

NOTIFICATION.

No.PAB/Legis: V(14)/2021. The Balochistan Industrial and Commercial Employment (Standing Orders) Bill 2021, (Bill No.14 of 2021) having been passed by the Provincial Assembly of Balochistan in its sitting held on 31st May, 2021 and assented to by the Governor Balochistan, on 11th June, 2021 is hereby published as an Act of the Balochistan Provincial Assembly.

**The Balochistan Industrial and Commercial Employment
(Standing Orders) Act, 2021 Act No. XVIII of 2021.**

**AN
ACT**

to re-enact the law relating to industrial and commercial employment in the Province of Balochistan and to re-enact it in accordance with the situation, conditions and requirements of the province.

Preamble.

Whereas in pursuance of the 18th Constitutional Amendment it is expedient to re-enact the law relating to industrial and commercial employment in the Province of Balochistan.

It is hereby enacted as follows: -

**Short title,
extent and
commencement.**

1. (1) This Act may be called the Balochistan Industrial and Commercial Employment (Standing Orders) Act, 2021.

(2) It extends to the whole of Balochistan.

(3) It shall come into force at once.

(4) It applies to—

(a) all industrial and commercial establishments as well as any other establishment employing 10 or more workers on any day during the preceding twelve months, excluding those who are employed in the managerial or directional capacity with full control on the affairs of the

establishment and whose employment conditions are governed by the laws relating to civil servants; *and*

- (b) such classes of other industrial and commercial establishments as the Government may, from time to time, by notification in the official Gazette, specify in this behalf:

Provided that nothing in this Act shall apply to Industrial and Commercial Establishments carried on by or under the authority of the Federal or Provincial Government, where statutory rules of service, conduct or discipline are applicable to the workers employed therein.

Definitions.

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

- a) “Act” means the Balochistan Industrial and Commercial Employment (Standing Orders) Act, 2021;
- b) “**collective agreement**” means an agreement in writing intended to specify the conditions of employment, and entered into between one or more employers on the one hand, and one or more trade unions or, where there is no trade union, the duly authorized representatives of workers, on the other, and includes a bilateral agreement or a settlement arrived at between employer or employers on the one hand and the Collective Bargaining Agent on the other, as a result of successful negotiation in an industrial dispute between them and recorded in writing;

Explanation.— The terms ‘Collective bargaining agent’, ‘Settlement’, ‘Bilateral agreement’ and ‘Industrial dispute’ carry the same meaning as assigned to them or are construed to be so in the context of the Balochistan Industrial Relations Act, 2010;

- c) “**commercial establishment**” means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department

of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract which the owner of any commercial establishment or industrial establishment employs workers, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker's office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purpose of this Act;

Explanation.— For the purpose of this Act the office establishment of a non-government organization or a charitable institution or foreign investor or a local investor or a service provider shall be a commercial establishment;

- d) **"construction industry"** means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbor, dock, pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundations of, any such work or structure;
- e) **"employer"** means the owner of an industrial or commercial establishment to which this Act for the time being applies, and includes —
- i. in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934, as manager of the factory;
 - ii. in any industrial establishment under the control of any department of the Federal or any Provincial Government, the authority appointed by such Government in this behalf, or where no such

authority is so appointed, the head of the department; *and*

- iii. in any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment;
- f) **“go-slow”** means an organized, deliberate and purposeful slowing down of normal output or work by a body of workers in a concerted manner and which is not due to any mechanical defect, break-down of machinery, failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;
- g) **“Government”** means the Government of Balochistan;
- h) **“industrial establishment”** means—
 - i. An industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936); or
 - ii. a factory as defined in clause (j) of section 2 of the Factories Act 1934 (XXV of 1934); or
 - iii. a railway as defined in clause (4) of section 3 of the Railways Act, 1890 (IX of 1890); or
 - iv. the establishment of a contractor who, directly or indirectly, employs workers in connection with the execution of a contract to which he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on;

Explanation.— “Contractor” includes a Sub-Contractor, Headman or Agent; or

- v. the establishment of a person who, directly or indirectly, employs workers in connection with any construction industry;
- i) "**Standing Orders**" means the orders contained in the Schedule, read with such modifications, if any, as may be made in pursuance of the provisions of section 4;
- j) "**trade union**" means a trade union for the time being registered under the Balochistan Industrial Relations Act 2010 (Act No. XIII of 2010); *and*
- k) "**worker**" means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or electrical work or work that involves any expertise or specialized or technical knowledge or work of the same or similar nature for hire or reward.
- l) "discrimination" means any distinction, exclusion or preference made on the basis of sex, religion, gender, caste, ethnic background, race, colour, creed, sect, age, language, marital status, pregnancy and maternity, disability, trade union membership, political opinion, residence or place of birth, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- m) "victimization" means any act or omission by the employer or a person acting on behalf of the employer that affects, to the worker's detriment, a worker with respect to any term or condition of their employment.

Enforcement of standing order.

3. In every industrial or commercial establishment, conditions of the employment of workers and other incidental matters shall, subject to the other provisions of this Act, be regulated in accordance with the Standing Orders.

Modification of standing order.

4. The Standing Orders may be modified by means of a collective agreement and not otherwise:

Provided that no such agreement shall have the effect of taking away or diminishing any right or benefit available to the workers under the provisions of the Schedule.

Posting of standing order.

5. The text of the Standing Orders shall be prominently posted and kept in a legible condition by the employer in English and Urdu, and in the language understood by the majority of his workers on special boards to be maintained for the purpose at or near the entrance through which the majority of the workers enter the industrial or commercial establishment and in all departments thereof where the workers are employed:

Provided that the employer as a part of his legal obligation may also introduce to keep the workers informed of their rights and obligations under the law and every development in his establishment that concerns workers through an electronic information system.

Inspectors.

6. (1) The Inspectors of Mines appointed under section 4 of the Mines Act, 1923 (IV of 1923), the Inspectors appointed under section- 10 of the Factories Act, 1934 (Act No. XXV of 1934) and such other persons, not being Conciliators appointed under the Balochistan Industrial Relation Act 2010 (Act No. XIII of 2010) as Government may, by notification in the official Gazette, appoint, shall be the Inspectors for the purposes of this Act within the local limits assigned to each.

(2) An Inspector may at all reasonable hours enter alone or along with any other persons in the service of the Government including a police officer,

if need so arises for the sake of assistance if he apprehends any obstruction, on any premises and make such examination of any register or document relating to the maintenance or enforcement of the Standing Orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (XLV of 1860).

Penalties and procedure.

7. (1) An employer who modifies the Standing Orders as applicable to his industrial or commercial establishment, otherwise than in accordance with section 4, shall be punishable with fine which may extend to two hundred thousand rupees with minimum fine not less than one hundred thousand rupees and in the case of a continuing offence, with a further fine which may be in the range of one hundred and fifty thousand rupees to two hundred and fifty thousand rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to three hundred thousand rupees but not less than one hundred and fifty thousand rupees, and in the case of a continuing offence, with a further fine which may extend to five hundred thousand rupees but not less than two hundred thousand rupees for every day after the first day during which the offence continues.

(3) Whoever contravenes any of the provisions of this Act, shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to five thousand rupees.

(4) Whoever, having been convicted of any offence punishable under sub-section (1) (2) or (3), again commits such offence shall, on conviction, be

liable to double the punishment prescribed for such offence under the aforesaid sub-sections.

(5) No prosecution for an offence punishable under this Act shall be instituted except by, or with the previous permission in writing of the Inspector.

(6) No Court other than a Labour Court established under the Balochistan Industrial Relations Act 2010 (Act No. XIII of 2010).

Power to exempt.

8. Government may subject to such conditions as it thinks fit to impose by notification in the official Gazette, exempt any industrial or commercial establishment or class of such establishments from all or any of the provisions of this Act:

Provided that no exemption shall be prejudice to workers' rights and benefits guaranteed under this Act or secured to them under an agreement or award in force.

Protection to existing conditions of employment.

9. Nothing in this Act shall affect law, custom usage, award or agreement in force immediately before the promulgation of this Act in so far as such law, custom, usage, award or agreement ensure conditions of employment more favourable to workers than those provided in the Standing Orders.

Protection against discrimination.

10. The employer shall not, while making recruitment or in any condition of service subsequent to recruitment, exercise any discrimination:

Provided that the provisions of this section shall not affect any priority or reservation or quota fixed by any law in the matter of recruitment to the posts in any place of work. Special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, or disablement, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination:

Provided further that preference of local residents of the province for employment shall not be deemed as “discrimination”:

Provided also that the employer shall recruit the local residents of the province in unskilled work.

11. The employer shall not victimize a worker for—

- (a) performing any duty or exercising any right under the relevant statutory provisions;
- (b) making a complaint or representation as regards any rights granted under this Act; *and*
- (c) giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions.

**Prohibition of
Victimisation.**

**Removal of
difficulties.**

12. If any difficulty arises, in giving effect to any provisions of this Act, Government may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.

Repeal.

13. (1) The Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (No VI of 1968), in its application to the Province of Balochistan, is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rule made, and notification or order issued under the said Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done; taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Ordinance shall be construed as referring to the corresponding provisions of this Act.

**SCHEDULE
STANDING ORDERS.**

[See Section-2(h)]

**Classification of
workers or workers.**

1. (a) Worker or workers shall be classified as—
- i) permanent;
 - ii) probationers;
 - iii) badlis;
 - iv) temporary;
 - v) apprentices; *and*
 - vi) contract workers.

(b) A "**Permanent worker**" is a worker who has been engaged on work of permanent nature likely to last for more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the same industrial or commercial establishment or different establishment under the control and ownership of the same employer, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lockout or strike) or in voluntary closure of the establishment; and includes a badly who has been employed for a continues period of three months or for one hundred and eighty three days during any period of twelve consecutive months:

Provided that the employer controlling or owning different establishments may transfer the worker with his consent from one establishment to the other.

(c) A "**Probationer**" is a worker who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the

probationary period of three months, be reverted to his old permanent post.

- (d) A "**Badli**" is a worker who is appointed in the post of a permanent worker or probationer, who is temporarily absent.
- (e) A "**Temporary worker**" is a worker who has been engaged for work which is of an essentially temporary nature likely to be finished within a period not exceeding nine months.
- (f) An "**Apprentice**" is a person who is an apprentice within the meaning of the Apprenticeship Ordinance, 1962 (LVI of 1962).

- (g) A "Contract Worker" means a worker who works on contract basis for a specific period of not less than three months:

Provided that the maximum length of contract including renewals shall not exceed 12 months. On completion of 12 months employment, whether under one contract or multiple simultaneous contracts, such worker shall acquire the status of a permanent worker, and entitled to the benefits of a permanent worker:

Provided further that the contracts shall be considered simultaneous if a new contract or renewal of an earlier contract is concluded within two months of the expiry of earlier contract.

Tickets.

- 2. (1) Every worker employed in an industrial or commercial establishment or in construction industry, established as company on permanent footing, shall be given a permanent ticket unless

he is a probationer, abadli, a temporary worker or an apprentice.

(2) Every permanent worker shall be provided with a departmental ticket, showing his number, and shall on being required to do so, show it to any person authorized by the employer to inspect it.

(3) Every badly shall be provided with a badly card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary worker shall be provided with a temporary ticket which he shall surrender on his discharge.

(5) Every apprentice shall be provided with an apprentice card which shall be surrendered if he obtains permanent employment.

Terms and condition of service to be given in writing.

3. Every worker at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service.

Publication of working time.

4. The periods and hours of work for all classes of workers in each shift shall be exhibited in Urdu and in the principal language of workers employed, in the industrial or commercial establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

Publication of holidays and pay days.

5. Notice specifying—

a) the days observed by the industrial or commercial establishment as holidays;
and

b) pay days shall be posted on the said notice boards.

Publication of wage rates.

6. Notice specifying the rates of wages payable to all classes of workers and for all classes of work shall be displayed on the said notice boards.

Shift working.

7. More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of the employer—

If more than one shift is worked, the workers shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given prior to such discontinuance, provided that no such notice shall be necessary if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workers are to be discharged they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restarted a week's notice there of shall be given by posting a notice at the main entrance of the establishment and the time-keeper's office, if any, and the workers, discharged as a result of the discontinuance of the shift, shall, if they present themselves at the time of the restarting of the shift, have preference in being re-employed, having regard to the length of their previous service under the establishment, those with the longest term of service being re-employed first.

Attendance and late coming.

8. All workers shall be at work at the establishment at the time fixed and notified under Standing Order 4. Workers attending late shall be liable to the deductions provided for in the Payment of Wages Act, 1936. (Act. No. IV of 1936).

Leave.

9. (1) Holidays and leave with pay shall be allowed as hereafter specified —

- (a) Annual holidays, festival holidays, casual leave, sick leave, quarantine leave as provided in Chapter IV-A of the Factories Act, 1934 (Act No. XXV of 1934); *and*

(b) Other holidays in accordance with the law, contract, custom and usage

(2) A worker who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such postponement or refusal and the reasons therefore shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the worker after proceeding on leave desires an extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the worker if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

Payment of wages. 10. (1) Any wages, due to the worker but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wages pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workers shall be paid wages on a working day before the expiry of the 7th day after the last day of the wage period, in respect of which the wages are, payable if the total number of workers employed in the establishment is 1,000 or less or exceeds 1,000 respectively.

Groups incentive Scheme. 11. (1) In every industrial establishment which is a factory and in which fifty or more workers are employed there shall be introduced from such date as may be specified by the Government, by notification in the official Gazette, a group incentive scheme to provide incentive for greater production to groups of worker employed in the

factory. The scheme shall provide the manner in which the performance of different groups of workers, whether in the same section, shop, Department or shift or in different sections, shops, Departments or shifts, shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the group of workers whose production exceeds that of the other groups or the average of all the groups. The incentive shall be according to such scales as maybe prescribed and shall be related to the event of the excess production achieved by the group with the best performance.

Compulsory group insurance.

12. (1) The employer shall have all the permanent workers employed by him insured against natural death and disability and death and injury arising out of contingencies not covered by the Workmen's Compensation Act, 1923 or the [Provincial Employees Social Security Ordinance, 1965 (Ordinance No. X of 1965).

(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 himself or through an insurance company.

(3) The amount for which each worker shall be insured shall not be less than the amount of compensation specified in Schedule IV to the Workmen's Compensation Act, 1923 (Act No. VIII of 1923).

(4) Where the employer fails to have a permanent worker employed by him insured in the manner laid down in clauses (1), (2) and (3) and such worker suffers death or injury arising out of contingencies mentioned in clause (1) the employer shall pay in the case of death, to the heirs of such worker or in the case of injury, to the worker, such sum of money as would have been payable by the insurance company had such worker been insured.

(5) All claims of a worker or his heirs for recovery of money under clause (4) shall be settled in the same manner as is provided for the determination and recovery of compensation under Workmen's Compensation Act, 1923 (Act No. VIII of 1923).

Payment of Bonus. **13.** (1) Every employer making profit in any year shall pay for that year within three months of the closing of that year to the worker who have been in his employment in that year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such worker.

(2) The amount of the bonus payable shall—

(a) if the amount of the profit is not less than the aggregate of one month's wages of the workers employed, be not less than the amount of such aggregate subject to the maximum of thirty % of such profit—

Illustration- I. If the profit is Rs.1,20,000,00 and the aggregate of one month's wages of the worker is Rs.30,000,00 the amount of the bonus payable shall be not less than the aggregate of one month's wages that is to say, Rs.30,000,00.

Illustration- II. If the profit is Rs,30,000,00 and the aggregate of one month's wages of the workers is also Rs.30,000,00, the amount of the bonus payable shall be not less than thirty % of the profit, that is to say, Rs.9,000,000.

(b) if the amount of the profit is less than the aggregate referred to in paragraph (a), be not less than fifteen % of such profit.

(3) The bonus payable to worker entitled thereto under clause (1) shall bear to his monthly wages

the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid either in cash or in N.I.T. Units of equivalent value at the option of such worker.

(4) Nothing in this section shall be deemed to affect the right of any worker to receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court established under the Balochistan Industrial Relations Act, 2010.

Explanation. — For the purpose of this section—

- (a) "**N.I.T. Units**" means the Units referred to in the National Investment (Units) Trust Ordinance, 1965.
- (b) "**profit**" means the "net profit as defined in section 87-C of the Companies Act, 1913.
- (c) "**wages**" does not, for the purpose of calculating the bonus payable to a person under clause (1), include the bonus referred to in clause (vi) of section 2 of the payment of Wages Act, 1936(Act No. IV of 1936).

Stoppage of work.

14. (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his 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 workers affected shall be notified by notices put on the notice board in the departments concerned or in the office of the employer, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workers shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one

hour, the workers so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workers so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where workers are laid-off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one-half of their daily wages during the first fourteen days of lay-off as compensation. When, however, the workers have to be laid-off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment closed down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workers concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

**Closure of
Establishment.**

15. Notwithstanding anything contained in Standing Order 11, no employer shall terminate employment of fifty % or more than fifty % of the workers or close down the whole of the establishment without prior permission of the Government in this behalf, except in the event of fire, catastrophe, stoppage of power supply, epidemics or civil commotion:

Provided that workers aggrieved of the order of the Government permitting to close down the establishment or permitting to

dispense with the employment of fifty % or more than fifty % of workers may appeal, within a month, to the Labour Court, directly by joint application having a common cause or through collective bargaining agent of the establishment, if any, challenging the said order.

Explanation. — “Close down” in this Standing Order includes lay-off of work-men beyond fourteen days where such lay-off results in closure of an establishment but does not include lock-out declared, commenced or continued in accordance with the provisions of the Balochistan Industrial Relations Act, 2010 (Act No. XIII of 2010.)

Termination of employment.

16. (1) For terminating the employment of a permanent worker, for any reason other than misconduct three months’ notice shall be given either by the employer or the worker. Three months’ wages calculated on the basis of the last month’s wages earned by the worker preceding the date of service of the notice will be paid in lieu of notice:

Provided that worker’s all dues and arrears standing in his name shall be paid along with his wages in lieu of notice at the time of severing of his employment.

(2) No temporary worker, whether monthly-rated, weekly-rated, daily-rated or piece-rated, and no probationer or BADLI, shall be entitled to any notice if his services are terminated by the employer, nor shall any such worker be required to give any notice or pay wages in lieu thereof to the employer if he leaves employments of his own accord.

(3) The services of a worker shall not be terminated, nor shall a worker be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken. In case a worker is aggrieved by the termination of his services or removal, retrenchment, discharge or dismissal, he may take action in accordance with the provisions of the Balochistan Industrial Relations Act 2010, (Act No. XIII of 2010), and thereupon the

provisions of said section shall apply as they apply to the redress of an individual grievance:

Provided that in the case of down-sizing of the establishment the employer shall not be required to assign any reason for terminating the services of a worker, but shall pay to the worker a redundancy pay or wages for a period ranging from one year to five years at the rate of the last pay or wages drawn by him depending upon the length of service:

Provided further that a worker or worker who has served for a period of three years shall be entitled to redundancy pay equal to one year's wages so as to calculate redundancy pay for higher service at the rate of one year wages for every three-year service, but no workers shall be entitled to redundancy pay beyond five years' service:

Provided also that if a worker or worker has to his credit less than three years' service he shall be paid redundancy pay or wages as individually settled between worker and the employer.

(4) Where the services of any worker are terminated, the wages earned by him and other dues, including payment for un-availed leave as defined in clause (1) of Standing Order 9, shall be paid before the expiry of the second working day from the day on which his services are terminated.

(5) The services of permanent or temporary worker shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in Standing Order 15.

Payment of gratuity. 17. (1) A worker or a worker shall be entitled an amount of gratuity equal to two months of his salary or wages calculated on the basis of the wages admissible to him in the last month of service if he is a fixed-rated worker or the highest pay drawn by him during the last 12 months if he is a piece-rated worker], for every completed year of service or any part thereof in excess of six months:

Provided that the amount of gratuity in respect of every permanent employee shall be invested in fixed

term account that shall be opened as soon as he joins an employment so that the amount in it grows with time and the same shall become payable at the time of his discharge from service whether he is terminated or he resigns from service:

Provided further that where the employer has established a Provident Fund to which the worker is a contributor and the contribution of the employer to which is not less than the contribution made by the worker or workers no such worker shall be entitled to receive the entire amount Standing in his name including his contribution and the contribution made by the employer as well as the profit earned on the entire amount in addition to the amount of gratuity at the time of termination of his service:

Provided also that the worker's 1/3 amount of gratuity and provident fund will be forfeited if he is dismissed for an act of misconduct and his punishment is upheld by a court of competent jurisdiction.

(2) Where a worker dies while in service of the employer, his dependant shall be paid gratuity in accordance with the provisions of clause (1):

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the Commissioner, who shall proceed with the allocation of the deposit to the dependent of the deceased in accordance with the provisions of section 8 of the Workmen's Compensation Act, 1923 (Act VIII of 1923).

(3) If the employer fails to deposit the amount of the gratuity under clause (1) the dependent of the deceased may make an application to the Commissioner for the recovery of the amount thereof.

Explanation.— "Commissioner" and "Dependent" in this Standing Order shall have the same meanings as are respectively assigned to them in the Workmen's Compensation Act, 1923 (Act VIII of 1923).

Procedure of retrenchment.

18. Where any worker is to be retrenched and he belongs to a particular category of workers, the employer shall retrench the worker who is the last person employed in that category.

Re-employment of retrenched workers.

19. Where any number of workers are retrenched and the employer proposes to take into his employ any person within a period of one year from the date of such retrenchment, he shall give an opportunity to the retrenched workers belonging to the category concerned, by sending a notice by registered post to their last known addresses to offer themselves for re-employment, and they shall have preference over other persons each having priority according to the length of his service under the employer:

Provided that in the case of a seasonal factory within the meaning of section 4 of the Factories Act, 1934 (Act No. XXV of 1934), a worker who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season he shall be given preference for employment by the employer:

Provided further that in the case of such a seasonal factory, the employer may by sending notice by registered post to the last known address of a worker who was retrenched in one season required him to report on a day specified in the notice, not being earlier than ten days before resumption of work in such factory, and if such worker so reports he shall be given preference for employment and paid full wages from the day he reports.

Special provision for construction workers.

20. Where any worker is retrenched or discharged by a contractor or any employer engaged in the construction industry due to completion, cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge:

Provided that where a worker is re-employed within one month of his retrenchment or discharge, he shall be deemed to have been in continuous service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.

Punishments.

21. (1) A worker may be reprimanded or fined in the manner prescribed under the Payment of Wages Act, 1936 (Act No. VI of 1936), up to three hundred rupees' deductible from wages payable to him in a month, for any of the following acts or omissions, namely: —

- a) in cases where the Payment of Wages Act, 1936 (Act No. IV of 1936), is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned.
- b) in other cases, the following shall be the list of acts and omissions: —
 - i. disregard or disobedience of rules or orders;
 - ii. improper behavior, such as drunkenness due to use of drugs or any intoxicants;
 - iii. making false or misleading statements; *and*
 - iv. inefficient, dilatory, careless or wasteful working; malingering.

(2) A worker found guilty of misconduct shall be liable to any of the following punishments: —

- a) fine in the manner prescribed under the Payment of Wages Act, 1936 (Act No. IV of 1936), up to three hundred rupees' deductible from wages payable to him in a month; or

- b) withholding of increment or promotion for a specified period not exceeding one year; or
- c) reduction to a lower post; or
- d) removal from service other than for acts of gross misconduct.

(3) The following acts and omissions shall be treated as misconduct —

- a) willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- b) theft, fraud, or dishonesty in connection with the employer's business or property;
- c) willful 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;
- f) habitual late attendance;
- g) habitual breach of any law applicable to the establishment;
- h) riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline;
- i) habitual negligence or neglect of work;
- j) frequent repetition of any act or omission referred to in clause (1);
- k) striking work or inciting others to strike in contravention of the provisions of any law, or rule having the force of law; *and*

- 1) habitual go-slow and poor quality of production otherwise than under the influence of trade union or part of trade union activity.

(4) No order of dismissal shall be made unless the worker concerned is informed in writing of the alleged gross misconduct within a week of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and the employer shall institute independent inquiries before dealing with charges against a worker:

Provided that the worker proceeded against may, if he so desires for his assistance in the enquiry, nominate any workers employed in that establishment and the employer shall allow the worker so nominated to be present in the enquiry to assist the worker proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

(5) Where, for the purpose of conducting an enquiry into the alleged misconduct of a worker, the employer considers it necessary, he may suspend the worker concerned for a period not exceeding four days at a time so however, that the total period of such suspension shall not exceed four weeks except the matter is pending before an Arbitrator, a Labour Court, Tribunal or Conciliator for the grant of permission under section-47 of the Balochistan Industrial Relations Act, 2010. The order of suspension shall be in writing and may take effect immediately on delivery to the worker. During the period of suspension, the worker concerned shall be paid by the employer the same wages as he would have received if he had not been suspended.

Eviction from residential accommodation.

22. (1) Notwithstanding the provisions of any law for the time being in force, including those of the Urban Rent Restriction Ordinance, 1959 (VI of 1959), a worker occupying residential accommodation provided by his employer, who

has resigned or retired, or has been retrenched, discharged or dismissed, or whose services have been terminated, shall vacate such accommodation within a period of four months from the date of his retrenchment, dismissal or termination of services, as the case may be; provided that in case of reinstatement of the worker, the employer shall be bound to provide him with similar- residential accommodation from the date of such reinstatement or pay him per mensem, an allowance in lieu thereof at the rate of three times the wages of the last full working day.

(2) If a worker, who has been retrenched, discharged or dismissed, or whose services have been terminated, fails to vacate any residential premises provided by the employer, within the period specified in clause (1) the employer may lodge a complaint with a Magistrate of the first class having jurisdiction in the area where such residential accommodation is located.

(3) The Magistrate on hearing the parties, may, notwithstanding anything contained in any other law for the time being in force, summarily decide the case and may pass an order of eviction, giving the worker a reasonable time to vacate the premises.

(4) Where a Magistrate passes an order for the eviction of a worker, he may also pass an order directing a police officer to evict such worker and any other person occupying through such worker the residential accommodation in respect of which the order of eviction is made if the worker or such other person fails to vacate the accommodation within the time allowed under clause (3).

(5) A police officer acting under an order of the Magistrate under clause (4), shall notify the occupants of the premises in question, the contents of the Magistrate's order and his intention to enter on such premises, and shall allow at least two hours, time to the occupants to vacate the premises and shall give all reasonable facilities to the children and female occupants, if any, to withdraw therefrom before applying any force for taking over possession of such premises.

(6) Where a worker occupying residential accommodation provided to him by the employer dies, the procedure prescribed in this Standing Order shall mutatis mutandis and so far as applicable apply, for evicting any person, who was occupying the premises through such worker, and after his death continues to remain in occupation thereof.

Certificate of Termination of Service.

23. Every permanent worker shall be entitled to a service certificate at the time of his dismissal, discharge, retrenchment or retirement from service.

Liability of employer.

24. The employer of the industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the Standing Orders, whether or not the worker of such establishment employed through contractors or service providers:

Provided that no contractor or sub-contractor or service provider shall be absolved of his responsibility in case he has entered into an agreement with the employer for supply of manpower or any number of employees for the purpose of the establishment or undertaking of the employer.

(TAHIR SHAH KAKAR)
Secretary.

