connection with such trade or business; and
- (q) "third-party contract worker" means a worker provided by an employment agency to work under an agreement with the principal on the basis that:

- (i) the employment agency is the employer of the workers; and
- (ii) the principal is not the employer of those workers.

(2) All other expressions used but not defined in this Chapter shall have the meaning as assigned to them in Part I of the Code.

132. Determining whether an employment relationship exists.- (1) For the purposes of the Code, the determination of the existence of an employment relationship, and the characterisation of a contract as an employment agreement, shall be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

(2) For the purposes of the Code, a worker engaged by a person:

(a) shall be considered an employee rather than as a contractor or self-employed; and

(b) the person shall be considered an employer:

unless the person demonstrates that all of the following conditions are satisfied that:

- (i) the worker is free from the control and direction of the employer in connection with the performance of the work, both under the contract for the performance of the work;
- (ii) the worker performs work that is outside the usual course of the employer's business; and
- (iii) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Provided that the word "engaged" used in sub-section (2) has the same meaning as given in section 8.

(3) Any worker who is found at a workplace when work is going on, or at any time except during rest breaks, shall, until anything is proved contrary, be deemed to have at that time been employed in that workplace.

133. Deliberate misclassification of an employee as a contractor or self-employed.- (1) An employer shall not inform an employee, or a prospective employee, that the employment agreement is a contract for services and that an employee is an independent contractor or self-employed.

(2) Sub-section (1) does not apply if the employer proves that, when the representation was made, the employer reasonably believed that the contract was not an employment agreement.

(3) An employer shall not dismiss, or threaten to dismiss an employee in order to engage him as a contractor to perform the same, or substantially the same work under a contract for services.

CHAPTER 3.2 EMPLOYMENT AGREEMENTS AND TERMINATION

A. Employment Agreements

134. Types of employment agreements.- (1) An employment agreement shall be in any one of the following forms:

- (a) a permanent employment agreement; or
- (b) a fixed-term employment agreement;

(2) An employment agreement may be concluded for full-time or part-time employment.

(3) Unless otherwise provided by the Code, this Part applies to all types of employment agreements.

135. Full-time employment.- (1) An employee is in full-time employment if the employee's normal hours of work are eight hours a day and forty-eight hours per week.

(2) A collective agreement, an agreement concluded between the Works Council and the employer, an employment agreement, or internal work regulations may stipulate a full-time work week of less than forty-eight hours.

136. Part-time employment.- (1) An employee is in part-time employment if the employee's normal hours of work, calculated on a daily or weekly basis, are less than the normal hours of work of a comparable full-time employee.

(2) While concluding a part-time employment agreement, the employee shall inform the employer of already existing part-time employment agreements with another employer or other employers.

(3) Subject to sub-sections (4) to (6), in respect of employment conditions, part-time employees shall not be treated in a less favourable manner than comparable full-time employees solely because they work part-time unless different treatment is justified on objective grounds.

(4) Remuneration, bonuses and other allowances under the Code shall be determined and paid in proportion to the agreed working hours following the principle of *pro rata temporis*.

(5) The part-time employee shall receive the same protection as that accorded to full-time employees in respect of:

- (a) the right to organize, the right to bargain collectively and the right to act as employees' representatives;
- (b) occupational safety and health; and
- (c) discrimination in employment and occupation.

(6) The part-time employee shall receive conditions equivalent to those of full-time employees in the fields of:

- (a) maternity protection;
- (b) termination of employment;
- (c) paid annual leave and public holidays; and
- (d) sick leave and casual leave:

Provided that the pecuniary entitlements shall be determined in proportion to the hours of work.

(7) The employer shall ensure the same working conditions for a part-time employee as for a full-time employee, with the same or similar professional knowledge and skills, and who performs the same or similar work.

(8) The employer may consider the request of an employee who is a party to a full-time employment agreement for conversion to a part-time employment agreement, as well as an employee who is a party to a part-time contract for conversion to a full-time contract, and the employer shall not refuse the request unless there are reasonable business grounds to do so.

137. Permanent employment agreement.- (1) A permanent employment agreement shall be an employment agreement in which the two parties neither fix the term nor the date of termination of the agreement.

(2) An employment agreement is a permanent employment agreement, unless otherwise determined by the Code.

(3) If the employment agreement does not specify the period for which it was concluded, it shall be deemed to be a permanent employment agreement.

138. Fixed-term employment agreement.- (1) A fixed-term employment agreement shall be an employment agreement or where the end of such employment agreement is determined by:

- (a) reaching a specific date;
- (b) completing a specific task or project; or
- (c) the occurrence of a specific event.

(2) An employment agreement may be concluded for a fixed term where the duration and termination of agreement has been determined in advance for objective reasons in accordance with sub-section (3).

(3) Objective reasons justifying the conclusion of a fixed-term employment agreement, and which shall be stated in that agreement, shall include:

- (a) the replacement of a temporarily absent employee; or
- (b) the performance of work the duration of which, due to the nature of its performance, is limited by a deadline, relates to a specific task or project or an occurrence of a particular event.

(4) No fixed term employment agreement shall be made for work of a permanent nature.

(5) A fixed term employment agreement shall be deemed to be a permanent employment agreement if:

- (a) its purpose or effect is the filling on a lasting basis of a post connected with the core operations of an establishment; or
 - (b) it is concluded for longer than the time provided under sub-sections (7) and (8); or
 - (c) it is renewed for more than two successive terms.
- (6) A fixed term employment agreement may be:
- (a) a general fixed-term employment agreement; or
 - (b) a special project fixed-term employment agreement.

(7) A general fixed term employment agreement may be concluded in the following cases, which shall be stated in the employment agreement:

- (a) for the duration of temporary work up to three months;
- (b) to perform seasonal work, when, due to natural conditions, work can only be carried out during a certain period or season; and
- (c) temporary replacement of absent workers.

(8) A special project fixed term employment agreement may not be concluded with an employee except in cases where an employee is hired on remuneration at least five times the minimum wage.

(9) A special project fixed term employment agreement may be concluded in the following cases:

- (a) specialised skills for a specific task for example, reconstruction, installation, commissioning and other work;
- (b) with persons entering work in organizations created for a predetermined period or to perform a predetermined job for example, positions subject to Government grants or philanthropic funding or time-bound project work;
- (c) with persons hired to perform specific work in cases where the completion cannot be determined by reference to a specific date for example, a consultancy; and
- (d) in other cases, provided for by the Code or other laws for the time being in force.

139. Renewal and duration of fixed term employment agreement.- (1) A fixed term employment agreement may be further renewed for two successive terms. However, the terms and conditions shall not be reduced from the previous agreement.

(2) Fixed term employment agreements shall be considered successively if they are concluded without interruption between one agreement and another or with an interruption not exceeding three months.

(3) The maximum length of a general fixed-term employment agreement shall be three months:

Provided that the cumulative duration of three successive general fixed-term employment agreements shall not exceed nine months.

(4) The maximum length of a special project fixed-term employment agreement or successive special project fixed term employment agreement shall not exceed five years.

140. Persons on fixed term employment agreements not to be treated less favourably than persons on permanent employment agreements.- In respect of employment conditions, employees on fixed-term employment agreement shall not be treated in a less favourable manner than comparable employees with permanent employment agreements solely because they have a fixed-term employment agreement or relation unless different treatment is justified on objective grounds.

141. Form of employment agreement.- (1) An employment agreement may be oral or in writing.

(2) The burden of proving or disproving an alleged term of employment stipulated in an oral or part-oral and part-written agreement shall be on the employer.

(3) An employment agreement shall be in writing, unless it is concluded for a term not exceeding one month;

Provided that where an employment agreement is not in writing, this shall not affect the validity of that agreement.

(4) An employment agreement shall be prepared in duplicate, with one copy each for the employer and the employee.

(5) The employer shall provide a copy of employment agreement to the employee before the commencement of employment.

(6) The failure on the part of the employer to provide an employment agreement in written form shall not affect the existence and validity of that agreement.

(7) The employer shall communicate in writing to the employee any change in the condition of employment within seven days of such change.

142. Contents of employment agreement.— (1) An employment agreement shall contain all such particulars as necessary to define the rights and obligations of the parties and shall in all cases include:

- (a) the employer's name, address; full name and position of the person who concludes the agreement on the employer's side;
- (b) full name, date of birth, gender, residence, computerised national identity card number or passport number of the employee;
- (c) the place of work where there is no fixed or main place of work, the registered place of business;
- (d) the job title, nature of work or category for which the employee is employed, along with a detailed description of the task to be performed by the employee;
- (e) the date of commencement of the employment relationship;
- (f) in the case of a fixed-term employment agreement, the end date or the expected duration thereof;
- (g) the duration and conditions of the probationary period;
- (h) working hours and rest periods, including weekly rest day;
- (i) the amount of paid annual leaves, casual leaves, and sick leaves to which the employee is entitled;
- (j) the procedure to be observed by the employer and the employee, including the formal requirements and the notice periods, where their employment relationship is terminated;
- (k) the remuneration, including the initial basic amount, any other component elements, if applicable, indicated separately, and the frequency and method of payment of the remuneration to which the employee is entitled;
- (l) the registration details of the employer and employee with social insurance institutions, employees social security institutions and employees old age benefits institution, if the employer and employee are already registered;
- (m) any provision for the termination of the employment agreement other than those provided by the Code; and
- (n) reference to the internal work regulations and disciplinary rules applicable to the employee.

(2) An employment agreement may make reference to other documents for some particulars, but such documents shall be made accessible to the employee.

(3) The contents of the employment agreement shall be verbally explained to each employee in the plain local language.

(4) The employer shall keep a copy of the written employment agreement throughout the employee's employment.

143. Employment Card.— Every employee shall be given an employment card, showing name, personnel number, designation and photograph, which the employee shall display during working hours.

144. Probationary period.— (1) In an employment agreement, there may be a provision for a probationary period which shall not, in any event, exceed three months.

(2) If the employment agreement is concluded for a fixed term, the duration of the probationary period shall be proportionate to the expected duration of the agreement and the nature of the work performed by the employee.

(3) During a probationary period, an employment agreement may be terminated at any time by either party without notice.

(4) Where an employer does not expressly terminate the employment agreement during probationary period and the period expires without any notice having been given by either party, the employee shall be presumed to have successfully cleared the probationary period.

(5) After the termination of an employment agreement in which the probationary period was concluded successfully, the employer may not require another probationary period when concluding a new employment agreement for the performance of the same job.

(6) Where a probationary period is successfully concluded, it shall form part of the employee's total length of service.

B. Internal work regulations

145. Internal work regulations.— (1) Subject to sub-section (4), an employer may adopt and publish internal work regulations for regulating remuneration, work organisation, occupational safety and health, and other issues important for employees.

(2) The contents of the internal work regulations shall not be contrary to:

- (a) the Code and any rules made thereunder;
- (b) any applicable collective agreement;
- (c) any award or decision by competent authority or Court made under the Code; and
- (d) or to other relevant legal provisions.

(3) The internal work regulations shall include, *inter-alia*, the following key contents:

- (a) working hours, rest periods, holidays, and pay-days;
- (b) discipline at the workplace, including acts and omissions such as attendance and late coming;
- (c) shift working;
- (d) occupational safety and health along with election of safety and health representatives and committee;
- (e) actions against violence and harassment at the workplace;
- (f) protection of the assets and technological and business secrets and intellectual property of the employer;
- (g) violations of internal work regulations and disciplinary measures;
- (h) material responsibility in case of damages or loss of material;
- (i) the person having the competence to take disciplinary measures; and
- (j) inefficient, dilatory, careless or wasteful working.

(4) The employer shall send a draft of proposed internal work regulations to the collective bargaining agent or agents elected under section 100 for consultation and in the absence of collective bargaining agent, the employer shall consult with the Works Council. The consultation shall be completed within 21 days of the receipt of draft internal work regulations.

(5) On reaching the agreement between the employer and collective bargaining agent or the Works Council, as the case may be, or expiry of 21 days, whichever is earlier, the employer shall send to the Chief Inspector the internal work regulations for approval, along with copy of agreement signed between the parties in this regard. If any of the contents of the internal work regulations is found contrary to sub-section (2), the Inspector shall, within thirty days of receipt of such regulations, notify and instruct the employer to revise it and resubmit the internal work regulations:

Provided that if the employer disagrees with the observations made by the Chief Inspector, the employer may file an appeal before the Labour Court within thirty days.

(6) Employees shall be notified of the internal work regulations, and the major contents shall be displayed at the workplace and the internal work regulations shall be provided and transmitted on paper or, provided that the information is accessible to the employee, that it can be stored and printed, and that the employer retains proof of transmission or receipt, through electronic means.

C. Termination of employment and disciplinary measures

146. Termination of employment agreement.- (1) An employment agreement may be terminated in any one of the following ways:

- (a) both parties agree to terminate the employment agreement;
- (b) in the case of a fixed term employment agreement:
 - (i) the period of time specified in the agreement is reached;
 - (ii) the specific task for which the employee was employed has been completed;
 - (iii) the occurrence of a specific event such as return of absent employee in whose replacement the fixed term employment agreement was concluded;
- (c) either party to the agreement dies or is declared by the court as a legally incapacitated person; and
- (d) resignation by the employee.

(2) In addition to sub-section (1) and subject to sub-sections (3) to (6), an employment agreement of an employee may be terminated by the employer if there is a valid reason for such termination connected with the employee's capacity to perform work or conduct of the employee or based on the operational requirements of the establishment. A valid reason includes:

- (a) absence of an employee for more than 10 days without any intimation; or
- (b) the person's job is no longer required to be performed by anyone, as a result of redundancy, as defined in section 149; or
- (c) gross misconduct as defined in section 151; or
- (d) unsatisfactory performance; or
- (e) unsuccessful completion of probationary period.

(3) The employment agreement shall not be terminated, nor shall an employee be removed, retrenched, discharged or dismissed from employment, except by an order in writing which, shall explicitly state the reason for the action taken.

(4) The employment agreement of an employee shall not be terminated for reasons related to the employee's conduct or performance before the employee is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

(5) The employment agreement of an employee shall not be terminated for unsatisfactory performance, unless the employer has given the employee appropriate instructions and written warning and the employee continues to perform duties unsatisfactorily after a reasonable period of time for improvement has elapsed.

(6) In case of termination of an employment agreement for whatever reason, the remuneration earned by the employee and other dues, including payment for un-availed annual leave, shall be paid before the expiry of the second working day from the day of termination of employment agreement.

(7) In case an employee is aggrieved by the termination of employment agreement or removal, retrenchment, discharge or dismissal, the employee may avail remedy in accordance with sub-section (6) of section 335, and thereupon the provisions of sub-sections (6) to (9) of section 335 shall apply.

(8) If an employer restricts an employee from accessing and entering the workplace for performing work or mark their attendance in any manner, other than in the case of gross misconduct, the employee may file a complaint with the office of the area Inspector in writing within five days of the incident and in such case the employer shall be precluded to initiate any action against the employee. The Inspector shall dispense with such complaint within 21 days, as may be prescribed:

Provided that the time consumed in proceedings before the Inspector shall not be computed for the purpose of section 335 of the Code.

147. Prohibited grounds for termination.- (1) The following, *inter-alia*, shall not constitute valid reasons for termination:

- (a) trade union membership or non-membership;
- (b) participation in union activities outside working hours or, with the consent of the employer, within working hours;
- (c) seeking office as, or acting or having acted in the capacity of, an office bearer of a trade union or a worker representative;
- (d) filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- (e) any of the prohibited grounds of discrimination, as specified in Chapter 2.4 of the Code;
- (f) absence from work during statutory leaves including iddat leave and maternity leave;
- (g) temporary absence from work during statutory sick leave;
- (h) the exercise of rights under section 67 and section 153; and
- (i) participation in a lawful strike.

(2) No disciplinary measure shall be taken against an employee during the period when:

- (a) the employee is taking leave on account of illness or convalescence; or on other types of leave with the employer's consent; and
- (b) the employee is pregnant or suffering from any complication connected with pregnancy or on maternity or an employee is on paternity leave.

148. Constructive termination of employment.- (1) An employee is entitled to terminate the employment agreement without notice or with less notice than that to which the employer is entitled by any statutory provision or contractual term where the employer's conduct has made it unreasonable to expect the employee to continue the employment relationship.

(2) It shall be for the employee to provide the reason which made the continuation of the employment relationship unreasonable.

(3) In any hearing or proceedings following a complaint of constructive termination of employment, the Labour Court, shall consider the conduct of the employee and whether the employee attempted to address the matter of the employer's conduct with the employer before leaving the employment.

149. Termination of employment for redundancy.- (1) In this section:

"closure" includes lay-off of employees beyond twenty-eight days where such lay-off results in the closure of an establishment but does not include a lock-out declared, commenced or continued in accordance with the provisions of Chapter 2.6 of the Code.

"redundancy" means the termination of employment of one or more employees by reducing the number of employees as a result of a reorganization or transfer of the business or a discontinuance or reduction of the business for economic, technological or structural reasons, including for reasons of bankruptcy, dissolution, closure, or cessation of the business.

(2) This section applies to the employers employing more than fifty employees.

(3) Subject to sub-section (6), If an employer proposes to terminate ten percent or more of the employees, the employer shall, prior to terminating the employment of such employees on the grounds of redundancy inform and consult in good faith with the collective bargaining agents in the relevant establishment or establishments or the Works Council in the absence of collective bargaining agent, in good time with a view to minimising the impact on workers who are the subject of the relevant redundancies.

(4) To enable workers' representatives to make constructive proposals, the employers shall in good time during the course of the consultations:

- (a) supply them with all relevant information and
- (b) in any event, notify them in writing of:
 - (i) the reasons for the projected redundancies;
 - (ii) the number of categories of employees to be made redundant;
 - (iii) the number and categories of employees normally employed;
 - (iv) the period over which the projected redundancies are to be effected;
 - (v) the criteria proposed for the selection of the employees to be made redundant; and
 - (vi) the method for calculating any redundancy payments

(5) An employer proposing to terminate employees under sub-section (4) shall notify the Department within fifteen days, but in any event prior to terminating the employees.

(6) In the event of an acute provincial crisis such as pandemic, natural disaster, severe economic downturn, an employer who seeks to terminate up to 25 percent of the employees, shall seek permission from the Inspector authorised in this behalf. Where the employer plans to terminate the employment of more than 25 percent of its employees in the event of an acute provincial crisis, the employer shall seek prior permission from the Labour Court.

(7) The Labour Court shall decide the case of redundancy under sub-section (5) within thirty days of the receipt of case after proper inquiry into the matter.

(8) Where an employer fails to comply with this section, a workers' representative may initiate an industrial dispute in accordance with section 349.

(9) Where any employee is to be made redundant, and he belongs to a particular category of employees, the employer shall terminate the employment agreement of such employee who is the last person employed in that category, last come, first go.

(10) In the event that a subsequent new employment opportunity arises within a period of one year from the date of such retrenchment, the employer shall consider persons previously declared redundant for re-employment by informing them of the employment opportunity, as prescribed. Failure on the part of the employer to do so shall constitute a violation of the Code.

(11) In case of seasonal establishments, a worker who was retrenched in one season and reports for duty within ten days of the resumption of work in the seasonal establishment in the immediately following season shall be given preference for employment by the employer. Employer shall inform the employee, as prescribed under sub-section (9).

150. Notice of termination of employment agreements.- (1) An employee whose employment is to be terminated shall be entitled to a written notice of 30 days or last drawn 30 days remuneration as compensation in lieu thereof unless such employee is guilty of gross misconduct.

(2) An employee may terminate the employment agreement by resignation with a written notice of 30 days to the employer or paying last drawn 30 days remuneration as compensation in lieu thereof.

(3) During the period of notice, the employment relationship shall continue in its original form and retain all its original force unless the party to whom the notice is given wishes to dispense with the period of notice or any part of it.

(4) During the period of notice, the employee shall, for the purpose of seeking other employment, be entitled to a one paid day-off per week in addition to the weekly rest day, taken at times that are convenient to both parties.

(5) In a micro-enterprise, employer and employee shall terminate the employment agreement by serving a written notice of 14 days or paying last drawn fourteen days remuneration as compensation in lieu thereof.

151. Gross misconduct.- (1) Subject to sub-section (2), the following acts and omissions shall be treated as gross misconduct:

- (a) wilful and unreasonable refusal to carry out a lawful and reasonable instruction that is consistent with the employment agreement, the Code and any applicable collective agreement;

- (b) theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) wilful damage to or loss of employer's goods or property;
- (d) taking or giving bribes or any illegal gratification;
- (e) habitual absence without leave or absence without leave for more than ten days cumulatively;
- (f) riotous or disorderly behaviour during working hours at the establishment;
- (g) being at work in a state of drunkenness or under the influence of drugs or substances, such that the employee's faculties are so impaired that the employee is unfit to be entrusted with the employee's duties;
- (h) continuing a strike after it has been declared unlawful by the Labour Court; and
- (i) frequent repetition of any serious act or omission referred to in the internal work regulations.

(2) None of the matters set out in section 147 constitute gross misconduct.

152. Stoppage of work.- (1) The employer may, at any time, in order to comply with the obligations in Chapter 2.5, or in the event of fire, catastrophe, break-down of machinery or stoppage of power supply, epidemics, epidemics, pandemics, civil commotion or any other cause beyond employer's control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the affected employees shall be informed, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. If the employees are required to remain at workplace, they shall be entitled to full remuneration for such period. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where employees are laid-off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in sub-section (1), they shall be paid by the employer an amount equal to fifty per cent of their daily wages during the first fourteen days of lay-off as compensation:

Provided that the lay-off may be declared for two consecutive times only and if the employer has to continue the lay-off beyond this period, the employer shall get approval of the Chief Inspector in this regard.

(4) When, however, the employees have to be laid-off for an indefinite period, their services may be terminated after giving them due notice or pay in lieu thereof, subject to approval of the Labour Court.

153. Performance of work when employer in breach of obligation to pay remuneration.-

(1) This section applies where an employer fails to pay an employee remuneration under Chapter 3.3, or under an employment agreement, collective agreement or award for more than 14 days after it is due.

(2) An employee who has not received remuneration under sub-section (1), or the employee's trade union or collective bargaining agent, may apply to the Payment of Wages Authority under section 338 or notify an inspector about the failure to pay.

(3) Where an employee:

- (a) has not been paid under sub-section (1);
- (b) has applied to the Payment of Wages Authority, or has notified an Inspector under sub-section (2); and
- (c) the remuneration remains outstanding more than 14 days after the application, or notification:

the employee may cease work until he is paid the outstanding remuneration.

(4) An employee who has ceased work under sub-section (3) may not be terminated or be otherwise prejudiced in his employment by the employer.

(5) The continuity of service, and the accrual of employment entitlements under the Code of an employee who ceases work under sub-section (3) shall be deemed to be uninterrupted during the period in which the employee remains unpaid.

154. Principles and procedures for taking disciplinary measures.- (1) The provisions of sections 154 and 155 apply to employers employing more than twenty employees.

(2) Disciplinary measures against an employee shall be taken as under:

- (a) written notice of alleged misconduct i.e., charge sheet is given to the employee within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer;
- (b) an opportunity given to the employee to explain or respond to the charges levelled against him within a period of two weeks;
- (c) in case the explanation provided by the employee is not satisfactory, the employee may be suspended and an independent inquiry may be undertaken by appointing an inquiry officer or inquiry committee to objectively determine whether the employee is guilty or not; and
- (d) in case the employee is found guilty of misconduct in the inquiry report, the employer may award punishment as provided in section 156.

(3) The disciplinary measures under sub-section (2) shall be recorded in writing and no order of disciplinary measure shall be made contrary to the provisions of sub-section (2).

(4) The employee proceeded against may, if the employee so desires for his assistance in the inquiry, nominate any other employee in the same workplace or a trade union representative and the employer shall allow the person so nominated to be present in the inquiry to assist the employee proceeded against and shall not deduct such employee's remuneration if the inquiry is held during working hours.

(5) For the purposes of conducting an inquiry into the alleged misconduct of an employee, the employer may suspend the employee concerned for a period not exceeding seven days at a time, such that the total period of such suspension shall not exceed four weeks except where the matter is pending before an arbitrator, a Labour Court, Tribunal, Mediator or Conciliator. The order of suspension shall be in writing and may take effect immediately on delivery to the employee. During the period of suspension, the employee concerned shall be paid by the employer the same remuneration as the employee would have received if he had not been suspended.

155. Procedure for inquiry and final order.- (1) The inquiry officer or the inquiry committee, as the case may be, within three days of receipt of a written order from the employer, shall:

- (a) communicate to the accused the charges and statement of allegations levelled against the accused along with the evidence, the formal written receipt of which shall be given;
- (b) require the accused within seven days from the day the charge is communicated to submit a written defence and on failure to do so without reasonable cause, the inquiry officer or the committee shall proceed *ex-parte*; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as the inquiry officer or the committee may consider necessary, and each party shall be entitled to cross-examine the witnesses against him.

(2) The accused employee shall have the right to examine any oral or documentary evidence produced against him in the course of inquiry proceedings and the accused employee may produce and call such evidence in his defence.

(3) Subject to the provisions of the Code and any rules made thereunder, the inquiry officer or the inquiry committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(4) The following provisions shall be followed by the inquiry officer or the inquiry committee in relation to inquiry:

- (a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) the accused employee shall be allowed to be assisted by another employee at the same workplace while defending;

- (c) the inquiry officer or the inquiry committee shall give its findings in writing by recording reasons thereof; and
- (d) the inquiry officer or inquiry committee shall submit its findings and recommendations to the employer within forty days of the initiation of inquiry.

(5) Within one week of the receipt of report from the inquiry officer, the employer shall apply judicious mind and pass an appropriate order, setting aside the charge or imposing the penalty as per section 156 and the employer shall notify an employee in writing of the decision through a speaking order.

156. Penalties.- The accused employee, if found guilty, shall be awarded one or more of the following penalties by the employer in the light of gravity of misconduct:

- (a) censure;
- (b) fine in the manner prescribed under the Code up to three percent of the remuneration payable to the employee in a month;
- (c) withholding of increment or promotion for a specified period not exceeding two years;
- (d) reduction to a lower post for a specific period not exceeding two years; or
- (e) termination from service with payment of all benefits including gratuity; or
- (f) dismissal without payment of any remuneration in lieu of notice.

157. Appeal against penalties.- The employee aggrieved by decision of the employer on whom a penalty is imposed may within thirty days of written communication of decision file grievance to the employer in accordance with section 335.

158. Certificate of employment.- (1) On termination of an employment agreement for any reason whatsoever, an employer shall provide the employee with a certificate, before the expiry of tenth working day of termination of employment, indicating:

- (a) the name and address of the employer;
- (b) the nature of the employer's business;
- (c) the length of the employee's continuous employment with the employer;
- (d) the capacity in which the employee was employed prior to the termination; and
- (e) the reason for the termination of employment.

(2) The certificate referred to in sub-section (1) shall not contain any evaluation of the employee's work unless the evaluation is requested by the employee.

D. Gratuity and redundancy payments

159. Payments on termination of employment.- (1) This section does not apply to establishments in which less than 20 workers are engaged.

(2) On termination of an employment agreement by either party, except in the case of gross misconduct, after a year of continuous service, the employee or, in case of his death, his heirs, shall be entitled to a gratuity equal to 30 days' remuneration for every year of service, unless more favourable terms have been agreed:

Provided that for calculation of amount of gratuity, after completion of the first year of service with the same establishment, the period of service exceeding six months shall be treated as full year:

Provided further that the remuneration for calculation of gratuity shall be the remuneration paid to the employee in the last month of service if he is a fixed-rated employee or the highest pay drawn by the employee during the last twelve months if such employee is piece-rated.

(3) A seasonal employee who has worked in a seasonal establishment throughout the season shall, in addition to any other benefit to which such employee may be entitled under the Code or any other law, for the time being in force, shall, on the expiry of the season, be paid a sum equal to last drawn thirty days remuneration, fifteen days prior to the end of season:

Provided that any interruption or discontinuance in service of a seasonal employee during a season which has caused on account of his sickness, accident, leave, lay off or strike, lock-out or cessation of work, shall not disentitle the seasonal employee to the benefit of the provisions of the Code:

Provided further that a seasonal employee shall be deemed to have worked throughout the season if such employee has worked for not less than seventy-five percent of the number of days during that season.

(4) No payment of gratuity to the employee's heirs shall be made otherwise than by a deposit with the court of Employees' Compensation Commissioner, who shall proceed with the allocation of the deposit to the heirs of the deceased in accordance with the provisions of Chapter 5.6 of Part V. If the employer fails to deposit the amount of the gratuity, the heir of the deceased employee may make an application to the Commissioner for the recovery of the amount thereof.

160. Capping of gratuity.-(1) The gratuity received by an employee under section 159 shall be limited in accordance with the categories as follows:

| Category | Circumstances in which gratuity payable | Maximum payment under section 159 |
|---|---|-----------------------------------|
| 1. Employees drawing average monthly remuneration not more than five times the monthly minimum wage notified, from time to time, by the Government. | Termination by either party, other than for gross misconduct. | Uncapped. |
| 2. Employees drawing average monthly remuneration exceeding the category 1 but not more than ten times the monthly minimum wage notified, from time to time, by the Government. | Termination for redundancy or retrenchment only. | Twelve months of remuneration. |
| 3. Employees drawing average monthly remuneration exceeding ten times the monthly minimum wage notified, from time to time, by the Government. | Termination for redundancy retrenchment only. | Six months of remuneration. |

(2) For the purposes of this section, the managerial employee means a person who exercises the power to hire and fire workers in a workplace.

(3) This section does not affect any rights to a gratuity accrued under any law in force immediately prior to the promulgation of the Code.

161. Provident Fund.-(1) Where the employer has established a provident fund to which the employee is a contributor and the contribution of the employer to such fund is not less than the contribution made by the employee, no gratuity may be payable for the period during which such provident fund has been in existence:

Provided that the amount of provident fund contribution made on the part of employer shall not be less than the amount of gratuity payable to such employee under the Code.

(2) The employer and employee shall contribute each to the Provident Fund an amount equal to the monthly remuneration or average remuneration, as the case may be, of one month in a year.

(3) An employee shall be entitled to receive the amount standing to his credit in the provident fund, including the contributions of the employer to such fund, irrespective of the reason of termination of agreement.

E. Prohibition of pay secrecy

162. Prohibition of pay secrecy.-(1) An employer shall not require an employee to disclose, or not to disclose, the following information to any other person:

- remuneration; and
- terms and conditions of employment that are reasonably necessary to determine remuneration outcomes.

(2) An employer shall not prevent an employee from discussing the matters referred to in sub-section (1) with any other person, including another employee.

(3) This section applies to:

- (a) an employment agreement;
- (b) internal work regulations;
- (c) collective agreements; and
- (d) any other direction or instruction.

F. Limitation on post-employment restraints

163. Restraints of trade and non-compete clauses generally void.- (1) This clause applies to all agreements between an employer and an employee of that employer, other than an agreement between an employer and a managerial or administrative employee drawing average monthly remuneration exceeding five times the monthly minimum wage for an unskilled worker, notified by the Government from time to time.

(2) Any term of an agreement by which an employee is restrained from engaging in a lawful profession, trade or business of any kind shall be void.

(3) An employer shall not include a term that is void under sub-section (2) in an employment agreement.

(4) Nothing in this clause prevents an employer from including in an employment agreement a term that prohibits:

- (a) disclosure of trade secrets, of confidential and proprietary client information; or
- (b) solicitation of clients of the employer that the employee learned about during the employee's employment with the employer.

CHAPTER 3.3

Remuneration

164. Application of Chapter.- The provisions of this Chapter shall apply to all employees including the mine employees.

A. Determination and payment of remuneration

165. Determination and payment of remuneration.- (1) An employee's remuneration shall be determined through the individual employment agreement, provided that the basic wage shall not be below the notified rates of minimum wage.

(2) Every employer, while determining remuneration, shall take into the account the cost of living and inflation and follow the principle of adequate remuneration, which is in proportion to the quality and quantum of employee's work and ensures an existence consistent with human dignity.

(3) Every employer shall be responsible for the payment of remuneration to the employees.

(4) The employer shall fix periods in respect of which such remuneration shall be payable and no such period shall exceed one month.

(5) All remuneration and dues of whatsoever nature shall be paid to the employees in Pakistani rupee by crediting the amount in the bank account of the employee.

(6) Both the employer and employee shall be responsible for opening a bank account of such an employee who do not already have a bank account.

(7) The employer shall bear the costs of transfer of remuneration.

(8) Remuneration may be fixed according to unit of time i.e., hour, day, week, fortnight or month or by unit of work i.e., piece work or by the task.

(9) Every employer including a contractor shall be responsible for the payment to persons employed by him, all remuneration required to be paid under the Code:

Provided that in the case of persons employed otherwise than by a contractor:

- (a) in establishments, if a person has been named as the manager or a person responsible to the employer for the supervision and control of the industrial establishment;
- (b) in railways, if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned, the person so named, the person so responsible to the employer or the person so nominated, as the case may be, shall be responsible for such, payment:

Provided also that where the employer is a legal person or a company, any one of the directors thereof, or, in the case of a private company, any one of the major shareholders thereof, may be responsible for payment of remuneration.

(10) Before the commencement of work, the employer shall notify a piece-rated employee:

- (a) of the constituent elements of the applicable piece rate, the work to be performed and the rate payable per unit; and
- (b) of the quantity of work done and the time taken to do it.

(11) The employer shall pay or cause to be paid remuneration to the employees, including those engaged on piece rate basis, on:

- (a) daily basis, at the end of the working day or shift; or
- (b) weekly basis, on the last working day of the week, that is to say, before the weekly rest day; or
- (c) fortnightly basis, before the end of the second day after the end of the fortnight; or
- (d) monthly basis, before the expiry of the seventh day of the succeeding month.

(12) Where the employment agreement has been terminated for any reason whatsoever, the remuneration and other dues, if any, shall be paid within two working days of the termination of employment agreement.

(13) In case of employer's bankruptcy or liquidation of the undertaking by virtue of a judicial judgment, the employees shall be considered preferential creditors with respect to their unpaid remuneration and other dues.

(14) Notwithstanding anything contained in sub-section (11), the Chief Inspector may provide any other time limit for payment of remuneration it considers reasonable having regard to the circumstances under which the remuneration is to be paid.

(15) Every month, the employer shall provide, with each payment of remuneration, to the employee an accurate itemized remuneration statement, i.e., pay slip, in writing in a form which sets out:

- (a) basic wage;
- (b) allowances;
 - (i) statutory and non-statutory allowance;
 - (ii) any other payment during the period;
- (c) gross remuneration (a+b);
- (d) deductions;
 - (i) deductions, including statutory and non-statutory contributions;
 - (ii) fines of any kind;
- (e) total deductions (i+ii);
- (f) net remuneration (c-e) (gross remuneration – total deductions);
- (g) other payments;
 - (i) overtime, if any;
 - (ii) bonus of any type/ex-gratia, if any;
- (h) total payment (f +g); and
- (i) leave balances (in terms of annual, casual, and sick leave).

166. Prohibition regarding improper payment of remuneration.—No employer shall:

- (a) pay remuneration in the form of vouchers or coupons;
- (b) require or permit an employee to pay or repay to the employer any remuneration payable or paid to the employee;
- (c) require or permit an employee to give a receipt for or otherwise to represent that the employee received more than he actually received by way of remuneration;
- (d) require or permit a direct or indirect payment from the employee or deduction from the employee's remuneration for the purpose of obtaining or retaining employment;

- (e) do any act or permit any act to be done as a direct or indirect result of which an employee is deprived of the benefit or of any portion of the benefit of any remuneration so payable or paid;
- (f) limit the employee's freedom to dispose of remuneration; and
- (g) force the employee to buy employer's products or to buy products from particular shops.

167. Prohibition against paying remuneration at a rate below the minimum rates of wages.- (1) Subject to such deductions as may be authorized under the Code or under any other law for the time being in force, no employer shall pay any employee, remuneration at a rate lower than the rate notified under the Code to be the minimum rate of wages for such employees.

(2) Nothing in sub-section (1) shall be deemed to:

- (a) require or authorize an employer to reduce the rate of remuneration of any employee; or
- (b) affect, in any way, the right of an employee to continue to receive remuneration at a rate higher than the minimum rate declared under the Code if, under any agreement, contract or award, or as a customary differential, or otherwise, he is entitled to receive remuneration at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such employee to enjoy.

(3) The existing wages, where higher than the minimum wages notified by the Government, shall not be reduced and employers shall not be forced to increase it further. The employers, shall, however, be free to pay higher wages either unilaterally on their initiative in view of any special considerations including higher grade of skill or experience or higher cost of living in a particular locality or other reasons or by collective agreement.

B. Deductions

168. Permissible deductions from remuneration.- (1) Every employee shall be paid remuneration without deductions of any kind except those authorised by or under the Code.

(2) Deductions from the remuneration of an employee shall be made only in accordance with the provisions of the Code, and may be of the following kinds only:

- (a) deductions for payment of statutory contributions;
 - (b) deductions of income-tax payable by the worker;
 - (c) deductions for non-statutory social insurance schemes with employee's consent;
 - (d) deductions required to be made by order of a Court or other authority competent to make such order;
 - (e) deduction of check-off amount, made with the written consent of the employee;
 - (f) fines under section 169;
 - (g) deductions for absence from duty under section 170;
 - (h) deductions under section 171, for damages to or loss of goods expressly entrusted to the employee for custody, or for loss of money for which the employee is required to account, where such damage or loss is directly attributable to the employee's neglect or default;
 - (i) deductions under section 172, for house-accommodation and transport services supplied by the employer;
 - (j) deductions under section 172, for such amenities and services supplied by the employer as the Department may, by general or special order, authorise;
- Explanation:** The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment;
- (k) deductions, under section 173 for recovery of advances or for adjustment of over-payments of remuneration;
 - (l) deductions for subscriptions to, and for re-payment of advances from, any provident fund to which the Provident Funds Act, 1925 applies or any recognized provident fund as defined in the Income Tax Ordinance,

- 2001, or any provident fund approved in this behalf by the Department during the continuance of such approval;
- (m) deductions, under section 174, for payments to co-operative societies approved by the Government or to a scheme of insurance maintained by the Pakistan Post Office; and
 - (n) deductions, made with the written authorisation of the employee, in furtherance of any savings scheme, approved by the Government, for the purchase of securities of the Government of Pakistan.

169. Fines.— (1) No fine shall be imposed on an employee unless authorised by the Code, a collective agreement or the internal work regulations.

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on at the prescribed place or places.

(3) No fine shall be imposed on any employee until such employee has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed on any employee shall not exceed an amount equal to three percent of the remuneration payable to the employee in respect of that wage-period.

(5) No fine shall be imposed on an employee who is under the age of eighteen years.

(6) No fine imposed on any employee shall be recovered in instalments or after the expiry of one hundred and twenty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the employees at a workplace as are approved by the prescribed authority.

(9) In the case of employees in any other establishment who are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are provided by the prescribed authority.

170. Deductions for absence from duty.— (1) Deductions may be made only on account of the unjustified absence of an employee from the place or places, whereby under the terms of employment, the employee 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 maximum deduction from the remuneration shall be in the same proportion as is the absence from work to the total wage period:

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

Explanation: For the purposes of this section, an employee 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 an illegal stay-in-strike, or for any other cause which is not reasonable in the circumstances, to carry out work.

171. Deductions for damage or loss.— (1) A deduction on account of loss of goods expressly entrusted to the employee for custody, or for loss of money for which the employee is required to account shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employee and shall not be made until the employee has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deduction.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

172. Deductions for services rendered.— A deduction for the services rendered shall not be made from the remuneration of an employee unless the house-accommodation, transport, amenity or service has been accepted by the employee, 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, shall be subject to such conditions as the Department may impose.

173. Deductions for recovery of advances.— Deductions for recovery of advances shall be subject to the following conditions:

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

174. Deductions for payments to co-operative societies, insurance schemes and saving schemes.— Deductions for payments to co-operative societies, insurance schemes and saving schemes shall be subject to such conditions as the Government may impose.

CHAPTER 3.4

WORKING TIME

175. Application of Chapter.— The provisions of this Chapter do not apply to mine employees which shall be governed under the Mines Act, 1923.

176. Normal working hours.— (1) Normal hours of work shall not exceed eight hours per day or forty-eight hours per week.

(2) For a seasonal establishment, the normal hours of work shall not exceed nine hours per day or fifty hours per week.

(3) For a workplace in which work is continuous due to technical reasons throughout the day, the normal hours of work shall not exceed fifty-six hours per week.

(4) An employee who works less than eight hours on one or more working days of the week may be required to work more than eight hours on the remaining working days of the week without payment of overtime rate, provided that:

- (a) daily limit of eight hours shall not be exceeded by more than two hours; and
- (b) weekly limit of forty-eight hours shall not be exceeded.

(5) A woman employee, with her prior consent, may work beyond 08:00 pm subject to the mandatory arrangement of transportation facility of pick and drop by the employer at the doorstep or the nearest possible place to the residence of such employee except where a separate hostel facility is provided by the employer at or near the premises and employer arranges necessary transportation.

177. Flexible working arrangements.— (1) Employees, who have worked with an employer for at least twelve months may request flexible working arrangements and the duration of such flexible working arrangements may be subject to a reasonable limitation and the internal work regulations may reduce such qualifying period.

(2) The employer shall consider and respond to requests for flexible working arrangements as referred to in sub-section (1) within a reasonable period of time, taking into account the needs of both the employer and the employee and the employer shall provide reasons for any refusal of such a request or for any postponement of such arrangements.

(3) When flexible working arrangements have been allowed for a specified time, the employee and the employer shall have the right to review the arrangement before the end of the agreed period or on the request of employee.

Explanation: For the purposes of this section, "flexible working arrangements" means the possibility for employees to adjust their working patterns, including through the use of remote working arrangements, flexible working schedules, or reduced working hours.

178. Night work.- (1) The length of a shift of a night employee shall not exceed eight hours within twenty-four consecutive hours; where this is not feasible for operational reasons, the employer shall distribute the standard weekly working hours in such a way so that the average length of a shift does not exceed eight hours within a maximum period of thirteen consecutive weeks.

(2) No employee shall be allowed or required to perform night work for more than six months, provided that if it is not possible for any reason whatsoever, the employer shall take permission for exemption from the Chief Inspector in writing.

(3) The employer shall organize work in such a way as to avoid, as far as possible, overtime by night employees before or after a daily period of work which includes night work.

(4) The employer shall provide suitable first-aid facilities at the workplace for night employees, including arrangements whereby such employees, where necessary, can be taken quickly to a place where emergency medical treatment can be provided.

(5) A night employee certified, for reasons of health, as unfit for night work by the Medical Superintendent of the district concerned shall be transferred, whenever practicable, to a similar job for which such employee is fit.

(6) A collective agreement or internal work regulations may provide for compensation for night employees in the form of reduced working time, increased pay or similar benefits, while recognising the nature of night work.

(7) The employer shall provide an alternative to night work to women employees:

(a) for the period of one month each immediately preceding the pre-natal leave and succeeding the period of post-natal leave;

(b) for additional periods in respect of which a certificate by a medical practitioner is produced stating that it is necessary for the health of the mother or child:

(i) during pregnancy; and

(ii) during eight weeks after the completion of maternity leave.

(8) Where an employee works on a shift which extends over midnight, the ensuing day for such employee shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted towards the previous day:

Provided that the Chief Inspector may, by order in writing, direct that in the case of any specified workplace or any specified class of employees therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

179. Overtime.- (1) An employer may request an employee to work overtime subject to following conditions:

(a) employee agrees to work overtime;

(b) overtime hours do not exceed two hours on any day or eight hours per week; and

(c) for workplaces working five days a week, the employer may require an employee to work up to ten hours per day, without payment of overtime, provided that the weekly working hours shall not exceed 48 hours, subject to the approval of Chief Inspector.

(2) There shall be three classes of overtime known respectively as:

(a) ordinary overtime, which shall be time worked on a working day in excess of the normal hours of work in the workplace;

(b) weekly rest-day overtime, which shall be time worked by an employee on a weekly rest day; and

(c) public holiday overtime, which shall be time worked by an employee on a public holiday.

(3) The rate of overtime payable to an employee for classes of overtime, set out in sub-section (2), shall be as under:

(a) an employee shall for each hour of ordinary overtime be paid at the rate of two times the normal hourly remuneration;

- (b) an employee shall for each hour of weekly rest-day overtime be paid at the rate of two times the normal hourly remuneration:
Provided that the employer and employee may agree to opt between giving a substitute weekly rest day within three days of the employee working on a weekly rest day or pay overtime rate accordingly; and
- (c) an employee shall for each hour of public holiday overtime be paid at the rate of three times the normal hourly remuneration:
Provided that the employer and employee may agree to opt between giving both a substitute day-off and a compensatory rest day within seven days of the employee working on a public holiday or pay overtime rate accordingly;
Provided further that an employee shall enjoy compensatory rest days for at least two weekly rest days per month and at least half of the declared public holidays per year.

180. Rest break.- An employer shall give an employee who works continuously for more than six hours a rest break of at least one hour.

181. Daily rest periods.- An employer shall allow an employee a daily rest period of at least twelve consecutive hours between ending and recommencing work.

182. Weekly rest periods.- An employer shall allow an employee a weekly rest period of at least twenty-four consecutive hours which, unless otherwise agreed in writing, may include Sunday:

Provided that young persons may be granted an uninterrupted weekly rest of two days.

183. Public holidays.- An employer shall allow an employee holidays with pay on all such days declared by the Government to be public holidays.

184. Averaging of hours of work.- (1) A collective agreement may provide for averaging of normal hours of work and overtime over a period of up to thirteen weeks, provided that overtime hours per day shall not exceed two hours and the maximum working hours inclusive of overtime hours shall not exceed ten hours per day.

(2) An employer may not require or permit an employee who is bound by a collective agreement to work on average more than fifty-six hours per week over the agreed period.

185. Work in excess of hours limits in cases of emergency.- Employees may be required to work beyond the limits on normal hours of work and overtime work in the following cases, but only to the extent necessary to meet the emergency or accomplish the purpose for which the exception is authorized:

- (a) in a case of actual or imminent disaster or accident in order to avert a peril to life or health, or to prevent serious damage to property, or to ensure the continued operation of the workplace; or
- (b) in case of work urgently required to be done to the plant, equipment, machinery, or other property to maintain the workplace subject to the payment of overtime; or
- (c) to prevent damage to perishable goods, subject to the payment of overtime.

186. Exemption power concerning specific categories of persons.- (1) The Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a workplace, and certain provisions of this Chapter, shall not apply to any such person.

(2) The Government may, in consultation with social partners, make rules for adult employees providing for the exemption, to such extent and subject to such conditions as may be prescribed in such rules:

- (a) of employees engaged on urgent repairs from the provisions of this Chapter regarding daily and weekly hours, rest breaks, daily and weekly rest periods;
- (b) of employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the workplace from the provisions of this Chapter regarding daily and weekly hours, rest breaks, daily and weekly rest periods;

- (c) of employees engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the rest breaks required under this Chapter from the provisions of this Chapter regarding daily and weekly hours, rest breaks, daily and weekly rest periods;
- (d) of employees engaged in any work which for technical reasons must be carried on continuously throughout the day from the provisions of this Chapter regarding daily and weekly hours, rest breaks, daily and weekly rest periods;
- (e) of employees engaged in making or supplying articles of prime necessity which must be made or supplied every day from the provisions of this Chapter regarding weekly rest periods;
- (f) of employees engaged in a manufacturing process which cannot be carried on except during fixed seasons from the provisions of this Chapter regarding weekly rest periods;
- (g) of employees engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces from the provisions of this Chapter regarding rest breaks and weekly rest periods; and
- (h) of employees engaged in engine-rooms or boiler-houses from the provisions of this Chapter regarding weekly rest periods.

(3) The Government shall, prescribe the maximum limits for the weekly hours of work for all classes of employees.

187. Exemption power concerning specific categories of establishments.— (1) Where the Chief Inspector is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any employee in any establishment should be fixed beforehand, it may, by written order, relax or modify the provisions of this Chapter regarding the notice of periods of work as it may think fit.

(2) The Chief Inspector, may, by written order, exempt, on such conditions as he may deem expedient, any or all the adult employees in an establishment, from any or all of the provisions of this Chapter regarding daily and weekly hours, rest breaks, daily and weekly rest periods, to deal with an exceptional pressure of work.

(3) An order under sub-section (2) shall remain in force for such period, not exceeding two months from the date on which notice thereof is given to the employer, as may be specified in the order:

Provided that if in the opinion of the Chief Inspector the public interest so requires, the Chief Inspector may, by notification in the official Gazette, extend the operation of any such order for such period, not exceeding six months, as may be specified in the notification.

(4) The Chief Inspector shall ensure that the order is consistent with the safety and health obligations in Chapter 2.5.

(5) Exemptions under this section shall be subject to payment of overtime as provided under the Code.

188. Notice of working hours.— (1) An employer shall clearly display a notice, in English, Urdu or in a language understood by majority of the employees, showing the hours at which work begins and ends, rest breaks, the daily rest period, and the weekly rest periods, in a readily accessible location in any workplace under their control and where necessary, a notice posted under this section shall indicate clearly any differences in working hours for different groups or individuals among the employees and such notice may be displayed through a media wall.

(2) A copy of the notice under sub-section (1) shall be sent in duplicate on paper or through electronic means to the Inspector before the day on which it begins work. Any proposed change in the system of work which necessitates 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 until one week has elapsed since the last change.

189. Opening and closing hours of shops.— (1) No shop shall on any day remain open after 8:00 pm:

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:

Provided further that the Chief Inspector may, by notification in the official Gazette, fix any other hour after or before which shops generally or any class of shops shall not remain open.

(2) Every employer shall display, at a prominent place in the shop, a board specifying the hours during which the establishment will remain open.

190. Shift work.— (1) Shift work is an organisation of work that involves the change of employees in the same jobs and the same place of work in accordance with a pattern of working time, which can be interrupted or uninterrupted.

(2) A shift employee shall be an employee who, with an employer whose work is organised in shifts, during one week or one month on the basis of a pattern of working time, performs work in different shifts.

(3) If the work is organised in shifts which include night work, a change in shifts shall be guaranteed so that employees may work during consecutive nights for at most one week.

(4) More than one shift may be worked in a place of work at the discretion of the employer.

(5) If more than one shift is worked, the employees shall be liable to be transferred from one shift to another.

(6) An employee who performs shift work shall be given a break of at least 12 hours before beginning another shift.

191. Control of overlapping shifts.— (1) The Government may make rules providing that work shall not be carried on by a system of shifts so arranged that more than one relay of employees is engaged in work of the same kind at the same time except with the permission of the Chief Inspector and subject to such conditions as it may impose, either generally or in the case of any particular workplace.

(2) Where an employee works on a shift which extends over midnight, the ensuing day for such employee shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted towards the previous day.

(3) The Chief Inspector may, by order in writing, direct that in the case of any specified workplace or any specified class of employees therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

CHAPTER 3.5

LEAVE OTHER THAN PARENTAL LEAVE

192. Annual leave.— (1) An employee shall be entitled to eighteen calendar days of annual leave with pay after twelve months of continuous service and the annual leave calendar shall start from first day of January and end on 31st December each year, irrespective of the starting date of the employment agreement:

Provided that an employee may be entitled to request annual leave before the completion of twelve months in proportion to the length of service.

(2) Where an employee's length of service, in a calendar year, is less than the length of service required for the full entitlement set out in sub-section (1), the employee shall be entitled to a period of annual leave with pay proportionate to the length of service during that year.

(3) An employee's continuous employment shall not be treated as interrupted if the employee is absent from work:

- (a) due to taking annual, maternity, sick or any other leave in accordance with the Code, any other law or collective agreement;
- (b) while receiving any benefit, including sickness, injury, maternity benefit or any other benefit from Employees Social Security Institution;
- (c) due to suspension in accordance with the provisions of the Code;
- (d) due to a lock-out, lawful or unlawful;
- (e) due to a strike which is not an unlawful strike; and

(f) due to intermittent periods of lay-off due to stoppage of work not exceeding thirty days in the aggregate.

(4) Where an employee's length of service in a calendar year is less than the length of service required for the full entitlement set out in sub-section (1), the employee shall be entitled to a period of annual leave with pay proportionate to the length of service during that year.

(5) An employee shall be entitled to accumulate untaken leave provided that when the total leave due to the employee amounts to thirty days, no further accumulation of or addition to such leave shall be permissible and for annual leave in excess of thirty days, the worker shall be paid by the employer full remuneration for such leave.

(6) Public holidays, whether or not they fall during the annual leave, shall not be counted as part of annual leave.

(7) An employer may permit an employee who is entitled to more than one week's leave to take such leave in two parts provided that no part may be less than one week's duration.

(8) Annual leave shall not be taken concurrently with any period of casual leave, sick leave, or maternity leave.

(9) The period of notice of termination of employment agreement by either party shall not be included in the annual leave.

(10) At the start of a calendar year, the employer shall create an annual leave calendar for all employees who have worked at least one month with the employer and the annual leave shall be granted at a time to be fixed by the employer taking into account the needs of the workplace and the interests of the employees, and after consultation with the employee concerned.

(11) An employer shall keep an accurate written record of the period of annual leave granted to each employee and the remuneration paid for the period of such leave, and shall allow an Inspector, an employee or employees' representative to examine such record and documents upon demand, and to receive a written copy of the parts of such record and documents that pertain to the employee in question.

(12) An employee who has taken annual leave shall receive remuneration for the period of leave at a rate equivalent to the last drawn daily average remuneration, excluding any earnings in respect of overtime:

Provided that an employee taking leave of not less than seven days shall receive payment in advance; in such a case the employer shall make the payment before commencement of leave.

(13) An employee shall be entitled at the termination of their employment to be paid a sum equal to the amount that would have been paid for any duration of annual leave that has accumulated, but which the employee has not yet taken, which shall be calculated pro rata for periods of service of less than one year.

(14) Any agreement to relinquish the right to annual leave or to forgo such leave, for compensation or otherwise, shall be null and void, and prohibited.

193. Sick leave.- (1) Every employee shall be entitled to sick leave with full remuneration for a total period of eight days in a calendar year:

Provided that a seasonal employee shall have a number of paid sick leave days proportionate to the number of working months in a calendar year.

(2) The employee shall notify the employer as soon as is reasonably practicable about sickness and no sick leave beyond two days shall be granted unless a registered medical practitioner, after examination, certifies that the employee is sick and requires leave for treatment or cure for such period as is mentioned in the certificate.

(3) An employee shall be entitled to accumulate sick leave provided that when the total leave due to the employee amounts to sixteen days, no further accumulation of or addition to such leave shall be permissible.

194. Quarantine leave.- (1) If an employee is suffering from an infectious disease as a result of an endemic, epidemic or a pandemic, and the employee's attendance is considered hazardous to the health of others at the workplace, the employee concerned shall be granted maximum of 14 days of paid quarantine leave in a calendar year:

Provided also that this section shall not be applicable to the worker who is secured under the Provincial Employees' Social Security Ordinance, 1965 (X of 1965) or the law for the time being in force.

(2) The quarantine leave shall only be granted on the recommendations of the medical superintendent of the district concerned.

195. Casual leave.- (1) Every employee shall be entitled to casual leave with full remuneration for ten days in a calendar year and such leave shall not ordinarily be granted for more than three days at a time and shall not be accumulated.

(2) Casual leave shall not be taken concurrently with any other type of leave.

(3) A seasonal employee shall have a number of paid casual leave days proportionate to the number of working months in a calendar year.

196. Iddat leave.- (1) Where the husband of a woman employee dies, she shall be entitled to fully paid iddat leave, in line with the faith professed by the employee.

(2) The iddat leave shall not be accounted towards any other leave provided under the Code.

(3) The paid iddat leave shall not, in any case, exceed 130 days.

(4) This section shall not be applicable to the worker who is secured under the Provincial Employees' Social Security Ordinance, 1965 (X of 1965) or the law for the time being in force.

CHAPTER 3.6 PARENTAL LEAVE

197. Maternity leave.- (1) Every woman employee shall be entitled to the paid maternity leave at the rate of her average monthly remuneration during the following periods:

- (a) six weeks pre-natal leave immediately preceding and including the day on which she delivers the child;
- (b) eight weeks post-natal leave immediately following the day she delivers the child, whether alive or still-born, of which six weeks shall be compulsory;
- (c) one week of additional leave in case of any other medical complications where the life of mother or child is at risk, as certified by a medical practitioner; and
- (d) four weeks in the event of miscarriage or medical termination of pregnancy, as certified by a medical practitioner:

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the workplace for not less than six months immediately preceding the day of expected confinement.

(2) In the event of premature birth, all un-availed pre-natal leave shall transfer to the post-natal period and in the event of postmature birth, the post-natal leave period shall not be less than six weeks and in case of post mature birth, the pre-natal leave period shall be extended accordingly.

(3) A pregnant woman employee shall give written notice to the employer of her expected date of confinement, along with a certificate from a medical practitioner confirming the expected date of confinement before taking maternity leave and she shall also provide a certificate from a medical practitioner confirming the actual date of confinement on her return from maternity leave.

(4) The maternity benefit, payable by the employer, shall be paid directly to the employee's bank account, as in the case of monthly remuneration, on month-to-month basis during the period of maternity leave.

(5) If a woman employee dies before delivery of the 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 representatives.

(6) If a woman employee dies on the day she delivers a child or during the period of post-natal leave, the employer's liability shall not, by reason of her death, be discharged, and employer shall transfer the amount of complete maternity benefit to the employee's bank account.

(7) The employer shall not terminate the employment of a woman employee during her pregnancy or absence on leave referred to in sub-section (1) or during a period of four months following her return to work, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.

(8) On expiry of maternity leave, the woman employee shall have the right to return to the same job which she held immediately prior to her maternity leave or to a reasonably suitable job on terms and conditions not less favourable than those which would have applied had she not been on maternity leave.

(9) No employer shall require or permit a pregnant employee or an employee who is nursing a child to perform work that is hazardous to her health or to the health of her child.

(10) Where an employed woman performs work that is hazardous to her health or to that of her child, the employer shall offer her suitable alternative employment, if practicable, on terms and conditions that are not less favourable than her usual terms and conditions of employment.

(11) An employer shall not require a woman employee to perform overtime work two months before the employee's expected date of confinement.

(12) An employer shall not ask any pregnant woman employee to do any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health, as certified by a medical practitioner, for a period of one month each immediately preceding the period of pre-natal leave and succeeding the period of post-natal leave.

(13) Every woman employee who returns to work after delivering the child shall, in addition to the rest break allowed to her, be allowed in the course of her daily work two paid breaks of thirty minutes each, for nursing the child until the child attains the age of twelve months:

Provided that such paid nursing breaks shall be available when suitable daycare facilities exist at or near the workplace:

Provided further that the nursing breaks shall be counted as working time.

(14) Where there is a cluster of small enterprises, multiple employers may arrange daycare facilities to their employees jointly or engage the services of a private daycare centre at their cost, within a radius of 500 metres.

(15) An employer may not require any person to provide any information regarding pregnancy, marital status and family responsibilities as a condition for access to employment, except for the cases where the employee is required to work under conditions that may negatively affect pregnancy, or that may harm the mother's or child's life or health.

(16) The terms and conditions of maternity leave including the maternity benefit for mine employees shall be regulated under the Mines Maternity Benefit Act, 1941 (XIX of 1941).

198. Paternity leave.— (1) Every male employee shall be allowed seven calendar days paternity leave, with full pay, commencing on or immediately before the date of delivery of his child.

(2) No such leave shall be allowed to a male employee if at the time of childbirth, he has two or more surviving children and in such case, the employee may enjoy any other leave which is due to him.

CHAPTER 3.7

SHOP STEWARDS AND WORK COUNCILS

199. Shop steward.— (1) In every establishment in which thirty or more workers are employed, shop stewards, from amongst the workers in a shop, section or department of the establishment, shall:

- (a) where there is a collective bargaining agent in the establishment, be nominated by it; or
- (b) where there is no collective bargaining agent in the establishment, be elected by a secret ballot to be held in the prescribed manner.

(2) The employer shall provide all such facilities in the establishment as may be required for holding of a ballot under sub-section (1) but shall not interfere with, or in any way influence, the voting.

(3) A shop steward shall hold office for a period of two years from the date of his election or nomination.

(4) Any dispute arising out of, or in connection with the election of a shop steward shall be referred to the Registrar whose decision shall be final and binding on all parties to the dispute.

(5) The shop steward shall act as a link between the workers and employer, assist in the improvement of arrangements for the physical working conditions and production of work in the shop, section or department and help workers in the settlement of their problems either connected with work or with any such individual grievance of a worker under section 335.

200. Works Council.—(1) In every establishment employing twenty workers or more, its management shall set up a Works Council consisting of not less than four members in which the workers' participation shall be fifty percent and the convener of the Council shall be from the management:

Provided that at least one of the workers' representatives shall be a safety and health representative elected from amongst the safety and health representatives:

Provided further that where the number of workers in an establishment is fifty or more, the Council shall have eight members.

(2) The employer's representative in the Council shall be from amongst the directors or their nominees or senior executives and the workers' representatives shall be workers employed in the same establishment and shall:

- (a) where there is a collective bargaining agent in the establishment, be nominated by it; or
- (b) where there is no collective bargaining agent in the establishment, be elected by simple majority by a secret ballot by all workers employed in the establishment; and
- (c) include men and women, proportionally to the equivalent to the proportion of their numerical strength in the workforce of the establishment.

(3) The workers' representatives shall hold office for a period of two years from the date of their election or nomination.

(4) The workers' representatives shall participate in all the meetings of the Council and all matters relating to the management of the establishment, except commercial and financial transaction, may be discussed in such meetings.

(5) The Council shall function for securing and preserving good labour management relations and shall look after the following matters:

- (a) improvement in production, productivity and efficiency;
- (b) planned regrouping or transfer of the workers;
- (c) provision of minimum facilities for the workers employed through contractors who are not covered by the laws relating to welfare of workers;
- (d) settlement of differences and disputes through bilateral negotiations;
- (e) conditions of safety, health and job satisfaction in their work;
- (f) measures for facilitating good and harmonious working conditions in the establishment; and
- (g) vocational training within the establishment.

(6) The management shall not take any decision in the following matters without consultation and advice in writing of the workers' representatives:

- (a) framing of human resource policy and internal work regulations;
- (b) in-service training of workers;
- (c) recreation and welfare of workers; and
- (d) matters relating to the order and conduct of workers within the establishment.

(7) The workers' representatives may, on their own initiative, give advice in writing concerning the matters specified in sub-section (6) and, where they do so, the management

shall convene a meeting of the Council within thirty days of the receipt of the advice to discuss its merits.

(8) The management shall reply to the workers' representatives within fifty days of the receipt of their advice given under sub-section (6) or sub-section (7) and any such advice shall not be rejected except by the person holding the highest position in the management of the establishment.

(9) The Council may call for reasonable information about the working of the establishment from its management and the management shall supply the information called for by the Council within thirty days.

(10) The meeting of the Council shall held once in every two months.

(11) A collective bargaining agent, any registered trade union or workers in relation to an establishment may lodge a complaint to the Inspector authorised in this behalf regarding non setting up or improper functioning of the Council.

CHAPTER 3.8 EMPLOYMENT AGENCIES

201. Application of this Chapter.- Nothing in this Chapter shall apply to:

- (a) any person licensed under the Pakistan Merchant Shipping Ordinance, 2001 (LII of 2001) to engage or supply seamen to merchant ships;
- (b) employment exchanges or any other public employment service managed by the Government; and
- (c) any person permitted under the Emigration Ordinance, 1979 (XVIII of 1979) to engage persons for placement abroad.

A. REGISTRATION OF EMPLOYMENT AGENCIES

202. Issuance, renewal, cancellation and suspension of registration.- (1) An employment agency, duly registered with the Securities and Exchange Commission of Pakistan, shall apply for its registration, under the Code, to the Deputy Chief Inspector on such form along with such information and documents, payment of such fee and in such manner as may be prescribed.

(2) No employment agency, except those registered as provided under sub-section (1), shall operate as an employment agency and procure, recruit or provide employees to an employer or principal.

(3) The Deputy Chief Inspector may, subject to his satisfaction, issue a registration certificate to the employment agency for operating as an employment agency in such form and manner as may be prescribed.

(4) A registration certificate shall, unless earlier cancelled or suspended by the Deputy Chief Inspector, be valid for three years, and may, in the discretion of the Deputy Chief Inspector and on payment of the prescribed fee, be renewed for a like period.

(5) A registration certificate shall be liable to be cancelled or suspended by the Deputy Chief Inspector for the contravention of any of the provisions of this Chapter or the rules, or any order or direction made or issued thereunder, or the breach of any of its terms and conditions.

(6) Any employment agency aggrieved by an order under sub-section (5) may, within thirty days of the date of the order, appeal to the Chief Inspector, and the Chief Inspector may pass such order thereon as it may deem fit.

203. Protection of personal information.- An employment agency shall ensure protection of the personal data of the job seekers and shall maintain privacy of such data.

B. RECRUITMENT

204. Employment agencies engaged in recruitment.- (1) An employment agency shall not:

- (a) charge a job-seeker a registration fee not exceeding two percent of the applicable minimum wage;

- (b) charge a job-seeker placement or matching services fee not exceeding ten percent of the employee's first monthly remuneration; and
- (c) interfere with the employment relationship between the employer and job-seeker on conclusion of the employment agreement between the employer and the job-seeker.
- (2) An employment agency shall:
 - (a) require a job-seeker to provide police verification character certificate at the time of registration to the employment agency; and
 - (b) maintain a register of successful job-seekers that the agency has provided to the employers.
- (3) An employment agency may:
 - (a) charge a prospective employer such fees that may be agreed between the parties; and
 - (b) create and maintain a functioning and interactive website for registration of job-seekers.

C. SUPPLY OF WORKERS TO A THIRD PARTY

205. Persons engaged through contractor not to perform core operations.- (1) Subject to sub-section (3), no person shall be engaged on permanent basis through an employment agency to perform a work in relation to the core operations of the principal's establishment.

(2) No employee, on a permanent employment agreement, shall be replaced by a temporary employee.

(3) A person can be engaged through an employment agency to fill a temporarily position held by a direct employee of the principal who is on leave.

206. Contracts for supplying workers to be in writing.- (1) A contract between a principal and an employment agency to supply workers to the principal shall be in writing and specify:

- (a) the work to be performed by the workers;
- (b) the number of workers to be provided;
- (c) the term during which the workers may be provided;
- (d) the amounts and mode of payment of remuneration; and
- (e) such other matters as may be prescribed.

(2) A copy of the contract shall be sent to the area Inspector within two weeks of signing of such contract.

207. Workers provided by employment agencies and other contractors to be employees.- (1) Where:

- (a) an employment agency contracts with a principal to provide workers to perform work in the principal's establishment; and
- (b) an employment agency engages a worker to perform such work then, unless the principal becomes the worker's employer, the employment agency shall conclude an employment agreement with the worker.

(2) Sections 141 and 142 apply to employment agreements made under this section.

208. Worker provided to a principal not to be misclassified.- (1) A contractor shall not provide workers to perform work in the principal's establishment on the basis that those workers are not employees if the persons are in fact employees pursuant to section 132.

(2) If a contractor provide workers contrary to sub-section (1), the contractor shall be deemed to be an employment agency and the workers shall be deemed to be employees of the employment agencies unless section 209 applies.

209. Where employees of the employment agency are deemed to be employees of the principal.- If an employment agency provides workers to a principal, the workers shall be deemed to be employees of the principal if:

- (a) sub-section (3) of section 7 applies;
- (b) the workers are provided in breach of section 205; and
- (c) in any case, the workers perform work for the principal for more than three months.

210. Rights of employees engaged by or through employment agencies.- (1) An employment agency shall not provide its employee to a principal without ensuring that such employee enjoys similar remuneration and conditions of employment with direct employees of the principal performing comparable tasks.

(2) An employment agency shall not charge its employees any fee for providing them to principal.

211. Right of contracted workers to establish and join trade union.- (1) Notwithstanding section 74, a worker provided to a principal under this Part may choose to establish or join:

(a) a trade union at the establishment of the principal; and

(b) a trade union at the establishment of the employment agency.

(2) A principal to whom workers have been provided under Heading C, he shall comply with section 75 with respect to those workers.

212. Power to make rules.- The Government may, by notification in the official Gazette, make rules for the purposes of this Part.

CHAPTER 3.9

OBLIGATIONS OF PRINCIPALS TO CERTAIN EMPLOYEES

213. Liability of principal where contractor fails to pay remuneration to employees.- (1) Where:

- (a) a principal in the course of or for the purposes of his trade or business contracts with a contractor to perform the whole or any part of any work for the principal;
- (b) the contractor directs one or more of the contractor's employees to perform that work; and
- (c) the contractor fails to pay remuneration under the Code or any collective agreement, award or agreement to that employee or those employees;

the principal shall be liable to the contractors' employee or employees for the remuneration and other benefits admissible under the Code or rules or collective agreement in respect of that work.

(2) Where the principal is liable to pay remuneration under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the remuneration.

(3) Where a principal becomes aware, through complaint or otherwise, that a contractor has failed to pay remuneration under clause (c) of sub-section (1), the principal may retain from any payment due to the contractor such sums as would meet the principal's liability under sub-section (1) and pay those sums directly to the contractor's employees.

(4) A contractor may not maintain an action against the principal in respect of the sums paid to the employees instead of the contractor under sub-section (3).

(5) Where a contractor, who is himself a principal, is liable to pay remuneration or to indemnify a principal under this section, he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the employee could have recovered remuneration.

(6) Nothing in this section shall be construed as preventing an employees from recovering their remuneration from the contractor instead of the principal.

(7) Where a worker is engaged by or through a contractor, sub-contractor or an employment agency, the principal shall be responsible for compliance with the provisions of the Code at its workplace insofar as the principal exercises control over the worker.

214. Occupational health and safety responsibilities of principals and contractors.- (1) To avoid doubt, where a worker is engaged through a contractor to perform work for a principal, both the contractor and the principal shall comply with their safety and health obligations as provided in Chapter 2.5.

(2) Where sub-section (1) applies, the contractor and the principal shall cooperate to comply with their safety and health obligations provided under the Code.

PART IV
SPECIFIC CATEGORIES OF WORKERS
CHAPTER 4.1
APPLICATION AND DEFINITIONS

215. Application of Part IV.- (1) This Part applies to the following categories of workers as defined:

- (a) agricultural workers;
 - (b) construction workers;
 - (c) domestic workers;
 - (d) home-based workers;
 - (e) interns and apprentices;
 - (f) platform workers; and
 - (g) road transport workers.
- (2) The provisions of Part II shall apply to all workers in this Part.
- (3) The provisions of Part III apply to all workers in this Part if they are engaged under an employment agreement.
- (4) Except in the case of an intern, a worker belonging to one or more of the categories in this Part shall be deemed to be engaged under an employment agreement unless the person engaging the worker proves otherwise in accordance with section 132.
- (5) The Government shall make rules for registration of agricultural workers, domestic workers and home-based workers along with procedures for establishing fund, its utilization, and bodies for regulating such funds for such workers.

CHAPTER 4.2
AGRICULTURE WORKERS

216. Definitions.- (1) In this Chapter:

- (a) "agriculture" means and includes all activities related to cultivation of crops, animal husbandry, poultry, livestock rearing, apiculture, gardening, fishing, aquaculture, sericulture, vermiculture, horticulture, floriculture, agro-forestry, tree plantation, orchards, or any other farming activity or related post-farm activity carried out through self-employment, tenorial cultivation, share cropping, or other types of cultivation including shifting cultivation, collection, use and sale of minor or non-timber forest produce by virtue of ownership rights or usufructuary rights, but does not include subsistence farming;
- (b) "agricultural establishment" for the purpose of the Code, means an establishment engaged in any form of agricultural activity; and
- (c) "agricultural worker" means any person who, individually or jointly with any other person, paid or unpaid, on land owned or held by the worker or worker's family or anyone else, and for any duration of time, engages in agriculture directly or through the supervision of others.

217. Rights of agricultural workers.- (1) An agricultural worker shall receive remuneration in cash or kind, for any agricultural work undertaken individually, or as part of a family unit, considering the working hours and the minimum wage rates notified under the Code.

(2) Part II of the Code shall apply to agricultural workers, regardless of whether they are currently engaged directly or indirectly through labour contractors or male family members, paid or unpaid family help, or are engaged in agricultural work as part of any other arrangements.

(3) An agricultural worker shall receive a written agreement setting out the terms of the engagement, including the rights in this section if he so demands.

(4) The provisions of sections 141 and 142 shall, *mutatis mutandis*, apply to the agreement under sub-section (3).

(5) If necessary, the procedure for exercising the right to freedom of association and collective bargaining may be prescribed by the rules framed under this Chapter.

CHAPTER 4.3
CONSTRUCTION WORKERS

218. Definitions.- In this Chapter:

- (a) "construction work" means the construction, reconstruction, alteration, repair, maintenance or demolition in relation to buildings, streets, roads, railways, airfields, irrigation, drainage, embankment and navigation works, flood control works including storm water drainage works, generation, transmission and distribution of power, water works including channels for distribution of water, oil and gas installations, electric lines, wind power plants, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be notified in this behalf by the Department, but does not include building or other construction work which is related to any mine;
- (b) "construction worker" means any person engaged in construction work; and
- (c) "construction site" means any site at which any of the processes or operations relating to construction work are carried on.

219. Prohibition on employment.— No person shall engage under any arrangement a person who has not attained the age of eighteen years as a construction worker.

220. Written agreements.— (1) Every employer or principal shall enter into a written agreement with a construction worker:

- (a) if the worker is engaged in construction work for a period of more than fifteen days in total; or
- (b) unless the construction work is for own residential purposes and the cost does not exceed rupees 10 million or such amount as may be notified by the government.
- (2) The provisions of sections 141 and 142 shall, *mutatis mutandis*, apply to the agreement under sub-section (1).
- (3) A construction worker shall not be forced to work in a manner inconsistent with the agreement.

CHAPTER 4.4 DOMESTIC WORKERS

221. Definitions.— (1) In this Chapter:

- (a) "Committee" means a Dispute Resolution Committee constituted under section 295;
- (b) "domestic work" means work performed in or for a household or households, including but not limited to cleaning, cooking, child care, old age care, sick care or natal or post-natal care, chauffeuring, security work, gardening and the work ancillary thereto;
- (c) "domestic worker" is a person engaged in domestic work, on full-time or part-time basis, or task basis irrespective of the contractual nature of the engagement; provided that a person who performs domestic work occasionally or sporadically and not on an occupational basis shall not be treated as a domestic worker;
- (d) "family" in relation to a domestic worker means the worker's spouse, children below the age of 18 years and includes children with disability of fifty percent or more, irrespective of their age;
- (e) "household" means individuals who comprise a family unit and who live together under the same roof; and
- (f) "live-in domestic worker" means a domestic worker who resides in the same household for work or has been provided accommodation by the employer.

222. Prohibition on employment.— (1) No child shall be allowed to work as domestic worker in a household in any capacity:

- (2) No person under the age of eighteen years shall be engaged in a household as a live-in domestic worker.
- (3) No person under the age of eighteen years shall be engaged in a household except in light work:

Provided that "light work" shall mean work which is part-time in nature and is not likely to harm the health and safety or negatively affect the education of a domestic worker.

223. Rights and entitlements of domestic workers.- (1) In accordance with Part II and without limiting the application of that Part:

- (a) no extra work may be assigned to the domestic worker without his free will and payment of extra remuneration, as may be agreed between the parties;
- (b) the employer shall provide dignified working conditions and implement necessary occupational safety and health measures for protection of the domestic worker, at no cost to the worker; and
- (c) a domestic worker shall have the right to freedom of association and collective bargaining.

(2) If necessary, the procedure for exercising the right to freedom of association and collective bargaining may be prescribed by the rules framed under this Chapter.

(3) A domestic worker shall enjoy fair terms of engagement as well as decent working conditions and, if they reside in the household or where the accommodation is provided by the employer, decent living conditions that respect their privacy and these conditions include the following:

- (a) no domestic worker shall be required to work for more than eight hours in a day, however, a domestic worker may, exercising this free will, choose to work for such time duration and for such remuneration as may be agreed between the parties, provided that it is consistent with Chapter 2.5 and a domestic worker enjoys a daily rest period of at least twelve consecutive hours between ending and recommencing work;
- (b) any work by a domestic worker in excess of forty-eight hours in a week shall be paid at the rate of two times (200%) the normal hourly basic remuneration;
- (c) the domestic worker and employer may decide mutually the observance of rest intervals, weekly rest days, the public holidays and leaves; and
- (d) live-in domestic workers shall have exclusive use of a bed.

(4) A live-in domestic worker and a full-time domestic worker, shall not be paid less than the minimum wage, notified by the Government.

(5) A part-time domestic worker shall not be paid less than the hourly minimum rate for each hour worked.

(6) In the case of live-in domestic workers, both the parties may agree to payment of up to a part of monthly remuneration as in-kind payment towards cost of food, accommodation and utility bills, insofar as this is prescribed in rules.

(7) Working time spent by domestic workers accompanying household members on holidays or time periods during which domestic workers remain at the disposal of the household to respond to calls of work shall be counted as hours of work.

(8) Notwithstanding anything contained in the Code with respect to the remuneration to the worker, the employer may pay remuneration to the domestic worker through banking channels, commercial or digital, or cash under proper receipt.

224. Written agreements.- (1) Every engagement of a live-in or a domestic worker engaged for more than 24 hours per week shall be subject to issuance of a written agreement showing the terms and conditions of engagement including the nature of work and amount of remuneration.

(2) The provisions of sections 141 and 142 shall, *mutatis mutandis*, apply to the agreement under sub-section (1).

(3) A person who engages a domestic worker may keep a copy of his identification documents during the course of his engagement.

(4) No domestic worker shall be required to perform any work other than what is specifically mentioned in the agreement.

225. Restoration of possession of property to domestic workers.- Upon termination of engagement, personal belongings and any copies of identification documents of a domestic worker or his family shall not be retained, and if any belonging or property of a domestic worker

is not returned, the aggrieved domestic worker may apply to the Dispute Resolution Committee for restoration of the possession of such property and the Committee may, after giving both the parties a reasonable opportunity of being heard, direct the employer to restore to the applicant the possession of the said property within such time period as may be specified in the award.

CHAPTER 4.5

HOME-BASED WORKERS

226. Definitions.— In this Chapter:

- (a) "principal" means any person, establishment, office, firm, factory, society, undertaking, company, shop or enterprise, whether incorporated or not, which engages a home-based worker, directly or indirectly through a contractor or intermediary;
- (b) "home" means the place of temporary or permanent residence of the home-based worker where the worker resides along with his family;
- (c) "home-based work" means production of goods or rendering of services including online work by a person in his home or in other premises of his choice other than the workplace of the employer, for wages, under a contract of employment in writing either directly with the employer or indirectly through a contractor or intermediary subject to limitations mentioned under the Code:
provided that any work performed by a person, registered as an employee or worker under any other law, shall not be deemed as a home-based work by working occasionally at home rather than at his usual workplace;
- (d) "home-based worker" means a person who performs home-based work but does not include worker engaged in explosives, toxic or noxious chemicals and related substances;
- (e) "intermediary" means a person or a legal entity or a body corporate that contracts with a contractor for economic gain pursuant to a home-based work, or a part thereof which the contractor has agreed to perform, for the benefit of hirer, and includes any person, natural or legal, who enters into a contract with a contractor regardless of number of stages of any sub-contracts; and
- (f) "settlement" means the settlement of a dispute or any other matter relating thereto between an employer and a home-based worker.

227. Prohibition of employment children.— (1) No child shall be engaged as a home-based worker, nor he shall perform any type of work as self-worker.

(2) No person shall allow or permit employment or engagement of a person under 18 years of age in hazardous occupations and works, nor such person shall perform any work of hazardous nature as self-worker, as specified in Schedule 2.

228. Rights and entitlements of home-based workers.— (1) Every principal shall enter into a written agreement with a home-based worker. The provisions of sections 141 and 142 shall, mutatis mutandis, apply to such agreement.

(2) A home-based worker shall not be forced to work in a manner inconsistent with the agreement.

(3) No extra work shall be assigned to the home-based worker without his free will and payment of extra remuneration, as agreed between the parties.

(4) The principal shall provide dignified working conditions and implement occupational safety and health measures, consistent with Chapter 2.5 for the protection of the home-based worker, at no cost to such worker.

(5) A home-based worker shall not be paid less than the minimum wage, notified by the Government.

(6) A home-based worker shall have the right to freedom of association and collective bargaining, the procedure for exercising these rights as may be prescribed by the rules framed under this Chapter.

CHAPTER 4.6 INTERNS AND APPRENTICES

229. Definitions.— (1) In this Chapter:

- (a) "apprentice" means a person undergoing training in a trade in pursuance of an apprenticeship contract and whose terms and conditions are regulated under the Punjab Apprenticeship Act 2021 (XVII of 2021);
- (b) "apprenticeship" has the same meaning as defined under Punjab Apprenticeship Act 2021(XVII of 2021);
- (c) "intern" means a person, aged between sixteen and above, undergoing training in his field of study or area of interest to familiarize himself with work;
- (d) "internship" means a temporary period of work experience, promoting the integration of youth in the labour force, and during which the intern acquires professional skills in his field of study or area of interest; and
- (e) "stipend" means a monthly emolument paid by an employer to an intern during entire period of internship.

(2) All other expressions used but not defined in this Chapter shall have the meaning assigned to them in Part I of the Code.

230. Rights and entitlements.— (1) The total duration of internship shall not exceed:

- (a) six months including renewals; and
- (b) the period as per requirements of an educational institution, where applicable.

(2) The stipend paid to an intern shall not be less than fifty percent of the minimum wage or another rate as may be notified by the Government from time to time, except in cases where the internship is a requirement of degree completion by a university unless the employer and the educational institution may agree upon a reasonable stipend.

(3) The employer shall not engage an intern to replace an absent worker or to fill a permanent or regular vacancy in the establishment. If the employer engages an intern contrary to this section, the intern shall be treated as an employee.

(4) Every employer may engage interns up to five percent of the total workforce, as prescribed.

(5) The employer shall not engage an intern to fulfil tasks generally performed by a regular worker at the workplace and such intern shall not be required to work excessive hours.

(6) An intern shall be entitled to annual leave, sick leave, and casual leave, in proportion to the length of internship agreement, in accordance with Chapter 3.5.

(7) The employer shall develop a learning plan for the intern and ensure the assignment of a mentor, the provision of regular feedback and provision of a certificate to the intern at the end of the internship.

(8) An intern shall submit his internship report at the end of the internship, based on the learning plan and work experience received.

(9) The employer shall not be responsible for paying any gratuity to an intern at the end of the internship.

231. Internship agreement.— No person shall be engaged as an intern to undergo internship at an establishment unless such person enters into an internship agreement with the employer. The provisions of sections 141 and 142 shall, *mutatis mutandis*, apply to the agreement under this section.

232. Termination of internship.— (1) Unless terminated earlier under sub-section (2), the internship agreement shall stand terminated on completion of the period of internship.

(2) Either party to the internship agreement may at any time intimate in writing to the other party of the termination of the internship agreement by giving one week's notice or payment in lieu thereof.

(3) The internship shall not create any lien to the employment after completion of internship with the employer. However, if any vacancy is advertised, the intern shall have the right to apply subject to fulfilment of other conditions of the vacancy.

233. Treatment of apprentices under the Code.- (1) Notwithstanding anything contained in the Punjab Apprenticeship Act 2021 (XVII of 2021) or any other law for the time being in force, an apprentice shall have all the rights as an employee, under the Code.

CHAPTER 4.7 PLATFORM WORKERS

234. Definitions.- (1) In this Chapter:

- (a) "active hours" mean the hours that a platform worker is logged in to the platform application and includes the working and waiting hours;
- (b) "digital labour contractor" means a person, natural or legal, who agrees to carry out an assignment for an economic gain for themselves or for the benefit of the digital labour platform and includes any sub-contractor, intermediary, assignee, or successor between the digital labour platform, contractor and the platform worker;
- (c) "digital labour platform" means any natural or legal person providing a commercial service, by means of an algorithm, automated system, or any other equivalent method or technology, that is able to exercise a decision-making or controlling power with regard to the manner in which performance is to be realised and with regard to labour or pay conditions, and which provides a paid service that meets all the following requirements:
 - (i) it is provided, at least in part, through a website or a mobile application;
 - (ii) it is provided at the request of a recipient of the service, in exchange for payment; and
 - (iii) it involves, as a necessary and essential component, the organization of work performed by individuals at a certain location;
- (d) "intermediary" means a person or a legal entity or a body corporate who contracts on behalf of the digital labour platform with a sub-contractor for an economic profit, all or part of a job to which the subcontractor has agreed to perform, for the benefit of the digital labour platform;
- (e) "platform work" means a work arrangement in which organizations or individuals use a digital labour platform to access other organizations or individuals to solve specific problems or to provide specific on-location services, including but not limited to ride-hailing, delivery, domestic, professional and care services or any such other activities which may be notified by the Department from time to time, in exchange for payment;
- (f) "platform worker" means a person who performs work or participates in a work arrangement through a digital labour platform and earns income from such activities while performing work at a certain location;
- (g) "workplace" means the place of work or any place where services are rendered or performed by platform workers, including but not limited to ride-hailing and delivery vehicles, private homes, and other places where the activities are carried out and includes any situation that is linked to work.

(2) All other expressions used but not defined in this Chapter shall have the meaning assigned to them in Part I of the Code.

235. Obligation to provide a contract.- (1) Every engagement of a platform worker by a digital labour platform shall be subject to the issuance of a contract in the prescribed manner, both in English or Urdu, showing the terms and conditions of their engagement, including nature of work, name and addresses of all the parties to the contract who shall be subject to the local legal jurisdiction, where worker is performing work, under the local labour laws. The contract shall be accessible to the platform worker at all times in the mobile application of the digital labour platform. Where a platform worker signs-up through a registration hub, the contents of the contract shall be verbally explained to such worker plainly, in the local language.

(2) The contract shall specify the payment, method of calculation and periodicity of such payments, rest requirements, provisions on occupational safety and health, terms and conditions relating to termination, including deactivation or penalties.

(3) Arbitration clauses that place unreasonable burden on platform workers or have the effect of nullifying the enforcement of platform workers' rights, as guaranteed under the Code, shall be null and void.

(4) The digital labour platform shall notify workers of the proposed changes to the contract in a reasonable time frame of at least two calendar weeks. Contract changes that reverse existing accrued benefits and reasonable expectations on which workers have relied shall be null and void.

(5) The contract shall not include clauses which exclude liability for negligence or unreasonably exempt the platform from any liability, nor clauses that prevent workers from effectively seeking redress for grievances arising from the working relationship.

(6) The provisions on extension and termination of contract for platform workers shall be prescribed under the rules.

236. No engagement of children.- Notwithstanding anything contained in any other law for the time being in force, no person under the age of eighteen years shall be allowed to engage in platform work in any capacity.

237. Right to freedom of association.- The platform workers shall have the right to form and join organizations or unions of their own choice, the right to collective bargaining, and all other rights as provided under Chapter 2.6 of the Code.

238. Working conditions of platform workers.- (1) All platform workers shall enjoy to all fundamental rights as provided under Part II of the Code.

(2) Every digital labour platform shall pay employees' compensation through group insurance or otherwise as provided under Part V of the Code.

239. Digital labour platforms' responsibilities regarding occupational safety and health.-

(1) The provisions applicable to employers in Chapter 2.5 apply to digital labour platforms.

(2) Every digital labour platform shall, in accordance with its obligations in Chapter 2.5:

- (a) take, so far as is reasonably practicable, measures to ensure the safety and health of platform workers;
- (b) develop action plans for worker safety during severe weather conditions including heat and cold waves;
- (c) ensure systematic and effective identification of the existing and new hazards at the workplace on a regular basis;
- (d) inform the platform workers in an understandable manner and in an accessible written form, before any work commences, of the hazards associated with their work, the risks involved, and the preventative and protective measures that need to be taken;
- (e) provide such information, instructions and training, as are necessary to ensure the occupational safety and health of workers;
- (f) provide adequate personal protective equipment as may be approved by the Department to the platform workers, without any cost to them, if hazards cannot otherwise be eliminated or controlled, in order to prevent every risk of harm and of adverse effects on health; and
- (g) maintain in the general register particulars of all accidents, near misses including dangerous occurrences, commuting accidents and suspected cases of occupational diseases at the workplace and submit the extracts thereof to the Chief Inspector.

(3) Occupational safety and health measures shall not involve any expenditure by the platform workers.

(4) The digital labour platforms shall establish rest stops and toilet facilities for platform workers, as prescribed by the rules framed under the Code.

240. Duties of platform workers.- Every platform worker shall ensure, in accordance with Chapter 2.5:

- (a) reasonable care for his own safety and that of other persons who may be affected by his acts or omissions at the workplace;

- (b) proper use of any personal protective equipment provided by the platform; and
- (c) his escape from places of imminent and serious danger and report forthwith to the digital labour platform of such a situation:

Provided that a platform worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall not be penalized.

241. Transparency regarding automated monitoring and decision-making systems.- (1) The algorithms engaged by the digital labour platforms to determine access to work or remuneration, or the type of work shall be transparent, as set out in this section, and workers shall have the opportunity to seek explanation and redress.

(2) A digital labour platform shall inform its workers about:

- (a) automated monitoring systems, which are used to monitor, supervise or evaluate the work performance of platform workers through electronic means; and
- (b) automated decision-making systems which are used to take or support decisions that significantly affect those platform workers' working conditions, in particular their recruitment, access to and organization of work assignments, their earnings, their occupational safety and health, their working time, their promotion and their contractual status, including the restriction, suspension or termination of their accounts and explanation of any disciplinary actions.

(3) Digital labour platforms shall provide the information referred to in sub-section (2) in the form of a document that may be in electronic format and the information shall be presented in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

(4) Digital labour platforms shall make the information referred to in sub-section (2) available to the worker on the first working day and at any time upon the platform worker's request and the platform shall make the information available to the worker prior to the introduction of the changes affecting working conditions, the organisation of work or monitoring of work performance. The information shall be presented in a concise, transparent, intelligible, and easily accessible form, using clear and plain language.

(5) Digital labour platforms shall make the information in sub-section (2) available to the platform workers' representatives, inspectors, Dispute Resolution Committee and Labour Court upon their request.

(6) A digital labour platform shall not use automated monitoring and decision-making systems in any manner that puts undue pressure on persons performing platform work or otherwise puts at risk the physical and mental health of platform workers, contrary to Chapter 2.5, including but not limited to the improper use of incentives such as bonuses related to work duration and punitive practices.

(7) Digital labour platforms shall ensure that automated monitoring and decision-making systems avoid any potential discriminatory decisions issued on the basis of prevalent biases or discriminatory practices.

(8) Digital labour platforms shall ensure ultimate human oversight of all decisions affecting working conditions, including termination.

242. Data portability.- The digital labour platform shall allow, at the request of a platform worker, portability of transaction and reputation data, as may be prescribed by the rules.

243. Maintenance of record.- Every digital labour platform shall keep such records and shall submit returns to the Directorate General of Labour Welfare, at such times, in such form and containing such particulars relating to persons employed by the digital labour platform, as may be prescribed by the rules, including but not limited to information on the number of persons performing platform work through digital labour platforms, their contractual or employment status, copies of employment agreements, average duration of and average income from activity and the general terms and conditions applicable to those contractual relationships.

CHAPTER 4.8 ROAD TRANSPORT WORKERS

244. Definitions.- (1) In this Chapter:

- (a) "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;
- (b) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are packed up or set down by a vehicle;
- (c) "road transport service" means a service carrying passengers or goods or both by road in vehicles for hire or reward;
- (d) "vehicle" means any mechanically or electro-mechanically propelled vehicle, used or capable of being used for the purpose of road transport and includes a tramcar, a trolley-vehicle and a trailer;
- (e) "road transport worker" means a person employed by or in a road transport service on mobile duty, and includes but is not limited to drivers, cleaners, conductors, loaders, attendants, booking clerks, hosts, checkers, security guards, and other persons who travel with a road transport vehicle in a capacity connected with the vehicle, including where the vehicle is used for the business of the employer.

(2) All other expressions used but not defined in this Chapter shall have the same meanings as assigned to them in Part I of the Code.

245. Age limit.- (1) Subject to the provision of sub-section (2), no person shall be employed or engaged in any road transport service unless the said person has attained the age of eighteen years, irrespective of whether the person is engaged under an employment agreement or some other arrangement.

(2) No person below the age of twenty-one years shall be employed as driver in any road transport service for driving a vehicle.

246. Employment agreement.- (1) An employer who employs, transfers or promotes a road transport worker shall on the day of such employment, transfer or promotion, furnish such worker with an agreement in writing specifying the terms and conditions of employment, transfer or promotion, consistent with the provisions of section 140.

247. Hours of work and rest.- (1) No road transport worker shall be employed or engaged on a vehicle:

- (a) for more than five hours at a time before such worker has had an interval for rest of at least half an hour nor for more than seven hours before the worker has had at least two such intervals;
- (b) for more than eight hours in a day; and
- (c) for more than forty-eight hours in a week:

provided that periods of stand-by or waiting, either on the vehicle or at the workplace and during which the road transport worker is not free to dispose of their time as they please, shall be treated as working time.

(2) No driver shall be allowed to drive continuously for more than four hours without a break.

(3) Every road transport worker shall be entitled to have at least twenty-four hours of consecutive rest in a week.

(4) The Chief Inspector may grant such exemptions from the provisions of sub-section (1), sub-section (2) and sub-section (3) as it thinks fit, to meet cases of emergency or of delay by reason of circumstances which could not be foreseen:

Provided that:

- (a) no road transport worker shall be employed overtime in any year in excess of one hundred and fifty working hours; and

- (b) the road transport worker who is employed in excess to his actual hours of duty in a day, he shall be paid double of the actual remuneration for such overtime.

(5) Where, as a result of the making of a rule exempting any worker from the provisions of sub-section (3), a road transport worker is deprived of any of the weekly hours of rest, the road transport worker shall be allowed, compensating hours of rest of equal number so lost:

Provided that no road transport worker shall be caused or allowed to work for more than ten consecutive days without a compensating rest for at least twenty-four hours at one time.

(6) The Chief Inspector or, if authorised in this behalf by the Chief Inspector, an Inspector, may require an employer to fix beforehand the hours of work of the road transport workers so as to conform with the provisions of sub-section (1) and sub-section (2) and may provide for the recording of the hours so fixed.

(7) No road transport worker shall work or cause or allow any other worker to work outside the hours fixed or recorded for the work of the said worker in compliance with any rule under sub-section (6).

248. Restriction on cumulative hours of work.— No road transport worker shall work or be allowed to work on a vehicle or two or more vehicles in excess of the period, as provided in this Chapter.

249. Leave.— In addition to the period of daily and weekly rest, public holidays and leaves as provided in Chapters 3.5 and 3.6 of the Code, shall be equally applicable to the road transport workers.

250. Other benefits and privileges.— All other benefits and privileges under the Code which have not been specified in this Chapter shall be equally applicable to the road transport workers.

CHAPTER 4.9

DISPUTE RESOLUTION FOR WORKERS COVERED BY THIS PART

251. Disputes in relation to workers covered in this Part.— (1) Subject to sub-section (2), a worker or employer covered by this Part may raise a dispute in relation to a matter in this Part with the Dispute Resolution Committee under section 295.

(2) Workers and employers covered by Chapters 4.3, 4.6, 4.7 and 4.8 shall raise their grievances as provided in Chapter 6.5 of the Code.

PART V

LABOUR WELFARE

CHAPTER 5.1

APPLICATION

252. Application of Chapter 5.— Unless there is a specific exclusion, the provisions in this Part apply to:

- (a) employers and employees including mine employees; and
- (b) such other persons that are specified in the Code and as may be prescribed.

CHAPTER 5.2

PROFIT BONUS

253. Profit bonus.— (1) Every employer, having twenty or more employees and making profit in any year, shall pay for that year within three months of the closing of that year to the employees who have been in the employment in that year for a continuous period of not less than ninety days a bonus in addition to the remuneration payable to such employees, in proportion given hereunder:

- (a) if the amount of the profit is equal to or greater than the aggregate of one month's remuneration of all the employees, the bonus payable shall not be less than the amount of such aggregate, subject to the maximum of thirty percent (30%) of such profit; and
- (b) if the amount of the profit is less than the aggregate of one month's remuneration of the employees, the bonus payable shall not be less than fifteen percent of such profit.

(2) The bonus payable to an employee shall bear to such employee's monthly remuneration the same proportion as the total bonus payable by the employer bears to the

aggregate of the remuneration referred to in sub-section (1) and shall be paid directly to the employee's bank account where remuneration are transferred.

(3) Notwithstanding anything contained herein above in this section, profit bonus shall be distributed among the employees as per following categories with the condition that 70% of bonus shall be distributed among employees of category 1 and 30% of bonus shall be distributed among employees of category 2:

Categories:

- (i) Category-1: Employees drawing average monthly remuneration not more than three times the monthly minimum wage notified, from time to time, by the Government.
- (ii) Category-2: Employees drawing average monthly remuneration exceeding than three times the monthly minimum wage notified, from time to time, by the Government.

(4) Nothing in this section shall be deemed to affect the right of any employee to receive any bonus other than that payable under this section to which such employee may be entitled in accordance with the terms of employment or any usage or any settlement or an award of a competent forum.

Explanation.- For the purpose of this section:

- (a) "profit" in relation to a company, means such of the "net profits" excluding profits from sale of the whole or part of the undertaking, profits by way of premium on shares sold, dividend income, profits from dealing in real estate, notional and unrealized accounting adjustments and bounties or subsidies as are attributable to its business, trade, undertaking or other operations; and
- (b) "remuneration" does not, for the purpose of calculating the bonus payable to a person under sub-section (1), include the bonus referred to in the definition of remuneration in the Code.

CHAPTER 5.3

COMPANIES' PROFITS WORKERS' PARTICIPATION FUND

254. Definitions.- In this Chapter:

- (a) "Board" in relation to a Fund means a Board of Trustees constituted under section 256 for the management and administration of the Fund;
- (b) "company" means a company within the meaning of the Companies Act, 2017 (XIX of 2017), 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;
- (c) "Committee" means the Punjab Companies' Profits Workers' Participation Committee constituted under the Chapter;
- (d) "Fund" means a Workers' Participation Fund established under section 255;
- (e) "profits" in relation to a company means such net profits excluding profits from sale of the whole or part of the undertaking, profits by way of premium on shares sold, dividend income, profits from dealing in real estate, notional and unrealized accounting adjustments and bounties or subsidies as are attributable to its business, trade, undertaking or other operations; and
- (f) "scheme" means the scheme set out in Schedule 5;

255. Establishment of Fund.- (1) Every company to which the scheme applies shall:

- (a) establish a Workers Participation Fund in accordance with the scheme as soon as the accounts for the year in which the scheme becomes applicable to it are finalised, but not later than nine months after the close of that year;
- (b) subject to adjustments, if any, pay every year to the Fund not later than nine months after the close of that year five percent of its profits during such year and the Chief Inspector may, for sufficient reasons, extend such time period for one month; and

- (c) furnish to the Chief Inspector and the Board, not later than nine months after the close of every year of account, its audited accounts for that year, duly signed by its auditors.

(2) The amount paid to the Fund under clause (b) of sub-section (1) in relation to a year shall be deemed to have been allocated to the Fund on the first day of the year next succeeding that year.

256. Management of the Fund.— (1) As soon as may be but not later than two months after the establishment by a company of a Fund under section 255, there shall be constituted a Board of Trustees consisting of the following trustees:

- (a) two persons nominated by the Collective Bargaining Agent and if there is no Collective Bargaining Agent, elected by the employees 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 persons holding office as trustees shall elect for one year a person to be the Chairperson of the Board alternately from amongst the trustees nominated or elected under clause (a) of sub-section (1) and those nominated under clause (b) of that sub-section, the first Chairperson being from amongst the latter.

(3) A trustee shall, unless he sooner ceases to represent the interest the trustee was elected or nominated to represent, hold office for such term and on such conditions as may be prescribed by the rules.

(4) All decisions of the Board shall be expressed in terms of the opinion of the majority of the trustees and, in the event of the tie, the Chairperson shall have and exercise a second or casting vote.

(5) The Board shall manage and administer the Fund in accordance with the provisions of this Chapter, the scheme and any rules made in this behalf.

(6) The Board shall, in the exercise of its powers and performance of its functions under this Chapter, be subject to such directions as the Chief Inspector may, from time to time, give.

(7) The Chief Inspector, if he is of the opinion that a trustee or a Board has been persistently failing in the performance of its functions or has generally been acting in a manner inconsistent with the objects and interests of the Fund, may, after giving such trustee or, as the case may be, the Board, an opportunity of showing cause and he may by order:

- (a) remove such trustee from the office or direct that the Board shall stand suspended 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 trustee removed from office or, as the case may be, the re-constitution of the Board, the powers and functions of the trustee so removed or the Board shall be exercised and performed by a person specified in the order.

(8) A casual vacancy in the office of a trustee shall be filled as soon as may be by the election or, as the case may be, nomination of another person and the person elected or nominated to fill such vacancy shall hold office for the unexpired term of the predecessor.

(9) Upon the suspension of a Board under sub-section (7), the trustees in that Board shall cease to hold office and references to the Board in this Chapter, the scheme and the rules shall be construed as references to the officer specified in the order under that sub-section.

(10) Before the expiry of the period of suspension, 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.

(11) No act or proceeding of the Board shall be invalid or questioned merely on the ground of the existence of a vacancy in, or defect in the constitution of the Board.

257. Power to call for information.— (1) The Chief Inspector may, at any time, call upon a company or a Board to furnish it with such information and 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, the rules and the scheme.

(2) An Inspector appointed under the Code may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation and distribution of the benefits in accordance with paragraph 4 of the scheme provided in Schedule 5 and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as such Inspector may deem necessary for carrying out the purposes of the Code and if found, the claims of employees arising out of benefits under paragraph 4 of the said scheme, unsettled, the said Inspector, except penalties provided under section 386 of the Code, shall on behalf of workers get claims settled under sub-section (2).

258. Settlement of disputes, etc.— (1) Any difference arising between the Board and the company relating to the administration of the scheme shall be reported to the Chief Inspector whose decision thereon shall be final.

(2) All claims of an employee relating to the benefits of the scheme, whether against the Board or the company, shall be settled in the same manner as provided in Chapter 6.2 of the Code, for the settlement of claims arising out of deductions from remuneration.

259. Delegation of power.— The Chief Inspector may, by notification in the official Gazette, direct that all or any of its powers or functions under this Chapter may, subject to such limitations, restrictions or conditions, if any, as may be specified in the notification, be exercised or performed by any officer subordinate to it or by any authority so specified.

260. Power to amend Schedule 5.— The Department may, by notification in the official Gazette and subject to the approval of the Government, amend the Schedule 5.

CHAPTER 5.4.

GROUP INCENTIVE SCHEME

261. Group incentive scheme.— (1) Every employer employing fifty or more employees may introduce a group incentive scheme to provide incentive to the employees for greater production or delivery of services. The scheme shall be included in the internal work regulations and provide the manner in which the performance of different groups of employees shall be evaluated.

(2) The incentive shall be in the form of additional remuneration or additional paid leave or in such other form, as specified in the internal work regulations, to the members of the group of employees whose performance exceeds that of the other groups or the average of all the groups.

(3) A collective bargaining agreement may provide for a group incentive scheme, in the manner provided for in this section.

CHAPTER 5.5

COMPULSORY GROUP INSURANCE

262. Compulsory Group Insurance.— (1) The employer, having fifty or more employees, shall have insured all such employees who have completed at least three months of service, against death and disability, whether natural or due to an employment injury or occupational disease.

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

(3) The amount for which each employee shall be insured shall not be less than the amount of compensation specified in Schedule 8 of the Code.

(4) Where the employer fails to have an employee insured in the manner laid down in sub-sections (1), (2) and (3) and such employee suffers death or injury, the employer shall pay, in the case of death, to the heirs of such employee, or in the case of injury, to the employee, such sum of money as would have been payable by the insurance company had such employee been insured.

(5) All claims of such employees or their heirs for recovery of money under sub-section (4) shall be settled in the same manner as provided for the determination and recovery of compensation under Chapter 5.6 of the Code.

CHAPTER 5.6

WORKPLACE COMPENSATION

263. Definitions.— In this Chapter, unless there is anything repugnant in the subject or context:

- (a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of eighteen years;

- (b) "Commissioner" means a Workplace Compensation Commissioner appointed under the Code;
- (c) "compensation" means compensation as provided for by this Chapter;
- (d) "dependent" means any of the following relatives of a deceased worker:
 - (i) a widow, minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and
 - (ii) if wholly or in part dependent on the earnings of the worker at the time of his death, a widower, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter, legitimate or illegitimate, if married and a minor or if 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 parent of the child is alive, or, where no parent of the worker is alive, a paternal grandparent;
- (e) "partial disablement" means, where the disablement is of a 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 Schedule 6 of the Code shall be deemed to result in permanent partial disablement;
- (f) "medical practitioner" means any person registered as medical practitioner with the Pakistan Medical and Dental Council; and
- (g) "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 Schedule 6 where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent.

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

Provided that the employer shall not be so liable:

- (a) in respect of any injury which does not result in the total or partial disablement of the worker for a period exceeding four days;
- (b) in respect of any injury, not resulting in death, caused by an accident which is solely 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 workers; or
 - (iii) the wilful removal or disregard by the worker of any safety guard or other device which the worker knew to have been provided for the purpose of securing the safety of workers.

(2) If a worker contracts any disease specified in Schedule 7 as an occupational disease peculiar to that employment, whilst in the service of an employer for a continuous period of not less than six months, that 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:

Provided that for the purpose of this sub-section a period of service shall not be deemed to be continuous if it includes a period of service under any other employer in the same kind of employment.

(3) The Government may, after tripartite consultation, by notification in the official Gazette, revise Schedule 7.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a worker in respect of this section for any occupational disease unless the disease is directly attributable to a specified injury by accident arising out of and in the course of employment.

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

(6) No suit for damages by a worker shall be maintained in any Court of law in respect of any injury:

- (a) if a worker has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if an agreement has been executed between a worker and an employer providing for the payment of compensation in respect of the injury in accordance with the provisions of the Code.

265. Amount of compensation.- (1) Subject to the provisions of the Code, the amount of compensation shall be as follows:

- (a) where death results from the injury to a worker, the amount shown in the second column of Schedule 8 thereof;
- (b) where permanent total disablement results from the injury to a worker, the amount shown in the third column of Schedule 8 thereof;
- (c) where permanent partial disablement results from the injury:
 - (i) in the case of an injury specified in Schedule 6, such percentage of the compensation which would have been payable in the case of permanent total disablement 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 Schedule 6, 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
 - (iii) in the case of more than one injury being caused by the same accident, the amount of compensation payable under this head 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;
- (d) in the case of temporary disablement, whether total or partial, resulting from the injury, a half-monthly payment shall be payable at the rate of the amount shown in the fourth column of the Schedule 8, on the sixteenth day after the expiry of waiting period of four days from the date of the disablement, and thereafter half-monthly during the disablement, or during a period of five years, whichever period is shorter, as prescribed.

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

(3) The Government may, after tripartite consultation, by notification in the official Gazette, revise the amount of compensation specified in Schedule 8.

266. Method of calculating remuneration.- The expression "monthly remuneration" means the amount of remuneration deemed to be payable for a month's service whether the remuneration is payable by the month or by whatever other period or at piece rates and calculated, as prescribed.

267. Form of application.- (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependent or dependents 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.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars:

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;
- (b) in the case of a claim 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 due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) except in the case of an application by dependent for compensation, a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

268. Review.— (1) Any half-monthly payment payable under the Code, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the worker accompanied by the certificate of a medical practitioner that there has been a change in the condition of the worker or, subject to rules made under the Code, on application made without such certificate.

(2) Any half-monthly payment may, or review under this section, may subject to the provisions of the Code, 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 a worker is entitled less any amount which he has already received by way of half-monthly payments.

269. Commutation of half-monthly payments.— Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

270. Distribution of compensation.— (1) No payment of compensation in respect of a worker whose injury has resulted in death, and no payment of lump sum as compensation to a dependent or a person under disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased worker, an employer may make to any dependent advances on account of compensation not exceeding ten percent of the amount of the compensation payable to that dependent shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum above one month's wage for unskilled workers, as notified by the Government, payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt by the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) The Compensation deposited in respect of a deceased worker shall, subject to any deduction made under the rules, be apportioned among the dependents of the deceased worker or any of them in such proportion as the Commissioner thinks fit, or may in the discretion of the Commissioner, be allotted to any one dependent.

271. Compensation not to be assigned, attached or charged.— Save as provided by the Code, no lump sum or half-monthly payment payable under the Code 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 the same

272. Notice and claim.— (1) A claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is made before him within three years of the occurrence of the accident or, in case of death, within three years from the date of death.

(2) Where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 264 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) Non-submission of notice or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim:

- (a) if the claim is made in respect of the death of a worker resulting from an accident which occurred on the premises of the employer, or 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 or any one of several employers or 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 Commissioner 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 made in due time as provided in this section, if the Commissioner is satisfied that the failure so to give the notice or make 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) The Department may require that any prescribed class of employers shall maintain at their premises at which workers are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured worker employed on the premises and to any person acting bona fide on his behalf.

(7) A notice under this section may be served by delivering it at, or sending it by registered post or courier service 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.

273. Arrangements for transfer of money paid as compensation.— (1) The Government may, by notification in the official Gazette, make rules for the transfer of money deposited with a Commissioner under the Code which has been awarded to, or may be due to, any person for receipt, distribution and administration of any money deposited under the law relating to worker's compensation which has been awarded to, or may be due to, any person.

Provided that no sum deposited under the Code in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the Code.

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

274. Power to require from employers statements regarding fatal accidents.— Where a Commissioner 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, he may require the employer to submit, within thirty days, a statement, in the prescribed manner.

275. Reports of fatal accident.— Where, pursuant to section 59, notice is required to be given on behalf of an employer, of any accident occurring on the employer's premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Government has so prescribed, the person required to give the notice may, instead of sending such report to the Commissioner, send it to the Chief Inspector to whom he is required to give the notice.

276. Officer authorized may refer cases for payment of compensation.— The Director Labour, an Inspector or any other officer authorized by the Department for this purpose may refer, in the prescribed manner, to the Commissioner cases of workers who have not been paid due compensation by employers under the provisions of the Code.

277. Medical examination.— 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 effected, have the worker examined free of cost by a medical practitioner, and the worker shall appear for such examination and a worker who is in receipt of a half-monthly payment under this Chapter, shall if so required, also present himself for such examination from time to time, as prescribed:

Provided that a worker not examined free of cost as aforesaid he may get himself examined by a medical practitioner and the expenses of such medical examination shall be reimbursed to the worker by the employer:

Provided further that a worker shall not be required to present himself for examination by a medical practitioner otherwise than in accordance with the rules.

278. Liability of principals.— (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 the principal would have been liable to pay if that worker had been immediately employed by the principal, and where compensation is claimed from the principal, the Code shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the remuneration 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, or any other person from whom the worker could have recovered compensation. Where a contractor, who is himself a principal, is liable to pay compensation or to indemnify a principal under this section, he shall 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. All questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a worker from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

279. Insolvency of employer.— (1) Where any employer has entered into a contract with any insurers in respect of any liability under the Code to a worker, then in the event of:

- (a) the employer becoming insolvent or making a composition or scheme of arrangement with his creditors; or
- (b) 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 employee, 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 liability of 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 or the payment of premia, 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 employee:

Provided that the provisions of this sub-section shall not apply in any case in which the worker fails 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 Companies Act, 2017 (XIX of 2017), 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 where for 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 effect accordingly.

(5) Where the compensation is a half-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 half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 269 and a certificate of the Commissioner 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 merely for the purposes of reconstruction or of amalgamation with another company.

280. Returns as to compensation.- After every six months, the person employing workers shall send in such form to Director Labour and Commissioner, 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.

281. Contracting out.- Any contract or agreement whether made before or after the commencement of the Code, whereby an employee relinquishes any right of compensation from the employer for the personal injury arising out of or to 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 the Code.

282. Proof of age.- Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a workplace, a valid certificate granted by a Medical Board in services hospitals or Medical Superintendent of a Civil Hospital, as the case may be, before the occurrence of the injury, shall be conclusive proof of the age of such person.

283. 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 half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a worker under a disability a memorandum thereof shall be sent by the employer to the Commissioner, who 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 Commissioner of notice to the parties concerned;

- (b) the Commissioner may at any time rectify the register; and
- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a worker under a disability ought not to be registered 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, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he 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 the Code notwithstanding anything contained in the Contract Act, 1872 or in any other law for the time being in force.

284. Effect of failure to register agreement.- Where a memorandum of any agreement the registration of which is required by section 283, is not sent to the Commissioner, the employer shall be liable to pay the full amount of compensation liable to be paid under the provisions of the Code, and notwithstanding anything contained in the proviso to sub-section (1) of section 265, employer shall not, unless the Commissioner otherwise directs, deduct more than half of any amount paid to the worker by way of compensation whether under the agreement or otherwise.

CHAPTER 5.7 INFRASTRUCTURE FACILITIES

285. Definitions.- The following expressions shall have the meanings hereby respectively assigned to them as under:

- (a) "essential articles" mean articles specified in Schedule 9;
- (b) "fair price" means the price at which an essential article is purchased or procured by the employer, or controlled price, if any, fixed by the Government for the same essential article, whichever is less, and where an essential article manufactured or produced in an establishment is to be supplied by that establishment for the fair price shop thereof, the ex-factory wholesale price of such article; and
- (c) "fair price shop" means a shop established and maintained by an employer in or near an establishment for selling essential articles at fair price to the employees and includes any room or premises where stock of essential articles is kept or stored.

286. Establishment of fair price shops.- Every employer, engaging more than five hundred employees, shall, within six months from the date of its application, establish and maintain a fair price shop for its workers, with specifications as prescribed by the rules:

Provided that Chief Inspector may, for sufficient reasons, by an order in writing extend the said period in respect of any establishment or class of establishment:

Provided further that all branches of an establishment in one city shall be considered a single establishment for the provisions of this Chapter.

287. Day-care and feeding facilities.- (1) Every employer employing fifty or more persons shall provide a suitable day-care facilities for the use of children under the age of six years belonging to such employees and the space so provided shall conform to the conditions, as prescribed by the rules.

(2) Depending on the age of the children, the day-care facility shall also be used for nursing or feeding children for which privacy curtains shall be installed allowing mothers to nurse children under hygienic and private conditions.

(3) Where there is a cluster of enterprises, multiple employers may jointly arrange day-care facilities for their employees or engage the services of a private day-care centre, on cost to be borne by the employer, within a radius of five hundred meters.

288. Labour camps for infrastructure projects.- Every employer having two hundred and fifty or more workers on an infrastructure project shall establish a labour camp complying with provisions, as prescribed by the rules.

289. Power to make rules.— The Government may, by notification in the official Gazette, makes rules for the purposes of this Part.

PART VI

CHAPTER 6.1 - DISPUTE RESOLUTION BODIES

A. Mediators

290. Mediators.— (1) The Department may use alternative dispute resolution methods to resolve cases of grievances pertaining to individual labour disputes relating to service, appointment, remuneration, harassment, safety, and promotion matters:

Provided that for the purposes of this section, alternative dispute resolution refers to mediation and negotiation.

(2) The Department shall, by notification in the official Gazette, appoint as many persons as it considers necessary to be the mediators for the purposes of the Code and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform their functions.

(3) The mediator shall adopt the procedure as prescribed by the rules.

B. Conciliators and Board of Conciliators

291. Conciliators.— (1) The Department shall, by notification in the official Gazette, appoint as many persons as it considers necessary to be the conciliators in respect of industrial disputes under the Code and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each of them shall perform their functions:

Provided that the conciliator may not be the inspector of the area for which he is appointed.

(2) If an industrial dispute has arisen in an essential service, or a public utility service, the Department may, by notification in the official Gazette, appoint a Board of Conciliators, comprising two senior officers, not below the rank of BS-18.

(3) The Board of Conciliators so appointed shall cease to exist as soon as a collective agreement is signed between the parties through successful conciliatory proceedings or on the failure of conciliatory proceedings, at which time the Board of Conciliators shall issue a failure certificate.

(4) Upon issuance of a failure certificate under sub-section (3), the Department may refer the case to the Labour Court pursuant to section 355.

C. Arbitrators

292. Appointment of arbitrators.— (1) An arbitrator may be appointed by:

- (a) the parties themselves; or
- (b) if the parties are unable to agree, the Government from among the arbitrators provided in sub-section (2).

(2) The Government shall, in consultation with the social partners, maintain a panel of independent arbitrators who meet such qualifications as may be prescribed.

D. Payment of Wages Authority

293. Payment of Wages Authority.— (1) The Government, on the recommendation of the Department, may appoint an Employees' Compensation Commissioner or any other officer not below the rank of BS-17 of the Directorate General of Labour Welfare or Mines Labour Welfare Commissionerate to be the Payment of Wages Authority to hear and decide for any specified area all claims arising out of underpayments, payment below the notified rates of minimum wages, deductions from remuneration, or non-payment of dues relating to the provident fund or gratuity, bonus, overtime, leave encashment, notice pay or travelling allowance or any other emoluments payable under any law or delay in the payment of remuneration, of persons employed or paid in that area.

(2) The Authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Criminal Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(3) The Authority shall have the powers of Assistant Collector (Grade-I) under the Punjab Land Revenue Act 1967 (XVII of 1967) or the law for the time being in force and may exercise such powers for the purposes of the Code.

E. Workplace Compensation Commissioner

294. Appointment and powers of Commissioner.- (1) The Government, on the recommendation of the Department, may by notification in the official Gazette, appoint any officer not below the rank of BS-17 of the Directorate General of Labour Welfare or Mines Labour Welfare Commissionerate to be a Workplace Compensation Commissioner for such local area as may be specified in the notification.

(2) Where more than one Commissioner have been appointed for any local area, the Government may, by general or special order, regulate the distribution of business between them.

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under the Code, choose one or more persons possessing special knowledge, of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(4) The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Commissioner shall be deemed to be a Criminal Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(5) The Commissioner shall have the powers of Assistant Collector (Grade-I) under the Punjab Land Revenue Act 1967 (XVII of 1967) or any other law for the time being in force and may exercise such powers for the purposes of the Code.

(6) Without prejudice to the provisions of sub-section (5), the Commissioner may recover in the prescribed manner any amount referred to therein by distress and sale of the movable property belonging to the person by whom the amount is payable, or by attachment and sale of the immovable property belonging to such person.

(7) The Commissioner may recover as an arrear of land revenue any amount payable by any person under the Code, whether, under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

(8) A Commissioner may, if he thinks fit, submit any question of law for the decision to the Tribunal and, if he does so, he shall decide the question in conformity with such decision.

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

F. Dispute resolution committee for special categories of workers

295. Dispute Resolution Committee for special categories of workers.- (1) The Department may, by notification in the official Gazette, appoint separate tripartite-plus Dispute Resolution Committees for special categories of workers hereinafter referred to as 'Dispute Resolution Committee', comprising of such number of members and the Chairperson and at such level as may be prescribed by the rules, to hear and decide for any specified area, all claims, complaints, and disputes arising out of and in connection with enforcement of the provisions of Part IV in individual cases.

(2) The Government shall allocate funds for constitution and smooth functioning of the Dispute Resolution Committees.

296. Powers of the dispute resolution committees.- Every Dispute Resolution Committee shall, while holding an enquiry regarding a dispute or complaint under the Code or the rules, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters:

- (a) implementation of relevant provisions of the Code;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of documents and material objects;
- (d) issuing commissions for the examination of witnesses; and
- (e) such other matters as may be prescribed.

CHAPTER 6.2 THE LABOUR COURT AND LABOUR APPELLATE TRIBUNAL

A. Labour Court

297. Labour Court.- (1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and, where it establishes more than one Labour Court, it shall specify, in the notification, the territorial limits within which or the industries or classes of cases in respect of which, each of the Labour Court shall exercise jurisdiction under the Code.

(2) A Labour Court shall consist of one presiding officer to be appointed by the Government.

(3) A person shall not be qualified for appointment as presiding officer unless such person is a District and Sessions Judge.

(4) A Labour Court shall:

- (a) adjudicate and determine a dispute which has been referred to, or brought before it under the Code, including pursuant to Chapter 6.5;
- (b) hear appeals under Chapter 6.6;
- (c) try contraventions under the Code, including contraventions in Chapter 6.7 and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf;
- (d) make orders with respect to strikes under Heading D of Chapter 2.6;
- (e) deal with cases of unfair labour practices specified in sections 77 and 78 on the part of employers, workers, trade unions, of any of them or persons acting on behalf of any of them, whether committed individually or collectively, in the manner laid down under section 335 or section 337 or in such other way; and
- (f) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under the Code or any other law.

298. Procedure of Labour Court.- (1) Subject to the provisions of the Code, while trying an offence, a Labour Court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal Procedure, 1898 (V of 1898).

(2) No court fee shall be payable for filing, exhibiting or recording any document in a Labour Court.

(3) If the parties to a case, at any time before a final order is passed by the Labour Court, satisfy the Labour Court that the matter has been resolved by them amicably and that there are sufficient grounds for withdrawing the case, it may allow such withdrawal.

(4) If the Labour Court trying any case instituted at the instance of the Chief Inspector or an Inspector under the Code is of opinion that the case is one which should in lieu of a prosecution, be referred to a formal investigation under section 61, it may stay the criminal proceedings and report the matter to the Government for its direction of investigation in such matter.

299. Powers of Labour Court.- (1) A Labour Court shall, for the purpose of adjudicating and determining any dispute under Chapter 6.5 or otherwise, 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, 1908 (V of 1908), including the powers of:

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) A Labour Court shall, for the purpose of trying a contravention under the Code under Chapter 6.7 or otherwise, have the same powers as are vested in the Court of a Magistrate of the first class empowered under section 30 of the Code of Criminal Procedure, 1898 (V of 1898).

300. Power to make remedial orders.- (1) In addition to an order under section 299, The Labour Court may, subject to its satisfaction, make the following order for:

- (a) granting an injunction, or interim injunction, to prevent, stop or remedy the effects of a contravention;

- (b) compelling a person to comply with, or restraining a person contravening, an instruction issued by a regulatory agency, or an Inspector;
 - (c) awarding compensation for loss that a person has suffered because of the contravention, including lost pay;
 - (d) hiring or reinstatement of a person;
 - (e) appointing a person to a particular position;
 - (f) a person to:
 - (i) undertake a specified project for the general improvement of workers' health and safety within the period specified in the order; or
 - (ii) notify a specified person or specified class of persons, in the way specified in the order, of the contravention, its consequences, the penalty imposed and any other related matter; and
 - (g) requiring a person to suspend any activity or operation involving child labour or bonded, forced or compulsory labour in contravention of the Code, or serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard for as long as the contravention continues.
- (4) An order for a person's reinstatement shall be an order that the person's employer at the time of the dismissal reinstate the person by:
- (a) reappointing the person to the position in which the person was employed immediately before the dismissal; or
 - (b) appointing the person to another position, including in an associated entity controlled by the employer, on terms and conditions no less favourable than those on which the person was employed immediately before the dismissal.
- (5) If the Labour Court makes an order under sub-section (1), it may also pass any order to maintain the following:
- (a) continuity of the person's employment; and
 - (b) period of the person's continuous service with the employer, or an associated entity.
- (6) The Labour Court may make an order under this section:
- (a) on its own initiative, during proceedings before the it ; or
 - (b) on an application.
- (7) A Labour Court may give interim relief by making interim orders.
- (8) An interim order passed by a Labour Court shall stand vacated on the expiry of twenty days unless, for reasons to be recorded in writing, it is, from time to time, for a period not exceeding twenty days, extended by the Labour Court.

301. Commencement and conclusion of Labour Court proceedings.- (1) Proceedings before a Labour Court shall be deemed to have commenced on the date on which it is referred to the Labour Court.

(2) Proceedings before a Labour Court shall be deemed to have concluded on the date on which the award or decision is delivered.

302. Form of awards and decisions of Labour Court.- (1) An award or decision of a Labour Court shall be given in writing and delivered in open Court and two copies thereof shall be forwarded, forthwith to the parties.

(2) Subject to section 303 and save as otherwise expressly provided in the Code, all awards, decisions and sentences of a Labour Court shall be final and shall not be called in question in any manner by or before any Court or other authority.

303. Right of appeal to Tribunal.- Any party aggrieved by a final award, decision or sentence under Chapter 6.5 or 6.7, other than:

- (a) an interim order; or
- (b) a decision under section 346 may be made within thirty days of the communication of the final award, decision or sentence, prefer an appeal to the Tribunal, whose decision thereon shall be final.

B. Labour Appellate Tribunal

304. Labour Appellate Tribunal.— (1) The Government may, by notification in the official Gazette, constitute as many Tribunals consisting of one Member, who has been a Judge or an Additional Judge of the Lahore High Court, as it may consider necessary and, where it constitutes more than one Tribunal, it shall specify in the notification the territorial limits within which or the class of cases in relation to which, each one of them shall exercise jurisdiction under the Code.

(2) The terms and conditions of the appointment of the Member of the Tribunal shall be such as the Government may determine.

(3) The Tribunal may, on appeal, confirm, set aside, vary or modify the award, decision or sentence given or passed, including under Chapter 6.5 and 6.7, and shall exercise all the powers conferred by the Code to the Court.

(4) The Tribunal shall decide the appeals within a period of one hundred and twenty days from filing of the appeal, provided that such decision shall not be rendered invalid by reason of any delay.

(5) The Tribunal shall follow such procedure as may be prescribed.

(6) The Tribunal may, in case of non-compliance to its decisions or orders or of the Labour Court, may punish such person with a fine not less than three penalty units.

(7) Any person punished under sub-section (6) may, within thirty days of passing of such punishment, appeal to the Lahore High Court.

(8) A Tribunal may, subject to its appellate jurisdiction, on the application of a party, transfer an application or proceeding from one Labour Court to other Labour Court.

(9) Notwithstanding anything contained in sub-section (4), if in an appeal is made against the order of a Labour Court directing the reinstatement of a worker and the Tribunal makes an order staying the operation of the order of the Labour Court, the Tribunal shall decide such an appeal within ninety days.

(10) If an appeal under sub-section (9) is not decided within ninety days, the interim order of the Tribunal shall stand vacated on the expiration of that period.

CHAPTER 6.3**CONSULTATIVE AND REGULATORY AGENCIES****A. Provincial Tripartite Consultative Council**

305. Establishment of Provincial Tripartite Consultative Council.— (1) Within twelve months of the commencement of the Code, the Government shall, by a notification in the official Gazette, establish a Provincial Tripartite Consultative Council consisting of the following Members to be appointed by it:

| | |
|---|----------------------|
| (a) Secretary of the Department. | Chairperson |
| (b) Additional Secretary of the Department. | Member |
| (c) Director General Labour Welfare, Punjab. | Member |
| (d) Commissioner, Punjab Employees Social Security Institution. | Member |
| (e) Secretary, Punjab Workers Welfare Fund. | Member |
| (f) Secretary, Punjab Minimum Wages Board. | Member |
| (g) Director Headquarters, Directorate General of Labour Welfare. | Member/ Secretary |
| (h) Mines Labour Welfare Commissioner, Punjab. | Member |
| (i) representatives, not below the rank of Deputy Secretary, of Finance, Industries, Commerce and Investment, Agriculture, Local Government, Social Welfare and Bait-ul-Maal, Women Development, Human Rights and Minorities Affairs Departments. | Members |
| (j) four persons representing the employers including at least one woman. | Members |
| (k) four persons representing the workers including one woman. | Members |

(2) For the purpose of performing its functions, the Council may co-opt the following additional members as and when required:

- (a) members to represent the employers connected with the sector concerned;
- (b) member to represent the workers engaged in such sector; and
- (c) independent experts.

(3) The independent experts shall be co-opted from the persons with adequate knowledge of labour issues and economic conditions.

(4) The Members at clauses (j) and (k) shall be appointed on the nominations by the Department from the most representative organizations of employers and workers respectively.

(5) The non-official members of the Council shall hold office during the pleasure of the Government.

(6) The Council may constitute such Committees consisting of such of its Members as it may deem fit, to exercise such powers and perform such duties, subject to such conditions, as it may determine.

(6) The term of office of the non-official members, the manner of filling casual vacancies therein, the procedure and conducting of meetings of the Council, the Committees and all matters connected therewith, shall be such as may be prescribed.

(7) The Council shall meet at least thrice in a year.

306. Functions of Provincial Tripartite Consultative Council.— The Council shall advise the Government on employment conditions and labour market issues, including but not limited to:

- (a) monitor and review the provincial labour legislation to ensure alignment with international labour standards;
- (b) review the implementation and compliance with the enacted legislation;
- (c) propose amendments in the Code and the rules;
- (d) report on international labour standards, including matters arising out of reports to be made under Article 22 of the Constitution of the International Labour Organization;
- (e) draft replies of the Government to the questionnaires on the agenda of the International Labour Conference in accordance with Article 19 of the Constitution of the International Labour Organization;
- (f) recommend proposals concerning the adoption of a new convention or denunciation of already ratified conventions;
- (g) propose policies and guidelines on dispute prevention;
- (h) propose policies and guidelines on the application and enforcement of the Code by Inspectors and on any other activities of Inspectors through submission of annual inspection reports;
- (i) propose policies for prevention and reduction of unemployment, including the development and implementation of policy on employment; and
- (j) any other matter on the direction of Government or it may deem necessary.

B. Provincial and District Vigilance Committees on Forced, Bonded Labour, and Trafficking in Persons

307. Provincial Vigilance Committee.— (1) The Government shall, by notification in the official Gazette, constitute a Provincial Vigilance Committee consisting of a Chairperson who shall be Chief Secretary, Punjab and not more than twelve Members from the Labour and Human Resource, Revenue, Police, Home, Human Rights and Minorities Affairs Departments and Director General Labour Welfare, who shall be Secretary to the Committee, and two Members each from employers, workers and civil society, provided that one-fourth members of the Committee shall be women.

(2) The Provincial Vigilance Committee shall:

- (a) review the implementation of the Code and the action plan relating to abolition of bonded or forced labour, trafficking in persons and the rehabilitation of persons freed from bonded or forced labour;
- (b) monitor the working of the District Vigilance Committees constituted under section 308;

- (c) address the concerns of national and international bodies on matters relating to the bonded or forced labour; and
- (d) advise on issues relating to bonded labour and their rehabilitation.

308. District Vigilance Committees.— (1) The Home Department shall by a notification in the official Gazette, constitute the District Vigilance Committees in each district in the prescribed manner, consisting of not more than seven members being representatives of the district administration, district Police, Public Prosecution, Labour and Human Resource Department, civil society organizations, representatives of recognized workers' and employers' organizations, under the convenorship of Deputy Commissioner. The representatives from Government departments shall not be below the rank of BS-17.

(2) The District Vigilance Committees shall:

- (a) advise the district administration on the matters relating to the effective implementation of the Code and to ensure its implementation in a proper manner;
- (b) help in the rehabilitation of the freed bonded labourers;
- (c) monitor the implementation of the provisions of the Code;
- (d) provide necessary assistance to the bonded labourers;
- (e) create awareness amongst the labourers and the employers about their rights and liabilities under Chapter 2.2; and
- (f) resolve the disputes amongst the labourers and the employers referred to it by the authorized officer.

(3) A District Vigilance Committee may constitute a Sub-Committee from amongst its members for carrying out the functions assigned to it under sub-section (2).

C. Provincial Committee on Child Labour

309. Provincial Committee on Child Labour.— (1) The Department shall, by notification in the official Gazette, constitute a Committee to be called the Provincial Committee on Child Labour to advise the Government for appropriate legislative, administrative and other measures for the eradication of child labour and improving the employment of young persons as per international instruments.

(2) The Committee shall consist of a Chairperson and not more than eight Members of which three Members shall be from the Government, two from the employers, two from the workers and one from the civil society; provided that at least one Member each from employers and workers shall be a woman.

(3) The Committee shall meet on quarterly basis and regulate its procedure for meeting and conduct of its business.

D. Equal Employment Opportunity Office

310. Equal employment opportunity office.— (1) The Department shall establish an office to be called as the Equal Employment Opportunity Office for the purposes of providing equality of opportunity and treatment in the matters of employment and occupation and it shall promote, analyse and monitor:

- (a) equal treatment between all people without discrimination based on any of the grounds referred to in Chapter 2.4.; and
- (b) the elimination of violence and harassment at work places referred to in Chapter 2.5.

(2) In carrying out its work, the office may in particular:

- (a) design and implement awareness raising campaigns to eliminate discrimination and violence and harassment and promote equality;
- (b) publish reports, issue opinions and recommendations and conduct studies on all issues related to discrimination referred to in Chapter 2.4 of the Code and on preventing violence and harassment in accordance with Chapter 2.5;
- (c) produce and provide all information and documentation useful within the framework of its work including but not limited to studies on objective job evaluations to address gender pay gap, awareness raising material for use by workers and employers;

- (d) conduct training on eliminating discrimination and violence and harassment at work and on promoting equal remuneration;
- (e) investigate complaints of discrimination in accordance with the parameters to be prescribed and redress the grievance accordingly; and
- (f) provide assistance or legal aid to people who consider themselves victims of discrimination by providing them with an advice and guidance service aimed at informing victims about their individual rights, legislation, case law and means of asserting their rights.

E. Occupational Health and Safety Council

311. Establishment of Occupational Safety and Health Council.- (1) The Department shall, by notification in the official Gazette, establish an Occupational Safety and Health Council which shall exercise such powers and perform such functions as assigned to it under the Code.

(3) The Council shall consist of:

| | |
|---|----------------------|
| (a) Chief Secretary, Punjab. | Chairperson |
| (b) Secretary of the Department. | Member |
| (c) Secretary to the Government, Industries, Commerce and Investment Department or his representative not below the rank of BS-18. | Member |
| (d) Secretary to the Government, Environment Protection and Climate Change Department or his representative not below the rank of BS-18. | Member |
| (e) Secretary to the Government, Health and Population Department or his representative not below the rank of BS-18. | Member |
| (f) Secretary to the Government, Housing, Urban Development and Public Health Engineering Department or his representative not below the rank of BS-18. | Member |
| (g) Director General, Punjab Emergency Service Department or his representative not below the rank of BS-18. | Member |
| (h) Director General Labour Welfare, Punjab. | Secretary/ Member |
| (i) Commissioner of the Provincial Employees Social Security Institution. | Member |
| (j) Secretary, Punjab Workers Welfare Board. | Member |
| (k) Director, Centre for Improvement of Working Conditions and Environment, Punjab. | Member |
| (l) three officers not below the rank of BS-18 of the Department having expertise in the field of occupational safety and health. | Members |
| (m) three representatives of the employers including one woman. | Members |
| (n) three representatives of the workers including one woman. | Member |
| (o) three persons having expertise in the field of occupational safety and health. | Members |
| (p) three persons including at least one woman from civil society. | Members |

(3) The Council shall meet at least once in every six months in a calendar year.

(4) The Council may constitute such Committees consisting of such of its Members as it may deem fit, to exercise such powers and perform such duties, subject to such conditions, as it may determine.

312. Functions and powers of the Council.— (1) The Council shall perform the following functions:

- (a) review occupational safety and health conditions in various sectors employing labour force and advise Government on policy and other matters;
- (b) advise the Government on all matters relating to the objects of the Code or any matter which the Government may refer to it; and
- (c) review chapter 2.5 of the Code and other legislation relating to occupational safety and health, including the Safety and Health Rules, and make recommendations to Government for amendments, expansion and clarification.

(2) Without prejudice to the generality of clause (a) of sub-section (1), the Council may make recommendations with regard to:

- (a) as a priority, the formulation, implementation monitoring, evaluating and periodical review of provincial policies, programmes and strategies relating to occupational safety and health, including the development or content of codes of practice, standards and guidelines;
- (b) actions to facilitate cooperation between Government, employers, workers and any other persons or organizations engaged in occupational activities;
- (c) the co-ordination of inter-departmental and ministerial projects, programs and activities on promoting the practice of occupational safety and health;
- (d) the action, if any, which needs to be taken by Government in order to comply with the provisions of any international instrument relating to safety, health and welfare at work;
- (e) the compilation and publication of annual statistics on occupational accidents, dangerous occurrences and occupational diseases as well as measures taken in pursuance of occupational safety and health policy;
- (f) effective enforcement strategies and procedures, including in relation to labour inspection;
- (g) establishment of an effective individual complaint and reporting procedure which allows for the compilation of data regarding:
 - (i) violations of the provisions of the Code and the rules made thereunder; and
 - (ii) injuries and illnesses;
- (h) studies and research or other measure to keep abreast of the scientific and technical knowledge necessary to fulfill the objects of the Code or any other matters relating to safety, health and welfare of workers at workplace;
- (i) training on occupational health and safety for Inspectors, employers, principals, occupiers, workers or any other person in need of knowledge and training, whether in collaboration with any other national or international institution, and the award of certifications upon successful completion of such training;
- (j) awareness and promotional campaigns to foster and create awareness about occupational safety and health, including the collection, preparation, dissemination and publishing of information relating to occupational safety and health;
- (k) establishment and operation advisory services to any workplace or person on the correct use of equipment, hazardous substances and physical, chemical or biological agents or products and avoidance of any other hazards;
- (l) any matter relating to gender issues and adolescent at workplace;
- (m) any matter arising in the course of the performance of its functions, either of its own motion, or when requested by the Government to do so;
- (n) advice on any other matter relevant to the occupational safety and health as may be referred to it by the Government; and

- (o) such other ancillary functions as may be necessary for the discharge of all or any of its functions.
- (3) The provincial programme referred to in clause (a) of sub-section (1) shall:
 - (a) promote the development of a preventative safety and health culture;
 - (b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with provincial law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;
 - (c) be formulated and reviewed on the basis of analysis of the provincial situation regarding occupational safety and health, including analysis of the provincial system for occupational safety and health;
 - (d) include objectives, targets and indicators of progress; and
 - (e) be supported, where possible, by other complementary provincial programmes and plans which may assist in achieving progressively a safe and healthy working environment.

313. Meetings and quorum of the Council.— (1) Ten members of the Council shall form a quorum for any meeting of the Council of whom at least:

- (a) four official members;
- (b) two representatives of employers;
- (c) two representatives of workers;
- (d) one person with expertise in the field of occupational safety and health; and
- (e) one professional or member of civil society.

(3) Subject to the provisions of the Code, the Council may regulate its own procedure with regard to its meetings and the transaction of business.

F. Registrar of Trade Unions

314. Registrar of trade unions.— For the purpose of the Code, the Government shall, by notification in the official Gazette, appoint as many persons as it considers necessary as Registrars of trade unions and, where it appoints more than one Registrar, it shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under the Code.

315. Powers and functions of a Registrar.— The Registrar shall have the following powers and functions:

- (a) registration of trade unions including federations and confederations of trade unions under the Code and the maintenance of a register for the purpose;
- (b) registration of trade unions within the collective bargaining units;
- (c) to lodge, or authorize any person to lodge, complaints with the Labour Court for action, including prosecution, against trade unions, employers, workers or other persons for any unfair labour practice or violation of any provision of the Chapter 2.6 or for expending the funds of a trade union in contravention of the provisions of its constitution;
- (d) determination of the question as to which one of the trade unions in an establishment or group of establishments is entitled to be certified as the collective bargaining agent in relation to that establishment or group of establishments; determination of collective bargaining agent from amongst the trade unions registered within a collective bargaining unit.
- (e) determination of collective bargaining agent from amongst the trade unions, federations of trade unions or federations at the provincial level;
- (f) to inspect the accounts and record of the registered trade unions, or investigate or hold such inquiry in the affairs of the trade unions in the prescribed manner either personally or through any subordinate officer duly authorized in writing in this behalf; and
- (g) such other powers and functions as may be prescribed.

G- Minimum Wage Board

316. Establishment of Minimum Wages Board.— (1) The Government shall, by a notification in the official Gazette, constitute a Minimum Wages Board consisting of the following members to be appointed by it:

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|--|--------------------|
| (a) Secretary of the Department. | Chairperson |
| (b) Director General, Labour Welfare, Punjab. | Member |
| (c) Mines Labour Welfare Commissioner, Punjab. | Member |
| (d) representative of Finance Department, not below the rank of Deputy Secretary. | Member |
| (e) representative of Industries, Commerce and Investment Department, not below the rank of Deputy Secretary. | Member |
| (f) representative of Punjab Bureau of Statistics, not below BS-18. | Member |
| (g) one person having adequate knowledge of labour issues and economic conditions and not connected or associated with any employers' or employees' organization or industrial or commercial sector. | Independent Member |
| (h) three representatives of the employers including at least one woman. | Member |
| (i) three representatives of the employees including at least one woman. | Member |
| (j) Secretary, Minimum Wages Board. | Secretary/Member |

(2) For the purpose of performing its functions, the Board shall co-opt the following two additional Members as and when required:

- (a) one Member to represent the employers connected with the sector concerned; and
- (b) one member to represent the workers engaged in such sector.

(3) The Members at clauses (h) and (i) shall be appointed on the nominations by the Department from the most representative organizations of employers and employees respectively.

(4) The Board may constitute as many committees, comprising of such number of its Members, for the performance of such functions on such terms and conditions as it may determine.

(5) The term of the office of Chairperson, Members and the manner of filling casual vacancies, the constitution of its committees, the procedure and conducting of meetings of the Board and its committees and all matters connected therewith, including the fees and allowances to be paid for attending such meetings, and other expenses, including expenses for the services of experts and advisors obtained by the Board, shall be such as may be prescribed.

317. Recommendation of rate of minimum wages.— (1) The Board shall, upon a reference made to it by the Government, recommend to the Government, after such enquiry as the Board thinks fit, the minimum rates of wages for unskilled workers.

(2) The recommendations under sub-section (1), shall indicate whether the minimum rates of wages may be approved uniformly for whole of the Punjab or with such variations for such areas as may be specified therein.

- (3) The Board, in its recommendation, shall specify the minimum rates of wages for:
 - (a) time work; and
 - (b) piece work.

(4) The time rates recommended by the Board shall be on hourly, daily, weekly and monthly basis.

(5) The minimum rates of wages for employees employed on piece work shall be set at a level so as to guarantee minimum wages on a time basis for such employees.

(6) In recommending minimum rates of wages, the Board shall adhere to the principle of equal remuneration to workers of all genders for work of equal value.

318. Power to declare minimum rates of wages.— (1) Upon receipt of a recommendation of the Board, the Government may:

- (a) by notification in the official Gazette, declare the minimum rates of wages recommended by the Board for employees in the province, applicable to all types of establishments; and
- (b) if it considers that the recommendation is not, in any respect, equitable to the employers or the employees, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments thereon and giving such information relating thereto as the Government may deem fit to make or give.

(2) Where a recommendation is referred back to the Board under clause (b) of sub-section (1), the 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 shall submit to the Government:

- (a) a revised recommendation; and
- (b) if it considers that no revision or change in the recommendation is called for, make a report to that effect stating reasons therefor.

(3) Upon receipt of the recommendation of the Board under sub-section (2), the Government may by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the Board, shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum rates of wages for employees.

(4) Unless any date is specified for the purpose in the notification under sub-section (1) or sub-section (3), the declaration thereunder shall take effect on the date of publication of such notification in the official Gazette or as the Government may specify on the recommendation of Minimum Wages Board.

(5) Where after the publication of a notification under sub-section (1) or sub-section (3) or after the minimum rates of wages declared thereunder have taken effect, it comes to the notice of Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it may refer the matter to the Board and any such reference shall be deemed to be a reference under sub-section (2).

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

319. Periodical review of minimum rates of wages.— (1) The Board may review its recommendations, if any change in the economic conditions and cost of living 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 318 taking into consideration the following factors:

- (a) needs of employees and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups;
- (b) economic factors, including the requirements of economic development, inflation levels, levels of productivity and the desirability of attaining and maintaining a high level of employment and the need to encourage investment;
- (c) ability of employers to carry on their business successfully;
- (d) operation of small, medium and micro enterprises;
- (e) purchasing power of statutory minimum wages, taking into account the cost of living;
- (f) general level of wages and their distribution;
- (g) growth rate of wages;
- (h) alleviation of poverty;
- (i) minimum subsistence level; and
- (j) any other relevant factor.

(2) No recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances so require.

(3) The Board shall, at its own discretion, reconsider the rate of minimum wages in view of the factors specified in sub-section (1) at least once every three years and make necessary recommendations to the Government.

(4) The Government shall ensure that information regarding minimum rate of wages, including information on redressal mechanisms, is publicised on declaration of minimum rate of wages and is publicly available in a comprehensive and easily accessible way.

320. Public servants.— The Chairperson, the members, the officers and servants thereof, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860 (XLV of 1860).

H- Punjab Companies' Profits Workers' Participation Committee

321. The Punjab Companies' Profits Workers' Participation Committee.— (1) The Government shall, by notification in the official Gazette, constitute a Committee to be called as the Punjab Companies' Profits Workers' Participation Committee to monitor the implementation of this Chapter, the scheme thereunder and to advise the Government on appropriate administrative, legislative and other measures essential to achieve the objectives of this Chapter.

(2) The Committee shall consist of the Chairperson and not more than eight members out of which four representing the Government and two representing the companies and two representing the workers, including, at least, one woman from each representation, provided that the Chairperson and the members shall perform their duties and functions *pro-bono*.

(3) The Department shall forward the nominations for constitution of the Committee to Government.

(4) The Committee may call for such record or information as may be required for the purposes of the implementation of the provisions of this Chapter or as may be prescribed.

(5) The company or, as the case may be, the Board shall furnish such record or information, within such time, as the Committee may specify.

(6) An Inspector, within area of his jurisdiction, shall report the matter to the Committee, if he finds any company to which the scheme applies has failed to comply with any of the provisions of this Chapter or the scheme, for necessary action.

CHAPTER 6.4

LABOUR INSPECTION

322. Appointment of Inspectors.— (1) The Government may appoint as many Inspectors and Occupational Safety and Health Inspectors as may be necessary and may assign special duties to women Inspectors.

(2) The Government may designate an officer not below the rank of BS-19 as the Chief Inspector who may, in addition to the powers of an Inspector under the Code, exercise such other powers as may be prescribed.

(3) The Chief Inspector may assign local limits and specific duties to Inspectors for the purposes of the Code.

(4) No person shall be appointed as Inspector or Occupational Safety and Health Inspector under the Code unless such person has the necessary qualification, experience and training, as may be prescribed.

(5) An Inspector and Occupational Safety and Health Inspector shall be provided with an identification card who shall carry such card at all times when exercising powers or performing functions under the Code.

(6) No Inspector or Occupational Safety and Health Inspector shall continue to hold office, who directly or indirectly is interested in any establishment or in any process or business carried on therein or in any patent or machinery connected therewith in his area of jurisdiction.

(7) The Government may, if so deemed necessary, notify any public servant having equal rank other than of the Directorate General of Labour Welfare, Punjab as Inspector for specific purposes of the Code.

(8) An Inspector, Occupational Safety and Health Inspector and Chief Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code 1860 (XLV of 1860).

323. Functions of Inspector.— (1) Subject to the provisions of the Code and the rules, an Inspector shall exercise following functions:

- (a) securing compliance with the Code and the rules;
 - (b) supplying technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions under the Code;
 - (c) investigating complaints from workers received by the Department and referred for further investigation;
 - (d) bringing to the notice of the Department defects or abuses not specifically covered by existing legal provisions;
 - (e) submitting inspection report to the Chief Inspector; and
 - (f) performing such additional functions as may be provided for in the Code and as may be prescribed, provided that such duties shall not interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.
- (2) The functions and powers conferred on Inspectors by the Code shall be exercised:
- (a) in a reasonable manner which takes into account the requirements of the Code and the interests of the persons affected by the exercise of the powers;
 - (b) in the manner prescribed by, and with regard to any applicable code of good practice and Departmental Standard Operating Procedures;
 - (c) consistently with section 324; and
 - (d) as soon as is practicable after a complaint is made or the assistance of an inspector is requested.
- (3) Unless it is not practicable to do so, an Inspector who seizes a book, document, or object pursuant to the powers conferred by the Code, shall allow the person from whom the book, document or object is seized to make a copy of it.
- (4) An Inspector shall issue a receipt for any book, document or object seized, at the time he seizes the book, document or object.
- (5) During the period for which an Inspector retains a book, document or object seized pursuant to the powers conferred by the Code, the Inspector shall permit the person otherwise entitled to possession of the book, document or object, or a person authorized by that person, to inspect or make copies of such book, document or object at all reasonable times.
- (6) If an Inspector exercises a power under the Code to take a sample of any material, object, or substance, he shall notify the employer or the manager and provide them with a portion of the sample.

324. Enforcement plans.- (1) The Chief Inspector shall develop an enforcement plan which identifies priorities and proposes strategies to secure compliance with the Code and the Chief Inspector shall direct Inspectors to implement the enforcement plan.

(2) In developing the plan in sub-section (1), the Chief Inspector may take into consideration the views of consultative and regulatory agencies in Chapter 6.3.

325. Powers of an Inspector.- (1) Subject to the provisions of the Code and the rules, an Inspector, within the local limits for which he is appointed:

- (a) may, subject to clause (c), enter any place which the Inspector reasonably believes to be a workplace freely and without prior notice at any hour of the day or night;
- (b) may enter any premises or precincts thereof which is adjacent to any premises in which the Inspector has reasonable cause to believe that there are stored explosives or flammable materials or other substances which would expose the persons in the premises to risk injury or to health;
- (c) shall not enter the private home of an employer, principal or occupier pursuant to clause (a) except with the consent of the employer, principal or occupier or under the authority of a warrant issued by the Labour Court;
- (d) may, in general, carry out any examination, test or enquiry as necessary in order to satisfy himself that the provisions of the Code relating to the engagement of persons are being strictly observed and, in particular, may:

- (i) interrogate, alone or in the presence of witnesses, the employer, principal or occupier or the workers on any matter concerning the application of the Code;
 - (ii) require any information, production of any records, books, registers or other documents, the keeping of which is prescribed by the Code, in order to ensure that the Code is being respected, and to copy such documents or take extracts there-from;
 - (iii) enforce the pasting and display of any notices or abstracts required by the Code; and
 - (iv) take or remove, for purposes of analysis, samples of materials and substances used or handled, subject to the employer, principal or occupier or their representative being informed of any samples or substances taken or removed for this purpose;
 - (e) may require from employers and workers information as to the remuneration, hours and conditions of work;
 - (f) may inspect any record of accidents or occupational disease kept by the employer, principal or occupier pursuant to the provisions of the Code or any other law and require from an employer, principal or occupier information as to the causes and circumstances relating to any accident or occupational disease that may have occurred on the premises or in the course of a worker's engagement;
 - (g) take evidence, record statements, and call for any information or record, or ask for any person for the purpose of taking evidence;
 - (h) may be assisted by any municipal or other public authority if he has reasonable cause to apprehend any serious obstruction in the execution of duty;
 - (i) may take steps with a view to remedying defects observed in plant layout, installation or working methods which he reasonably believes constitute a threat to the health or safety of workers, including exercising the powers in sections 64 and 65;
 - (j) may inspect private home of an employer of a domestic worker on receipt of a complaint and on direction of a Dispute Resolution Committee;
 - (k) exercise such other powers as may be necessary for carrying out the purposes of the Code; and
 - (l) shall issue show-cause notice and lodge prosecution.
- (2) In addition to the powers in sub-section (1), an Occupational Safety and Health Inspector may:
- (a) take for analysis sufficient sample of any material in use or mixed for use in the manufacture of any article or articles produced in any workplace in the presence of the employer or if the employer is not readily available, the person responsible for the workplace;
 - (b) to take any substance used or intended to be used in any workplace being a substance in respect of which the Inspector is of the opinion that a contravention of the Code and the rules or any order made under the Code, or which in the opinion of that Inspector is likely to cause bodily injury to any person in the workplace:

Provided that, unless section 66 applies, the employer or other responsible person, at the time the sample is taken and on providing the necessary application, require the Inspector to divide the sample into three parts to mark and seal or fasten up each part in such manner as its nature permits and:

- (i) to deliver one part to the employer or other responsible person;
- (ii) to retain one part for future comparison; and
- (iii) to submit one part to the analyst authorized by the Government for the purpose;
- (c) to take for analysis any machinery or article found in any workplace; and

- (d) to take photograph or video of machinery or any article found in such workplace or make any sketch of any workplace.

326. Sealing of establishment.- If it appears to an Inspector that:

- (a) any person is found to be engaged in bonded labour in contravention of Chapter 2.2 of the Code; and
- (b) a child has been engaged on work or found at an establishment in contravention of Chapter 2.3 of the Code:

the Inspector may seal the establishment for a period not exceeding fifteen days or till the employer, principal or occupier complies with the directions issued by the Inspector in writing, whichever is earlier.

327. Information of presence.- An Inspector shall, when on an inspection, inform the employer or the employer's representative of his presence, unless the Inspector considers that such information may be prejudicial to the performance of duties.

328. Free access and assistance to the Inspector.- (1) An employer, principal or occupier shall:

- (a) grant a worker every opportunity and necessary facilities for communicating freely with an inspector;
- (b) when so requested, afford every reasonable assistance to an inspector; and
- (c) provide all records, as required by the Inspector under the Code, for the purpose of inspection.

- (2) The Inspector may take assistance of any public authority if he deems it necessary.

329. Assistance to small and micro enterprises.- In the exercise of his duties, an inspector may take into account the size, capitalization and degree of formality of the operation of workplaces and shall make all efforts to assist small, micro and informal enterprises in understanding and complying with the Code and any other law relating to the engagement of persons.

330. Annual inspection report.- (1) The Department shall publish an annual inspection report.

- (2) The annual inspection report shall be published within a reasonable time after the end of the year to which it relates and, in any case, within twelve months after the end of the year.

- (3) The annual report shall be available for the general public to access on the website of the Department.

- (4) The annual inspection report shall deal, *inter-alia*, with the following subjects:

- (a) relevant laws and the rules made thereunder pertaining to inspection;
- (b) details of the labour inspection staff;
- (c) statistics of workplaces liable to inspection and the number of workers employed therein;
- (d) statistics of inspection visits;
- (e) statistics of violations and penalties imposed in respect of the violations;
- (f) statistics of industrial accidents;
- (g) statistics of occupational diseases; and
- (h) sex-disaggregated data on enforcement, as much as possible.

331. Call for statistics.- Inspectors under the Code may, for the proper and effective exercise of their powers and discharge of their duties, call for statistics and information and ensure their correctness and the information so collected shall not be disclosed in respect of individual undertaking or establishments.

PART VI

B – DISPUTE RESOLUTION, REVIEW OF DECISIONS AND COMPLIANCE

CHAPTER 6.5

DISPUTE PREVENTION AND RESOLUTION

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

- (a) "accrued rights" means rights with respect to work including termination or the terms of employment or the conditions of work accrued to the worker by

- or under the Code, or any award, collective agreement, employment agreement or other agreement;
- (b) "labour dispute" means any dispute including rights disputes and industrial disputes between one or more:
- (i) employers and employees;
 - (ii) employers, principals or occupiers and workers; and
 - (iii) employers, principals or occupiers, or their organizations and trade unions with respect to the Code, and includes disputes as to the engagement or non-engagement, or the terms of engagement, or the conditions of labour or the work done or to be done, of any person;
- (c) "rights dispute" means a dispute over existing or accrued rights; and
- (d) "industrial dispute" means any dispute that is not in respect of the enforcement of existing or accrued rights, and includes a dispute:
- (i) during collective bargaining negotiations under Chapter 2.6 C; and
 - (ii) with respect to proposed redundancies under section 149.

333. Representation of parties.- (1) A worker who is or group of workers who are party to a dispute shall be entitled to be represented in any proceedings under the Code by an office-bearer of a collective bargaining agent or a registered trade union of which the said worker or workers are members, and subject to the provisions of sub-section (2) and sub-section (3) any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by a person duly authorized by the employer.

(2) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under the Code.

(3) A party to a dispute may be represented by a legal practitioner in any proceedings before the Labour Court, an Arbitrator or the Tribunal with the permission of the Labour Court, Arbitrator or the Tribunal.

A. Rights disputes

334. Civil courts to have no jurisdiction in relation to rights disputes.- No civil court shall have jurisdiction to settle, decide or deal with any rights disputes under this Chapter.

335. Application by a worker.- (1) Subject to sections 258, 262, 338, 339 and 344, a worker may bring a grievance in respect of any right to the notice of an employer in writing, either personally or through the shop steward or collective bargaining agent within three months of the day on which the cause of such grievance arises.

(2) Where a worker brings the grievance to the notice of the employer, the employer shall, within fifteen days of the grievance being brought to its notice, communicate the decision in writing to the worker.

(3) Where a worker brings the grievance to the notice of the employer through the shop steward or collective bargaining agent, the employer shall, within seven days of the grievance being brought to its notice, communicate the decision in writing to the shop steward or the collective bargaining agent, as the case may be.

(4) If the employer fails to communicate a decision within the period specified in sub-section (2) or sub-section (3) or if the worker is dissatisfied with such decision, the worker or the shop steward may take the matter to a collective bargaining agent or trade union of which the worker is a member.

(5) The collective bargaining agent or trade union may take the matter to the Labour Court, and where the matter is taken to the Labour Court, it shall give a decision within ninety days from the date of the matter being brought before it.

(6) Notwithstanding sub-sections (4) and (5), a worker may, within a period of sixty days from the date of the communication of the employer's decision or from the date of the expiry of the period mentioned in sub-section (2) or sub-section (3), take the matter to the Labour Court.

(7) The period of mediation shall be excluded from any limitation period in the Code for application to the Labour Court or any other competent forum.

(8) In adjudicating and determining a grievance under this section, the Labour Court shall go into all the facts of the case and pass such orders as may be just and proper in the circumstances of the case, including orders under section 300.

(9) Subject to the decision of the Tribunal, if a decision under this section given by the Labour Court is not given effect to or complied within seven days or within the period specified in the decision, a person who fails to give effect to or comply with the decision shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty penalty units but not less than five penalty units or with both.

(10) A person shall not be prosecuted under sub-section (8) except on a complaint in writing by the worker if the decision in his favour is not implemented within the period specified in that sub-section.

(11) Where the grievance pertains to termination of employment, the worker shall serve the grievance notice and apply to the Labour Court under this section within three months of the termination.

(12) The provisions of this section shall, *mutatis mutandis*, apply to a rights dispute between a digital labour platform and a platform worker irrespective of the worker is an employee of the platform or engaged under a contract for services, or on some other basis.

336. Reference of rights dispute to a mediator.- (1) The parties to a rights dispute may, with their consent, at any time, request a mediator to assist them in resolving their dispute.

(2) A Labour Court may, if it considers that the dispute between the parties can be resolved by mediation, with their consent, refer the dispute to mediation within such time as it may specify.

337. Application by registered trade union, collective bargaining agent or employer in relation to rights disputes.- Any registered trade union connected with the concerned establishment or a collective bargaining agent of the said establishment or any employer may apply to the Labour Court for the redressal of any grievance or enforcement of any right guaranteed or secured by or under the Code or any award or collective agreement.

338. Special procedure for recovering under payments and non-payments.- (1) Where contrary to the provisions of Chapter 3.3:

- (a) any deduction has been made from the remuneration of a worker; or
- (b) any payment of remuneration or of any dues relating to provident fund or gratuity payable under any law, usage or custom has been delayed:

that worker may apply to Authority for a direction under sub-section (6):

(2) An application under sub-section (1) may be made on behalf of the worker by:

- (a) a legal practitioner;
- (b) any official of a registered trade union or association connected with the concerned establishment, authorized in writing to act on their behalf;
- (c) any inspector appointed under the Code;
- (d) any heirs of such a person who has died; or
- (e) any other person acting with the permission of the Authority.

(3) Subject to sub-section (4), an application under sub-section (1) shall be presented within three years from the date on which the deduction from the remuneration was made or from the date on which the payment of the remuneration was due to be made, as the case may be.

(4) Any application may be admitted after the period specified in sub-section (3) if the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(5) When any application under sub-section (1) is entertained, the Authority shall:

- (a) hear the applicant and employer or other person responsible for the payment of wages; and
- (b) conduct such further inquiry, if any, as may be necessary.

(6) Subject to sub-section (7), the Authority may, without prejudice to any other penalty to which such employer or other person is liable under the Code:

- (a) direct a refund to the worker or,

- (b) if the applicant is one of the heirs of an worker, direct the payment to such applicant of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the Authority may deem fit, not exceeding ten times the amount deducted in the former case and not exceeding three times in the latter.
- (7) No direction for the payment of compensation shall be made in the case of delayed remuneration if the Authority is satisfied that the delay was due to:
- a *bona fide* error or *bona fide* dispute as to the amount payable to the worker; or
 - the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the remuneration was unable, though exercising reasonable diligence, to make prompt payment; or
 - the failure of the worker to apply for or accept payment.
- (8) If the Authority is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding one-half percent (0.5%) of the amount claimed be paid to the employer or other person responsible for the payment of remuneration by the person presenting the application.
- (9) The Authority shall have the powers of Assistant Collector (Grade-I) under the Punjab Land Revenue Act 1967 or any other law for the time being in force, and may exercise such powers for the purposes of the Code.
- (10) Any amount directed to be paid under this section may be recovered by the Authority as an arrear of land-revenue, or, in the prescribed manner, by distress and sale of the movable property belonging to the person by whom the amount is to be paid, or by attachment and sale of the immovable property belonging to such person.
- 339. Special procedure for disputes concerning employee compensation.-** (1) If any question arises in any proceedings under Chapter 5.6 as to the liability of any person to pay compensation including any question as to whether a person injured is or is not an employee 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 the Commissioner.
- (2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any and shall contain such particulars, as may be prescribed.
- (3) Where any sum has been deposited by an employer as compensation payable in respect of an employee whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his 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. If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable and requiring the employer to deposit the deficiency.
- (4) Where an employer makes an appeal, the Commissioner shall, if so directed by the Labour Court, withhold payment of any sum in deposit with him during the pendency of such appeal.
- (5) All costs, incidental to any proceedings before a Commissioner, shall subject to the rules, be in the discretion of the Commissioner.
- (6) A Commissioner may, if he thinks fit, submit any question of law for the decision of the Labour Court and, if he does so, he shall decide the question in conformity with such decision.
- 340. Venue of proceedings and transfer in relation to disputes concerning employee compensation.-** (1) Where any matter is under the Code to be done by or before a Commissioner, the same shall, subject to the provisions of the Code and to any rules made hereunder, be done by, or before a Commissioner for the local area in which the accident took place which resulted in the injury.
- (2) If a Commissioner is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Commissioner, such Commissioner may, subject to rules made under the Code, order such matter to be transferred

to such other Commissioner i.e., the receiving Commissioner either for report or for disposal, and, if the Commissioner does so, he shall forthwith transmit to the receiving Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, he shall also transmit in the prescribed manner any money remaining or invested by the Commissioner for the benefit of any party to the proceedings.

(3) The Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependents of a lump sum without giving such party an opportunity of being heard.

(4) No matter other than a matter relating to the actual payment to a worker or the distribution among dependents of a lump sum shall be transferred for disposal under this sub-section to a Commissioner save with the previous sanction of Government or to a Commissioner in another province save with the previous sanction of the Government of that Province, unless all the parties to the proceedings agree to the transfer.

(5) The receiving Commissioner shall, subject to the rules made under the Code, inquire there-into and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before the receiving Commissioner.

(6) On receipt of a report from a receiving Commissioner, the Commissioner shall decide the matter referred in conformity with such report.

(7) The Government may transfer any matter from one Commissioner to any other Commissioner appointed by it.

341. Appearance of parties in relation to disputes concerning employee compensation.- Any appearance, application or act required to be made or done by any person before or to a Commissioner 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 a legal practitioner or by an official of an Insurance Company or registered Trade Union authorized in writing by such person or, with the permission of the Commissioner, by any other person so authorized.

342. Method of recording evidence in relation to disputes concerning employee compensation.- (1) The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record.

(2) If the Commissioner is prevented from making such memorandum, the Commissioner shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record.

(3) The evidence of any medical witness shall be taken down as nearly as may be word for word.

343. Withholding of certain payments pending decision of appeal.- Where an employer makes an appeal under section 346, the Commissioner shall, if so directed by the Labour Court during the pendency of the decision of the appeal, withhold payment of any sum in deposit with him.

344. Special procedure for certain workers in Part IV.- (1) Subject to sections 337 and 347, a worker to whom Chapters 4.2, 4.4 and 4.5 in Part IV applies may raise a rights dispute with respect to a contravention of the Code with Dispute Resolution Committee established in section 295.

(2) A worker referred to in sub-section (1) may also make an application under section 335 if the worker is an employee, but such a worker may not maintain an action under both sections 335 and this section at the same time.

(3) An application under sub-section (1) may be made on a worker's behalf by:

- (a) a legal practitioner or
- (b) any official of a registered trade union or association authorized in writing to act on their behalf, or
- (c) any heirs of such a person who has died.

(4) An application under sub-section (1) shall be presented within ninety days from the date on which the violation occurred or from the date on which the payment was due to be made, as the case may be.

(5) The Dispute Resolution Committee shall give its decision within sixty days of receipt of such complaint.

(6) The parties shall be given full opportunity to defend their case.

345. Finality and binding effect of decisions in relation to special procedures.- Unless an appeal is made under section 346, a decision, order or direction of:

- (a) the Authority under section 338;
- (b) the Employees' Compensation Commissioner under section 339; and
- (c) the Dispute Resolution Committee under section 344:

shall be final and binding on the parties.

346. Appeals in relation to special procedures.- (1) An appeal against the Authority in relation to a direction made under sub-section (6) or sub-section (7) of section 338 may be made within thirty days of the date on which the direction was made to the Labour Court within whose jurisdiction the cause of action to which the appeal relates arose by:

- (a) the employer; or
 - (b) an worker or, if he has died, by any of his heirs, if the total amount of remuneration claimed to have been withheld from the worker or from the unpaid group to which he belonged exceeds the amount equal to one month's minimum wage as notified from time to time; or
 - (c) any person directed to pay a penalty under sub-section (8) of section 338; and
 - (d) any other person responsible for the payment of remuneration.
- (2) No appeal under sub-section (1) shall lie unless:
- (a) the total sum directed to be paid by way of remuneration and compensation exceeds the amount equal to two times the monthly minimum wage as notified by the Government from time to time; and
 - (b) in the case of an employer or any other persons responsible for the payment of remuneration, the memorandum of appeal is accompanied by a certificate of the Authority to the effect that the appellant has deposited with the Authority the amount payable under the direction appealed against.

(3) An appeal against the following orders of an Employees' Compensation Commissioner may be made to the Labour Court within sixty days of the date on which the order was made:

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-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 half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant; and
- (d) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions.

(4) No appeal may be made against any order under sub-section (3) 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 clause (b), unless the amount in dispute in the appeal is not less than one-half of the applicable minimum wage for unskilled workers, notified by the Government from time to time.

(5) No appeal by an employer under clause (a) of sub-section (3) shall be made unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(6) No appeal may be made under sub-section (3) in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

(7) Where an employer makes an appeal under sub-section (3), the Commissioner may, and if so directed by the Labour Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

(8) An appeal against an award announced by a Dispute Resolution Committee may be made to the Labour Court within thirty days of such award.

(9) A decision of the Labour Court in relation to an appeal under sub-section (8) regarding special categories of workers and decision of Dispute Resolution Committee shall be final and shall not in any manner be questioned by any person in any court or before any authority.

347. Interpretation of collective agreement and awards.— (1) If any difficulty or doubt arises as to the interpretation or application of:

- (a) any provision of the Code;
- (b) a collective agreement or an award; or
- (c) employment agreement;

it shall be referred to the Labour Court.

(2) A reference under sub-section (1) may be made by:

- (a) the Department;
- (b) an employer, principal or occupier;
- (c) a trade union, including a collective bargaining agent; or
- (d) a worker.

(3) The Labour Court to which a matter is referred under sub-section (1) shall, after giving the parties affected by the interpretation or application an opportunity of being heard, decide the matter, and its decision shall be final and binding on the parties.

348. Redressal of common grievance.— (1) Workers having common grievance arising out of any accrued right may bring their grievance jointly to the employer, principal or occupier and may make a joint application to the competent forum.

(2) The procedures in this Chapter pertaining to competent forum shall, *mutatis mutandis*, apply to common grievance rights disputes.

B. Industrial disputes

349. Raising of industrial disputes.— An industrial dispute, whether or not concerning collective bargaining negotiations, may be determined in the prescribed manner by:

- (a) a trade union including a federation or confederation;
- (b) a collective bargaining agent; or
- (c) an employer or organisation of employers.

350. Commencement and conclusion of conciliation proceedings.— (1) Where an industrial dispute is determined under section 349, it shall be referred to conciliator.

(2) A conciliation proceeding shall be deemed to have commenced on the date on which a dispute is referred to the conciliator under sub-section (1).

(3) A conciliation proceeding shall be deemed to have concluded:

- (a) where a settlement, including a collective agreement, is signed by the parties to the dispute; and
- (b) where no settlement is arrived at, after fourteen days, or such further time as is agreed between the parties.

351. Proceedings before conciliator.— (1) The conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(2) The parties to the dispute shall be represented before the conciliator by persons nominated by them and authorized to negotiate and enter into an agreement binding on the parties.

(3) If, in the opinion of the conciliator, the presence of the employer or any office-bearer of the trade union connected with the dispute is necessary in a meeting, the conciliator shall give notice in writing requiring the employer or such office-bearer to appear in person at the place, date and time, specified in the notice and it shall be the duty of the employer or the office-bearer of the trade union to comply with the notice.

(4) The conciliator shall perform such functions in relation to a dispute as may be prescribed and may, in particular, suggest to either party to the dispute such concessions or

modifications in its demand as are in the opinion of the conciliator likely to promote an amicable settlement of the dispute.

(5) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings, the conciliator shall send a report thereof to the Department together with a collective agreement, if any, signed by the parties to the dispute.

(6) If no settlement is arrived at within the period of fourteen days, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

(7) The provisions of sections 112 and 113 shall apply to a collective agreement reached under this provision.

352. Arbitration by consent.— (1) If conciliation proceedings are unsuccessful, a party may, with the consent of the other party, refer the dispute to an Arbitrator.

(2) If the parties so agree under sub-section (1), they shall appoint an Arbitrator and refer the dispute to the Arbitrator by agreement in writing.

(3) The Arbitrator to whom a dispute is referred under sub-section (1) may be:

- (a) a person agreed upon by the parties; or
- (b) amongst the persons borne on a panel to be maintained by the Government, as agreed by both the parties.

(4) The Arbitrator shall give his award within a period of thirty days from the date on which the dispute is referred under sub-section (1) or such further period as may be agreed upon by the parties to the dispute.

(5) On making an award, the Arbitrator shall forward a copy thereof to the parties and to the Government which shall cause it to be published in the official Gazette.

(6) The award of the Arbitrator shall be final, and no appeal shall lie against it, and it shall be valid for such period as may be specified in the award but not exceeding two years.

353. Adjudication of industrial disputes by the Labour Court by consent.— In the case of industrial disputes, other than disputes referred to in section 355, if proceedings under sections 350 or 352 are unsuccessful, a party may, with the consent of the other party to the dispute may make an application to the Labour Court for adjudication of the such dispute.

354. Adjudication of industrial disputes by the Labour Court.— (1) A party to an industrial dispute concerning collective bargaining may refer the dispute to the Labour Court where all the following conditions are satisfied:

- (a) four months have passed after collective bargaining negotiations have been deadlocked as defined in sub-section (2) of section 116; and
- (b) conciliation proceedings under section 351 have been unsuccessful; and
- (c) the party considers that the other party has refused or failed to negotiate in good faith under section 107;

(2) Where a dispute is referred to a Labour Court under sub-section (1) and the Labour Court determines that a party is not negotiating in good faith, it may issue such orders as it thinks fit to require the party comply to with provisions of section 107 within a specified period, including an interim award.

(3) Where a party fails to comply with an order under sub-section (2) within the specified period, the Labour Court may issue an award to determine the dispute.

355. Adjudication of industrial disputes by the Labour Court or an arbitrator.— (1) Any party to an industrial dispute, or the Government, may refer a dispute to the Court for determination:

- (a) in accordance with section 123; or
- (b) which relates to essential services and is unresolved after conciliation.

(2) A party to a dispute in a public utility under section 125, or the Government may refer a dispute about the level of minimum service to be provided during a strike to the Court, which shall determine the dispute within three days.

(3) The Government may, instead of referring a dispute under sub-sections (1) or (2), refer a dispute to an arbitrator appointed under section 292.

356. Adjudication of industrial disputes by the Labour Court.— (1) Subject to sub-section (3), the Labour Court shall, after giving both the parties to the dispute an opportunity of being

heard, make such decision or award as it deems fit, as expeditiously as possible, but not exceeding thirty days from the date on which the dispute was referred to it.

(2) An award under sub-section (1) shall include such matters of which the parties are in agreement.

(3) A Labour Court may, if it considers that there are reasonable prospects that the parties may reach on an agreement with or without its assistance, suspend proceedings for such time as it thinks fit and make such orders as may facilitate negotiations between the parties, including consent orders.

357. Effect of awards pertaining to industrial disputes.- An award of an Arbitrator or an award of a Labour Court pertaining to an industrial dispute shall:

- (a) be binding on all parties to the dispute;
- (b) be binding 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) be binding on the heirs, successors or assignees of the employer in respect of the establishment or group of establishments 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, be binding on all workers who were employed in the establishment or group of establishments to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after that date.

358. Effective date of awards pertaining to industrial disputes.- (1) An award given under section 356 shall, unless an appeal against it is made to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein.

(2) The Arbitrator, the Labour Court or the Tribunal shall specify dates from which the award on various demands shall be effective and the time limit by which it shall be implemented in each case.

(3) If at any time before the expiry of the period mentioned in sub-section (1) or sub-section (2), any party bound by an award applies to the Labour Court or the Tribunal for reduction of the said period on the ground that the circumstances in which the award was made have materially changed, the Labour Court or the Tribunal may, by order made after giving to the other party an opportunity of being heard, terminate or reduce the said period.

(4) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (1) or sub-section (2), 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.

359. Conditions of service to remain unchanged while proceedings are pending.- (1) No employer shall, while any conciliation proceedings or proceedings before an Arbitrator, a Labour Court or Tribunal in respect of an industrial dispute are pending, alter to the disadvantage of any worker concerned in such dispute, the conditions of service including transfer applicable to the worker before the commencement of the conciliation proceedings or of the proceedings before the Arbitrator, Labour Court or Tribunal nor shall the employer:

- (a) save with the permission of the conciliator, while any conciliation proceedings are pending; or
- (b) save with the permission of the Arbitrator, Labour Court or Tribunal, while any proceedings before the Arbitrator, Labour Court or Tribunal are pending;

discharge, dismiss or otherwise punish any workman except for misconduct not connected with such dispute.

(2) Notwithstanding anything contained in sub-section (1), an office-bearer of a registered trade union shall not, during the pendency of any proceedings referred to in sub-section (1), be discharged, terminated, dismissed or otherwise punished for misconduct, except with the previous permission of the Labour Court, however, the terms and conditions of the employment secured by the workers through collective bargaining, agreements, settlements,

awards and decisions of Courts shall continue to be binding upon the parties until revised for the betterment of the workers.

C. Recovery of money due

360. Recovery of money due from an employer under collective agreement or award.-

(1) Any money due from an employer under a collective agreement, or under an award or decision of the Arbitrator, Labour Court or Tribunal in this Chapter may be recovered as arrears of land revenue on the application of the person entitled to the such money.

(2) Where any worker is entitled to receive from the employer money or a benefit under a collective agreement or under an award or decision of the Arbitrator, Labour Court or the Tribunal and such amount has not been determined, such money or benefit shall be determined by the Labour Court and recovered as provided in sub-section (1).

(3) A Labour Court may exercise the powers of Collector under the Punjab Land Revenue Act 1967 (XVII of 1967) for recovery of an amount due under the Code.

CHAPTER 6.6.

APPEALS

361. Appeals against decisions of the registrar of trade unions.- (1) A trade union may appeal a decision against the Registrar of trade unions not to register a trade union to the Labour Court in accordance with section 86.

(2) A person aggrieved by an order determining a collective bargaining unit passed by the Registrar may appeal to the Labour Court in accordance with section 104.

362. Appeal against the decisions of Inspector.- (1) A person affected by a decision of an Inspector with respect to a workplace may file an appeal before the Chief inspector within 30 days of the date of the decision:

Provided that the "person affected" means:

- (a) a worker at the workplace who is the subject of a direction by the Inspector;
- (b) an employer, principal or occupier in control of the workplace;
- (c) a health and safety representative; or
- (d) a trade union, including a collective bargaining agent, representing a worker at the workplace.

(2) During the pendency of the appeal under sub-section (1), the decision of the Inspector shall remain in force unless the Chief Inspector directs otherwise.

(3) The Chief Inspector may affirm, modify or cancel the decision of the Inspector.

(4) The Chief Inspector may, subject to such limitations, restrictions or conditions, as he may determine, direct any of his subordinate officer to hear the appeal for the decision to be made by the Chief Inspector.

363. Appeal against decisions of the Chief Inspector.- (1) A person affected by a decision of the Chief Inspector may file an appeal in the Labour Court on the grounds provided in sub-section (4):

Provided that a "person affected" has the same meaning as in sub-section (2) of section

362.

(2) A decision under sub-section (1) means a decision with respect to:

- (a) review under section 362, including a decision to cancel, modify or affirm a decision of an inspector;
- (b) section 152;
- (c) section 149;
- (d) section 189;
- (e) section 191;
- (f) section 202;
- (g) section 247;
- (h) Chapter 5.3;
- (i) Chapter 5.7;
- (j) section 433; and
- (k) section 434.

(3) The only grounds on which a decision of the Chief Inspector can be appealed under this section are:

- (a) the decision is contrary to the Code or otherwise unlawful;
- (b) the decision was made contrary to natural justice;
- (c) the decision was an improper exercise of power; and
- (d) no reasons were given for the decision.

(4) In case review is pending under this section, the decision of the Chief Inspector or, in the case of sub-section (5) of section 362, a decision of an inspector shall remain in force unless the Labour Court directs otherwise.

(5) If the Labour Court finds that one or more grounds provided in sub-section (4) are made out, it may affirm, modify or cancel the decision.

(6) Where an aggrieved person files a review against the decision of the Chief Inspector under section 362 and the Chief Inspector does not decide such review within six months, it shall be presumed that the Chief Inspector has affirmed the decision and a person affected thereby may file an appeal before the Labour Court.

CHAPTER 6.7

PENALTIES AND PROSECUTIONS

A. General

364. Principles applicable to this Chapter.- (1) The Court, while deciding upon the quantum of sentence and fine may consider the size of the business of the employer being convicted, the gravity of the violation, number of workers whose rights were violated, repute of the employer and the history of previous violations.

(2) In case of repeated contravention of any of the provisions of the Code, the quantum of fine shall be doubled each time in relation to the previously imposed penalty.

365. Definition of penalty unit.- In this Chapter, "penalty unit" means the amount of monthly minimum wage for unskilled workers notified by the Government, from time to time, as applicable at the time of contravention.

B. Jurisdiction and standing

366. Jurisdiction of Court.- (1) No Court other than a Labour Court or the Magistrate of First Class shall try a contravention under the Code or any rules or regulations created under the Code.

(2) A contravention of Chapter 2.2 shall be tried only by a Magistrate of First Class within the local area of his jurisdiction.

(3) A contravention of Chapter 2.2 shall be cognizable and bailable.

367. Standing in relation to fines and imprisonment.- No Labour Court or Magistrate of First Class shall take cognizance of an application for the imposition of a fine or imprisonment under this Chapter for a contravention under the Code or any rules except upon complaint as provided in section 369.

368. Contraventions to be tried summarily.- All contraventions under the Code may be tried summarily other than those punishable by imprisonment of more than three months.

C. Penalties not involving imprisonment

369. Applications for orders in relation to penalties not involving imprisonment.- (1) An application for the imposition of a penalty in relation to a contravention listed in columns 1 and 2 of the table may be made by the person in column 3.

(2) Where an application is made by a person other than the Registrar or an inspector, that person shall show that he has been adversely affected by the conduct which is the subject of the application.

| Contravention | Section | Person who may make application |
|---------------------------------------|---------|--|
| Notice and record keeping | 371 | An inspector. |
| Inspection | 372 | An inspector. |
| Obstruction of inspectors | 373 | An inspector. |
| Discrimination | 375 | (a) A worker; (b) An inspector; (c) Equal Employment Opportunity Office. |
| Embezzlement by trade union officials | 376 | The Registrar. |

| | | |
|---|-----|--|
| Unfair labour practices (employer) | 377 | (a) A trade union; (b) A collective bargaining agent; (c) the Registrar. |
| Unfair labour practices (worker) | 377 | (a) An employer or principal; (b) The Registrar. |
| Unfair labour practices (union official) | 377 | (a) A trade union; (b) A collective bargaining agent; (c) the Registrar. |
| Breach of collective agreement | 378 | (a) An employer or principal; (b) A trade union or collective bargaining agent; (c) An inspector. |
| Certain safety and health breaches, including violence and harassment | 379 | (a) An inspector. (b) Equal Employment Opportunity Office; (c) A health and safety representative; (d) A trade union or a collective bargaining agent; (e) An employer, principal or occupier. |
| Payment below minimum wage | 380 | (a) A worker; (b) A trade union or a collective bargaining agent; (c) An inspector. |
| Other wage contraventions | 381 | (a) A worker; (b) A trade union or a collective bargaining agent; (c) An inspector. |
| Working hours and leave | 382 | (a) A worker; (b) A trade union or a collective bargaining agent; (c) An inspector. |
| Employment agencies | 383 | (a) A worker; (b) A trade union; (c) An inspector. |
| Underage domestic work | 384 | (a) An inspector, with the authorisation of the Dispute Resolution Committee. |
| Other domestic work contraventions | 384 | (a) A worker; (b) A trade union; (c) An inspector, with the authorisation of the Dispute Resolution Committee. |
| Property of domestic workers | 384 | (a) A worker; (b) A trade union; (c) An inspector, with the authorisation of the Dispute Resolution Committee. |
| Contravention by digital labour platform | 385 | (a) A worker; (b) A trade union; (c) An inspector. |
| Workers' Participation Funds (non-compliance with scheme) | 386 | (a) A worker; (b) A trade union; (c) An inspector. |
| Workers' Participation Funds (failure to comply with Commissioner) | 386 | (a) A worker; (b) A trade union; (c) An inspector; (d) The Commissioner. |

| | | |
|--|------------|--|
| Contravention of infrastructure facilities for workers | 387 | (a) A worker; (b) A trade union; (c) An inspector. |
| Non-compliance with Labour Court order | 388 | (a) A person who sought the original order and any of the following with respect to matters under their jurisdiction: (b) An inspector; (c) Equal Employment Opportunity Office; (d) The Commissioner; (e) The Registrar; (f) The Payment of Wages Authority; (g) The Court. |
| Victimization | 389 | (a) A worker; (b) A trade union; (c) An employer, principal or occupier; (d) An inspector; (e) The Registrar; (f) The Equal Employment Opportunity Office. |
| Other contraventions | 392 | An inspector. |
| Registration of workplaces and factories | 407 408 | An inspector; An applicant for registration; An employer. |
| Notice of commencement of work | 409 | An inspector. |

370. Standard of proof for penalties in this section.- A contravention of this sub-chapter shall be determined on the basis of the balance of probabilities.

371. Contraventions relating to notices and record keeping.- If an employer, principal or occupier fails to:

- (a) give any notice as required by the Code; or
- (b) maintains any register as required by the Code or makes any false entry in any such register; or
- (c) display any notice or abstract under the Code; or
- (d) submits any records, returns required under the Code;

such employer, principal or occupier shall be liable to a fine which may extend to five penalty units but not less than two penalty units.

372. Contraventions relating to inspection.- If an employer, principal or occupier:

- (a) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any employee, from giving evidence; or
- (b) omits or refuses to give any information to an inspector; or
- (c) produce required record for inspection to the inspector; or
- (d) conceals, prevents or attempts to prevent any person from appearing before or being examined by an inspector; or
- (e) fails to comply with the orders of the inspector, subject to the provisions of the Code.

such employer, principal or occupier shall be liable to punishment with a fine which may extend to ten penalty units but not less than two penalty units.

373. Obstruction of Inspector.- Subject to section 397, whoever obstructs an inspector in exercise or performance of powers or duties under the Code shall be punishable with a fine which may extend to twenty five penalty units but not less than five penalty units.

374. Penalty for non-issuance of employment agreements.- If an employer fails to conclude an employment agreement and provides a copy thereof to any employee under the

Code shall be punishable with a fine of two times the monthly remuneration per each such employee.

375. Discrimination.— (1) If an employer, principal or occupier:

- (a) makes any appointment in contravention of the provisions of Chapter 2.4; or
- (b) makes any payment or remuneration at unequal rates to any employee, for the same work or work of a similar nature or work of equal value; or
- (c) discriminates in other matters of employment and occupation in contravention of the provisions of Chapter 2.4;

(2) Such employer, principal or occupier shall be punishable with a fine which shall not be less than ten penalty units but which may extend to two penalty units.

376. Penalty for embezzlement or misappropriation of funds by trade union official.— Any office-bearer or any employee of a registered trade union, guilty of embezzlement or misappropriation of trade union funds, shall be liable to a fine which may extend to two penalty units along with double the amount found by the Labour Court to have been embezzled or misappropriated and upon realization, the Labour Court shall reimburse the misappropriated or embezzled amount to the trade union.

377. Unfair labour practices.— (1) An employer, principal or occupier who commits any unfair labour practice shall be liable to fine which may extend to ten penalty units but not less than two penalty units.

(2) A worker or an office bearer of a trade union who commits any unfair labour practice shall be liable to fine which may extend to three penalty units but not less than one penalty unit.

(3) An office-bearer of a trade union who compels or attempts to compel the employer, principal or occupier to accept any demand by using intimidation, coercion, pressure, threat, confinement to, or ouster from a place, dispossession, disconnection of telephone, water or power facilities or such other methods shall be liable to fine which may extend to five penalty units but not less than two penalty units.

378. Breach of collective agreement.— A person who commits any breach of any term of a collective agreement, award or decision of the Labour Court or Tribunal which is binding under the Code or fails to implement such collective agreement, award or decision, shall be punished:

- (a) for the employer, principal or occupier, with a fine which may extend to fifteen penalty units but not less than three penalty units; and
- (b) for worker, with a fine which may extend to one penalty unit.

379. Safety and health breaches.— (1) Where a person:

- (a) has a safety and health duty or obligation under Chapter 2.5 or the Safety and Health Rules; and
- (b) fails to comply with that duty or obligation:

such person, other than the worker or a self-worker, shall be punishable with a fine which may extend to twenty five penalty units but not less than five penalty units:

Provided that where a worker or a self-worker fails to comply with a duty or obligation under Chapter 2.5, he shall be punishable with a fine which may extend to one penalty unit.

(2) If a person fails to comply with the duty or obligation under sub-section (1), and the Court finds, on the balance of probabilities, that the breach:

- (a) was negligent, reckless or intentional, or
- (b) exposed a person to a risk of death or serious injury or illness;

the Court may double the penalty in sub-section (1):

Provided that if the breach involved both (a) and (b), a penalty under section 394 may be imposed.

(3) Whoever, unless duly authorized or in case of necessity, removes any machinery, equipment, fixtures, substances, fencing, gangway, ladder, lifesaving means or appliances, lights, marks, stage or other things required to be provided by or under the rules made under the Code or having in case of necessity, removed any such machinery, equipment's fixtures, substances, fencing, gangway, gear, ladder, lifesaving means or appliances, lights, marks, stage or other things and omits to restore it at the end of the period for which its removal was authorized

or necessary, shall be punished with a fine which may extend to fifteen but not less than three penalty units.

(4) The penalties provided in this section shall be in addition to the claims for compensation, if any, instituted by the aggrieved person.

380. Payment of remuneration at a rate below the minimum rates of wages.- (1) Any employer who contravenes section 167 shall be punishable with a fine which may extend to which may extend to ten penalty units but not less than two penalty units.

(2) In addition to the penalties as described under sub-section (1), the Court shall order payment of a sum not less than the difference in remuneration actually paid to the employee and the amount which would have been paid to the employee had there been no such contravention to the employee concerned in each case.

381. Other wage-related contraventions.- An employer who contravenes any of the provisions of Chapter 3.3, shall be punishable with a fine which may extend to ten penalty units but not less than two penalty units in each case.

382. Contraventions relating to working time and leave.- An employer who contravenes any of the provisions of Chapters 3.4 and 3.5 shall be punishable with a fine which may extend to ten penalty units but not less than two penalty units.

383. Contraventions with respect to employment agencies.- Whoever wilfully contravenes any provision of Chapter 3.8 or the rules, or any order or direction made or issued thereunder, or the terms or conditions of any registration certificate, shall be punishable with a fine which may extend to twenty penalty units but not less than five penalty units.

384. Contravention relating to domestic workers.- (1) An employer who fails to comply with or who contravenes any provisions of Chapter 4.4, shall, on conviction, be punishable with fine which for the first contravention may extend one penalty unit and for a second or subsequent contravention with a fine which may extend to two penalty unit.

(2) A child present in a household along with one or both of the parents who are employed therein shall not be presumed to be in employment within the meaning of the Code unless proved.

(3) No prosecution under this section or any rules made thereunder shall be instituted except by or with the previous sanction of the Dispute Resolution Committee.

(4) Whoever, being required by Chapter 4.4 of the Code to restore any property to a domestic worker or his family, omits or fails to do so, within the time specified in sub-section (1) of section 225, shall be liable to a fine not exceeding two penalty units and restoration to the applicant the possession of the said property.

385. Contravention relating to digital platform workers.- A digital labour platform that fails to comply with or contravenes any provisions of the Code shall be punishable with a fine which for the first contravention may extend to ten penalty units but shall not be less than two penalty units and the penalties provided in this section shall be in addition to the claims for compensation, if any, instituted by the aggrieved person.

386. Contravention relating to Workers' Participation Funds.- (1) Where the company to which a scheme in Schedule 5 applies fails to comply with the provisions of the Chapter or the scheme, every director, manager or other officer responsible for the management of the affairs of the company, shall be liable to the administrative penalty, which may extend to fifteen penalty units but not less than three penalty units, in the manner prescribed; but, in case of continuing failure, shall be liable to additional administrative penalty, not exceeding one-half of the minimum wage, for every day after the first day during which the failure continues.

(2) Where a company to which the scheme applies fails to comply with the orders of the Punjab Companies' Profits Workers' Participation Committee under sub-section (3) of section 321, every director, manager or other officer responsible for the management of the affairs of the company, shall be liable to the administrative penalty, which may extend to fifteen but not less than three penalty units, in the manner prescribed; but, in case of continuing failure, shall be liable to additional administrative penalty, not exceeding one minimum wage, for every day after the first day during which the failure continues.

(3) A penalty imposed by an order under sub-section (1) shall, if it is not paid within the time specified in the order, be recoverable as an arrear of land revenue.

(4) The Government may, upon an application made in this behalf by any person aggrieved by an order made under sub-section (1) within a period of six months from the date of the order, review the order and may upon such review, pass such order as it may think fit.

(5) The outstanding amounts of five percent of the profits and penalty imposed by an order under sub-section (1) shall, if it is not paid accordingly within the time specified in the order, be recoverable as arrears of land revenue under the Punjab Land Revenue Act, 1967 and be deposited in the Fund.

(6) Notwithstanding anything contained in the Code or the scheme contained in Schedule 5, if a defaulting company complies with the provisions of section 255 and distributes the benefits in accordance with paragraph 4 of Schedule 5 for the period of default on or before the date fixed by the Government, no such penalty shall be levied and the company shall not be liable to pay interest as provided in paragraph 4 of Schedule 5.

387. Contraventions relating to infrastructure facilities.- (1) Whoever contravenes any of the provisions of Chapter 5.7, shall be punishable with a fine which may extend to ten penalty units but shall not be less than two penalty units.

(2) Whoever having been convicted of any contravention under this Chapter again commits such contravention shall, on conviction, be liable to double the punishment provided for such contravention under this Chapter.

388. Failure to comply with a Labour Court decision in a timely manner.- (1) Subject to the decision of the Tribunal, if a decision given by the Labour Court is not given effect to or complied with within seven days or within the period specified in the decision, the non-compliant party shall be punished with a fine which may extend to ten penalty units but shall not be less than two penalty units.

(2) Nothing in this sub-section prevents the Labour Court or the Tribunal from making further orders under sections 300 and 405 with respect to loss to any person resulting from the failure of the non-compliant party to comply with a decision.

389. Prohibition against victimization.- (1) Where an employer, principal or occupier victimizes a worker for:

- (a) performing any duty or exercising any right under the Code;
- (b) making a complaint or representation as regards any rights granted under the Code or any other law; and
- (c) giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions:

the employer, principal or occupier shall be liable for a fine which may extend to ten penalty units but not less than two penalty units.

(2) Victimization includes, but is not limited to, discrimination.

390. Penalty for factories, shops and establishments.- Any employer, principal or occupier of a factory, shop and establishment who contravenes section 407 or 408 shall be punishable with a fine which may extend to:

- (a) fifteen penalty units but not less than three penalty units for factories;
- (b) ten penalty units but not less than two penalty units for establishments with 10 or more workers;
- (c) three penalty units but not less than one-half (0.5) penalty unit for shops and establishments with less than 10 workers.

391. Notice of commencement of work.- Any employer who contravenes section 409 shall be punishable with a fine which may extend to ten times but not less than two penalty units for factories.

392. Other contraventions not specified.- Whoever fails to comply with or contravenes any provision of the Code or the rules, for which a penalty is not specified person shall be liable to punishment with fine which may extend to five penalty units but shall not be less than one penalty unit.

393. Sexual harassment at work.- The cases of sexual harassment at workplace shall be dealt with under the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010) and the provisions of the Pakistan Penal Code, 1860 (XLV of 1860).

394. Summary of penalties which do not involve imprisonment.-

| Contravention | Section | Penalty Units |
|---|------------|---|
| Notice and record keeping | 371 | 2-5 |
| Inspection | 372 | 2-10 |
| Obstruction of inspectors | 373 | 5-25 |
| Absence of employment agreement | 374 | 2 times the monthly remuneration of each employee |
| Discrimination | 375 | 2-10 |
| Embezzlement by trade union officials | 376 | 2 (+ additional penalty) |
| Unfair labour practices (employer or principal) | 377 | 2-10 |
| Unfair labour practices (worker) | 377 | 0-1 |
| Unfair labour practices (union official) | 377 | 2-5 |
| Breach of collective agreement | 378 | Employee: 0-1 Employer: 3-15 |
| Certain safety and health breaches | 379 | Severe: 5-25 (double under certain conditions) Non-severe: 3-15 |
| Payment below minimum wage | 380 | Factory: 2-10 (or equal to wage deducted, less paid whichever is higher) Establishments with up to 10 workers: 2-4 (or equal to wage deducted, less paid whichever is higher) Establishments with 10 or more workers: 5-10 (or equal to wage deducted, less paid whichever is higher) |
| Other wage contraventions | 381 | 2-10 |
| Working hours and leave | 382 | 2-10 |
| Employment agencies | 383 | 5-20 |
| Underage domestic work | 384 | 2-5 |
| Other domestic work contraventions | 384 | 1-2 |
| Property of domestic workers | 384 | 1-2 |
| Contravention by digital labour platform | 385 | 2-10 |
| Workers' Participation Funds (non-compliance with scheme) | 386 | 3-15 (+ additional penalty) |
| Workers' Participation Funds (failure to comply with orders of Committee) | 386 | 3-15 (+ additional penalty) |
| Infrastructure facilities | 387 | 2-10 |
| Non-compliance with Labour Court order | 388 | 2-10 |
| Victimization | 389 | 2-10 |
| Other contraventions | 392 | 1-5 |
| Registration | 407 408 | Factory: 5-50 Shop/Establishment with 10 or more workers : 3-30 Shop/Establishment with less than 10 workers : 0.5-3 |
| Notice of commencement of work | 409 | Factory: 3-30 |

D. Penalties which may involve imprisonment

395. Applications for orders in relation to penalties which may involve imprisonment.-
An application for an order in relation to penalties which may involve imprisonment shall be made

by an inspector or, in relation to section 401, the Registrar to the Labour Court or a Magistrate of the First Class.

396. Standard of proof for penalties in this section.- (1) Any contravention of the provisions of this sub-chapter shall be determined beyond reasonable doubt if imprisonment is to be imposed.

(2) Any contravention of the provisions of this sub-chapter where imprisonment is not to be imposed is determined on the balance of probabilities.

397. Obstruction of, or non-compliance with a direction of an inspector in certain serious cases.- Where a person obstructs an inspector or without reasonable grounds refuses to comply with a direction of an inspector concerning:

- (a) the cessation of bonded, forced or compulsory labour;
- (b) the cessation of child labour; or
- (c) a prohibition notice under section 65:

this shall be punishable with imprisonment for a term which may extend to one month or with a fine which may extend to twenty penalty units but not less than five penalty units or with both.

398. Bonded, compulsory or forced labour.- (1) Whoever, compels any person to render any bonded labour, or enforces any custom, tradition, practice, contract, agreement or other instrument by virtue of which any person or any member of his family is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which may extend to twenty penalty units but shall not be less than five penalty units, or with both.

(2) The Labour Court or a Magistrate of the First Class may order for payment to the bonded worker at the rate of minimum wages notified by the Government for that category of work or similar work out of the fine recovered under sub-section (1).

(3) Whoever fails to comply with or contravenes any other provision of Chapter 2.2 or the rules, such person shall be punishable with imprisonment for a term which shall not be more than one month or fine which may extend to twenty penalty units but shall not be less than three penalty units or, with both.

(4) Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for forced or compulsory labour through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to twenty penalty units but shall not be less than five penalty units or with both.

(5) If the offence of trafficking in persons under sub-section (4) is committed against a child or a woman, the person who commits the offence shall be punished with imprisonment which may extend to ten years and which shall not be less than two years or with fine which may extend to twenty penalty units but shall not be less than five penalty units or with both.

(6) The penalties provided in sub-sections (4) and (5) above shall not apply to in case of contravention provided in clause (g) of sub-section (2) of section 13. In this case, the penalty shall be a fine only, as provided in section 382.

399. Child labour.- (1) An employer, principal or occupier, who employs or permits any child or young person to work in contravention of the provisions of Chapter 2.3, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with fine which may extend to twenty penalty units, but which shall not be less than two penalty units.

(2) If an employer, principal or occupier fails to comply with or contravenes any other provision of Chapter 2.3 or the rules, such employer, principal or occupier shall be liable to punishment with fine which may extend to twenty penalty units, but which shall not be less than three penalty units.

(3) If a child or young person is found working in an establishment in the immediate presence of a parent or guardian, the parent or guardian shall be equally liable for the contravention along with the employer, principal or occupier.

(4) The parent or guardian shall not be liable if they are compelled to bring the child to work as a direct consequence of being subjected to forced or compulsory labour.

400. Safety and health contraventions with dangerous results.- (1) If a person contravenes any provision of the Code or of any regulations, rules or bye-law or of any order made thereunder, he shall be punishable:

- (a) if such contravention results in loss of life, with imprisonment which may extend to two years, or with fine which may extend to twenty penalty units, but which shall not be less than five penalty units, or with both;
 - (b) if such contravention results in serious bodily injury, with imprisonment which may extend to one year, or with fine which may extend to twenty penalty units, but which shall not be less than five penalty units, or with both.
- (2) Sub-section (1) applies only if the person engages in conduct:
- (a) with gross negligence;
 - (b) intentionally; or
 - (c) with recklessness as to the risk to an individual of death or serious injury or illness.

(3) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with twice the punishment provided by sub-section (1).

(4) Any forum imposing, confirming in appeal, revision or otherwise 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 in the case of his death, to his legal representatives:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has lapsed, or, if an appeal has been presented, before the decision of the appeal.

401. Industrial relations assaults.- (1) An office-bearer of a trade union who compels or attempts to compel an employer, principal or occupier to accept any demand by assault or physical injury or such other methods shall be liable to punishment with imprisonment for a term which may extend to one month or a fine which may extend to twenty penalty units but not less than three penalty units, or with both.

(2) An employer, principal or occupier who compels or attempts to compel a worker or a trade union office-bearer or official to accept any demand by assault or physical injury or such other methods shall be liable to punishment with imprisonment for a term which may extend to one month or a fine which may extend to twenty penalty units but not less than five penalty units, or with both.

402. Summary of penalties which may involve imprisonment.-

| Contravention | Section | Penalty Units | Imprisonment |
|--|---------|--|--------------------|
| Serious obstruction of inspector | 397 | 5-20 | Up to 1 month |
| Bonded, compulsory or forced labour or trafficking in persons | 398 | 5-20 | 2-5 years |
| Related bonded labour | 398 | 3-20 | Up to 1 month |
| Trafficking for forced labour | 398 | 5-20 | Up to 7 years |
| Trafficking for forced labour (of children, women) | 398 | 5-20 | 2-10 years |
| Child labour | 399 | 2-20 | 7 days to 6 months |
| Related child labour | 399 | 3-20 | |
| Safety and health contraventions with dangerous results (death) | 400 | 5-20 | Up to 2 years |
| Safety and health contraventions with dangerous results (serious injury) | 400 | 5-20 | Up to 1 year |
| Industrial relations assaults | 401 | 3-20 (Employee) 5-20 (Employer) | Up to 1 month |

E. Other orders in relation to contraventions

403. Orders in relation to persons who abet a contravention of the Code.- (1) A court may make an order under headings C, D and E of this Part against a person who abets a contravention of the Code.

(2) A person, who abets a contravention punishable under the Code, shall, whether or not the contravention abetted is committed, be punishable with the same punishment as is provided for the contravention he abetted.

(3) For purposes of this section, "abetment" has the same meaning as is assigned to it in the Pakistan Penal Code, 1860 (XLV of 1860) or any other law for the time being in force.

404. Contraventions by companies.- (1) Where a contravention under the Code has been committed by a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any contravention under the Code, has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager or other officer of the company, such director, manager or other officer shall be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section:

- (a) "company" means a body corporate, and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

405. Additional orders.- Where a Court imposes a penalty under heading C or D, it may, in addition, make any order under section 300.

F. Confidential information

406. Certain matters to be kept confidential.- (1) There shall not be included in any report, award or decision under the Code any information obtained by a Registrar, conciliator, Labour Court, Arbitrator or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business whether carried on by a person, firm or company which is not available otherwise than through the evidence given before such an 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 person, firm or company in question.

(2) Except for an inquiry under the Code or any court proceedings relating to the commission of a contravention under the Code or any rules made thereunder or persons disclosing information for the purpose of their functions under the Code, no person shall disclose any matter including any manufacturing of or commercial secrets or working process which has come to the knowledge of that person or which that person has acquired while performing duties under the Code.

(3) Any person making inquiries or investigation under the Code on any complaint or complaints made, shall not divulge the name of persons making the complaints except in case of any judicial proceedings before a Court where he is required to make such disclosure.

(4) An inspector may treat as absolutely confidential the source of any complaint regarding a contravention of the Code and may not reveal to the employer or the employer's representative that an inspection was made in consequence of the receipt of a complaint that a breach of the Code appeared to have been committed.

(5) An inspector may treat as confidential any information obtained in the exercise of powers conferred by the Code and may only disclose it to interested authorities if such disclosure is on reasonable grounds necessary to the administration of any provisions of the Code or any other law for the time being in force.

(6) Nothing contained in this section shall apply to disclosure of any such information for the purpose of a prosecution under section 193 of the Pakistan Penal Code 1860 (XLV of 1860).

PART VII GENERAL PROVISIONS

A. Registration of Establishments

407. Factory registration certificates.— (1) No employer operating a factory shall be allowed to start a manufacturing process unless he has obtained factory registration certificate from the inspector authorised in this behalf of the area concerned.

(2) No registration certificate shall be issued unless the employer of a factory provides the requisite documents as may be prescribed by the rules.

(3) The registration documents be supported by approval of lay out plan of industrial plot from the relevant development authorities and approval of industrial connections from electric, gas and water supply agencies.

(4) Such registration and issuance of registration certificate may be done through electronic mode online.

(5) On the request of the employer operating a factory, the inspector authorised in this behalf of the area concerned, after having been satisfied effect that the factory has lost the status of a factory as laid down in the Code and is not likely to resume the status in the ensuing twelve months, may de-register a factory.

(6) A registration certificate granted under sub-section (1) shall remain in force for a period of two years from the date of its grant and shall be renewable automatically on payment of the prescribed fee.

408. Registration certificate for establishments.— (1) Every employer shall obtain registration of an establishment with the Deputy Chief Inspector for the area within which such establishment is situated except the following:

- (a) a factory; and
- (b) factories employing clerical staff within the factory premises.

(2) No establishment required to be registered under sub-section (1), shall be permitted to work, unless a registration certificate has been granted in respect thereof, in such manner and on such terms and conditions as may be prescribed.

(3) Such registration and issuance of registration certificate may be done online through electronic mode.

(4) A registration certificate granted under sub-section (1) shall remain in force for two years from the date of the grant and shall be renewable automatically on payment of the prescribed fee.

(5) The establishments having fifteen or more workers shall be registered through factory inspector of the area.

(6) The employer shall display the registration certificate at a prominent place of the establishment and on the website of the establishment, where available.

409. Notice to Inspector before commencement of work.— (1) The employer of a factory or seasonal factory, before work is begun in such factory, shall send to the Inspector a written notice, physically or electronically, containing:

- (a) name of the factory and its address;
- (b) address to which communications relating to the factory should be sent;
- (c) nature of the work to be carried on in the factory;
- (d) nature and amount of the power to be used;
- (e) name of the manager for the purposes of the Code; and
- (f) such other particulars as may be prescribed for the purposes of the Code.

(2) Whenever manager is changed, the employer shall send to the Inspector, a written notice of such change within seven days from the date on which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of the factory under this section, or during which the person designated does not manage the factory,

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 factory for the purposes of the Code.

410. Regulation of seasonal establishments.- (1) The Chief Inspector may, by notification in the official Gazette, declare an establishment which ordinarily operates for more than one hundred and eighty days in the year, not to be a seasonal establishment for the purposes of the Code.

(2) The Chief Inspector may, by notification in the official Gazette, declare any specified establishment which ordinarily operates for more than one hundred and eighty days in the year and cannot run except during particular season or at times dependent on the irregular action of natural forces, to be a seasonal establishment for the purposes of the Code, provided that no such establishment shall be declared as seasonal establishment for which the raw material is available round the year.

B. Collection of Statistics

411. Collection of statistics.- The Department, through Chief Inspector and Inspector of establishments may, by notification, direct that sex-disaggregated statistics, where possible, shall be collected relating to all or any of the following matters:

- (a) any matter relating to establishments, as may be prescribed; and
- (b) any of the following matters so far as they relate to the workers' welfare and their working conditions, namely:
 - (i) employed workers and turnover;
 - (ii) remuneration and other earnings;
 - (iii) number of workers receiving loans or advances and amounts thereof;
 - (iv) hours of work and overtime work shown separately;
 - (v) number of female workers who availed maternity leave;
 - (vi) provident and other funds maintained by the employer;
 - (vii) benefits, welfare facilities, and amenities provided by the employer;
 - (viii) individual and collective rights disputes;
 - (ix) living conditions, including housing, water supply and sanitation, especially where provided by the employer;
 - (x) number of workers and the amounts deducted for providing housing accommodation;
 - (xi) number of workers and the amounts deducted for providing transportation facility; and
 - (xii) returns as required under the Code.

C. Data Protection

412. Data protection.- (1) No employer shall process any personal data concerning workers that is not intrinsically connected to, and strictly necessary for, the performance of the agreement between the employer and the worker, as may be prescribed.

- (2) A worker shall have right of:
 - (a) protection of his personal data;
 - (b) access to the data collected about him; and
 - (c) rectification of such data.

D. Due Diligence and Fair Procurement

413. The due diligence clause.- (1) Subject to sub-section (3), employers shall be under an obligation to exercise due regard for the labour rights-related due diligence obligations in their supply chains with the aim of preventing or minimising any risks to the labour rights or of ending the violation of such rights-related obligations.

- (2) The due diligence obligations include:
 - (a) establishing a risk management system;
 - (b) designating a responsible person within the establishment;
 - (c) performing regular risk analyses;
 - (d) identifying actual or potential adverse impacts on labour rights;
 - (e) integrating due diligence into establishment's policies;
 - (f) laying down preventive measures in its own area of business and vis-à-vis

- direct suppliers;
- (g) taking remedial actions;
- (h) establishing mechanism for filing of a complaint and its redressal procedure; and
- (i) documenting and reporting on above obligations and actions taken.

(3) The due diligence obligations shall be applicable to employers in all establishments including group of establishments which have more than 1000 workers and in the manner as may be prescribed.

(4) A labour rights risk shall be a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of one of the following prohibitions is imminent:

- (a) prohibition of the employment of persons in forced, bonded or compulsory labour and all forms of slavery, practices akin to slavery, serfdom or other forms of domination or oppression in the workplace, as per Chapter 2.2;
- (b) prohibition of the employment of a child under the age of sixteen years, as per Chapter 2.3;
- (c) prohibition of the worst forms of child labour for children under eighteen years of age, as per Chapter 2.3;
- (d) prohibition of unequal treatment in employment and occupation and the payment of unequal remuneration for work of equal value, as per Chapter 2.4;
- (e) prohibition of disregarding the occupational safety and health obligations applicable under the Code, particularly in Chapter 2.5, and the rules made thereunder;
- (f) prohibition of disregarding the freedom of association, right to collective bargaining and the right to strike, as per Chapter 2.6; and
- (g) prohibition of withholding or non-payment of applicable minimum wage, as notified by the Government from time to time.

(5) The supply chain within the meaning of this section refers to all products and services of an establishment. It includes all steps that are necessary to produce the products and provide the services, and includes:

- (a) the actions of an establishment in its own business area;
- (b) the actions of direct suppliers:
 - (i) in this section: "own business area" means every activity of the establishment to achieve the business objective; and
 - (ii) "direct supplier" means a partner to a contract for the supply of goods or the provision of services whose supplies are necessary for the production of the establishment's product or for the provision and use of the relevant service.

(6) The fulfilment of the due diligence obligations pursuant to this section shall be continuously documented within the establishment, as prescribed.

414. The fair employment standards clause.- (1) Notwithstanding anything contained in the Punjab Procurement Regulatory Authority Act 2009 or any other law on the subject for the time being in force, a public sector procuring agency, during the evaluation of bids and signing of a contract with the successful bidder, shall ensure that the contractor respects the minimum employment standards as provided in the Code, especially in Part II and Part III.

(2) The contractor shall, notwithstanding the provisions of any contract to the contrary, cause to violate the fair employment standards clause given hereunder, in respect of workers employed directly or indirectly for fulfilment of the obligations of the contract.

(3) During the validity of contract, the Public Procurement Authority shall have the right to deduct from the money due to contractor any sum required for making good to the loss suffered by the worker or workers by reason of non-fulfilment of the conditions of the contract for the benefits of the workers.

(4) Every public sector procurement contract shall be accompanied by the fair employment standards clause, according to which the employment or engagement of all workers

for meeting the obligations under that contract shall comply with the minimum terms of employment which must be observed pursuant to the Code and rules made thereunder.

(5) The contractor shall adhere to the provisions of the Code including but not limited to Part II, Part III other than Chapter 3.8 and Part V other than Chapters 5.2, 5.3 and 5.4.

(6) The procuring agency shall, before final settlement of the claims of the contractor or licensee arising out of the contract, require the production of a certificate from the Department showing that the provisions of the Code have been complied with by the contractor or the licensee. In case of default of such certificate, the procuring agency shall deduct, from the amount otherwise payable in settlement of claims of workers if any regarding remuneration, compensation, leave encashment and gratuity, etc., the appropriate amount and deposit the same with the Employees' Compensation Commissioner for disbursement according to the law.

(7) This fair employment standards clause shall be deemed to be an integral part of contract awarded to a contractor and any breach shall be a breach of such contract.

E. Other Provisions

415. Indemnity.- No suit, prosecution or other proceedings shall lie against any person employed in the public service authorized under the Code, for anything done or purported to be done in good faith under the Code or any rules or regulations made and framed under the Code.

416. Contracting out.- Any contract or agreement whether made before or after the commencement of the Code, whereby a worker relinquishes any right conferred by the Code, shall be null and void in so far as it purports to deprive the worker of such right.

417. Validity of acts.- No act done by an agency established in the Code shall be called in question on the grounds merely of the existence of any vacancy in, or defect in the constitution of, the agency.

418. Officers to be public servants.- All officers, authorities, members of Committees, Registrar, mediators, conciliators, arbitrators, presiding officer of a Labour Court and the member of a Tribunal, etc. shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code 1860 (XIV of 1860).

419. Display at workplace.- At the entrance to a workplace or any other place where the employees legitimately gather, abstracts of the Code and the rules made thereunder along with any other notices required by the Code shall be displayed in English, and Urdu or other regional languages.

420. Powers to collect information.- Any Board, or any officer or authority acting under the Code or any rules, regulations or schemes, may, for the due discharge of its functions, call for statistics and direct any employer to furnish such records, documents or information or do such other acts, as it or the officer may require, and every such employer shall comply with such direction:

Provided that any information so collected shall not be disclosed in respect of individual undertaking or establishments.

421. Limitation for records.- Every register or record kept in pursuance of the Code shall be preserved and kept available for inspection by an Inspector for at least five years or such other period as may be prescribed for any class or description of register or record.

422. Power to make rules.- (1) The Government may, by notification in the official Gazette, make rules for the purposes of the Code.

(2) The power to make rules under the Code shall be subject to the condition of the rules being made after previous publication.

423. Amendment of Schedules.- The Government may, by notification in the official Gazette, amend the Schedules.

424. Power to issue directions.- The Government may, from time to time, issue such directions to an employer, principal or occupier as may be necessary for the effective enforcement of the provisions of the Code.

425. Power to issue instructions and guidelines.- The Department may issue the instructions and guidelines for the purposes of the Code.

426. Removal of difficulties.- If any difficulty arises in giving effect to any provisions of the Code, the Government may, by a notification in the official Gazette, make orders not inconsistent with the provisions of the Code.

427. Code to override other laws.- Notwithstanding anything contained any other law for the time being in force, the provisions of the Code shall prevail over any other law for the time being in force.

428. Limitation.- (1) The provisions of section 5 of the Limitation Act, 1908 (IX of 1908), shall be applicable to any proceedings under the Code.

(2) Save as otherwise provided in the Code, no prosecution or complaint shall be lodged unless it is made within three months of the date on which the contravention is alleged to have been committed or came into the knowledge of prosecuting authority:

Provided that when the contravention consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the contravention is alleged to have been committed.

429. Provision of certified copies.- The Tribunal, the Labour Court, Registrar, the Payment of Wages Authority, the Employees' Compensation Commissioner, and other authorities appointed under the Code shall provide certified copies of documents, orders or decisions on payment of a prescribed fee within time as specified in the law for the time being in force.

430. Power to seek assistance from other agencies.- Any officer appointed under the Code may, within the local limits for which such officer is appointed, enter, with such assistants, being persons in the service of the state or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be a workplace and seek the assistance of other municipal or public authorities for faithful observance of the Code.

431. Maintenance of record and submission of returns.- (1) Every employer shall keep such records and shall submit such returns to the Authorities, at such times, in such form and containing such particulars relating to persons employed by the employer and prevailing working conditions, as prescribed by the rules, including but not limited to information on the number of persons employed, their contractual or employment status, copies of employment agreements, and the general terms and conditions applicable to those employment agreements.

(2) Every employer shall preserve the record, required to be maintained under sub-section (1).

432. Extension of certain provisions of the Code.- The Chief Inspector may extend any of the provisions of the Code by lowering the threshold of the number of employees by notification in the official Gazette.

433. Power to exempt.- (1) A power to exempt under the Code must be exercised in accordance with this section.

(2) Subject to sub-section (4) and (5), the Chief Inspector may exempt a category of establishment in accordance with the following provisions:

- (a) Section 178;
- (b) Section 186;
- (c) Section 187; and
- (d) Section 247.

(3) Notwithstanding any other provision in the Code, no exemption shall be granted with respect to any provision in:

- (a) Part I;
- (b) Part II;
- (c) Part III except those areas as specified in sub-section (2) above;
- (d) Part IV other than section 247;
- (e) Chapter 5.6;
- (f) Part VI; and
- (g) Part VII.

(4) Any exemption granted contrary to sub-section (3) is void.

(5) A notification of exemption under sub-section (1) shall specify:

- (a) the establishments, or group of establishments, to which the exemption applies;
- (b) the reasons for the exemption;
- (c) the conditions to be accorded to workers in place of those to which the exemption applies;

- (d) the duration of exemption, which shall not exceed the time indicated in the specific provision, or, if no time is specified, three years; and
- (e) the impact on fair competition between establishments, or groups of establishments, that are subject to the exemption and those that are not.

(6) Prior to notifying an exemption under sub-sections (2) or (3), the Chief Inspector shall take into account the views of the collective bargaining agent, or, if there are no collective bargaining agents, the trade unions of the establishment. Where the exemption relates to more than one establishment, the proposal shall be discussed and decided at the Provincial Tripartite Consultative Council.

(7) A notification of exemption in sub-section (1) may be appealed under section 363 and failure to comply with sub-sections (5) and (6) shall constitute grounds under sub-section (4) of that section.

434. Provisions relating to reduced rates for small establishments.- (1) The Chief Inspector may reduce the following entitlements of workers engaged in any category of establishment employing fewer than twenty persons:

- (a) Section 179;
- (b) Section 197;
- (c) Section 198; and
- (d) a provision in Part V other than Chapter 5.6.

(2) The Chief Inspector may graduate the application of sub-section (1) depending on the size of the establishment.

Explanation: In order to reflect the financial capacity of establishments of varying size, the Chief Inspector may create a "sliding scale" with larger reductions for smaller establishments. This will also facilitate the transition of establishments which increase employees to twenty or more, thereby becoming liable to pay the full entitlements.

435. Repeal and savings.- (1) The following laws are hereby repealed:

- (a) the Workmen's Compensation Act, 1923 (VIII of 1923);
- (b) the Children (Pledging of Labour) Act, 1933 (II of 1933);
- (c) the Factories Act, 1934 (XXV of 1934);
- (d) the Payment of Wages Act, 1936 (IV of 1936);
- (e) the Employer's Liability Act, 1938 (XXIV of 1938);
- (f) the Industrial Statistics Act, 1942 (XIX of 1942);
- (g) the Essential Personnel (Registration) Ordinance, 1948 (X of 1948);
- (h) the Employment (Record of Service) Act, 1951 (XIX of 1952);
- (i) the Punjab Maternity Benefit Ordinance, 1958 (XXXII of 1958);
- (j) the Coal Mines (Fixation of Rates of Wages) Ordinance, 1960 (XXXIX of 1960) (in its application to the province of Punjab);
- (k) the Road Transport Workers Ordinance, 1961 (XXVIII of 1961);
- (l) the Tea Plantations Labour Ordinance 1962 (XXXIX of 1962);
- (m) the Control of Employment Ordinance, 1965 (XXXII of 1965);
- (n) the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (VI of 1968);
- (o) the Companies Profit (Worker's Participation) Act, 1968 (XII of 1968);
- (p) the Shops and Establishment Ordinance, 1969 (VIII of 1969);
- (q) the Punjab Fair Price Shops (Factories) Ordinance, 1971 (VIII of 1969);
- (r) the Fee Charging Employment Agencies (Regulation) Act, 1976 (LXXVII of 1976);
- (s) the Bonded Labour System (Abolition) Act, 1992 (III of 1992);
- (t) the Punjab Industrial Relations Act 2010 (XIX of 2010);
- (u) the Punjab Prohibition of Child Labour at Brick Kilns Act 2016 (XXXVII of 2016);
- (v) the Punjab Restriction on Employment of Children Act 2016 (L of 2016);
- (w) the Punjab Occupational Safety and Health Act 2019 (IV of 2019);
- (x) the Punjab Minimum Wages Act 2019 (XXVIII of 2019);
- (y) the Punjab Domestic Workers Act 2019 (II of 2019); and

- (z) the Punjab Home-based Workers Act 2023 (V of 2023).
- (2) Notwithstanding such repeal, under any such repealed law:
- (a) anything done, any rules, regulations or schemes made, or any order, notice or notification issued or any Chairperson, member or officer appointed, or any Court, Tribunal, Board, authority, committee or fund constituted, or any notice given, or any trade union or federation registered, or any collective bargaining agent elected or any complaint presented, or any application submitted, or any permission, licence, constitution, service rules or exemption granted, or any other action or proceedings taken or commenced shall, subject to conformity with the provisions of the Code, remain in force and shall be deemed to have been done, made, issued, appointed, constituted, given, registered, elected, filed, submitted, granted, taken or commenced under the corresponding provision of the Code, until repealed, or amended;
 - (b) any case or proceedings pending in any Court or Tribunal or authority at the time of commencement of the Code shall be continued in and heard and disposed of by such Court or Tribunal, as if such laws were not repealed; and
 - (c) any reference to the repealed Acts and Ordinances shall be construed as reference to the corresponding provisions of the Code.

SCHEDULE 1

LIST OF LIGHT WORK

- (a) agricultural work, such as the gathering of flowers or fruit; picking, gathering, or sorting work performed in agricultural undertakings; manual husking of fruits and seeds, the sorting of vegetable products; preparing, cleaning and packaging in small packets;
- (b) work in commercial enterprises, such as shelving up to four feet above the ground level or pricing; packaging of products;
- (c) shop work including packing, shelving, stacking, selling goods and working as a shop assistant but not including any lifting or carrying of loads heavier than 5 kgs;
- (d) office, clerical and desk work; and
- (e) Work of an intellectual or academic nature.

SCHEDULE 2

LIST OF HAZARDOUS WORKS WHERE THE ENGAGEMENT OF YOUNG PERSONS IS PROHIBITED

Any occupation connected with:

1. Transport of passengers, goods or mail;
2. any kind of catering services at railway station, bus stand or at goods forwarding agency involving the movement from one platform to another or one place to another in moving transport/vehicles; and
3. construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines.

The following activities and processes:

4. a dry port authority within the limits of any dry port;
5. underground mines and on ground quarries including blasting;
6. power driven cutting machinery like saws, shears, guillotines, agricultural machines, thrashers, fodder cutting machines;
7. live electrical wires over 50 volts;
8. all operations related to leather tanning processes such as soaking, dehairing, liming, chrome tanning, deliming, pickling, de-fleshing, ink application;
9. storage, packing, handling, using, mixing and manufacture of agrochemicals and fumigation;
10. sandblasting and other such work involving exposure to free silica;

11. exposure to all toxic, explosive and carcinogenic chemicals or substances e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, sulphur dioxide, lithium, phosphorus, benzidenedyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury chromium, lead and lead arsenic, beryllium and fibre glass;
12. exposure to cement dust in cement industry;
13. exposure to coal dust in any industry;
14. manufacturing and sale of fireworks, shells and explosives;
15. the sites where liquid petroleum gas or compressed natural gas is filled in cylinders;
16. glass and metal furnaces and glass bangles manufacturing;
17. power looms, and cone making, cloth weaving, printing, dyeing and finishing;
18. sewer pipelines, pits and storage tanks including oil storage tanks and tank lorries;
19. stone crushing;
20. lifting and carrying of heavy weight (15kg and above) specially in transport industry;
21. carpet weaving;
22. the height of two meters or more above the ground, floor;
23. all scavenging including hospital waste, E-waste, collecting and re-assembling of electric bulbs;
24. tobacco sale, processing and manufacturing including niswar, birri and any other product made from tobacco;
25. deep-water fishing, commercial fishing and processing of fish and sea-food;
26. sheep casing;
27. manufacturing of surgical instruments;
28. spice grinding;
29. boiler house;
30. cinemas, mini cinemas and cyber clubs;
31. mica-cutting and splitting;
32. soap and detergent manufacturing;
33. shells manufacturing;
34. woolen industry including wool cleaning, weaving, knitting and dyeing;
35. building and construction industry including construction of roads and demolition of buildings;
36. manufacturing of slate pencils including packing;
37. manufacturing of products from agate;
38. brick kiln, especially engagement as Barai wala, Nikasi wala, and Jalai wala/Mistri;
39. corporate agriculture;
40. cooking food in restaurants and as business;
41. aluminium and glass fixation workshops and establishments;
42. work with wild, dangerous or poisonous animals;
43. paint work;
44. stone and tiles cutting and stone polishing;
45. cotton ginning; and
46. night work.
47. domestic work.

SCHEDULE 3 PUBLIC UTILITY SERVICES

1. The generation, production, manufacture, or supply of gas and oil to the public;
2. any system of public conservancy or sanitation;
3. postal and courier services;
4. railways and airways; and
5. airports and dry ports.

SCHEDULE 4 ESSENTIAL SERVICES

1. The health and hospital sector including ambulance service;
2. the generation, distribution or supply of electricity to the public;
3. water supply services;
4. the telephone and mobile phone services;
5. air traffic control; and
6. fire-fighting service.

SCHEDULE 5 COMPANIES' PROFITS WORKERS' PARTICIPATION FUND SCHEME

1. **Scope of the scheme.**— The scheme applies to all companies which satisfy any one of the following conditions, and to such other companies as the Government may, by notification in the official Gazette, specify in this behalf:

- (a) the number of employees engaged by the company at any time during a year is 100 or more;
- (b) the paid-up capital of the company as on the last day of its accounting year is Rs. 5 million or more; and
- (c) the value of the fixed assets of the company (at cost) as on the last day of the accounting year is Rs. 20 million or more.

Explanation.— In this scheme, references to the paid-up capital and the value of the fixed assets of the company shall, in the case of a company incorporated outside Pakistan but having a branch in Pakistan, be construed as references respectively to the capital invested in such branch and the value of the fixed assets of the branch.

2. **Investment of Fund.**— (1) The amount allocated or accruing to the Fund shall be available to the company for its business operations. The company may, however, request the Board to utilize the amount in the Fund for investment under sub-paragraph (7) and the Board may decide to so invest the amount.

(2) The company shall pay to the Fund in respect of the amount in the Fund available to it for its business operations as aforesaid interest at the rate of 2 1/2 percent above the bank rate or 75 per cent of the rate at which dividend is declared on its ordinary shares, whichever is higher. In case there is more than one class of ordinary shares on which different rates of dividend have been declared, then the weighted average of the different rates of dividend shall be taken for the purpose of determining the rate of interest. The interest to the Fund shall accrue on and from the first day of the year next succeeding the year in which the scheme becomes applicable to the company. Even when the company does not wish to utilize the amount available to it under sub-paragraph (1), interest at the rate aforesaid shall be payable by the company for the period between the date of allocation of any amount to the Fund and the date of its investment under sub-paragraph (7).

(3) If at any time after the establishment of the Fund, the company raises any additional capital, otherwise than through the issue of bonus or bonus shares, the Fund shall have the first option to convert any amount available to the company under sub-paragraph (1) or any of the assets of the Fund into ordinary equity capital up to a ceiling of 20 per cent of the paid-up capital of the company prior to such conversion or 50 per cent of the additional capital, whichever is less.

Explanation.— In this sub-paragraph, "additional capital" does not include any capital offered or to be offered to foreign participants of the company.

(4) For the exercise of the right of conversion under sub-paragraph (3), the Board shall be given sufficient time to sell assets of the Fund to realise the amount needed for subscription to the additional issue of capital by the company.

(5) The shares acquired in the manner set out in sub-paragraph (3) shall participate in future bonus and right issues in the same manner as other shares.

(6) The shares acquired in the manner set out in sub-paragraph (3) 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 Fund.

(7) The amount in the Fund which, under sub-paragraph (1), the company has requested to be utilized for investment under this paragraph may be invested by the Board for the purchase of any of the following:

- (a) I.C.P. Mutual Fund Certificate;
- (b) National Investment Trust (Unit) Certificates;
- (c) Government securities including Defense and Postal Savings Certificates; and
- (d) any other securities approved for the purpose by the Government.

3. Eligibility to benefits of scheme.— All employees shall be eligible to the benefits of the scheme and to participate in the Fund. However, an employee not completing six months of employment with the company during a year of account shall not participate in the Fund in respect of that year.

4. Distribution of benefits.— The share of an employee in the annual allocation to the Fund shall be expressed in units or fractions of units (worked out to two places of decimal) of the face value of Rs. 10 determined in the following manner:

- (a) the number of available units shall be so divided into three parts for the three categories of employee mentioned below that an employee in the first category gets four units, employee in the second category gets two units, and the employee in third category gets one unit (4:2:1);

Categories

- (i) Employees drawing average monthly remuneration not more than two times the monthly minimum wage notified, from time to time, by the Government;
- (ii) Employees drawing average monthly remuneration exceeding the category 1 but not more than three times the monthly minimum wage notified, from time to time, by the Government;
- (iii) Employees drawing average monthly remuneration exceeding three times the monthly minimum wage notified, from time to time, by the Government;
- (c) the minimum wage, referred to in this paragraph, shall be the minimum wage as was applicable to the year to which the profit relates;
- (d) the average monthly remuneration shall be rounded up to the nearest Rs.10;
- (e) the number of units available to each category of employees shall be divided equally among all the employees in that category to determine the share of each employee of that category; and
- (f) notwithstanding anything contained in this scheme, no employee shall, in any one year, be entitled out of the annual allocation of units exceeding the amount of six times the minimum wage. Any amount left out of the annual allocation after the units have been so allocated shall be transferred to the Fund established under the Punjab Workers Welfare Fund Act 2019. No part of such amount shall be deemed to be included in the net asset value of the Fund established under this Chapter and no individual employee shall have any lien on this amount by virtue of holding any units.

Explanation: In this paragraph, "average monthly remuneration" means total remuneration drawn during the year of account divided by 12, or by the number of months an employee actually worked during a year in respect of which the employee is entitled to the benefit under the scheme, as the case may be, and "remuneration" has the same meaning as in as in the Code but does not include any overtime allowance, bonus and gratuity or provident fund payable:

5. Disbursement of benefits.— The disbursement of the benefits from the fund shall be as under:

- (a) 100 per cent of the annual income of the Fund, including capital gains realized, shall be distributed each year to employees in proportion to their units of entitlement;

- (b) An employee who voluntarily leaves the employment of the company or whose services are terminated shall be entitled to receive 100 per cent of the net asset value of the units standing in his name;
- (c) An employee who continues in the service of the company shall be entitled to receive 100 per cent of the net asset value of the units in his name each year or the employee may choose to leave the share in the Fund:
Provided that employees while in employment may choose to encash all the units standing in their name at any time at their discretion; and
- (d) An employee, in the event of retirement or, their nominated beneficiary, in the event of the employee's death (from whatsoever cause) while in the employment of the company, shall receive 100 per cent of the net asset value of the units standing in the employee's name.

6. Definition of the net asset value of the unit.— To determine the net asset value of a unit; the total net assets of the Fund, namely, market value of the securities, cash and other assets resulting from the investment and re-investment, capital accretion thereto and all incomes of any kind rising there from shall be divided by the number of units in the Fund. Net asset value of the entire Fund shall be computed once every year and each worker's unit entitlement determined at the same time. Additional units will be given to the employees according to the amount they voluntarily contribute to the Fund.

7. Employee's own contribution.— An employee may voluntarily choose to contribute a part of the remuneration, cash bonus, dividend or interest to the Fund. For each unit of contribution, the employee shall receive credit for 1-1/4 units. Contribution received during the course of a year of account shall, however, be deemed to be contribution received on the last day of that year. If at any time an employee chooses to leave the employment of the company or his services are terminated or in the event of employee's retirement or death or on the expiry of three years from the date he voluntarily chooses to contribute a part of his remuneration, cash bonus, dividend or interest to the Fund, the employee, at his option, or, in the event of his death, the nominated beneficiary, may, receive, the net asset value of the units representing the employee's contribution. The contribution by an employee in any one year of account shall not exceed 10 per cent of his annual remuneration during such year.

8. Fiscal concessions to the Companies.— All companies to whom the scheme applies shall be allowed the allocation made to the scheme as a deduction to arrive at the taxable income.

9. Tax Treatment of the Income of the Fund.— The Government may approach the Federal Government for exemption from the levy of income tax on the income of the Fund including capital gains.

10. Tax treatment of the income to the employees.— All sums paid out by the Fund shall be exempt from income-tax in the hand of the employees.

11. Working and location of the Board of Trustees.— The office of the Board of Trustees shall be located at the premises or, if there is more than one premises run by the company, at the registered head office of the company. All expenses of the Board, including the cost of maintaining accounts, shall be borne by the company.

12. Audit of the Fund accounts.— The Fund accounts 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 Fund.

13. Scheme's benefits to be in addition to other benefits.— The benefits to an employee under this scheme shall be in addition to, and not in derogation or substitution of, any other benefits to which the employee maybe entitled under any other law, contract, terms and conditions of employment or otherwise.

14. Special provision for industries working seasonally.— Notwithstanding anything contained in this Chapter or this scheme the Government, may, by notification in the official Gazette, make special provisions for the participation of employees in the profit of companies engaged in industrial undertakings which operate only for a part of the year.

15. Companies engaged in more than one workplace.— Notwithstanding anything contained in this Chapter or this scheme, the Department may, at the request of a company which is engaged in more than one workplace located at different places, permit the splitting up of the Fund amongst the various undertakings or groups of undertakings and constitution of a Board of Trustees for each such undertaking or group of undertakings; and thereupon the provisions of this Chapter and this scheme shall have effect in relation to such undertakings or groups as if each such undertaking or group were a company.

16. Entrustment of management of Fund.— The Board of Trustees may, with the prior approval of the Government, enter into a contract with the Investment Corporation of Pakistan, the National Investment Trust or the National Bank of Pakistan entrusting the management of the Fund to that Corporation, Trust or Bank on such fee which shall be payable by the company, and on such terms and conditions as may be mutually agreed upon.

**SCHEDULE 6
EMPLOYEES' COMPENSATION INJURIES**

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT

| S/N | Description of injuries | Percentage of loss of earning capacity |
|-----|---|--|
| 1. | Loss of both hands or amputation at higher sites. | 100 |
| 2. | Loss of a hand and a foot. | 100 |
| 3. | Double amputation through leg or thigh or amputation through leg or thigh on one side and loss of other foot. | 100 |
| 4. | Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential. | 100 |
| 5. | Very severe facial disfigurement. | 100 |
| 6. | Absolute deafness. | 100 |

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

| Sr.No. | Description of injuries | Percentage of loss of earning capacity |
|---|---|--|
| Amputation cases—upper limbs (either arms) | | |
| 1. | Amputation through shoulder joint | 90 |
| 2. | Amputation below shoulder with stump less than 8" from tip of acromion | 80 |
| 3. | Amputation from 8" from tip of acromion to less than 4½" below tip of olecranon | 70 |
| 4. | Loss of hand or of the thumb and four fingers of one hand or amputation from 4½" below tip of olecranon | 60 |
| 5. | Loss of thumb | 30 |
| 6. | Loss of thumb and its metacarpal bone | 40 |
| 7. | Loss of four fingers of one hand | 50 |
| 8. | Loss of three fingers of one hand | 30 |
| 9. | Loss of two fingers of one hand | 20 |
| 10. | Loss of terminal phalanx of thumb | 20 |
| Amputation cases – lower limbs | | |
| 1. | Amputation of both feet resulting in end bearing stumps | 90 |
| 2. | Amputation through both feet proximal to the metatarso phalangeal joint | 80 |
| 3. | Loss of all toes of both feet through the metatarso phalangeal joint | 40 |

| | | |
|--|--|----|
| 4. | Loss of all toes of both feet proximal to the proximal interphalangeal joint | 30 |
| 5. | Loss of all toes of both feet distal to the proximal interphalangeal joint | 20 |
| 6. | Amputation at hip | 90 |
| 7. | Amputation below hip with stump not exceeding 5" in length measured from tip of great trochanter | 80 |
| 8. | Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh | 70 |
| 9. | Amputation below middle thigh to 3½" below knee | 60 |
| 10. | Amputation below knee with stump exceeding 3½" but not exceeding 5" | 50 |
| 11. | Amputation below knee with stumps exceeding 5" | 40 |
| 12. | Amputation of one foot resulting in end-bearing | 30 |
| 13. | Amputation through one foot proximal to the metatarsophalangeal joint | 30 |
| 14. | Loss of all toes of one foot through the metatarsophalangeal joint | 20 |
| Other injuries | | |
| 1. | Loss of one eye, without complication or the other being normal | 40 |
| 2. | Loss of vision of one eye without complications disfigurement of eyeball, the other being normal | 30 |
| Fingers of right/left hand index finger | | |
| 1. | Whole | 14 |
| 2. | Two phalanges | 11 |
| 3. | One phalanx | 9 |
| 4. | Guillotine amputation of tip without loss of bone | 5 |
| Middle finger | | |
| 1. | Whole | 12 |
| 2. | Two phalanges | 9 |
| 3. | One phalanx | 7 |
| 4. | Guillotine amputation of tip without loss of bone | 4 |
| Ring or little finger | | |
| 1. | Whole | 7 |
| 2. | Two phalanges | 6 |
| 3. | One phalanx | 5 |
| 4. | Guillotine amputation of tip without loss of bone | 2 |
| Toes of right or left foot great toe | | |
| 1. | Through metatarso-phalangeal joint | 14 |
| 2. | Part, with some loss of bone | 3 |
| Any other toe | | |
| 1. | Through metatarso-phalangeal joint | 3 |
| 2. | Part, with some loss bone | 1 |
| Two toes of one foot, excluding great toe | | |
| 1. | Through metatarso-phalangeal joint | 5 |
| 2. | Part, with some loss of bone | 2 |
| Three toes of one foot, excluding great toe | | |
| 1. | Through metatarso-phalangeal joint | 6 |
| 2. | Part, with some loss of bone | 3 |
| Four toes of one foot, excluding great toe | | |
| 1. | Through metatarso-phalangeal joint | 9 |

| | | |
|----|------------------------------|---|
| 2. | Part, with some loss of bone | 3 |
|----|------------------------------|---|

SCHEDULE 7

LIST OF OCCUPATIONAL DISEASES

OCCUPATIONAL DISEASES CAUSED BY EXPOSURE TO AGENTS ARISING FROM WORK ACTIVITIES

- 1.1. Diseases caused by chemical agents
 - 1.1.1. Diseases caused by beryllium or its compounds
 - 1.1.2. Diseases caused by cadmium or its compounds
 - 1.1.3. Diseases caused by phosphorus or its compounds
 - 1.1.4. Diseases caused by chromium or its compounds
 - 1.1.5. Diseases caused by manganese or its compounds
 - 1.1.6. Diseases caused by arsenic or its compounds
 - 1.1.7. Diseases caused by mercury or its compounds
 - 1.1.8. Diseases caused by lead or its compounds
 - 1.1.9. Diseases caused by fluorine or its compounds
 - 1.1.10. Diseases caused by carbon disulfide
 - 1.1.11. Diseases caused by halogen derivatives of aliphatic or aromatic hydrocarbons
 - 1.1.12. Diseases caused by benzene or its homologues
 - 1.1.13. Diseases caused by nitro- and amino-derivatives of benzene or its homologues
 - 1.1.14. Diseases caused by nitroglycerine or other nitric acid esters
 - 1.1.15. Diseases caused by alcohols, glycols or ketones
 - 1.1.16. Diseases caused by asphyxiants like carbon monoxide, hydrogen sulfide, hydrogen cyanide or its derivatives
 - 1.1.17. Diseases caused by acrylonitrile
 - 1.1.18. Diseases caused by oxides of nitrogen
 - 1.1.19. Diseases caused by vanadium or its compounds
 - 1.1.20. Diseases caused by antimony or its compounds
 - 1.1.21. Diseases caused by hexane
 - 1.1.22. Diseases caused by mineral acids
 - 1.1.23. Diseases caused by pharmaceutical agents
 - 1.1.24. Diseases caused by nickel or its compounds
 - 1.1.25. Diseases caused by thallium or its compounds
 - 1.1.26. Diseases caused by osmium or its compounds
 - 1.1.27. Diseases caused by selenium or its compounds
 - 1.1.28. Diseases caused by copper or its compounds
 - 1.1.29. Diseases caused by platinum or its compounds
 - 1.1.30. Diseases caused by tin or its compounds
 - 1.1.31. Diseases caused by zinc or its compounds
 - 1.1.32. Diseases caused by phosgene
 - 1.1.33. Diseases caused by corneal irritants like benzoquinone
 - 1.1.34. Diseases caused by ammonia
 - 1.1.35. Diseases caused by isocyanates
 - 1.1.36. Diseases caused by pesticides
 - 1.1.37. Diseases caused by sulphur oxides
 - 1.1.38. Diseases caused by organic solvents
 - 1.1.39. Diseases caused by latex or latex-containing products
 - 1.1.40. Diseases caused by chlorine
 - 1.1.41. Diseases caused by other chemical agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these chemical agents arising from work activities and the disease(s) contracted by the worker
- 1.2. Diseases caused by physical agents
 - 1.2.1. Hearing impairment caused by noise

- 1.2.2. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)
- 1.2.3. Diseases caused by compressed or decompressed air
- 1.2.4. Diseases caused by ionizing radiations
- 1.2.5. Diseases caused by optical (ultraviolet, visible light, infrared) radiations including laser
- 1.2.6. Diseases caused by exposure to extreme temperatures
- 1.2.7. Diseases caused by other physical agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these physical agents arising from work activities and the disease(s) contracted by the worker
- 1.3. Biological agents and infectious or parasitic diseases
 - 1.3.1. Brucellosis
 - 1.3.2. Hepatitis viruses
 - 1.3.3. Human immunodeficiency virus (HIV)
 - 1.3.4. Tetanus
 - 1.3.5. Tuberculosis
 - 1.3.6. Toxic or inflammatory syndromes associated with bacterial or fungal contaminants
 - 1.3.7. Anthrax
 - 1.3.8. Leptospirosis
 - 1.3.9. Diseases caused by other biological agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these biological agents arising from work activities and the disease(s) contracted by the worker
2. OCCUPATIONAL DISEASES BY TARGET ORGAN SYSTEMS
 - 2.1. Respiratory diseases
 - 2.1.1. Pneumoconioses caused by fibrogenic mineral dust (silicosis, anthracosis, asbestosis)
 - 2.1.2. Silicotuberculosis
 - 2.1.3. Pneumoconioses caused by non-fibrogenic mineral dust
 - 2.1.4. Siderosis
 - 2.1.5. Bronchopulmonary diseases caused by hard-metal dust
 - 2.1.6. Bronchopulmonary diseases caused by dust of cotton (byssinosis), flax, hemp, sisal or sugar cane (bagassosis)
 - 2.1.7. Asthma caused by recognized sensitizing agents or irritants inherent to the work process
 - 2.1.8. Extrinsic allergic alveolitis caused by the inhalation of organic dusts or microbially contaminated aerosols, arising from work activities
 - 2.1.9. Chronic obstructive pulmonary diseases caused by inhalation of coal dust, dust from stone quarries, wood dust, dust from cereals and agricultural work, dust in animal stables, dust from textiles, and paper dust, arising from work activities
 - 2.1.10. Diseases of the lung caused by aluminium
 - 2.1.11. Upper airways disorders caused by recognized sensitizing agents or irritants inherent to the work process
 - 2.1.12. Other respiratory diseases not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the disease(s) contracted by the worker
 - 2.2. Skin diseases
 - 2.2.1. Allergic contact dermatoses and contact urticaria caused by other recognized allergy-provoking agents arising from work activities not included in other items

- 2.2.2. Irritant contact dermatoses caused by other recognized irritant agents arising from work activities not included in other items
- 2.2.3. Vitiligo caused by other recognized agents arising from work activities not included in other items
- 2.2.4. Other skin diseases caused by physical, chemical or biological agents at work not included under other items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the skin disease(s) contracted by the worker
- 2.3. Musculoskeletal disorders
 - 2.3.1. Radial styloid tenosynovitis due to repetitive movements, forceful exertions and extreme postures of the wrist
 - 2.3.2. Chronic tenosynovitis of hand and wrist due to repetitive movements, forceful exertions and extreme postures of the wrist
 - 2.3.3. Olecranon bursitis due to prolonged pressure of the elbow region
 - 2.3.4. Prepatellar bursitis due to prolonged stay in kneeling position
 - 2.3.5. Epicondylitis due to repetitive forceful work
 - 2.3.6. Meniscus lesions following extended periods of work in a kneeling or squatting position
 - 2.3.7. Carpal tunnel syndrome due to extended periods of repetitive forceful work, work involving vibration, extreme postures of the wrist, or a combination of the three
 - 2.3.8. Other musculoskeletal disorders not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the musculoskeletal disorder(s) contracted by the worker
- 2.4. Mental and behavioural disorders
 - 2.4.1. Post-traumatic stress disorder
 - 2.4.2. Other mental or behavioural disorders not mentioned in the preceding item where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker
- 3. **OCCUPATIONAL CANCER**
 - 3.1. Cancer caused by the following agents
 - 3.1.1. Asbestos
 - 3.1.2. Benzidine and its salts
 - 3.1.3. Bis-chloromethyl ether (BCME)
 - 3.1.4. Chromium VI compounds
 - 3.1.5. Coal tars, coal tar pitches or soots
 - 3.1.6. Beta-naphthylamine
 - 3.1.7. Vinyl chloride
 - 3.1.8. Benzene
 - 3.1.9. Toxic nitro- and amino-derivatives of benzene or its homologues
 - 3.1.10. Ionizing radiations
 - 3.1.11. Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances
 - 3.1.12. Coke oven emissions
 - 3.1.13. Nickel compounds
 - 3.1.14. Wood dust
 - 3.1.15. Arsenic and its compounds
 - 3.1.16. Beryllium and its compounds
 - 3.1.17. Cadmium and its compounds
 - 3.1.18. Erionite
 - 3.1.19. Ethylene oxide

3.1.20. Hepatitis B virus (HBV) and hepatitis C virus (HCV)

3.1.21. Cancers caused by other agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these agents arising from work activities and the cancer(s) contracted by the worker

4. OTHER DISEASES

4.1. Miners' nystagmus

4.2. Other specific diseases caused by occupations or processes not mentioned in this list where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure arising from work activities and the disease(s) contracted by the worker

**SCHEDULE 8
COMPENSATION PAYABLE IN CERTAIN CASES**

| | AMOUNT OF COMPENSATION FOR | | HALF-MONTHLY PAYMENT AS COMPENSATION FOR TEMPORARY DISABLEMENT |
|---|--|--|--|
| | DEATH | PERMANENT TOTAL DISABLEMENT | |
| 1 | 2 | 3 | 4 |
| | twenty times the applicable minimum wage for unskilled workers as notified by the Government from time to time, at the time of death | twenty times the applicable minimum wage for unskilled workers as notified by the Government from time to time, at the time of disablement | (a) $\frac{1}{2}$ of the monthly remuneration during the period of disablement or a period of one year, reckoned from the date of injury, whichever is less; and (b) in case of chronic lung diseases: i. $\frac{1}{2}$ of the monthly remuneration during the period of disablement or a period of one year; and ii. $\frac{1}{3}$ of the monthly remuneration, during the period of disablement or from second to fifth year of disablement, whichever is less. |

SCHEDULE 9
LIST OF ESSENTIAL ARTICLES

1. Wheat flour
2. Pulses
3. Rice
4. Edible oil or ghee
5. Sugar
6. Salt
7. Tea leaves
8. Packaged or powdered milk or both
9. Toilet soap and washing powder

Ch Amer Habib
Secretary General