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Industrial Relations Ordinance, 2002

INDUSTRIAL RELATIONS ACT, 2012

ACT NO. X of 2012

An Act to

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WHEREAS, the Constitution of the Islamic Republic of Pakistan recognizes the freedom of association as a fundamental right of the citizens;

AND WHEREAS the Islamic Republic of Pakistan has ratified ILO Convention No.87 on Freedom of Association and Convention No.98 on Right to Organize and Collective Bargaining;

AND WHEREAS it is expedient to consolidate and rationalize the law in Islamabad Capital Territory and at trans-provincial level, relating to formation of trade unions and federations or trade unions, determining the collective bargaining agents, regulation of relations between employers and workers, the avoidance and settlement of any differences or disputes arising between them or matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

CHAPTER-I

PRELIMINARY

1. Short title, extent, application and commencement. - (1) This Act may be called the Industrial Relations Act, 2012.

(2) Subject to sub-section (3) , it extends to the whole of Pakistan.

(3) It shall apply to all persons employed in any establishment or industry, in the Islamabad Capital Territory or carrying on business in more than one province, but shall not apply to any person employed-

(a) in the Police or any of the Defence Services of Pakistan or any services or installations exclusively connected with the Armed Forces of Pakistan including an Ordnance Factory maintained by the Federal Government;

(b) in the administration of the State other than those employed as workmen;

(c) as a member of the Security Staff of the Pakistan International Airlines Corporation or drawing wages in pay group not lower than Group V in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the Airlines, by notification in the official Gazette, specify in this behalf;

(d) by the Pakistan Security Printing Corporation or the Security Papers Limited; and (e) by an establishment or institution for the treatment or care of sick, infirm, destitute or mentally unfit persons excluding those run on commercial basis.

(4) It shall come into force at once.

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

(i) "arbitrator" means a person appointed as such under Section 40;

(ii) "award" means the determination by the Commission or Arbitrator of any industrial dispute or any matter relating thereto and includes an interim award;

(iii) "Bench" and "Full Bench" mean a Bench and Full Bench of the Commission;

(iv) "collective bargaining agent" in relation to an establishment, group of establishments or industry, means the trade union of the workmen which under Section 19, is the agent of workmen in the establishment or, as the case may be, industry, in the matter of collective bargaining;

(v) "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;

(vi) "Commission" means the Industrial Relations Commission constituted under Section 53;

(vii) "conciliation proceedings" means any proceedings before a conciliator;

(viii) "Conciliator" means a person appointed as such under Section 36;

(ix) "employer" in relation to an establishment, means any person or body of persons, whether incorporated or not, who or which employs workmen in the establishment under a contract of employment and includes-

(a) an heir, successor or assign, as the case may be, of such person or body as aforesaid;

(b) any person responsible for the management and control of the establishment;

(c) in relation to an establishment run by or under the authority of any department of the Federal Government, the authority appointed in this behalf or, where no authority is so appointed, the Head of the department;

(d) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf, or where no officer is so appointed, the chief executive officer of that authority;

Explanation.-For the purpose of distinction from the category of "workers" or "workmen", officers and employees of a department of the Federal Government 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"; and

(e) in relation to any other establishment, the proprietor of such establishment and every director, manager, secretary, agent or officer or person concerned with the management of the affairs thereof;

(x) "establishment" means any office, firm, factory, society, undertaking, company, shop or enterprise, which employs workmen directly or through a contractor for the purpose of carrying on any business or industry and includes all its departments and branches in the Islamabad Capital Territory or falling in more than one province, whether situated in the same place or in different places and except in Section 62 includes a collective bargaining unit, if any, constituted by any establishment or group of establishments;

(xi) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted by its constitution;

(xii) "Government" means the Federal Government;

(xiii) "Group of establishments" means establishments belonging to the same employer and the same industry;

(xiv) "illegal lock-out" means a lock-out declared, commenced or continues otherwise than in the provisions of this Act;

(xv) "illegal strike" means a strike declared, commenced or continues otherwise than in accordance with the provisions of this Act;

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

(xvii) "industry" includes any business, trade, calling, employment or occupation for production of goods or provisions of services in the Islamabad Capital Territory and falling in more than province, and excluding those set up exclusively for charitable purposes;

(xviii) "industry-wise trade union" means a trade union having its membership in more than one province in a group of establishments owned by one employer;

(xix) "inspector" means an inspector appointed under this Act;

(xx) "Labour Court" means a Labour Court established in a province;

(xxi) "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 workmen employed by him, where such closing, suspension or refusal occurs in connection with an industrial dispute or is intended for the purpose of compelling workmen to accept certain terms and

conditions of or affecting employment;

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

(xxiii) "organization" means any organization of workers or of employers for furthering and defending the interests of workers or of employers;

(xxiv) prescribed" means prescribed by rules;

(xxv) "public utility service" means any of the services specified in Schedule I;

(xxvi) "registered trade union" means a trade union registered under this Act;

(xxvii) "Registrar" means a Registrar of trade unions appointed under Section 4;

(xxviii) "rules" and ''regulations" mean rules and regulations made under this Act;

(xxix) "settlement" means a settlement arrived at in the course of a conciliation proceeding, and includes an agreement between an employer and his workmen where there is no Collective Bargaining Agent, or Collective Bargaining Agent, as the case may be, arrived at or 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 Government, the Conciliator and such other person as may be prescribed;

(xxx) "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 have been so employed to continue to work or to accept employment;

(xxxi) "trade union" means any combination of workmen or employers formed primarily for the purpose of regulating the relations between workmen and employers, or workmen and workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes a federation of two or more trade unions;

(xxxii) "trans-provincial" means any establishment, group of establishments, industry, having its branches in more than one province;

(xxxiii) "worker" and "workman" mean person not falling within the definition of employer who is employed (including employment as a supervisor or as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the terms of employment are 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 but does not include any person who is employed mainly in managerial or administrative capacity.

CHAPTER-II

REGISTRATION OF TRADE UNIONS

3. Trade unions and freedom of association.-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 international associations of their own choice without previous authorization:

Provided that in the establishment where women are also employed the Trade Union shall include the women in the executive of the said trade union with the same proportion in which they are employed in the establishment:

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

(b) employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join international 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 international organizations and confederations of workers' and employers' organisations.

4. Registrar of trade unions.-For the purpose of this Act, the Government shall, by notification in the official Gazette, appoint the Registrar of Trade Unions who shall be assisted by one or more Joint Registrars.

5. Powers and functions of Registrar.-The Registrar, and the Joint Registrars, as the case may be, 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 Commission for action, including prosecution, against trade unions, employers, workers or other persons for any alleged offence or any unfair labour practice or violation of any provision of 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) 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 deems fit either by himself or through any officer subordinate to him and to authorize him in writing in this behalf; and

(e) such other powers and functions as may be prescribed.

6. Application for registration.-Any trade union may, under the signature of its President and the Secretary, apply to the Registrar for registration of the trade union under this Act:

Provided that there shall be at least two trade unions in an establishment.

7. Requirements for application.-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 along with a statement of the total number of workers employed therein;

(vi) the names and addresses of the registered trade unions in the establishment group of establishments or industry, as the ease may be, to which the union relates; and

(vii) in case of a federation of trade unions, the names, addresses and registration number of member-unions;

(b) three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting;

(c) a copy of the resolution by the members of the trade union 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.

8. Requirements for registration. - (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 workmen actually engaged or employed in the establishment or establishments or the industry for which the trade union has been formed;

Provided that the condition of being employed in any establishment or an industry as aforesaid shall not apply to the remaining twenty five percent of the members of such executives;

(e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him;

(f) the maintenance of a list of the members of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union;

(g) the manner in which the constitution shall be amended, varied or rescinded;

(h) the safe custody of the funds of 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) the manner of election 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 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 at least once in every three months and the general body at least once a year.

(2) Without prejudice to the provisions of sub-section (1) , a trade union of workmen shall not be entitled to registration under this Act-

(a) unless all its members are workmen actually engaged or employed in the industry with which the trade union is connected;

Explanation.-For the purpose of this clause, a dismissed, terminated of retrenched worker, whose dismissal, termination or retrenchment is pending adjudication before a Court of competent jurisdiction, shall be deemed to be an employed worker of that establishment, 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 workmen employed in such

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

9. Registration. - (1) On receipt of application for registration, the Registrar shall ensure compliance of Sections 7 and 8 of this Act, and issue the registration certificate in the prescribed form within seven days.

(2) In case the application has been rejected or a certificate of registration has not been issued within a period of seven days as provided in sub-section (1) , as the case may be, the trade union may appeal to the Commission 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.

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

(4) The Registrar may refuse to register such change or alteration 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.

(5) Subject to the provision of sub-section (4) , 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.

(6) In case there is a dispute in relation to the change of officers of a trade union, or any trade union is aggrieved by the refusal of the Registrar under sub-section (4) , the Registrar may, after satisfying himself that a dispute exists, hold fresh elections under his supervision.

10. Certificate of registration.-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.

11. Cancellation of registration. - (1) Subject to other provisions of this section, the registration of a trade

union may be cancelled by the Registrar if the trade union has-

(a) contravened or has been registered in contravention of any of the provisions of this Act or the rules;

(b) applied for such cancellation or ceased to exist;

(c) obtained registration by fraud or by misrepresentation of facts;

(d) obtained less than ten percent of total votes polled in an election for determination of a Collective Bargaining Agent, or is not a contestant in such election;

(e) failed to submit its annual returns to the Registrar as required under this Act or the rules;

(f) contravened any of the provisions of its constitution; or

(g) made in its constitution any provision which is inconsistent with this Act or the rules.

(2) Where the Registrar is of opinion that the registration of a trade union should be cancelled, he shall submit an application to the Commission praying for permission to cancel such registration.

(3) The Registrar shall cancel the registration of a trade union within seven days from the date of receipt of permission from the Commission.

(4) The registration of a trade union shall not be cancelled on the ground mentioned in clause (d) of sub-section (1) if the unfair labour practice is not committed within three months prior to the date of submission of the application to the Commission.

(5) Where any person who is disqualified under Section 18 from being 10 member or elected as, or from being an officer of a trade union is elected as an officer of a registered trade union, the registration of that trade union shall be cancelled if the Commission, upon a complaint in writing made in this behalf by the Registrar, so directs.

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

12. Appeal against the order/decisions etc. of Registrar.-A trade union, its members or an officer may prefer an appeal against the order, decision and proceeding conducted by the Registrar within thirty days before the Commission

13. Incorporation of registered trade union. - (1) Every registered trade union shall be a body corporate by the name under which it is registered, shall have perpetual succession and a common seal and the power to contract and to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(2) The Societies Registration Act, 1860 (XXIV of I860) , the Cooperative Societies Act, 1925 (W.P. Act VII of 1925) and the Companies Act, 1984 (XLVII of 1984) , shall not apply to any registered trade union and the registration of any trade union under any of these Acts shall be void.

14. Registration of federation of trade unions. - (1) Any two or more registered trade unions may, if their respective general bodies so resolve, constitute a federation by executing an instrument of federation whereas any four or more registered trade unions, (from any two or more provinces) may constitute a federation or confederation and apply to the Registrar for the registration of the federation:

Provided that a trade union of workmen 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 workmen.

(2) 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 the rights and responsibilities of the federation and the federated trade union.

(3) 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) .

(4) No trade union federation or confederation shall be formed and registered having same, similar on identical name.

(5) 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.

15. Registered trade union to maintain register, etc.-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.

16. Returns. - (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 officers 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) The Registrar shall audit the return and issue a certificate of acceptance. In case the statement of expenditure is found incorrect, he will submit a complaint before the Commission for initiation of cancellation proceedings of the union.

17. Transfer, etc., of officer of trade union during pendency of application for registration.-Save with the prior permission of the Registrar, no officer or member of a trade union of workmen 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 and members to the employer in writing.

18. Disqualification for being an officer or a member of a trade union.-Notwithstanding anything contained in the constitution or rules of a trade union, a person who has been convicted and sentenced to imprisonment for two years or more or in an offence involving moral turpitude under the Pakistan Penal Code (Act XLV of 1860) shall be disqualified from being elected as, or from being, an officer of a trade union, unless a period of five years has elapsed after the completion of the sentence.

CHAPTER-III

COLLECTIVE BARGAINING AGENT

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

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

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 Factories Act, 1934 (XXV of 1934) , unless such application is made during the month in which the number of workmen employed in such factory in a year is usually the maximum.

(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; and

(b) if it so desires, to submit to him within the time specified in the notice a list of its members showing, in respect of each member, his parentage, age, the section or department and the place in which he is employed, his ticket number and the date of his 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 workmen employed in the establishment excluding those whose period of employment in the establishment is less than three months and showing, in respect of each workman, his parentage, age, the Section or department and the place in which he is employed, his ticket number and the date of his employment in the establishment; and

(b) provide such facilities for verification of the lists submitted by him 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 workman employed in a seasonal factory within the meaning of Section 4 of the Factories Act, 1934 (XXV of 1934) , the period during which he 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 workman 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 workman 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 establishment as may be required by the Registrar for the conduct of the poll, including actual expenditures 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 metres 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 unless the number of votes received by it is not less than one-third of the total number of votes of workmen mentioned in the voters" list employed in such establishment or group of establishments:

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 also 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 for a period of two years.

(11) Where a registered trade union has been certified under clause (e) of sub-section (9) and sub-section (10) to be the collective bargaining agent for an establishment or group of establishments, no application for the determination of the collective bargaining agent for such establishment or group shall be entertained within a period of two years from the date of such certification except where the registration of such a registered trade union is cancelled before the expiration of the period:

Provided that for the trade unions having membership of more than five thousand and presence in more than one province, the period of two years will be enhanced to three years.

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

(13) After an application under sub-section (2) is made to the Registrar, no employer shall transfer, remove, retrench or terminate any worker who is officer of any contestant trade union save with the permission of the Registrar.

20. Functions of the Collective Bargaining Agent. - (1) The collective bargaining agent in relation to an establishment or group of establishments shall be entitled to-

(a) undertake collective bargaining with the employer or employers on matters connected with employment, non-employment, the 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 workman by or under any law, other than this Act, or any award or settlement;

(b) represent all or any of the workmen in any matter or judicial proceedings under this Act;

(c) give notice of, and declare, a strike in accordance with the provisions of this Act; and

(d) nominate representatives of workmen 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) .

(2) A collective bargaining agent may, without prejudice to its own position, implead 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.

21. Performance of functions pending ascertainment of collective bargaining agent.-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.

22. Check off. - (1) If a collective bargaining agent so requests, the employer shall deduct from the wages of the workmen such amounts towards their subscription to the funds of the trade union as may be specified by each individual workman 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 deduction have been made, deposit the entire amount so deducted by him in the account of the trade union on whose behalf he has made the deductions.

(3) A collective bargaining agent shall maintain with a branch of the National Bank of Pakistan, or with a scheduled bank with "AAA" credit-rating recognised by the State 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 or 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) .

CHAPTER-IV

WORKERS PARTICIPATION

23. Shop steward. - (1) In every factory/establishment in which twenty-five or more workmen are employed, shop stewards, from amongst the workmen in a shop. Section or department of the factory/establishment, shall,-

(a) where there is a collective bargaining agent in the factory/establishment, be nominated by it, or

(b) where there is no collective bargaining agent in the factory/establishment, be elected at a secret ballot held in the prescribed manner.

(2) The employer shall provide all such facilities in his factory/ 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 date of his 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.

24. Functions of Shop Steward.-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 is elected and help workers in the settlement of their problems either connected with work or with any such individual grievance of a workman as is referred to in sub-section (1) of Section 33.

25. Works Council. - (1) In every factory/establishment in which fifty or more workmen are employed or were employed on any day in the preceding twelve months, the employer shall constitute, in the prescribed manner, a work council consisting of representatives of the employer and the workmen in such a manner that the number of the representatives of the workmen is not less than the number of the representatives of the employer in the works council.

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

Provided that if there is no collective bargaining agent, representatives of workmen on Works Council shall be chosen in the prescribed manner from amongst the

workmen engaged in the factory/establishment for which the Works Council is constituted.

26. Functions of Works Council.-The functions of Works Council shall be to promote measure for securing and preserving good relation between an employer and his workmen and, in particular;

(a) To endeavour to maintain continuous sympathy and understanding between the employer and the workmen;

(b) To promote settlement of differences and disputes through bilateral negotiations;

(c) To promote security of employment for the workmen and conditions of safety, health and job satisfaction in their work;

(d) To take measures of facilitating good and harmonious working condition in the factory/establishment; to provide vocational training and educational facilities for children of workmen in secretarial and accounting procedures and to promote their absorption in these departments of the factory/establishment; and

(e) To discuss any other matter of mutual interest with a view to promoting better labour-management relations.

27. Workers' Participation in Management. - (1) In every factory/ establishment employing fifty persons of more there shall be elected or nominated workers' representatives to participate to the extent of fifty per cent in the management of the factory/establishment:

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

Provided further that, for the purpose of determining the number of workers' representatives in the management of the factory/ establishment, 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 workmen employed in the same factory/establishment and shall,-

(a) where there is a collective bargaining agent in the factory/ establishment, be nominated by it, or

(b) where there is no collective bargaining agent in the factory/establishment, be elected by simple majority at a secret ballot by all workmen employed in the factory/establishment.

(3) The workers representative shall hold office for a period of two years from the date of their election 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/establishment, 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' representative, namely--

(a) framing of services rules and policy about promotion and discipline of workers;

(b) changing physical working conditions in the factory/ establishment;

(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/establishment.

(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' representative within two 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/establishment.

(8) In case the advice of the workers' representatives is rejected by the management of the factory/establishment, the matter may, within fifteen days of the advice being so rejected, be taken up by the collective bargaining agent in the Works Council for bilateral negotiations and thereupon the provisions of Section 35 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 the section.

28. Joint Management Board. - (1) Every company which owns or manages an factory/establishment, and in every factory/establishment 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 percent.

(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 workmen employed in the factory/establishment.

(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/establishment 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, 1984 (XLVII of 1984) ; and

(b) " management" means the employer.

(8) In the case of an factory/establishment where there are one or more trade unions, the collective bargaining agent shall nominate the representatives of the workmen on such join management board:

Provided that where there is no collective bargaining agent, representatives of workmen on the join management board shall be chosen in the prescribed manner from amongst the workmen engaged in the

factory/establishment for which the joint management board is constituted.

29. Inspector.-The inspectors appointed under Section 10 of the Factories Act, 1934 (XXV of 1934) , and such other persons, not being Conciliators appointed under this Act, as the Government may. by notification in the official Gazette appoint, shall be inspectors for ensuring compliance with the provisions of this Act within the local limits assigned to each.

30.Functions of the Inspector. - (1) The inspector may-

(a) at all reasonable hours enter any premises and make such examination of any register and document relating to the provisions of Section 27 and Section 28 and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for discharging his duty;

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

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

(2) 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) .

31. Unfair labour practices on the part of employers. - (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 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 in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union;

(d) dismiss, discharge, remove from employment or transfer or threaten to dismiss, discharge or remove from employment or transfer a workman or injure or threaten to injure him in respect of his employment by reason that the workman:

(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) participates 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 for the determination of the Collective Bargaining Agent;

(h) recruit any new workman during the period of a notice of strike under Section 41 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 workmen in the section where the damage is likely to occur;

(i) close down the whole of the establishment in contravention of Standing Order 11-A of the industrial and Commercial Employment (Standing Orders) Act, 1968 (W.P. Ord. VI of 1968) ; or

(j) Commence, continue, instigate or incite others to take part in or expend or supply money or otherwise act in furtherance or support of, an illegal lockout.

(2) Nothing in sub-section (1) shall be deemed to preclude an employer from requiring that a person upon his appointment or promotion to managerial position shall cease to be, and shall be disqualified from being, a member or officer of a trade union of workmen.

32. Unfair labour practices on the part of a workmen. - (1) No workmen or other person or trade union of workmen shall-

(a) persuade a workman to join or refrain from joining a trade union during working hours; or

(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; or

(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; or

(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; or

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

Explanation.-In clause (e) the expression 'go-slow' means an organized, deliberate and purposeful slowing down of normal output, or the deterioration of the normal quality of work by a body of workmen acting in a conceited 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.

(2) It shall be an unfair practice for a trade union to interfere with a ballot held under Section 19 by the exercise of undue influence, intimidation, impersonation or bribery through its executive or through any person acting on its behalf.

CHAPTER-VI

SETTLEMENT OF DISPUTES

33. Redress of individual grievances. - (1) A worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law or any award or settlement for the time being in force to the notice of his employer in writing, either himself or through his shop steward or collective bargaining agent within ninety days of the day on which the cause of such grievance arises.

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

(3) Where a worker brings his grievance to the notice of his employer through his shop steward or collective bargaining agent, the employer shall, within seven days of the grievance being brought to his notice, communicate his 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 collective bargaining agent or to the Commission or, as the case may be, the collective bargaining agent may take the matter to the Commission, and where the matter is taken to the Commission, it shall give a decision within seven 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 Commission shall do so within a period of sixty days 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 Commission 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 Commission or a decision in an appeal against such a decision or order is not given effect to or complied with within seven days 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 seventy-five thousand rupees, or with both.

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

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

(b) by the Commission 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 Commission.

(9) Any collective bargaining agent or any employer may apply to the Commission for the enforcement of any right guaranteed or secured to it or him by or under any law or any award or settlement.

(10) There shall be a Tripartite Council for review of grievances of workers in the Islamabad Capital Territory comprising not less than three members each of the workers, employers and the Government:

Provided that the representatives of the workers and the employers shall be nominated by the Government after consultation with registered trade unions and employers' organizations to be notified in the Official Gazette.

34. Raising of industrial disputes. - (1) No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a collective bargaining agent or an employer;

(2) Notwithstanding anything contained in this Act, a federation of trade unions or federation 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 a decision of the Commission shall be binding on all such employers and workers.

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

35. Negotiations relating to differences and disputes. - (1) If at any time an employer or a collective bargaining agent 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 or its views in writing either to the Works Council or to the other party and 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 (xxx) 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.

36. Conciliator.-The Commission may, appoint as many persons as it considers necessary to act as Conciliators under this Act.

37. Conciliation after notice of strike or lock-out.-Where a party to an industrial dispute serves a notice of strike or lock-out under sub-section (3) of Section 35, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator and to the Commission.

38. Proceedings before Conciliator. - (1) The Conciliator shall within fifteen days 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, he shall give notice in writing requiring the employer or such officer to appear in person before him 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 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, the Conciliator shall send a report thereof to the Commission 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 lock-out, the conciliation

proceedings may be continued for such further period as may be agreed upon by the parties.

39. Commencement and conclusion of proceedings. - (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 sub-section (3) of Section 35.

(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 40 on the date on which the arbitrator has given his award or otherwise; or

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

(3) Proceedings before the Commission 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 42 or Section 60, or on the date on which it is referred to the Commission by the Federal Government under Section 42 or Section 45; and

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

(4) Proceedings before the Commission in relation to a dispute referred to it under Section 42 or Section 45 or to a dispute raised under sub-section (2) Section 34, shall be deemed to have commenced on the date on which the reference is made to it or, as the case may be, the dispute is raised before it.

(5) Proceedings before the Commission shall be deemed to have concluded on the date on which the decision is delivered under sub-section (5) of Section 42.

40. Arbitration. - (1) If the conciliation fails, the Conciliator 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.

(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 the Commission or any other person agreed upon by the parties.

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

(4) After he has made an award, the arbitrator shall forward a copy thereof to the parties and to the Government for publication in the official Gazette.

(5) The award of the arbitrator shall be final and no appeal shall lie against it.

(6) The award shall be valid for a period not exceeding two years, as may be fixed by the arbitrator.

CHAPTER-VII

STRIKES AND LOCK-OUT

41. Notice of strike or lock-out.-The period of a notice of lock-out or strike given under sub-section (3) of Section 35 shall be fourteen days.

42. Strike and lock-out. - (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 40, the workmen may go on strike or, as the case may be, the employer may declare a lock-out, on the expiration of the period of the notice under Section 41 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 Commission 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 may, with respect to any other strike or lock-out relating to a dispute which the Commission is competent to adjudicate and determine, 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 Commission.

(5) The Commission shall, after giving both the parties to the dispute an opportunity of being heard, make such order 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 the Commission may also make an interim order on any matter in dispute:

Provided further that any delay by the Commission in making an order shall not affect the validity of any order made by it.

(6) An award of the Commission shall be for such period as may be specified in the award which shall not be more than two years.

43. Illegal strikes and lock-out. - (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 46;

(b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in Section 34;

(c) it is continued in contravention of an order made under Section 42, Section 45, or Section 61 or sub-section (6) of Section 44; 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 lock-out shall not be deemed to be illegal.

44. Procedure in cases of illegal strikes or lock-out. - (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 Commission not below the rank of Deputy Registrar, hereinafter in this section referred to as the Officer, may be assigned by the Commission the duly to make enquiries in such manner as he may deem fit into an illegal strike or illegal lock-out in an establishment and make a report to the Commission.

(2) The officer may, for the purpose of enquiry under sub-section (1) , enter with such assistance by the persons in the service of Pakistan, as he thinks fit, in an establishment, where he 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 may deem necessary for carrying out the purposes of this section.

(3) The officer shall have authority to call any party to such dispute to his office or secure his presence in the establishment and shall also have the power to bind any party to the dispute to appear before the Commission.

(4) 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 Commission, does not so appear, the officer or the Commission, as the case may be, may, besides taking such other action as may be admissible under this Act, proceed ex-parte.

(5) After receiving the enquiry report the Commission 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 Commission on a date which shall not be later than seven days.

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

(7) If the employer contravenes the order of the Commission under sub-section (6) and the Commission is satisfied that the continuance of the lock-out is causing serious hardship to the community or is prejudicial to the national interest, it may issue an order for the attachment of the establishment and for the appointment of an official receiver for such period as it deems fit, and such period may be varied from time to time.

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

(9) The Commission 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) .

(10) If the workers contravene the order of the Commission under sub-section (6) , the Commission 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 Commission, after holding such inquiry as it deems fit, records its finding that any registered trade union has committed or abetted the commission of such contravention, the finding shall have the effect of cancellation of the registration of such trade union and debarring all officers of such trade union from holding office in that or in any other trade union for the 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.

45. Strike or lock-out in public utility services. - (1) The Government, in the case of a strike or lock-out relating to-

(a) an industrial dispute of national importance; or

(b) an industrial dispute in respect of any of the public utility services which the Commission is competent to adjudicate and determine, may, by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out.

(2) The provisions of sub-Sections (4) , (5) and (6) of Section 42 shall also apply to an order made under Sub-section (1) above as they apply to an order made under sub-section (3) of that section.

46. Prohibition of serving notice of strike or lock-out while proceedings pending.-No notice of strike or lock-out shall be served by any party to an industrial dispute during the pendency of any conciliation proceedings or proceedings before an Arbitrator or Commission in respect of any matter constituting such industrial dispute.

47. Removal of fixed assets.-No employer shall remove any fixed assets of the establishment during the currency of an illegal lock-out or a strike which is not illegal:

Provided that the Commission 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.

48. Protection of certain persons. - (1) No person refusing to take part or to continue to take part in any illegal strike or illegal lock-out shall, by 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 or his 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 Commission may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damages as the Commission thinks just.

CHAPTER-VII

AWARDS AND SETTLEMENTS

49. Settlements and awards on whom binding. - (1) A settlement arrived at in the course of conciliation proceedings, or otherwise between the employer and the collective bargaining agent or an award of an arbitrator prescribed under Section 40, or an award or decision of the Commission delivered under Section 54 and Section 57 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 the Commission as parties to the industrial dispute, unless the Commission 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 workmen 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 21 exists, the employer shall not enter into a settlement with any other trade union, and any contravention of this provision shall be deemed to be an unfair labour practice under Section 31.

(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.

50. Effective date of settlement, award, etc. - (1) A settlement shall become effective-

(a) if a date is agreed upon by the parties to the dispute to which it relates, on such date; and

(b) if a date is not so agreed upon, on the date on which the memorandum of the settlement is signed by the parties.

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute 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 order passed by the Commission shall, unless an appeal against it is preferred to the Full Bench, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Arbitrator or the Commission shall specify dates from which the award or decision 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 or decision applies to the Commission for reduction of the said period on the ground that the circumstances in which the award or decision was made have materially changed, the Commission 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) 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.

51. Interpretation of settlement and awards. - (1) If any difficulty or doubt arises as to the interpretation of any provisions of an award or settlement, it shall be referred to the Full Bench constituted under this Act.

(2) The Full Bench 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.

52. Recovery of money due from an employer under settlement or award. - (1) Any money due from an employer under a settlement, or under an award or decision of the Arbitrator, the Commission 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 Commission so directs.

(2) Where any workman is entitled to receive from the employer any benefit, under a settlement or under an award or decision of the Arbitrator, the Commission, which is capable of being computed in terms of money, the amount at which such benefit shall be computed may, subject to the rules, be determined and recovered as provided for in sub-section (1) and paid to the workman concerned within a specified date.

(3) The Commission shall have the powers of Collector Grade-I and shall exercise such powers of recovery as determined by it.

54. Functions of the Commission.-The following shall be the functions of the Commission, namely-

(a) to adjudicate and determine an industrial dispute in the Islamabad Capital Territory and trans-provincial to which a trade union or a federation of such trade unions is a party and which is not confined to matters of purely local nature and any other industrial dispute which is, in the opinion of the Government, of national importance and is referred to it by that Government;

(b) to register trade unions and industry-wise trade unions of an establishment or group of establishments in the Islamabad Capital Territory and trans-provincial, and federations of such trade unions;

(c) to determine the collective bargaining agents amongst trade unions and industry-wise trade unions in the Islamabad Capital Territory and trans-provincial and federations of such trade unions;

(d) to try offences punishable under-

(i) Section 67 other than sub-sections (1) and (6) thereof; and

(ii) any other section, in so far as they relate to employers or workers in relation to a trade union or an industry-wise trade union in the Islamabad Capital Territory and trans-provincial, and a federation of such trade unions, or officers of such union or federation;

(e) to deal with cases of unfair labour practices specified in Sections 31 and 32 on the part of employers, workers, trade unions of either of them or persons acting on behalf of any of them, whether committed individually or collectively, in the manner laid down under Section 33 or sub-section (9) Section 33 or in such other way as may be prescribed, and to take, in such manner as may be prescribed by regulations under Section 66, measures calculated to prevent an employer or workman from committing an unfair labour practice;

(f) to advise the Government, trade unions and industry-wise trade unions in the Islamabad Capital Territory and trans-provincial, and federations in respect to the education of workers in the essentials of trade unionism, including education in respect of their right and obligations, and to secure the provision of facilities required

thereof, and to apportion the cost thereof between the Government, trade unions and federations of such trade unions, and the employers, in such manner as may be considered equitable by the Commission, subject to the approval of the Government;

(g) to take measures calculated to prevent an employer or workman from committing an unfair labour practice in such manner as may be determined by regulations;

(h) to deal with cases of individual grievance in the manners prescribed in Section 33.

(i) to exercise exclusive jurisdiction over the establishment or group of establishments situated in the Islamabad Capital Territory and trans-provincial; and

(j) such other powers and functions as the Government may, by notification in the official Gazette, assign to it from time to time.

55. Benches of the Commission, etc. - (1) The Chairman shall exercise general superintendence over its affairs.

(2) For the efficient performance of the functions of the Commission, the Chairman shall constitute-

(a) a Full Bench of the Commission which shall consist of not less than three members of the Commission; and

(b) as many other Benches of the Commission consisting of one member of the Commission, as he may deem fit.

(3) The Benches shall-

(a) adjudicate and determine an industrial dispute or any other matter 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 Federal Government.

(c) try offences under this Act; and

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

Provided that, in the performance of those functions and in the exercise of those powers, the Benches shall, unless otherwise provided in this Act, follow the procedure laid down in the regulations.

(4) If any member of the Commission is absent from, or is otherwise unable to attend any sitting of the Commission or of a Bench consisting of more than one members of which he is a member, the Chairman may reconstitute the Bench.

(5) No act, proceedings, decision, or award of the Commission or Bench shall be invalid or be called in question merely on the ground of absence or of the existence of a vacancy in or any defect in the constitution of the Commission or Bench.

56. Resolution of difference of opinion. - (1) If the members of a Bench differ in opinion as to the decision to be given on any point,-

(a) the point shall be decided according to the opinion of the majority, if there is a majority; and

(b) If the members are equally divided, they shall state, the point on which they differ and the case shall be referred by them to the Chairman for hearing on such point by one or more of the other members of the Commission, and such point shall be decided according to the opinion of the majority of the members of the Commission who have heard the case, including those who first heard it:

Provided that if, upon any matter requiring the decision of a Bench which includes the Chairman of the Commission as one of its members, there is a difference of opinion among its members and the members so constituting the Bench are equally divided, the opinion of the Chairman shall prevail and the decision of the Bench shall be expressed in terms of the views of the Chairman.

(2) Any order or decision made, award given, sentence passed, power exercised, functions performed or proceedings taken by any Bench of the Commission in accordance with this Act and the order constituting the Bench shall be deemed to be the order or decision made, award given, sentence passed, power exercised, functions performed or proceedings taken, as the case may be, by the Commission.

-In this section, the expression "The Chairman of the Commission" includes such member of the Commission to be known as Senior Member as the Chairman may nominate to perform the functions, and exercise the powers of the Chairman during his absence.

57. Additional powers of the Commission.(1) In addition to powers which the Commission has under this Act-

(a) the Commission shall have power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members in relation to proceedings of the Commission into hatred or contempt, or does anything which, by law, constitutes contempt of Court, with simple imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees, or with both; and

(b) for the purposes of any investigation, enquiry or adjudication to be made by the Commission under this Act, the Chairman or any member of the Commission may at any time between the hours of sunrise and sunset, and any other person authorised in writing by the Chairman or any member of the Commission in this behalf may, after he has given reasonable notice, enter any building, factory, establishment, workshop or other place or premises whatsoever and inspect the same or any work, machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to matters before the Commission; and

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

(a) initiate prosecution, trial or proceedings, or take action, with regard to any matter relating to its functions;

(b) withdraw from a Labour Court of Province any application, proceedings or appeal relating to unfair labour practice, which fall within jurisdiction of the Commission; and

(c) grant such relief as it may deem fit including interim injunction.

(3) For the purpose of dealing with a case of unfair labour practice of which the Commission is seized, the Commission may-

(a) proceed directly with the case;

(b) ask the Provincial Registrar within whose jurisdiction the case has occurred or is likely to occur to enquire into it and submit a report; or

(c) refer the case to a Provincial Labour Court within whose jurisdiction the case has occurred or is likely to occur, either for report or for disposal.

(4) The Labour Court to whom the case is so referred shall enquire into it and, if the case was referred to it for report, forward its report thereon to the Commission or, if the case was referred to it for disposal, continue the proceedings and dispose of the case as if the proceedings had originally commenced before it and grant such relief as the Commission has the power to grant.

(5) Save as provided in sub-section (4) no Registrar, Labour Court or Labour Appellant Tribunal shall take any action, or entertain any application or proceedings, in respect of any matter which falls within the jurisdiction of the Commission:

Provided that no Court, including Labour Court, shall take any action or entertain any application or proceedings in respect of a case of unfair labour practice which is being dealt with by the Commission.

Explanation.-The expressions "industry-wise trade union" and "federation of such trade unions" refer to a trade union membership of which extends to establishments in more than one Province and a federation of trade unions whose membership extends to registered trade unions in more than one Province.

58. Appeals. - (1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, any person aggrieved by an award or decision given or a sentence or order determining and certifying a collective bargaining unit passed by any Bench of the Commission, may, within thirty days of such award, decision, sentence or order prefer an appeal to the Commission.

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

(a) if the appeal is from an order determining and certifying a collective bargaining unit, have the power to confirm, set aside, vary or modify such an order.

(b) if the appeal relates to any other matter, the Full Bench may, confirm, set aside, vary or modify the decision or sentence passed and shall exercise all the powers required for the disposal of an appeal.

(c) The decision of the Full Bench shall be delivered as expeditiously as possible, within a period of sixty days following the filing of the appeal, provided that such decision shall not be rendered invalid by reasons of any delay in its delivery.

(d) The Full Bench may, on its own motion at any time, call for the record of any case or proceedings under this Act in which a Bench 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.

(3) In an appeal preferred to it against the order of a Bench directing the re-instatement of a workman, the Full Bench may make an order staying the operation of the order of the Bench.

(4) The Full Bench shall decide such appeal within twenty days of its being preferred:

Provided that, if such appeal is not decided within the period aforesaid, the stay order of the Full Bench shall stand vacated on the expiration of that period.

59. Finality of order.-No Court shall entertain any plea as to the jurisdiction of the Commission or as the legality or propriety of anything done or purporting to be done by the Commission or any of its Benches, and no order, decision, judgment or sentence of the Commission shall be called in question in any manner, whatsoever, in or before any Court or other authority.

60. Enforcement of guaranteed rights.-Any collective bargaining agent or any employer may apply to the Commission for the enforcement of any right guaranteed or secured to it or him or to the workers collectively by or under any law, award, settlement or decision.

61. Powers of the Commission to prohibit strike, etc. - (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, the Commission, an application under sub-section (9) Section 33, the Commission may, by an order in writing prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is preferred to the Full Bench under Section 55, the Full Bench 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.

62. Determination, etc., of collective bargaining unit. - (1) Where the Commission, on an application made in this behalf, by a trade union of Workmen or a federation of such trade unions, or on a reference made by the Federal Government, after holding such inquiry as it deems fit, is satisfied that for safeguarding the interest of the workmen employed in an establishment or group of establishments belonging to the same employer and the same industry, in relation to collective bargaining, it is necessary, just

and feasible to determine one or more collective bargaining units of such workmen in such establishment or group, it may, having regard to the distribution of workers, existing boundaries of the components of such establishment, or group, facilities of communication, general convenience, sameness or similarity of economic activity and other cognate factors,-

(a) determine and certify one or more collective bargaining units in such establishment or group;

(b) Specify the modifications which, in consequence of the decision under this section, will take effect in regard to the registration of the trade unions and federations of trade unions affected by such decision and certification of collective bargaining agents among such unions and federations, nomination or election of shop stewards, and workers' representatives for participation in the management of the factories, if any, affected by such decision;

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

Provided that the date so specified shall not be a date falling within the period of two years specified in sub-section (11) of Section 19, in its application to a collective bargaining agent certified in respect of an establishment or establishments:

Provided further that, after the receipt of a reference for determination of a collective bargaining unit, the Commission may stop or prohibit the proceedings to determine collective bargaining agent under Section 19 for any establishment or group of establishments which is likely to be affected by a decision under this section:

(d) take such measures or issue such directions to the Registrar as may be necessary to give effect to such modifications; and

(e) determine and certify a collective bargaining agent for each such unit in accordance with Section 19 insofar as applicable and with the necessary modifications, if such a unit relates to more than one province, or direct the Registrar to take such action, if such a unit relates to the Islamabad Capital Territory.

(2) Where the Commission issues any directions to the Registrar under this section, the Registrar shall comply with them within such period as the Commission may from time to time determine.

(3) After the certification of a collective bargaining unit, no trade union shall be registered in respect of that unit except for the whole of such unit and no certification or proceedings for determination of collective bargaining agent under Section 19 shall take place for a part of a collective bargaining unit or a group of collective bargaining units.

63. Certain matters to be kept confidential.-Any information obtained by a Registrar, Conciliator, Arbitrator or Commission 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 shall not be included in any report, award or decision under this Act, 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 XLV of 1860) .

64. Conditions of service to remain unchanged while proceedings pending. - (1) No employer shall, while any conciliation proceedings or proceedings before an Arbitrator or the Commission in respect of an industrial dispute are pending, alter to the disadvantage of any workman concerned in such dispute, the conditions of service applicable to him before the commencement of such conciliation proceedings, or of the proceedings before an arbitrator, as the case may be, nor shall he save with the permission of the Conciliator, the Arbitrator or the Commission, discharge, dismiss or otherwise punish any workman 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 Commission. However, the terms and conditions of employment secured by the workers through collective bargaining agreements, awards and decisions of Courts shall continue to be binding upon the parties until revised for betterment of workers.

65. Representation of parties. - (1) A workman 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 authorised by him.

(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 Commission, or before an Arbitrator, with the permission of the Commission or the Arbitrator, as the case may be.

66. Power to make regulations. - (1) Subject to the provisions of this Act, the Commission may make such regulations relating to its procedure and the performance of its functions as it may deem fit.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely-

(a) registration of trade unions and industry-wise trade unions in the Islamabad Capital Territory and trans provinces, and federations of such trade unions and the procedure, for such registration;

(b) determination of collective bargaining units;

(c) determination of collective bargaining agent from amongst the industry-wise trade unions, federations of such trade unions and the procedure thereof;

(d) procedure, including rules of evidence, for adjudication of industrial dispute;

(e) procedure, including rules of evidence, for trial of offences;

(f) procedure for dealing with unfair labour practices;

(g) superintendence of the Chairman over the affairs of the Commission;

(h) forms of registers; processes and returns in respect of matters relating to the functions of the Commission; and

(i) fixing of places and times of its sitting and deciding whether to sit in public or in private.

CHAPTER-IX

PENALTIES AND PROCEDURES

67. Penalty for unfair labour practices. - (1) Whoever contravenes the provisions of Section 17 shall be liable to imprisonment which may extend to fifteen days or fine which may extend to ninety days thirty thousand rupees, or both.

(2) Whoever contravenes the provisions of Section 31 shall be liable to imprisonment which may extend to thirty days or fine which may extend to fifty thousand rupees, or both.

(3) Whoever contravenes the provisions of Section 32, other than those of clause (d) of sub-section (1) thereof, shall be liable to imprisonment which may extend to thirty days or fine which may extend to twenty thousand rupees, or both.

(4) An officer of a trade union, a workman or person other than a workman who contravenes or abets the contravention of the provisions of clause (d) of sub-section (1) of Section 32 shall be liable to imprisonment which may extend to thirty days or fine which may extend to thirty thousand rupees, or both.

(5) Where the person convicted of an offence under sub-section (4) is an officer of a trade union, the Commission may, in addition to any other punishment which it may award to such person under that sub-section, direct that he shall cease to hold the office of such officer and be disqualified from holding any office in any trade union during the term immediately following the term in which he so ceases to hold office.

(6) Whoever contravenes the provisions of Section 47 shall be liable to imprisonment which may extend to thirty days or fine which may extend to seventy-five thousand rupees, or both.

(7) Nothing in this Act shall be deemed to exclude the jurisdiction of a Labour Court of a province 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.

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

(a) for the first offence, with imprisonment which may extend to thirty days or fine which may extend to thirty thousand rupees, or with both; and

(b) for each subsequent offence, with fine which may extend to seventy-five thousand rupees.

69. Penalty for failing to implement settlement, etc.-Whoever wilfully fails to implement any term of any settlement, award or decision which is his duty under this Act to implement shall be punishable with imprisonment which may extend to fifteen days or a fine which may extend to thirty thousand rupees, or with both 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.

70. Penalty for false statement, etc.-Whoever wilfully makes or causes to be made in any application or other document submitted under this Act or the rules made thereunder, any statement which he knows or has reason to believe to be false, or wilfully neglects or fails to maintain or furnish any list, document or information he is required to maintain or furnish, under this Act or the rules made thereunder shall be punishable with imprisonment which may extend to fifteen days or fine which may extend to seventy-five thousand rupees, or with both.

71. Penalty for discharging officer of trade union in certain circumstances, etc.-Any employer who contravenes the provision of Section 64 shall be punishable with imprisonment which may extend to fifteen days or fine which may extend to thirty thousand rupees, or with both.

72. Penalty for embezzlement or misappropriation of funds.-Any officer or any employee of a registered trade union, guilty of embezzlement or misappropriation of trade union funds, shall be liable to imprisonment which may extend to thirty days and shall also be liable to a fine which shall not exceed the amount found by the Court to have been embezzled or misappropriated. Upon realisation, the amount of fine shall be reimbursed by the Court to the trade union concerned.

73. Penalty for obstructing inspector.-Whoever wilfully obstructs an inspector in the exercise of any power under Section 29, or fails to produce on demand by an inspector any register or other document in his custody required by him under the provisions of this Act, or conceals or prevents any worker in an establishment from appearing before or being examined by an inspector, shall be punishable with fine which may extend to seventy-five thousand rupees.

74. Penalty for contravening Section 27 or Section 28, etc. - (1) Whoever contravenes the provisions of Section 27 or Section 28 shall be punishable with imprisonment which may extend to fifteen days or fine which may extend to one hundred thousand rupees, or with both.

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

75. Penalty for other offences.-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.

76. Offences to be non-cognisable.-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.

77. Offences by corporation.-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 proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, 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 directors 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.

78. Trial of offences.-Save as provided in this Act, no Court other than a Labour Court or that of a Magistrate of the first class, as the case may be, shall try any offence punishable under this Act.

79. Indemnity.-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 rule.

CHAPTER-X

SUPPLEMENTAL

80. Conformity with Ratified International Conventions.-The Government may co-ordinate with the provinces before enacting any law or rules for the effective enforcement of obligations of the State to international labour-related and employer related Conventions so ratified by the State and in case of difference of opinion, shall refer such matter, to the Council of Common interests for decision.

81. Law of conspiracy limited in application.-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, unless the agreement is an agreement to commit an offence, or otherwise violates any other law for the time being in force.

82. Immunity from civil suit in certain cases. - (1) No suit or other legal proceedings shall be maintainable in any civil Court against any registered trade union or a collective bargaining agent or any 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 capital or of his labour as he desires.

(2) A trade union shall not be liable in any suit or other legal proceedings in any civil Court in respect of any

tortuous 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.

83. Enforceability of agreement.-Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a trade union shall not be void or 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 covering 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.

84. Registrar, etc., to be public servants.-A Registrar, a Conciliator, the Chairman and a Member of the Commission shall be deemed to be a public servant within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860) .

85. Limitation.-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.

86. Power to make rules. - (1) The Government may make rules for carrying out the purposes of this Act.

(2) Rules made under this section may provide that a contravention thereof shall be punishable with fine which may extend to ten thousand rupees.

87. Act to override other laws.-The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

88. Repeal and savings.-The Industrial Relations Act, 2008 (IV of 2008) , having been repealed by virtue of sub-section (3) of Section 87 thereof, notwithstanding the repeal of the said Act, hereinafter to be called the repealed Act, and without prejudice to the provisions of Sections 6 and 24 of the General Clauses Act, 1897 (X of 1897) -

(a) every trade union of an establishment or industry located in the Islamabad Capital Territory, or in more than one province and existing immediately before the commencement of this Act, which was registered under the repealed 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 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 Act relating to industrial relations shall be construed as referring to the corresponding provisions of this Act.

89. Former registration offices, officers, etc., to continue. - (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 Act 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 Act 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.

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

Provided that no such power shall be exercised after the expiry of six months from the coming into force of this Act.

91. Rights and duties of employers and workers.-The employers and workers shall within the bounds of this Act and other laws for the time being in force shall abide by a code of conduct to respect their rights and duties in accordance with the guidelines in Schedule II.

SCHEDULE-I

PUBLIC UTILITY SERVICES

[See Section 2(xxv)]

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 services.

4. Fire-fighting service.

5. Any postal, telegraph or telephone service.

6. Railways and Airways.

7. Ports.

8. Watch and Ward Staff and security services maintained in any establishment.

SCHEDULE-II

RIGHTS AND DUTIES OF EMPLOYERS AND WORKERS

[See Section 91]

Rights and Duties of Workers and Employers

Workers and employers to respect each others' rights: Without prejudice to the provision of this Act and any other labour law in vogue, workers and employers in each establishment will respect each others' rights and the rights of the enterprise to reasonable returns on investments and to expansion and growth. Such rights, among other, will include the following:-

Employers' Rights and Duties

a. Right to conduct business.-The employer has the right to manage, control and use enterprise property and conduct its business in any manner considered prudent and satisfactory by it.

b. Right to manage.-The employer has the right to manage the enterprise effectively and efficiently by finding the best use of its available resources, including human resource, in most prudent and fruitful manner in the general interest of the enterprise.

c. Duties of the Employer.- (1) While exercising the right to conduct business and the right to manage the enterprise, it will be duty of the employer to act in accordance with the principles and guidelines provided under the law.

(ii) The employee will implement all laws, including labour laws, in letter and spirit.

(iii) The employer will protect and safeguard the interest and welfare of its workers to obtain maximum productivity and output to the mutual advantage of the enterprise.

(iv) The Employer will respect the workers' rights to decent work, wages, decent living and quality of life, subject to the resources of the enterprise.

Workers' Rights and Duties

a. Right to work, wage and welfare.-It is the right of a worker to work according to the job assigned and to receive wages as per agreed terms and conditions of employment and to such welfare benefits and safety measures as one is entitled to according to law, agreement settlement and/or award.

b. Right to Freedom of association and collective bargaining and other rights secured or guaranteed under the Industrial Relations Act, 2011, and other laws.-Worker has unfettered right to enjoy the benefits guaranteed to him under the law, rules, settlement, agreement, award and in line with the principles of social justice.

c. Duties of the Workers.- (1) Worker will perform their duties, as assigned by the employer or his representatives, according to his best ability with due diligence, care, honesty and commitment.

(ii) Worker will fully observe norms of organizational discipline.

(iii) Worker, in exercise of his right, will fully respect the rights of the employer and will fully cooperate with the employer in efficient conduct of the business of the establishment.

d. Mutual obligations of employers and workers, - (1) Both employers and workers will promote and foster an atmosphere of trust confidence and understanding for each others' viewpoint and will at the first place

make every effort not to let conflict arise among their relationship and if and when a conflict arises they will make every effort to resolve the same by bilateral negotiation at the establishment level.

(ii) Both employers and workers will accept the same degree of responsibility for industrial relations as for other functions within their respective establishment and will establish formal and informal climate of communication and social dialogue on at the establishment level for discharging the responsibility.

(iii) Both employers and workers will strive to develop good industrial relations within the framework of efficiency in the establishment.

(iv) Both employers and workers take all reasonable steps to ensure compliance with agreements and agreed procedures so that the objectives of productivity and growth are served in atmosphere of industrial peace.

(v) Both employers and workers in their mutual interaction will demonstrate mutual respect for each other and will not indulge in any act or insinuation to show person disrespect in any form in keeping with the Islamic tradition of love, fraternity, brotherhood and accepted social norms and civilized society.

e. Incentives and Recognition for Promoting Good Industrial Relations.-Such establishment, which maintains a track record of good industrial relations through bilateral efforts of employers and workers and their representative organizations in the establishment, shall be recognized by the Government as a "Model Organisation in Industrial Relations" to be determined on the basis of such criterion and in such manner as may be prescribed in the rules to be provided for the purpose. Such recognition shall be in the form of a Certificate prescribed for the purpose which will entitle the establishments and their unions to inscribe the word "Model Organisation in Industrial Relations" on their letter-heads and official logo and monograms.