

# بلوچستان صوبائی اسمبلی سیکرٹریٹ

بروز ہفتہ مورخہ 23 اپریل 2022ء بوقت دوپہر 2:30 بجے منعقد ہونے والے بلوچستان صوبائی اسمبلی کے اجلاس کی

## ترتیب کارروائی

(1) تلاوت قرآن پاک و ترجمہ

(2) سرکاری کارروائی برائے قانون سازی

(i) بلوچستان صنعتی تعلقات کا مسودہ قانون صدر 2022 (مسودہ قانون نمبر 15 صدر 2022ء) کا ایوان میں پیش و منظور کیا جائے۔

(i) وزیر برائے محکمہ لیبر اینڈ مین پاور، بلوچستان صنعتی تعلقات کا مسودہ قانون صدر 2022 (مسودہ قانون نمبر 15 صدر 2022ء) کا ایوان میں پیش کریں گے۔

(ii) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان صنعتی تعلقات کا مسودہ قانون صدر 2022 (مسودہ قانون نمبر 15 صدر 2022ء) کو قواعد انضباط کار بلوچستان صوبائی اسمبلی مجریہ 1974ء کے قاعدہ نمبر 84 اور (2) 85 کے تقاضوں سے Exempt قرار دیا جائے۔

(iii) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان صنعتی تعلقات کا مسودہ قانون صدر 2022 (مسودہ قانون نمبر 15 صدر 2022ء) کو فی الفور زیر غور لایا جائے۔

(iv) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان صنعتی تعلقات کا مسودہ قانون صدر 2022 (مسودہ قانون نمبر 15 صدر 2022ء) کو منظور کیا جائے۔

(جاری صفحہ۔۔ 2)

(ii) بلوچستان میٹرنی بینیفٹ کا مسودہ قانون 2022 (مسودہ قانون نمبر 16 صدرہ 2022ء) کا ایوان میں پیش و منظور کیا جاتا۔

(i) وزیر برائے محکمہ لیبر اینڈ مین پاور، بلوچستان میٹرنی بینیفٹ کا مسودہ قانون 2022 (مسودہ قانون نمبر 16 صدرہ 2022ء) ایوان میں پیش کریں گے۔

(ii) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان میٹرنی بینیفٹ کا مسودہ قانون 2022 (مسودہ قانون نمبر 16 صدرہ 2022ء) کو قواعد انضباط کار بلوچستان صوبائی اسمبلی مجریہ 1974ء کے قاعدہ نمبر 84 اور (2)85 کے تقاضوں سے Exempt قرار دیا جائے۔

(iii) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان میٹرنی بینیفٹ کا مسودہ قانون 2022 (مسودہ قانون نمبر 16 صدرہ 2022ء) کو فی الفور زیر غور لایا جائے۔

(iv) وزیر برائے محکمہ لیبر اینڈ مین پاور، تحریک پیش کریں گے کہ بلوچستان میٹرنی بینیفٹ کا مسودہ قانون 2022 (مسودہ قانون نمبر 16 صدرہ 2022ء) کو منظور کیا جائے۔

سیکرٹری  
بلوچستان صوبائی اسمبلی

کوئٹہ  
مورخہ 22 اپریل 2022ء

# BALUCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT

## The Balochistan Industrial Relations Bill, 2022, Bill No. 15, 2022

### A Bill

*to re-enact the law relating to industrial relations to bring it in conformity with basic international labour standards concerning freedom of association and collective bargaining as ratified by Pakistan read with Constitutional provision as contained in Article 17(1) and to incorporate into it best industrial relations practices based on trust relationship between employers and workers in order to mitigate the effect of continuing conflicting situation ever prevailing between them and to attain the goal of higher productivity and economic prosperity through workers' participation in the management and to continue to resort to the mechanism of social dialogue in order to resolve differences or disputes arising between them or in matters connected therewith and ancillary thereto;*

Pre-ample.

Whereas it is expedient to re-enact the law relating to industrial relations to bring it in conformity with basic international labour standards concerning freedom of association and collective bargaining as ratified by Pakistan read with Constitutional provision as contained in Article 17(1) and to incorporate into it the best industrial relations practices based on trust relationship between employers and workers in order to mitigate the effect of ever continuing conflicting situation between them and to attain the goal of higher productivity and economic prosperity through schemes of workers' participation in the management and to continue to resort to the mechanism of social dialogue in order to resolve differences or disputes arising between them or in matters connected therewith and ancillary thereto;

It is hereby enacted as follows: -

#### CHAPTER -1

#### PRELIMINARY

Short title, extent, application and commencement.

1. (1) This Act may be called the Balochistan Industrial Relations Act, 2022.
- (2) It extends to whole of Balochistan.
- (3) It shall come into force at once.
- (4) It shall apply to all workers and employers at all workplaces working or conducting business within Balochistan.

(5) The Government subject to Article 17(1) of the Constitution of Islamic Republic of Pakistan 1973 may by Notification issued in the Official Gazette impose reasonable restrictions on exercise of right to form associations or unions under this Act in any public sector organization, in the interest of sovereignty or integrity of Pakistan, for such time as it may deem proper.

(6) The right to form trade union and to undertake collective bargaining in the Police or any of the Defense Services of Pakistan or any services or installations exclusively connected with or incidental to armed forces of Pakistan and by those who are employed in essential services.

#### Definitions.

2. In this Act unless there is anything repugnant in the subject or context, -
- (a) "Act" means the Balochistan Industrial Relations Act, 2022.
- (b) "Arbitrator" means a person appointed as such under section 42 and includes a panel of arbitrators;
- (c) "Award" means the determination by a Labour Court, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and includes an interim award;
- (d) "Board of conciliators" means a Tripartite Board of Conciliators (hereinafter called the Board), comprising a senior officer having adequate experience of labour administration in a government department by serving in Grade 20 or above and one each from representative bodies of workers and employers if an industrial dispute has arisen in a public utility service or dispute relates to an industry which is of high economic and social importance and to which the Government is also a stake-holder.
- (e) "Compulsory arbitration" refers to arbitration in the event conciliation by the Tripartite Board of Conciliators in industrial disputes concerning workers and employers in essential services and on failing of which the Government shall ask the parties to propose a panel of three Arbitrators by consent. One of them shall be appointed as sole Arbitrator for such terms and conditions as may be settled, to which the industrial dispute shall be referred for arbitration award. In case parties do not so propose the Government may appoint a retired judge of Supreme Court for arbitration in said dispute who shall proceed in the matter.
- (f) "Collective bargaining agent" in relation to an establishment or industry, means the trade union of the workers which under section 24, is the agent of workers in the establishment or, as the case may be, industry, in the matter of collective bargaining;



- (g) "Collective bargaining unit" means those workers or class of workers of an employer in one or more establishment falling within the same class of industry whose terms and conditions of employment are, or could appropriately be, the subject of collective bargaining together;
- (h) "Conciliation proceedings" means any proceedings before a conciliator or before a tripartite board of conciliators set up under this Act;
- (i) "Conciliator" means a person appointed by the Government under section 38 to act as such and includes a panel of conciliators.
- (j) "Employer" means a person or agent who employs, contracts or engages in any manner whatsoever one or more people for wages or salary; any person or body of persons, whether incorporated or not, who or which employs workers in the establishment or industry under a contract of employment and includes-
- (i) an heir, successor or assignor, as the case may be, of such person or body as aforesaid;
  - (ii) any person responsible for running the industry as proprietor and entrepreneur and for management, supervision and control of the establishment connected with industry;
  - (iii) in relation to an establishment run by or under the authority of any department of the Federal Government or Provincial Government, the authority appointed in this behalf or, where no authority is so appointed, the Head of the department;
  - (iv) 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;

**Explanation.** --- For the purpose of distinction from the category of "workers" officers and employees of a department of the Federal Government or Provincial Government or local authority who belong to the superior, managerial, secretarial, directorial, supervisory or agency staff and who have been notified for this purpose in the official Gazette shall be deemed to fall within the category of "employers";

- (k) "Essential services" means services for which their interruption would endanger the life, health or personal safety of the whole or part of the population.
- (l) "Establishment" means any workplace, office, firm, factory, society, undertaking, company, shop, premises or enterprise in the Province, which employs workmen directly or through a contractor for the purpose of carrying on any business or industry and includes all its departments

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and branches, whether situated in the same place or in different places and except in section 25 of this Act includes a collective bargaining unit, if any, constituted in any establishment or group of establishments;

- (m) "Executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;
- (n) "Go-slow" means an organized, deliberate and purposeful slowing down of normal output, or the deterioration of the normal quality of work by a body of 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 mechanical defect, breakdown of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.
- (o) "Government" means Government of Balochistan;
- (p) "Illegal lock-out" means a lock-out declared, commenced or continues otherwise than in accordance with the provisions of this Act;
- (q) "Illegal strike" means a strike declared, commenced or continues otherwise than in accordance with the provisions of this Act;
- (r) "Industrial dispute" means any dispute or difference between employers and employees or between employers and workers or between workers which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person, and is not in respect of the enforcement of such right guaranteed or accrued to him/her by or under any law other than this Act, or any award or settlement for the time being in force, and includes an industrial dispute involving any other province or provinces;
- (s) "Industry" means any business, trade, manufacture, calling, service, employment or occupation of producing goods or services for sale at any workplace or workplaces;
- (t) "Inspector" means an inspector appointed under this Act;
- (u) "Labour court" means a Labour Court established under section 47 of this Act;
- (v) "Lock-out" means the closing of place of employment or part of such place, or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workers employed by him/her, where such closing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workers employed to accept certain terms and conditions of or affecting employment;

- (w) "Officer" in relation to a trade union, means any member of the executive thereof but does not include an auditor or legal adviser;
- (x) "Organization" means any organization of workers or of employers for furthering and defending the interests of workers or of employers;
- (y) 'Premises' means *any physical location or place, whether stationary or moveable.*
- (z) "Prescribed" means prescribed by rules;
- (aa) "Public utility service" means any of the services specified in the Schedule;
- (bb) "Registered trade union" means a trade union registered under this Act;
- (cc) "Registrar" means a Registrar of trade unions appointed under section 14;
- (dd) "Rules" means rules made under this Act;
- (ee) "Strike" means a cessation of work by a body of persons employed in any establishment acting in combination or a concerted refusal, or refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment;
- (ff) "Settlement" means a settlement arrived at in the course of a conciliation proceeding, and includes an agreement between an employer and his/her workers arrived at otherwise than in the course of any conciliation proceedings, where such agreement is in writing, has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the Provincial Government, the Conciliator and such other person as may be prescribed;
- (gg) "Trade union" means any combination of workers or employers formed primarily for the purpose of regulating the relations between workers and employers, or workers or employers, or for imposing restrictive conditions on the conduct of any trade or business and includes a federation of two or more trade unions;
- (hh) "Tribunal" means a Labour Appellate Tribunal constituted under section 50; and
- (ii) "Worker" means any person who is engaged to perform work, whether directly by an employer, by a third party acting on behalf of an employer, or individually and includes a person not falling within the definition of employer who is employed (including employment as a supervisor or as

an apprentice) at any workplace and in an establishment or industry for hire or reward either directly or through a contractor whether the terms of employment express or implied, and, for the purpose of any proceedings under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid-off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay-off, or removal has led to that dispute;

- (j) "Workplace" means any premises, where work is carried out, by one or more persons, whether stationary or moveable, and includes premises used for storage of tools, machinery, equipment or substance.

## CHAPTER - II REGISTRATION OF TRADE UNIONS

Trade unions and  
freedom of  
association.

3. Subject to the provisions of this Act and notwithstanding any other law for the time being in force, -

- (a) workers, without distinction whatsoever, shall have the right to establish and, subject to the rules of the organization concerned, to join associations of their own choice without previous authorization:

Provided that no worker shall be entitled to be a member of more than one trade union at any one time at the same workplace and on joining another trade union the earlier membership shall automatically stand cancelled;

Provided further that in the establishment where women are also employed, the trade union shall include the women in the executive and office bearers of the said trade union with the same proportion in which they are employed in the establishment;

- (b) employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join other associations of their own choice without previous authorization;
- (c) 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; and
- (d) workers' and employers' organizations shall have the right to establish and join federations and confederations and any such organization, federation or confederation shall have the right to affiliate with other organizations and confederations of workers' and employers' organizations;
- (e) Managerial and administrative staff and staff of occupational groups shall have the right to form association/ organization or to join organization or association of their own choice.



Application for registration.

4. Any trade union may, under the signatures of its President and Secretary, apply to the Registrar for registration of the trade union under this Act.

5. Every application for registration of trade union shall be made to the Registrar and shall be accompanied by:

- (a) a statement showing-
  - (i) the name of the trade union and the address of its Head Office;
  - (ii) date of formation of the union;
  - (iii) the titles, names, ages, addresses and occupations of the officers of the trade union;
  - (iv) statement of total paid membership;
  - (v) the name of the establishment or group of establishments, or the industry, as the case may be, to which the trade union relates;
  - (vi) the names and addresses of the registered trade union. in the establishment, group of establishments or industry, as the case may be, to which the union relates;
  - (vii) in case of a federation of trade unions, the names, addresses and registration number of member-unions; and
  - (viii) in case of 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 Chairman 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; and
- (d) in case of a federation of trade unions, a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.
- (e) in case of a confederation of federations, a copy of the resolution from each of the constituent federation agreeing to become a member of the confederation.

Requirements for registration.

6. (1) A trade union shall not be entitled to registration under this Act unless the constitution thereof provides for the following matters, namely. -

- (a) the name and address of the trade union;
- (b) the objects for which the trade union has been formed;



- (c) the purposes for which the general funds of the union shall be utilized;
- (d) the number of persons forming the executive which shall not exceed the prescribed limit and shall include not less than seventy-five percent from amongst the workers actually engaged or employed in the establishment or group of establishments or the industry for which the trade union has been formed:

Provided that no person from outside shall form part of the executive unless he is or has remained in employment of any factory or establishment as worker in Balochistan.

- (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him/her;
  - (f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union;
  - (g) the manner in which the constitution shall be amended, varied or rescinded;
  - (h) the safe custody of the funds of the trade union, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the officers and members of the trade union;
  - (i) the manner in which the trade union may be dissolved;
  - (j) Democratic election by secret ballot of officers by the general body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his/her election or re-election;
  - (k) the procedure for expressing no confidence in any officer of the trade union; and
  - (l) the meeting of the executive and of the general body of the trade union so that the executive shall meet periodically and the general body at least once a year.
- (2)
- (a) unless all its members are workers actually engaged or employed in the establishment or group of establishments or industry with which the trade union is connected; and
  - (b) where there are two or more registered trade unions in the establishment, group of establishments or industry with which the trade union is connected, unless it has as its members not less than one-fifth of the total number of workers employed in such

establishment, group of establishments or industry, as the case may be.

Disqualification for being an officer of a trade union.

7. 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 (Act No. XLV of 1860) shall be disqualified from being elected as, or from being, an officer of a trade union.

Registered trade union to maintain register, etc.

8... 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.

Registration.

9. (1) The Registrar, on being satisfied that the trade union has complied with all the requirements of this Act, 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. In case the application is found by the Registrar to be deficient in a material respect he/she shall communicate in writing his/her 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.

(2) 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 three days of the date of the objections having been so met. In case the objections are not satisfactorily met, the Registrar may reject the application.

(3) In case the application has been rejected or the Registrar has delayed disposal of the application beyond the period of fifteen days provided in sub-section (1) or has not issued a certificate of registration within a period of three days as provided in sub-section (2), as the case may be, the trade union may appeal to the Labour Court who for reasons to be stated in its judgment may pass an order directing the Registrar to register the trade union and to issue a certificate of registration or may dismiss the appeal.

(4) Notwithstanding anything contained in any other provision of this Act, every alteration made in the constitution of a registered trade union and every proceeding of election of its officers or change of its officers shall be notified by registered post by the trade union to the Registrar within fifteen days of such election or change for approval.

(5) The Registrar may refuse to register such election of officers or change of officers or alteration or change made in the constitution if it is in contravention of any of the provisions of this Act, or if it is in violation of the constitution of the trade

union.

(6) Subject to the provision of sub-section (5), every inclusion or exclusion of any constituent unit of a federation of trade unions shall be notified by registered post by the federation to the Registrar within fifteen days of such inclusion or exclusion.

(7) In case there is a dispute in relation to the election of the officers or change of officers or alteration made in the constitution of a trade union, the member or officer of any trade union is aggrieved by the refusal of the Registrar under sub-section (5), any office bearer or member of the trade union may apply or appeal to the Labour Court, who shall within seven days of receipt of the application or appeal, as the case may be, pass an order either directing the Registrar to register the change or alteration in the constitution or in the officers of the trade union or may, for reasons to be recorded in writing, direct the registrar to hold fresh elections of the union under his/her supervision.

Transfer, etc., of  
officer of trade union  
during pendency of  
application for  
registration.

10. Save with the prior permission of the Registrar, no officer 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 union has notified the names of its officers to the employer in writing.

Certificate of  
registration.

11. The Registrar, on registering a trade union under section 9, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

Cancellation of  
registration.

12. (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) seriously contravened or has been registered in serious contravention of any of the provisions of this Act or the rules and can no longer properly represent its members; or

(b) made in its constitution any provision which is in serious breach of the provisions of this Act or the rules;

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

Appeal against  
cancellation.

13 Any trade union aggrieved by an order passed-

(a) by the Labour Court under sub-section (1) of section 12 may prefer appeal to the Tribunal within thirty days of the passing of the said order; or

(b) by the Register under sub-section (2) of section 12 may prefer appeal to the Labour Court within thirty days of the passing of the said order.

Registrar of trade unions.

14. (1) For the purpose of this Act, the Labour & Manpower Department shall, by notification in the official Gazette, appoint as many persons as if considers necessary to be Registrars of trade unions and, where it appoints more than one Registrar, shall specify in the notification the area within which each one of them shall exercise and perform the powers and functions under this Act.

(2) If the membership of a trade union extends to more than one establishment or throughout the industry having establishments or a set up covering the entire province, the Registrar having been notified for whole of the Balochistan Province shall have the jurisdiction for its registration.

Powers and functions of Registrar.

15. The Registrar shall have the following powers and functions: -

- (a) the registration of trade unions under this Act and the maintenance of a register for the purpose;
- (b) 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 alleged offence or any unfair labour practice or violation of any provision of the Act or for expending the funds of a trade union in contravention of the provisions of its constitution;
- (c) the determination of the question as to which one of the trade unions in an establishment or an industry is entitled to be certified as the collective bargaining agent in relation to that establishment or industry.
- (d) give notice of, and declare, a strike in accordance with the provisions of this Act;
- (e) to inspect the accounts and record of the registered trade unions, or investigate or hold such inquiry in the affairs of the trade unions as he/she deems fit either by himself/herself or through any officer subordinate to him/her and to authorize him/her in writing in this behalf;
- (f) Determination of a single collective bargaining unit etc. at the provincial level on a reference made by the Government; and
- (g) such other powers and functions as may be prescribed.

Incorporation of registered trade union.

16. (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 Balochistan Charities (Registration, Regulation and Facilitation Act, 2019 (Act XI of 2019), the Cooperative Societies Act, 1925 (W.P. Act VII of 1925) and the Companies Act, 2017 (Act XIX of 2017), shall not apply to any registered trade union and the registration of any trade union under any of the aforesaid Acts shall be voided.

Unfair labour practices on the part of employers.

17. (1) No employer or trade union of employers and no person acting on behalf of either shall--
- (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his/her membership of a trade union;
  - (b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not a member or officer of a trade union;
  - (c) discriminate against any person with regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union;
  - (d) dismiss, discharge, remove from employment or transfer or threaten to dismiss, discharge or remove from employment or transfer a worker or injure or threaten to injure him/her in respect of his/her employment by reason that the worker.
    - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or
    - (ii) participate in the promotion, formation or activities of a trade union;
  - (e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
  - (f) compel or attempt to compel any officer of the collective bargaining agent to arrive at a settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods;
  - (g) Interfere with or in any way influence the balloting provided for in section 24;



- (h) recruit any new worker during the period of a notice of strike under section 43 or during the currency of the conciliation proceeding before a conciliator or during the currency of a strike which is not illegal except where the conciliator 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 the Balochistan Industrial and Commercial Employments' (Standing Orders) Act, 2021 (Act XVIII of 2021); or
- (j) Commence, continue, instigate or incite others to take part in, or expend or supply money or otherwise act in furtherance or support of, an illegal lockout.
- (k) Employer shall refrain from interference in trade union affairs, including its establishment, functioning or administration and any provision of financial assistance shall be considered an unfair labour practice.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his/her assumption of functions of an employer as per the definition in this Act shall cease to be, and shall be disqualified from being, a member or officer of a trade union of workers:

Provided that no promotion is effected against the will of the worker or to prejudice his/her right to trade unionism.

Unfair labour practices on the part of workers.

18. (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 that creates undue disruption to work;
  - (b) intimidate any person to become, or refrain from becoming, or to continue to be, or to cease to be a member or officer of a trade union;
  - (c) induce any person to refrain from becoming, or cease to be a member or officer 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, water or power facilities or such other methods;

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

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under section 24 of this Act by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

Law of conspiracy limited in application.

19. No officer 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 6, unless the agreement is an agreement to commit an offence, or otherwise violates any other law for the time being in force.

Immunity from civil suit in certain cases.

20. (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 officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground only that such act induces some other person to break a contract of employment, 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/her capital or of his/her labour as he/she wills.

(2) A trade union shall not be liable in any suit or other legal proceedings in any civil court in respect of any tortious act done in good faith in contemplation or furtherance of an industrial dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the trade union.

Enforceability of agreement.

21. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a trade union shall not be void or voidable by reason only that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, or recovering damages for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business or work, employ or be employed.

Registration of federation of trade union and confederation.

22. (1) Any two or more registered trade unions may, if their respective general bodies so resolved, constitute a federation by executing an instrument of federation and apply to the Registrar for the registration of the federation:

Provided that a trade union of workers shall not join a federation which comprises a trade union of employers; nor shall a trade union of employers join a federation which comprises a trade union of workers.

(2) Any two or more registered federations may, if their respective federated trade unions so resolved, constitute a confederation by executing an instrument of confederation and apply to the registrar for the registration of the confederation:

Provided that a federation of trade unions of workers shall not join a confederation which comprises a federation of employees; nor shall a federation of employers join a confederation which comprises a federation of workers.

(3) An instrument of federation referred to in sub-section (1) shall, among other things, provide for the procedures to be followed by the federated trade unions and federations as the case may be, the rights and responsibilities of the federation and the federated trade union or federations.

(4) 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 officers of these trade unions respectively authorized by the trade unions in this behalf and shall be accompanied by three copies of the instrument of federation referred to in sub-section (1).

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

(6) Subject to sub-sections (1), (2), (3) and (4), the provisions of the Act shall, so far as may be and with the necessary modifications, apply to a federation of trade unions as they apply to a trade union.

#### Returns.

23. (1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered, 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 there shall be sent to the Registrar a statement showing all changes of office bearers made by the trade union during the year to which the general statement refers, together also with statement of the total paid membership and a copy of the constitution of the trade union corrected up to the date of the dispatch thereof to the Registrar.

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

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

Collective bargaining agent.

24. (1) A trade union shall be permitted to act as a collective bargaining agent on behalf of its members.

(2) A single trade union with not less than one fifth of the total number of workers employed in such establishment or group of establishments or industry 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, or industry.

(3) Where there are more registered trade unions than one in an establishment or a group of establishments or industry, the Registrar shall upon an application made in this behalf by any registered union in such establishment or group of establishments or industry 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 or industry:

Provided that the Registrar may, in the case of a large establishment having its branches in more than one town, hold the secret ballot within thirty days from the making of the application:

Provided further that the Registrar shall not entertain any application under this sub-section in respect of an establishment or group of establishments, consisting of, or including, a seasonal factory within the meaning of section 4 of the Balochistan Factories Act, 2021, unless such application is made during the month in which the number of workers employed in such factory in a year is usually the maximum.

(3) 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 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 or industry; and
- (b) if it so desires, to submit to him/her within the time specified in the notice a list of its members showing, in respect of each member, his/her parentage, age, the section or department and the place in which he/she is employed, his/her ticket number and the date of his/her becoming a member and if 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.

- (4) 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 or industry excluding those whose period of employment in the establishment or group of establishments or industry is less than three months and showing, in respect of each worker, his/her parentage, age, the section or department and the place in which he/she is employed, his/her ticket number and the date of his/her employment in the establishment or group of establishments or industry; and
  - (b) provide such facilities for verification of the lists submitted by him/her and the trade unions as the Registrar may require:

Provided that, in computing the period of three months referred to in clause (a) in the case of a worker employed in a seasonal factory within the meaning of section 4 of the Balochistan Factories Act, 2021, the period during which he/she was employed in that factory during the preceding season shall also be taken into account.

(5) 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 (4), 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.

(6) 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 (5) shall be entitled to vote at the poll to determine the collective bargaining agent.

(7) Every employer shall provide all such facilities in his/her 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.

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

(9) For the purpose of holding 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 so placed in the polling station set up for the purpose the ballot boxes which shall be sealed in the presence of the representatives of the contesting trade unions as to receive the ballot papers;
- (c) conduct the poll at the polling 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:

Provided that no trade union shall be certified to be the collective bargaining agent for an establishment or group of establishments or industry unless the number of votes received by it is not less than one-third of the total number of workers employed in such establishment or group of establishments or industry:

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

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

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

(11) where a registered trade union has been certified under clause (e) of sub-section (9) to be the collective bargaining agent for an establishment or group of establishments or industry, no application for the determination of the collective bargaining agent for such establishment or group of establishments or industry shall be entertained within a period of two years from the date of such certification except where the registration of such certification except where the registration of such a registered trade union is cancelled before the expiration of the period.

(12) A collective bargaining agent may, without prejudice to its own position, plead as a party to any proceedings under this Act to which it is itself a party or any federation of trade unions of which it is a member.

(13) The collective bargaining agent in relation to an establishment or group of establishments or industry shall be entitled to-

- (a) undertake collective bargaining with the employer or employers on matters connected with employment, non-employment, the term 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, other than this Act, or any award or settlement;
- (b) Represent all or any of the workers related to the collective bargaining process.
- (c) give notice of, and declare, a strike in accordance with the provisions of this Act; and
- (d) nominate representatives of workers on the Board of Trustees of any welfare institutions or Provident Funds and of the Workers Participation Fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968), or the law for the time being in force in the Province.

(14) The Registrar may authorize in writing an officer to perform all or any of his/her functions under this section.

**Determination of  
collective bargaining  
unit.**

25 (1) Where the Registrar appointed for the entire province, on a reference made by the Government, after holding such inquiry as it deems fit, is satisfied that for safeguarding the interest of the workers employed in an establishment or group of establishments belonging to the same employer and the same industry, in relation to collective bargaining, it is necessary, just and feasible to determine one collective bargaining units of such workers in such establishments or group or industry, 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 collective bargaining unit in such establishments or group or industry;
- (b) Specify the modifications which, in consequence of the decision under this section, will take effect in regard to the registration of the trade unions and federations of trade unions affected by such decision and certification of collective bargaining agents among such unions and federations, nomination or election of shop stewards, and workers' representatives for participation in the management of the factories, if any, affected by such decision;
- (c) specify the date or dates from and the period, for which all or any of such changes shall take effect:

Provided that the date so specified shall not be a date falling within the period of two years specified in sub-section (11) of section 24 in its application to a collective bargaining agent certified in respect of an establishments or group of establishments:

Provided further that, after the receipt of a reference for determination of a collective bargaining unit, the Registrar may stop or prohibit the proceedings to determine collective bargaining agent under section 24 for any establishment or group of establishments which is likely to be affected by a decision under this section,

(d) take such measures as necessary to give effect to such modifications; and

(e) determine and certify a collective bargaining agent for each such unit in accordance with section 24 in so far as applicable and with the necessary modifications, if such a unit relates to more than one town, or direct the Registrar to take such action, if such a unit relates to only one town.

(2) After the certification of a collective bargaining unit, no trade union shall be registered for the purpose of collective bargaining in respect of that unit except for the whole of such unit and no certification or proceedings for determination of collective bargaining agent under section 24 shall take place for a part of a collective bargaining unit or a group of collective bargaining units.

Appeals.

26. (1) Notwithstanding anything contained in this Act 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 prefer an appeal to the Tribunal.

(2) An appeal preferred to 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.

Check off.

27. (1) If a collective bargaining agent so requests, the employer of the workers who are members of a trade union shall deduct from the wages of the workers such amounts towards their subscription to the funds of the trade union as may be specified, with the approval of each individual worker named in the demand statement furnished by the trade union.

(2) An employer 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 by him/her in the account of the trade union on whose behalf he/she has made the deductions.

(3) A collective bargaining agent shall maintain with a branch of the National Bank of Pakistan or with a Post Office Savings Bank an account to which shall be credited the entire amount deducted by the employer under sub section (1) from the wages of the members of the trade union.

(4) The employer shall provide facilities to the collective bargaining agent for ascertaining whether deductions from the wages of its members are being made under sub-section (1).

Shop steward to act as link between labour and management.

28. (1) In every establishment in which fifty 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 at a secret ballot held in the prescribed manner.

(2) The employer shall provide all such facilities including funds in his/her establishment as may be required for the 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 one year from the date of his/her election or nomination as the case may be.

(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 the employer, assist in the improvement of arrangements for the physical working conditions and production work in the shop section or department for which he/she is elected and help workers in the settlement of their problems either connected with work or with any such individual grievance of a worker as is referred to in sub section (1) of section 36.

Workers participation in management.

29. (1) in every workplace employing fifty persons or more there shall be elected or nominated workers' representatives to participate to the extent of fifty percent in the management of the factory:

Provided that there shall be elected or nominated at least one worker's representative to participate in the management of such factory:

Provided further that, for the purpose of determining the number of workers' representatives in the management of a factory, fractions equal to, or greater than one half shall be regarded as one and lesser fractions shall be ignored.

(2) The workers' representatives shall be workers employed in the same factory and shall, -



- (a) where there is a collective bargaining agent in the factory, be nominated by it, or
  - (b) where there is no collective bargaining agent in the factory, be elected by simple majority at a secret ballot by all workers employed in the factory.
- (3) The workers' representatives shall hold office for a period of two years from the date of their election or nomination, as the case may be,
- (4) The workers' representatives shall participate in all the meetings of the management committee constituted in the prescribed manner and all matters relating to the management of the factory, except commercial and financial transaction may be discussed in such meetings.
- (5) The management shall not take any decision in the following matters without the advice in writing of the workers' representatives, namely: -
- (a) framing of services rules and policy about promotion and discipline of workers;
  - (b) changing physical working conditions in the factory;
  - (c) in-service training of workers;
  - (d) recreation and welfare of workers;
  - (e) regulation of daily working hours and breaks;
  - (f) preparation of leave schedule; and
  - (g) matters relating to the order and conduct of workers within the factory.
- (6) The workers' representatives may on their own initiative give advice in writing concerning the matters specified in sub-section (5) and, where they do so the management shall convene a meeting within two weeks of the receipt of the advice to discuss its merits with them.
- (7) The management shall give reply to the workers' representatives within six weeks of the receipt of their advice given under sub-section (5) or sub section (6) and any such advice shall not be rejected except by the person holding the highest position in the management of the factory.
- (8) In case the advice of the workers' representatives is rejected by the management of the factory, the matter may, within fifteen days of the advice being so rejected, be taken up by the collective bargaining Agent or trade union, if no collective bargaining agent exists in the Works Council for bilateral negotiations and



thereupon the provisions of section 34 shall apply as they apply to the settlement of an industrial dispute in relation to which the views of the employer or the collective bargaining agent have been communicated to the Works Council under sub-section (1) of that section.

Joint management board.

30. (1) Every employer which owns or manages a workplace, and in every workplace which is not so owned or managed, and which employs fifty persons or more, the management shall, in the prescribed manner set up a joint management board in which the Workers' participation shall be to the extent of thirty per cent.

(2) The employer's representatives on the joint management board shall be from amongst the Directors or senior executives and the workers' representatives shall be workers employed in the factory.

(3) The joint management board shall look after the following matters, namely: -

(a) improvement in production, productivity and efficiency;

(b) fixation of job and piece-rates;

(c) planned regrouping or transfer of the workers;

(d) laying down the principles of remuneration and introduction of new remuneration methods; and

(e) provision of minimum facilities for such of the workers employed through contractors as are not covered by the laws relating to welfare of workers.

(4) The joint management board may call for reasonable information about the working of the company or factory from its management and the management shall supply the information called for.

(5) The joint management board shall meet at such intervals as may be prescribed.

(6) The workers' representative shall hold office for such period as may be prescribed.

(7) In this section, -

(a) "company" has the same meaning as in the Companies Act, 2017; and

(b) "factory" means factory as defined in section 2 clause (j) of the Balochistan Factories Act, 2021; and

(c) "management" means the employer

Inspector.

31. (1) The inspectors appointed under section 10 of the Balochistan Factories Act, 2021 and such other persons, not being Conciliators appointed under this Act, as Government may, by notification in the official Gazette appoint, shall be inspectors for ensuring compliance with the provisions of section 34 and section, 35 within the local limits assigned to each.

(2) The inspector may-

(a) at all reasonable hours enter on any premises and make such examination of any register and document relating to the provisions of section 34 and section 35 and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he/she may deem necessary for discharging his/her duty;

(b) call for such information from the management as he/she may deem necessary for the discharge of his/her functions and the management shall provide the information called for within such period as may be specified by him/her; and

(c) make a report in writing to the Registrar having jurisdiction of any offence punishable under section 37.

(3) Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

Penalty for obstructing inspector.

32. Whoever willfully obstructs an Inspector in the exercise of any power under section 31 or fails to produce on demand by an Inspector any register or other document in his/her custody relating to the provisions of section 34 and section 35 or the rules, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with fine which may extend to seventy-five thousand rupees but not less than twenty-five thousand rupees.

Penalty for contravening section 35 or section 36, etc.

33. (1) Whoever contravenes the provisions of section 34 or section 35 shall be punishable with fine which may extend to seventy-five thousand rupees but not less than twenty-five thousand rupees.

(2) No Court shall take cognizance of any offence punishable under subsection (1) except upon a complaint in writing made by the Registrar.

Works Council.

34. (1) In every establishment in which fifty or more workers are employed or were employed on any day in the preceding twelve months, the employer shall constitute, in the prescribed manner, a Works Council consisting of representatives of the employer and the workers so however that the number of the representatives of the workers is not less than the number of the representatives of the employer in the Works Council.

(2) In the case of an establishment where there are one or more trade unions, the collective bargaining agent shall nominate the representatives of the workers on such Works Council:

Provided that where there is no collective bargaining agent, representatives of workers on Works Council shall be chosen in the prescribed manner from amongst the workers engaged in the establishment for which the Works Council is constituted.

Schemes for workers involvement in managerial decision making and workers' share-ownership and profit-related pay schemes.

35. (1) As provided by rules made under the Act, the employer of an establishment running an industrial establishment as defined in the Balochistan Industrial and Commercial Employments (Standing Orders) ~~2021~~ 2021 wherein 50 or more workers are employed on any day during the preceding twelve months shall in consultation with the CBA Union if so present or on the advice of Shop Stewards shall introduce workers involvement schemes such as quality circles and team briefing in order to improve and enhance quality of products and productivity of labour.

(2) In establishments as mentioned in sub-section (1) schemes such as workers share ownership and pay-related schemes shall also be offered by the employer as prescribed by rules made under this Act as incentive for their contribution to the quality of product, enhanced labour productivity and efficiency.

Redress of individual grievances.

36. (1) A worker may bring his/her grievance in respect of any right guaranteed or secured to him/her by or under any law or any award or settlement for the time being in force to the notice of his/her employer in writing, either himself/herself or through his/her shop steward or trade union or collective bargaining agent within three months of the day on which the cause of such grievance arises.

(2) Where a worker himself/herself brings his/her grievance to the notice of the employer, the employer shall, within fifteen days of the grievance being brought to his/her notice, communicate his/her decision in writing to the worker.

(3) Where a worker brings his/her grievance to the notice of his/her employer through his/her shop steward or collective bargaining agent, the employer shall, within seven days of the grievance being brought to his/her notice, communicate his/her decision in writing to the shop steward or as the case may be the collective bargaining agent.

(4) If the employer fails to communicate a decision within the period specified in sub-section (2) or, as the case may be sub-section (3), or if the worker is dissatisfied with such decision, the worker or the shop steward may take the matter to his/her collective bargaining agent or the Labour Court or, as the case may be, the collective bargaining agent may take the matter to the Labour Court, and where the matter is taken to the Labour Court, it shall give a decision within fifteen days from the date of the matter being brought before it as if such matter were an industrial dispute:

Provided that a worker who desires to so take the matter to the Labour Court shall do so within a period of two months from the date of the communication of the employer or, as the case may be, from the expiry of the period mentioned in sub-section (2), or sub-section (3), as the case may be.

(5) In adjudicating and determining a grievance under sub-section (4), 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.

(6) If a decision under sub-section (4) or an order under sub-section (5) given by the Labour Court or a decision of the Tribunal in an appeal against such a decision or order is not given effect to or complied with within a week or within the period specified in such order or decision, the defaulter shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

(7) No person shall be prosecuted under sub-section (6) except on a complaint in writing-

(a) by the worker if the order or decision in his/her favour is not implemented within the period specified therein; or

(b) by the Labour Court or Tribunal, if an order or decision thereof is not complied with.

(8) For the purposes of this section, workers having common grievance arising out of a common cause of action may make a joint application to the Labour Court.

Negotiations relating to differences and disputes.

37. (1) If at any time an employer or a collective bargaining agent or trade union where no collective bargaining agent exists' finds that an industrial dispute has arisen or is likely to arise, the employer or, as the case may be, the collective bargaining agent, may communicate his/her or its views in writing either to the Works Council or to the other party so, however, that, where the views are so communicated to the Works Council, a copy of the communication shall also be sent to the other party.

(2) On receipt of the communication under sub-section (1) the Works Council or the party receiving it shall try to settle the dispute by bilateral negotiations within ten days of receipt of the communication or within such further period as may be agreed upon by the parties and, if the parties reach a settlement, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Conciliator and the authorities mentioned in clause (ff) of section 2.

(3) Where a settlement is not reached between the employer and the collective bargaining agent or, if the views of the employer or collective bargaining



agent have been communicated under sub-section (1) to the Works Council, there is a failure of bilateral negotiations in the Works Council, the employer or the collective bargaining agent may, within seven days from the end of the period referred to in sub-section (2), serve on the other party to the dispute a notice of lock-out or strike, as the case may be, in accordance with the provisions of this Act.

Conciliator.

38. (1) The Government shall, by notification in the official Gazette, appoint as many persons as it considers necessary to be Conciliators for the purposes of this Act 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 his/her functions.

(2) The Government may, by notification in the official Gazette, appoint a Tripartite Board of Conciliators (hereinafter called the Board), comprising a senior officer having adequate experience of labour administration in a government department by serving in Grade 20 or above and one each from representative bodies of workers and employers if an industrial dispute has arisen in an essential service, a public utility service or dispute relates to an industry which is of high economic and social importance and to which the Government is also a stake-holder.

(3) The Board so formed and notified shall cease to exist as soon as a settlement is signed between the parties through successful conciliatory proceedings or on the failure, of which the Board gives failure certificate.

Notice of strike or lock-out.

39. The period of a notice of lock-out or strike given under sub-section (3) of section 37 shall be fourteen days.

Conciliation after notice of strike or lock-out.

40. Where a party to an industrial dispute serves a notice of strike or lock-out under section 37, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to conciliate in the dispute and to the Labour Court:

**Provided that** where the dispute relates to an essential services for which their interruption would endanger the life, health or personal safety of the whole or part of the population where Government is also a stake-holder as provided in section 38, subsection (2), the party which has raised the industrial dispute shall inform within seven days the Government about the failure of bilateral negotiation so that the latter forms the Tripartite Conciliation Board to conciliate in the dispute as provided in section 38, subsection (2).

Proceedings before Conciliator.

41. (1) The Conciliator including also Tripartite Board of Conciliators as under section 38, sub-section (2) for the purposes as stated therein 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:

Provided that if, in the opinion of the Conciliator, the presence of the employer or any officer of the trade union connected with the dispute is necessary in a meeting called by him/her, he/she shall give notice in writing requiring the employer or such officer to appear in person before him/her or it at the place, date and time, specified in the notice and it shall be the duty of the employer or the officer of the trade union to comply with the notice.

(3) The Conciliator shall perform such functions in relation to a dispute before him/her 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.

(4) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings before him/her, the Conciliator shall send a report thereof to the Provincial Government together with a memorandum of settlement signed by the parties to the dispute.

(5) If no settlement is arrived at within the period of the notice of strike or look-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

#### Arbitration.

42. (1) If the conciliation fails, the Conciliator or the Board, as the case may be, shall try to persuade the parties to agree to refer the dispute to an arbitrator. In case the parties agree, they shall make a joint request in writing for reference of the dispute to an arbitrator agreed upon by them:

Provided if the dispute in public utility service or relation to an industry of high economic and social importance before the Board fails, the Government shall ask the parties to propose a panel of three Arbitrators by consent. One of them shall be appointed as sole Arbitrator for such terms and conditions as may be settled, to which the industrial dispute shall be referred for arbitration award. In case parties do not so propose, the Government may appoint a retired judge of Supreme Court for arbitration in said dispute who shall proceed in the matter.

(2) The arbitrator to whom a dispute is referred under sub-section (1) may be a person borne on a panel to be maintained by Government or any other person agreed upon by the parties or one who is appointed under sub-section (1).

(3) The arbitrator shall give his/her award within a period of thirty days from the date on which the dispute is referred to him/her under sub-section (1) or such further period as may be agreed upon by the parties to the dispute.

(4) After he/she has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government who shall cause it to be published in the official Gazette.

(5) The award of the arbitrator shall be final and no appeal shall lie against it. It shall be valid for a period not exceeding two years, as may be fixed by the arbitrator.

Strike and lock-out.

43. (1) If no settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an arbitrator under section 42, the workers other than those considered essential services may go on strike or, as the case may be, the employer other than of the industry or service as aforesaid, may declare a lock-out, on the expiration of the period of the notice under section 39 or upon a declaration by the Conciliator that the conciliation proceedings have failed, whichever is the later.

(2) The party raising a dispute may at any time either before or after the commencement of a strike or lock-out make an application to the Labour Court for adjudication of the dispute.

(3) Where a strike or lock-out lasts for more than thirty days, the Government may by order in writing, prohibit the strike or lock-out:

Provided that the Government with the consultation of labour court or labour appellate tribunal, may with respect to any other strike or lock-out, by order in writing, prohibit a strike or lock-out at any time before the expiry of thirty days, if it is satisfied that the continuance of such a strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.

(4) In any case in which the Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the labour court or labour appellate tribunal or, as the case may be, to the Labour Court.

(5) 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 referred to it:

Provided that or, as the case may be, the Labour Court may also make an interim award on any matter in dispute:

Provided further that any delay by the or, as the case may be, the Labour Court in making an award shall not affect the validity of any award made by it.

(6) An award of the or, as the case may be, the Labour Court shall be for such period as may be specified in the award which shall not be more than two years.

Strike or lock-out in public utility services prohibited.

44. The Government shall not prohibit strike or lock except in exceptional situations – essential services, those involved in the administration of the state and police and armed forces, or in situations of national emergency:

Provided the same will be resolved through conciliation or compulsory arbitration as provided in the aforesaid section.

Application to Labour Court.

45. Any collective bargaining agent or trade union or any employer may apply to the Labour Court for the enforcement of any right guaranteed or secured to it or him/her by or under any law or any award or settlement: provided the Collective Bargaining Agent determined and certified as such in an establishment or group of establishment or industry as the case may be shall have the right to represent collective grievance of workers or workers of the establishment or group of establishment or industry to which it belongs, before a Labour Court.

Raising of industrial dispute by federation.

46. (1) Notwithstanding anything contained in this Act, federation at the provincial level may, if it is a collective bargaining agent raise an industrial dispute affecting all employers or workers of the establishments represented by that federation and award of the Labour Court in the dispute so raised shall be binding on all such employers and workers.

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

Labour Court.

47. (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, shall specify in the notification the territorial limits within which or the industries or classes of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) A Labour Court shall consist of one Presiding Officer appointed by the Government.

(3) A person shall not be qualified for appointment as Presiding Officer unless he/she has been or is a District Judge or an Additional District Judge:

Provided that the Government, may in consultation with the High Court of Balochistan, appoint any senior civil judge or civil judge with at least five years' court experience to his/her credit to be the Presiding Officer of a Labour Court under certain specific circumstances.

(4) A Labour Court shall-

- (a) adjudicate and determine an industrial dispute which has been referred to, or brought before it under this Act;
- (b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government;
- (c) try offences under this Act and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf; and



(d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Act or any other law.

Procedure and powers of Labour Court.

48. (1) Subject to the provisions of this Act, 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) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute, 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 (Act V of 1908), including the powers of-

- (a) enforcing the attendance of any person and examining him/her on oath;
- (b) compelling the production of documents and material objects; and
- (c) issuing commissions for the examination of witnesses or documents.

(3) A Labour Court shall, for the purpose of trying an offence under this Act or the Industrial and Commercial Employments (Standing Orders) Ordinance, 1968 have the same powers as are vested in the Court of a Magistrate of the first class specially empowered under section 30 of the Code of Criminal Procedure, 1898 (V of 1898).

(4) No court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from, a Labour Court.

(5) 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.

Awards and decisions of Labour Court.

49. (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 Government, provided that if the Federal Government be a party, two copies of the award or decision shall be forwarded to that Government as well.

(2) Any party aggrieved by an award given under sub-section (1) or a decision given under section 36 or section 45 or a sentence passed under clause (c) of sub-section (4) of section 47 may prefer an appeal to the Labour Appellate Tribunal within thirty days of the delivery or passing thereof and the decision of the Tribunal in such appeal shall be final.

(3) Save as otherwise expressly provided in this Act, all decisions of, and all sentences passed by a Labour Court, shall be final and shall not be called in question in any manner by or before any Court or other authority.

50. (1) The Government may, by notification in the official Gazette, constitute as many Tribunals consisting of one member as it may consider necessary and, where it constitutes more than one Tribunal, 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 this Act.

(2) The member of the Tribunal shall be a person who is qualified to be appointed a Judge of High Court and shall be appointed in consultation with the High Court on such terms and conditions as Government may determine.

(3) The Tribunal may, on appeal, confirm, set aside, vary or modify the award or decision given under section 47 or section 48 or a sentence passed under clause (c) of sub-section (4) of section 47 and shall exercise all the powers conferred by this Act to the Court, save as otherwise provided. The decision of the Tribunal shall be delivered as expeditiously as possible, within a period of sixty days following the filing of the appeal, provided such decision shall not be rendered invalid by reason of any delay in its delivery.

(4) The Tribunal may, on its own motion at any time, call for the record of any case or proceedings under this Act in which a Labour Court within its jurisdiction has passed an order for the purpose of satisfying itself as to the correctness, legality, or propriety of such order, and may pass such order in relation thereto as it thinks fit:

Provided that no order under this sub-section shall be passed revising or modifying any order adversely affecting any person without giving such person a reasonable opportunity of being heard.

(5) The Tribunal shall follow such procedure as may be prescribed.

(6) The Tribunal shall have authority to punish for contempt of its authority, or that of any Labour Court subject to its appellate jurisdiction, as if it were a High Court.

(7) Any person convicted and sentenced by the Tribunal under sub-section (6) to imprisonment for any period, or to pay a fine exceeding fifteen thousand rupees, may prefer an appeal to the High Court.

(8) A Tribunal may, on its own motion or on the application of a party, transfer any application or proceeding from a Labour Court within its jurisdiction to any other such Labour Court.

(9) Notwithstanding anything contained in sub-section (3) if in an appeal preferred to it against the order of a Labour Court directing the reinstatement of a worker, the Tribunal makes an order staying the operation of the order of the Labour Court, the Tribunal shall decide such appeal within sixty days of its being preferred:

Provided that, if such appeal is not decided within the period aforesaid, the order of the Tribunal shall stand vacated on the expiry of that period.

(10) The Member of the Tribunal shall be administrative and financial head of the Tribunal and final authority in respect of service matters of the employees of the Tribunal. He/she shall perform these functions in a prescribed manner.

51. (1) A settlement arrived at in the course of a conciliation proceedings, or otherwise between the employer and the collective bargaining agent or an award of an arbitrator prescribed under section 42, or an award or decision of a Labour Court delivered under section 49 or the decision of the Tribunal under section 50 shall-

- (a) be binding on all parties to the industrial dispute;
- (b) be binding on all other parties summoned to appear in any proceedings before a Labour Court as parties to the industrial 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 to which the industrial 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 industry to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after that date:

Provided that, where a collective bargaining agent or a trade union performing the functions of a collective bargaining agent under section 66 exists, the employer shall not enter into a settlement with any other trade union with respect to the same workers', and any contravention of this provision shall be deemed to be an unfair labour practice under section 17.

(2) A settlement arrived at by agreement between the employer and a trade union otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

52. (1) A settlement shall become effective-

- (a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and
- (b) if a date is not so agreed upon, on the date on which the memorandum of the settlement is signed by the parties.

Settlements and awards on whom binding.

Effective date of settlement, award, etc.

(2) A settlement 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 memorandum of settlement 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 no longer to be bound by the settlement.

(3) An award given under sub-section (1) of section 49 shall, unless an appeal against it is preferred to the Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Arbitrator, the Labour Court, or, as the case may be, 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:

Provided that if, at any time before the expiry of the said period, any party bound by an award applies to the Labour Court which made the award for reduction of the said period on the ground that the circumstances in which the award was made have materially changed, the Labour Court may, by order made after giving to the other party an opportunity of being heard, terminate the said period on a date specified in the order.

(4) A decision of the Tribunal in appeal under sub-section (3) of section 50 shall be effective from the date of the award.

(5) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3), 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.

**Commencement and conclusion of proceedings.**

53. (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the Conciliator under section 37.

(2) A conciliation proceeding shall be deemed to have concluded-

(a) where a settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and

(b) where no settlement is arrived at -

(i) if the dispute is referred to an arbitrator under section 42 on the date on which the arbitrator has given his/her award or otherwise; or

(ii) on the date on which the period of the notice of strike or lock-out expires.



(3) Proceedings before a Labour Court shall be deemed to have commenced;

(a) in relation to an industrial dispute, on the date on which an application has been made under section 43 or section 45, or on the date on which it is referred to the Labour Court by the Government under section 43 or section 44; and

(b) in relation to any other matter, on the date on which it is referred to the Labour Court.

(4) Proceedings before a Labour Court shall be deemed to have concluded on the date on which the award or decision is delivered under sub-section (1) of section 49.

54. There shall not be included in any report, award or decision under this Act 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 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, as the case may be:

Provided that nothing contained in this section shall apply to disclosure of any such information for the purpose of a prosecution under section 193 of the Pakistan Penal Code (Act No. XI.V of 1860).

55. No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a collective bargaining agent or trade union where collective bargaining agent does not exist or an employer.

56. No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceedings or proceedings before an Arbitrator or a Labour Court or an appeal to the Tribunal under sub-section (3) of section 50 are or is pending in respect of any matter constituting such industrial dispute.

57. (1) When a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, a Labour Court an application, under section 45 the Labour Court may, by an order in writing prohibit continuance of the strike or lock-out.

Certain matters to be kept confidential.

Raising of industrial disputes.

Prohibition of serving notice of strike or lock-out while proceedings pending.

Powers of Labour Court and Tribunal to prohibit strike, etc.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to a Tribunal under section 50 the Tribunal may, by an order in writing, prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

Illegal strikes and lock-out.

58. (1) A strike or lock-out shall be illegal if-

- (a) 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 or before the date of strike or lock-out specified in such notice, or in contravention of section 56;
- (b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in section 55;
- (c) it is continued in contravention of an order made under section 43, section 44, section 57 or sub-section (3) of section 59; or
- (d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

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

Procedure in cases of illegal strikes or lock-out.

59. (1) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, an Officer of the Labour Department not below the rank of Assistant Director Labour Welfare hereinafter in this section referred to as the Officer, may make enquiries in such manner as he/she may deem fit into an illegal strike or illegal lock-out in a factory and make a report to the Labour Court.

(2) After completing the enquiry the Officer shall serve a notice on the employer and the collective bargaining agent or the registered trade union concerned with the dispute to appear before the Labour Court on a date to be fixed by that Court.

(3) The Labour Court may, within ten days following the day on which it receives a report under sub-section (1), after considering the report and hearing such of the parties as appear before it, order the strike to be called off or the lock-out to be lifted.

(4) If the employer contravenes the order of the Labour Court under sub-section (3) 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 factory 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.

(5) 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 factory, establishment or group of establishments.

(6) 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 (Act V of 1908).

(7) If the workers contravene the order of the Labour Court under sub-section (3), the Court may pass orders of dismissal against all or any of the striking workers and, notwithstanding anything to the contrary contained in this Act, 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 debarring all officers of such trade union from holding office in that or in any other trade union for the un-expired term of their offices and for the term immediately following:

Provided that the Court may review its orders if good and sufficient cause is shown by an affected worker within seven days of such orders of dismissal.

(8) Subject to any rules made by the Government in this behalf, the officer may, for the purpose of enquiry under sub-section (1), within the local limits for which he/she is appointed, enter with such assistants, if any, being persons in the service of Pakistan, as he/she thinks fit, in a factory, establishment or group of establishments where he/she has reason to believe an illegal 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 he/she may deem necessary for carrying out the purposes of this section.

(9) The officer shall have authority to call any party to such dispute to his/her office or secure his/her presence in the factory, establishment or group of establishments and shall also have the power to bind any party to the dispute to appear before the Labour Court.

(10) Where a party to an illegal strike or lock-out, on being required or bound under this section to appear before the officer or the Labour Court, does not so appear, the officer or Labour Court, as the case may be, may, besides taking such other action as may be admissible under this Act, proceed ex parte.

Conditions of service to remain unchanged while proceedings pending.

60. (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 applicable to him/her before the commencement of the

conciliation proceedings or of the proceedings before at the Arbitrator, the Labour Court or Tribunal, as the case may be, nor shall he/she-

- (a) save with the permission of the Conciliator, while any conciliation proceedings are pending; or
- (b) save with the permission of the Arbitrator, the Labour Court or Tribunal, while any proceedings before the Arbitrator, Labour Court or Tribunal are pending discharge, dismiss or otherwise punish any worker except for misconduct not connected with such dispute.

(2) Notwithstanding anything contained in sub-section (1), an officer 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 betterment of workers.

Removal of fixed assets.

61. No employer shall remove any fixed assets of the establishment during the currency of an illegal lockout or a strike which is illegal:

Provided that 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.

Protection of certain persons.

62. (1) No person refusing to take part or to continue to take part in any illegal strike or illegal lock-out shall, by reasons of such refusal, be subject to expulsion from any trade union or to any fine or penalty or to the deprivation of any right or benefit which he/she or his/her legal representatives would otherwise have been entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or disadvantage as compared with other members of the trade union.

(2) Any contravention of the provisions of sub-section (1) may be made the subject matter of an industrial dispute, and nothing in the constitution of a trade union providing the manner in which any dispute between its executive and members, shall be settled shall apply to any proceedings for enforcing any right or exemption granted by sub-section (1). In any such proceeding, the Labour Court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he/she be paid out of the funds of the trade union such sum by way of compensation or damages as the Court thinks just.

Representation of parties.

63. (1) A worker who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Act by an officer of a collective bargaining agent 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 him/her.



(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before the Labour Court, or before an Arbitrator, with the permission of the Court or the Arbitrator, as the case may be.

Interpretation of settlement and awards.

64. (1) If any difficulty or doubt arises as to the interpretation of any provisions of an award or settlement, it shall be referred to the Tribunal constituted under this Act.

(2) The Tribunal to which a matter is referred under sub-section (1) shall after giving the parties an opportunity of being heard, decide the matter, and its decision shall be final and binding on the parties.

Recovery of money due from an employer under settlement or award.

65. (1) Any money due from an employer under a settlement, or under an award or decision of the Arbitrator, Labour Court or Tribunal may be recovered as arrears of land revenue or as a public demand if, upon the application of the person entitled to the money, the Labour Court so directs.

(2) Where any worker is entitled to receive from the employer any benefit, under a settlement or under an award or decision of the Arbitrator, Labour Court or Tribunal, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rule made under this Act, be determined and recovered as provided for in sub-section (1) and paid to the worker concerned within a specified date. Labour Court shall have the powers of Collector Grade-I and shall exercise such powers of recovery as determined by it.

Performance of functions pending ascertainment of collective bargaining agent.-

66. Any act or function which is by this Act required to be performed by or has been conferred upon a collective bargaining agent may, until a collective bargaining agent has been certified under the provisions of this Act, be performed by a registered trade union which has been recognized by the employer or employers.

Penalty for unfair labour practices.

67. (1) Whoever contravenes the provisions of section 10 shall be liable to fine which may extend to thirty thousand rupees but not less than ten thousand.

(2) Whoever contravenes the provisions of section 17 shall be liable to fine which may extend to fifty thousand rupees but not less than twenty thousand rupees.

(3) Whoever contravenes the provisions of section 18, other than those of clause (d) of sub-section (1) thereof, shall be liable to fine which may extend to twenty-five thousand rupees.

(4) An officer of a trade union, a worker or person other than a worker who contravenes or abets the contravention of the provisions of clause (d) of sub-section (1) of section 18 shall be liable to fine which may extend to thirty-five thousand rupees.

(5) Whoever contravenes the provisions of section 61 shall be liable to fine which may extend to one lac of rupees but not less than fifty thousand rupees.

(7) Nothing in this Act shall be deemed to exclude the jurisdiction of a Labour Court or the Court of a Magistrate to try a case under this section if it is authorized to do so by general or special order of the Commission.

Penalty for committing breach of settlement.

68. Whoever commits any breach of any term of any settlement, award or decision which is binding on him/her under this Act shall be punishable-

(a) for the first offence, with fine which may extend to twenty thousand rupees; and

(b) or each subsequent offence; with fine which may extend to fifty thousand rupees.

Penalty for failing to implement settlement, etc.

69. Whoever willfully fails to implement any term of any settlement, award or decision which it is his/her duty under this Act to implement shall be punishable with a fine which may extend to forty thousand rupees but not less than twenty thousand rupees, and, in the case of continuing failure, with a further fine which may extend to five thousand rupees for every day after the first during which the failure continues.

Penalty for false statement, etc.

70. Whoever willfully makes or causes to be made in any application or other document submitted under this Act or the rules made there under, any statement which he/she knows or has reason to believe to be false, or willfully neglects or fails to maintain or furnish any list, document or information he/she is required to maintain or furnish, under this Act or the rules made there under shall be punishable with fine which may extend to seventy five thousand rupees but not less than forty thousand rupees.

Penalty for discharging officer of trade union in certain circumstances, etc.

71. Any employer who contravenes the provision of section 60 shall be punishable with fine which may extend to twenty thousand rupees.

Penalty for embezzlement or misappropriation of funds.

72. Any officer or any employee of a registered trade union, guilty of embezzlement or misappropriation of trade union funds, shall be liable to a fine, double the amount found by the Court to have been embezzled or misappropriated. Upon realization, the amount of fine may be reimbursed by the Court to the trade union concerned.

Penalty for other offences.

73. Whoever contravenes, or fails to comply with, any of the provisions of this Act shall, if no other penalty is provided by this Act for such contravention or failure, be punishable with fine which may extend to ten thousand rupees.

Offence to be non-cognizable.

74. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) no police officer shall be competent to arrest without warrant an employer or a worker for an offence under this Act.

Offences by  
corporation.

75. Where the person guilty of any offence under this Act is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he/she proves that the offence was committed without his/her knowledge or consent or that he/she exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence:

Provided that, where a company has intimated to Government in writing the name of any of its director's resident in Pakistan whom it has nominated for the purpose of this section and the offence is committed while such director continues to be so nominated, only such director shall be so deemed to be guilty of such offence.

Trial of offences.

76. Save as provided in this Act, no Court other than a Labour Court or that of a Magistrate of the first class shall try any offence punishable under this Act.

Indemnity.

77. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made under the Act.

Registrar, etc., to be  
public servants.

78. A Registrar, a Conciliator, the Presiding Officer of a Labour Court, the member of a Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

Limitation.

79. The provisions of section 5 of the Limitation Act, 1908 (IX of 1908), shall apply in computing the period within which an application is to be made, or any other thing is to be done, under this Act.

Power to make rules.

80. (1) The Government may make rules for carrying out the purposes of this Act.

Repeal and savings.

81. (1) The Balochistan Industrial Relations Act, 2010 (Act No. XIV of 2010) is hereby repealed.

(2) Notwithstanding the repeal of Balochistan Industrial Relations Act, 2010 (Act No. XIV of 2010) and the repeal of earlier Industrial Relation Act 2008 (Act No. IV of 2008), herein referred to as the repealed ordinance or Act and without prejudice to the provisions of sections 4 and 23 of the General Clauses Act, 1956 (W.P Act VI of 1956).

(a) every trade union existing immediately before the commencement of this Act, which was registered under the Repealed Ordinance or Act shall be deemed to be registered under this Act and its constitution shall continue in force until altered or rescinded;

(b) anything done, rules made, notification or order issued, officer appointed, Court constituted, notice given, proceedings commenced or other actions taken under the Repealed Ordinance or Act shall be deemed to have been done, made, issued, appointed, constituted, given, commenced or taken, as the case may be, under the corresponding provisions of this Act; and

(c) any document referring to the Repealed Ordinance or Act relating to industrial relations shall be construed as referring to the corresponding provisions of this Act.

Former registration offices, officers, etc., to continue.

82. (1) The offices existing at the commencement of this Act for registration of trade unions shall be continued as if they had been established under this Act.

(2) Any person appointed to any office under, or by virtue of the provisions of the Repealed Ordinance shall be deemed to have been appointed to that office under or by virtue of this Act.

(3) Any books of accounts, book, paper, register or document kept under the provisions of the Repealed Ordinance relating to companies shall be deemed to be part of the books of accounts, book, paper, register or document to be kept under this Act.

SCHEDULE

PUBLIC UTILITY SERVICE

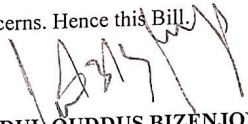
[see section 2(aa)]

1. The generation, production, manufacture, or supply of electricity, gas, oil or water to the public.
2. Any system of public conservancy or sanitation.
3. Hospitals and ambulance service.
4. Fire-fighting service.
5. Any postal, telegraph or telephone service.
6. Railways and Airways.
7. Dry Ports.
8. Watch and ward staff and security services maintained in any establishment.



## STATEMENT OF OBJECTS AND REASONS

The Subject on which this law has been enacted has devolved on the Provinces by virtue of the Constitution (Eighteenth Amendment) Act 2010. The Act is required to be adapted by the Provincial Assembly of Balochistan in terms of clause 6 of Article 270AA of the Constitution. Some other amendments like enhancement of fiscal penalties, improvement of employment conditions, financial benefits and terms and conditions of service, gender equality provision etc have been incorporated in the draft Bill to upgrade the socio-economic status of Baluchistan's workers employed in industrial and commercial concerns. Hence this Bill.

  
(ABDUL QUDDUS BIZENJO)  
Minister Incharge  
Labour & Manpower Department

# BALUCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT

## The Balochistan Maternity Benefit Bill, 2022, Bill No. 16, 2022

### A Bill

*to provide safeguards to working women during maternity, cash maternity benefits, and employment security in establishment in the Balochistan Province.*

#### Preamble.

*Whereas in pursuance of 18th Constitutional Amendment, it is expedient to consolidate and rationalize the law pertaining to the employment of women and to provide safeguards to working women during maternity, cash maternity benefits, maintain employment security and matters ancillary thereto;*

It is here by enacted as follows:

#### Short title, extent, application and commencement.

1. (1) This Act may be called the Balochistan Maternity Benefits Act, 2022.
- (2) It extends to the whole of Balochistan Province.
- (3) It shall apply to women workers, under certain natural conditions, employed in establishments in the Balochistan Province.
- (4) It shall come into force at once.

#### Definitions.

2. (1) In this Act, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say, -
  - (a) "Act" means the Balochistan Maternity Benefits Act, 2022;
  - (b) "child" includes a still-born child for the purpose of this Act;
  - (c) "Court" means the Labour Court established under the Government of Balochistan Industrial Relations Act, for the time being in force;
  - (d) "Director General Labour" means the head of the Directorate of Labour Welfare of the Balochistan Province;
  - (e) "Employer" means any person, who has ultimate control over the appointment of a woman;
  - (f) "Establishment" means an organization, whether industrial establishment or commercial establishment as defined in the Industrial and Commercial Employment (Standing Orders) Act in force in Balochistan;

- (g) "Government" means the Government of Balochistan;
- (h) "Inspector" means a person appointed as Inspector under section 8 of this Act;
- (i) "Maternity benefit" means the amount payable under the provisions of this Act to a woman employed in an establishment, under certain natural conditions associated with a woman;
- (j) "Medical practitioner" means a registered medical practitioner nominated for the purposes of this Act by the employer with the approval of the Inspector;
- (k) "Prescribed" means prescribed by rules made under this Act;
- (l) "Province" means the Balochistan Province;
- (m) "Still-born child" means any child who dies, after 28 weeks of pregnancy, before or during delivery;
- (n) "Wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of contract of employment, expressed or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behavior of the person employed or otherwise, to a person employed in respect of her employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of her employment, but does not include-
- (i) The value of any house accommodation, supply of light, water, medical attendance or other maternity, or of any service excluded by general or special order of Government;
  - (ii) Any contribution paid by the employer to any pension fund or provident fund;
  - (iii) Any travelling allowance or the value of travelling concession;
  - (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
  - (v) any gratuity payable on discharge.
- (o) "Woman" means a woman worker.

(2) Expressions used in this Act but not defined herein shall have the meaning respectively assigned to them in other labour laws.

Employment of, or work by women in factories prohibited during certain periods.

3. (1) No employer shall knowingly employ a woman and no woman shall engage in employment in establishment during the six weeks following the day on which she is delivered of a child.

(2) No employer shall ask any employed woman 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 immediately; -

(a) Preceding the period of six weeks, before the date of her expected delivery; and;

(b) Succeeding the period of eight weeks after the date of her delivery.

(3) A pregnant or nursing woman shall not be obliged to perform night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

Right to and liability for payment of maternity benefit.

4. (1) Subject to the provisions of this Act, every woman employed in an establishment shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of her wages last paid during the following periods:

(a) six weeks immediately preceding and including the day on which she delivers the child;

(b) eight weeks immediately following the day she delivers of the child;

(c) four weeks' additional leave in the case of any other medical complications in cases 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 establishment of the employer from whom she claims maternity benefit for a period of not less than four months immediately preceding the day on which she delivers the child.

**Provided further that** in the event of premature birth, all un-availed pre-natal leave shall transfer to the post-natal period. In the event of post-mature birth, the post-natal leave period, in no way, shall be less than six weeks. In case of post mature births, the pre-natal leave period shall be extended accordingly.

Nursing Breaks.

5. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest 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 only when suitable daycare facilities exist at or near workplace.

Procedure regarding payment of maternity benefit.

6. (1) Any woman entitled to maternity benefit-

- (a) who is pregnant, may give notice either orally, in person or in writing in the prescribed form to the employer that she expects to be confined within six weeks next following and may therein nominate a person for the purposes of section 7; and
- (b) who has not given the notice referred to in clause (a) and has been delivered of a child, shall within seven days of delivery, give similar notice that she has been delivered of a child.

(2) When such notice is received, the employer shall permit the woman to absent herself from the day following the date of notice in the case mentioned in clause (a) of sub-section (1) and from the day of delivery in the case mentioned in clause (b) thereof, until eight weeks after the day of delivery.

(3) An employer shall pay maternity benefit for fourteen weeks to a woman entitled there to in any of the following ways selected by the woman, namely-

- (i) For six weeks before delivery within forty-eight hours of the production of a certificate signed by the medical practitioner stating that the woman is expected to be confined within six-weeks of the date of the certificate, and for the remainder of the period for which she is entitled to maternity benefit within forty-eight hours of the production of the proof that she has been delivered of a child; or
- (ii) for the period of six weeks before delivery and including the day of delivery, within forty-eight hours of the production of proof that she has been delivered of a child and, for the remainder of the period, within six weeks of the production of such proof; or
- (iii) for the whole of the said period of fourteen weeks, within forty-eight hours of the production of proof that she has been delivered of a child:

Provided that a woman shall not be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of proof under this sub-section that she has been delivered of a child, unless such proof is produced within six months of the delivery.

(4) The proof required to be produced under sub-section (3), shall be either a certified extract from a birth register or a certificate signed by the medical practitioner or such other proof as may be accepted by the employer.

Payment of maternity benefit in case of a woman's death.

7. (1) If a woman entitled to maternity benefit under this Act dies on the day she is delivered of a child or during the period there after for which she is entitled to the maternity benefit, the employer's liability under sub-section (1) of section 4 shall not, by reason of her death be discharged and he shall pay the amount of maternity benefit due to the person nominated by her under sub-section (1) of section 6 for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives.

(2) If a woman dies during the period for which she is entitled to maternity benefit but before she is delivered of a child, the employer shall be liable only for the period up to and including the day of her death, provided that any sums already paid to her in excess of such liability under clause (i) of sub-section (3) of section 6 shall not be recoverable from her legal representative and any amount due at the woman's death shall be paid to the person nominated by her under sub-section (1) of section 6, for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives.

Protection from Dismissals.

8. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Section 4 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.

Appointment of Inspector.

9. The Labour & Manpower Department may appoint Inspector for the purposes of this Act through notification in the official Gazette and their territorial jurisdiction be determined therein.

Penalty for working for payment during permitted period of absence.

10. If a woman does any work in any establishment for which she receives payment in cash or kind after she has been permitted by her employer to absent herself under the provisions of section 5, she shall be liable to a fine not exceeding five thousand rupees.

Penalty for contravention of this Act by an employer, and application of fine in payment of compensation.

11. (1) If any employer contravenes any provision of this Act, he shall be liable to a fine which may extend to twenty-five thousand rupees.

(2) Whenever a Court imposes a fine under this section or confirms in appeal, revision or otherwise such a sentence, it may, when passing judgment, order the whole or any part of the fine recovered to be applied in the payment of compensation to the woman concerned for any loss or damage caused to her.

**Cognizance of offences.**

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Inspector and no such prosecution shall be instituted until expiry of the period of appeal under sub-section (2) or, if such an appeal is preferred, unless the Director General Labour by his order thereon, sanctions a prosecution.

(2) Where the Inspector decides either to institute a prosecution under this Act or to grant sanction thereto, he shall forthwith communicate his order to the person complained against, who may, within thirty days of the date of the said order, appeal to the Director Labour against such decision and the decision of the Director Labour on such appeal, shall be final and shall not be liable to be contested by suit or otherwise.

(3) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act or any rule made thereunder.

**Appeal against refusal to prosecute or grant sanction thereto.**

13. Where, on an application by an employer or a woman or the person nominated by her or any of her legal representatives, the Inspector refuses either to institute a prosecution under this Act, or to grant sanction thereto, he shall without delay communicate to the applicant his/her order of refusal and an applicant aggrieved by such order may, within thirty days of the date thereto appeal to the Director Labour against such order, and the decision of the Director Labour on such appeal which shall be taken after affording to the applicant an opportunity of being heard, shall be final.

**Limitation.**

14. No Court shall take cognizance of any offence under this Act or rules made thereunder unless complaint thereof has been made to the Inspector within six months of the date on which the offence is alleged to have been committed.

**Protection against discrimination.**

15. No discrimination shall be made on the basis of religion, sect, colour, caste, creed, ethnic background in considering and disposing of issues relating to the enforcement of this Act.

**Powers to make rules.**

16. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for\_

- (a) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under relevant section of the Balochistan Factories Act, for the time being in force;
- (b) the inspection of establishments for the purposes of this Act by the Inspector;
- (c) the exercise of powers and the performance of duties by the Inspector for the purposes of this Act;

- (d) the method of payment of maternity benefit in so far as provision has not been made in this Act;
- (e) the forms of notice under clause(a) and clause (b) of sub-section (1) of section 6; and
- (f) procedure to be observed in the disposal of appeals under sub-section (2) of section 12 or section 13.

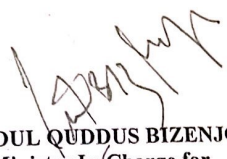
(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees.

- Exhibition of abstract.** 17. An abstract of the provisions of this Act and the rules made thereunder in the regional language shall be exhibited in a conspicuous manner by the employer of the establishment in which women are employed.
- Removal of difficulties.** 18. If any difficulty arises, in giving effect to any provisions of this Act, the Labour & Manpower Department with prior approval of the Government may, by notification in the Official Gazette, make such order, not in consistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.
- Repeal.** 19. The West Pakistan Maternity Benefits Ordinance, 1958 (Ordinance No. XXXII of 1958) is hereby repealed in its application to the Balochistan Province.
- Savings.** 20. (1) Notwithstanding the repeal, anything done, action taken, rule made, and notification or order issued under the repealed Ordinance, shall, so far as it is not in consistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.
- (2) Any document referring to the repealed Ordinance shall be construed as referring to the corresponding provisions of this Act.



## STATEMENT OF OBJECTS AND REASONS

The subject, on which this law is enacted, has been devolved to the Provinces by virtue of the Constitution (Eighteenth Amendment) Act, 2010. The proposal is to enact a new legislation on maternity benefits by the Provincial Assembly of Balochistan by repealing the earlier, West Pakistan Maternity Benefits Ordinance, 1958 (Ordinance No. XXXII of 1958) in terms of clauses 6 of Articles 270AA of the Constitution of Pakistan. The bill proposes extension in maternity leave, enhancement of fiscal penalties, improvement of occupational safety and health standards, nursing breaks, Protection from dismissal and many other improvements to improve Labour force participation of women. Hence this bill.

  
**(ABDUL QUDDUS BIZENJO**  
**Minister In-Charge for**  
**Labour & Manpower Department**