

# Regulatory Procedure

(Labor Laws Setting Standards for Work Place)



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## **1 Disclaimer**

This information memorandum is to introduce the subject matter and provide a general idea and information on the said matter. Although, the material included in this document is based on data/information gathered from various reliable sources; however, it is based upon certain assumptions, which may differ from case to case. The information has been provided on as is where is basis without any warranties or assertions as to the correctness or soundness thereof. Although, due care and diligence has been taken to compile this document, the contained information may vary due to any change in any of the concerned factors, and the actual results may differ substantially from the presented information. SMEDA, its employees or agents do not assume any liability for any financial or other loss resulting from this memorandum in consequence of undertaking this activity. The contained information does not preclude any further professional advice. The prospective user of this memorandum is encouraged to carry out additional diligence and gather any information which is necessary for making an informed decision, including taking professional advice from a qualified consultant/technical expert before taking any decision to act upon the information.

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## **2 Introduction of SMEDA**

The Small and Medium Enterprises Development Authority (SMEDA) was established in October 1998 with an objective to provide fresh impetus to the economy through development of Small and Medium Enterprises (SMEs).

With a mission "to assist in employment generation and value addition to the national income, through development of the SME sector, by helping increase the number, scale and competitiveness of SMEs", SMEDA has carried out 'sectoral research' to identify policy, access to finance, business development services, strategic initiatives and institutional collaboration and networking initiatives.

Preparation and dissemination of prefeasibility studies in key areas of investment has been a successful hallmark of SME facilitation by SMEDA.

Concurrent to the prefeasibility studies, a broad spectrum of business development services is also offered to the SMEs by SMEDA. These services include identification of experts and consultants and delivery of need based capacity building programs of different types in addition to business guidance through help desk services.

### **3 Role of Legal Services Cell, SMEDA**

The Legal Services Cell (LSC) as part of Business & Sector Development Services (B&SDS) Division of SMEDA plays a key role in providing guidance and overall facilitation and support to SMEs on legal matters.

LSC believes that information dissemination to SMEs on the existing regulatory environment is of paramount importance and plays a pivotal role in their sustainable development.

In order to facilitate SMEs LSC has developed user-friendly systems, which provide them detail description of the laws and regulations including processes and steps required for compliance.

The purpose of this document is to provide SMEs whether individuals or companies with information pertaining to the principal labor laws applicable in Pakistan, so as to enable them to ascertain the applicability or otherwise of the governing law in their particular area of choice. (It is pertinent to note that upon the passage of the 18th Amendment Act on April 19, 2010 the subject of “labor” (which earlier found mention in the Concurrent Legislative List) was devolved on to the Provincial legislatures, which has resulted in such legislation now being a Provincial prerogative.)

## **4 Labor Laws Setting Standards for Work Place**

The primary laws, which fall under this head setting the minimum standards to be maintained at the work place by the employer, are as follows:

- West Pakistan Shops and Establishments Ordinance, 1969
- Industrial and Commercial Employment (Standing Order) Ordinance 1968
- The Factories Act, 1934
- Employment (Record of Services) Act 1951
- The Employment of Children Act, 1991
- The Apprenticeship Ordinance, 1962

### **4.1 The Shops and Establishments Ordinance, 1969**

#### **4.1.1 Applicability**

The law applies to all shops and commercial, industrial and other establishments except those specified in section 5 of the Ordinance, which inter alia, includes offices of or under the Federal or Provincial Government; offices of or under the Pakistan Railways Board including railway stations; offices of or under any local authority, trust, etc.; shops or stalls in any public exhibition, fair, bazaar or show; clubs, hostels and messes not maintained for profit; establishments for the treatment or care of the sick, infirm, destitute or mentally unfit persons; any person employed as a manager, travelling agent, canvasser, messenger, watchman, care taker.

#### **4.1.2 Purpose of the Law**

To amend and consolidate the law relating to the hours and other conditions of work and employment of persons employed in shops and commercial, industrial and other establishments and matters connected therewith.

#### **4.1.3 Registration under the Ordinance**

Every establishment, other than a one man shop, and factories employing clerical staff within the factory premises, shall be registered with the Deputy Chief Inspector for the area within which such establishment is situated (section 24(1)).

An application for registration of an establishment shall be made by the employer in Form 'A' and shall be accompanied by a Treasury Challan under Head XXXVI- Miscellaneous Departments--G. Miscellaneous---(S)-Receipts under the West Pakistan Shops and Establishment Ordinance, 1969 for an amount of-

- ✓ Rs. 2.00 in case of an establishment employing 1 to 5 workers.
- ✓ Rs. 3.00 in case of establishments employing 6 to 10 workers.
- ✓ Rs. 5.00 in the case of establishments employing 11 to 20 workers.
- ✓ Rs. 10.00 in case of establishments employing more than 20 workers

#### 4.1.4 Records and Registers under the Ordinance

Every employer shall maintain such records and registers and furnish such information as may be prescribed.

- a) Register of Employment and Remuneration in Form-IV
- b) Register for Leave in Form-V
- c) Inspection Book (for establishments excluding shops) in Form VI

#### 4.1.5 Weekly Holidays in Establishments

Every person employed in any establishment shall in addition to the leave and holidays as specified in sections 14 to 16 be allowed as holiday one day in each week.

The choice of a closed day shall rest with the employer, who shall intimate such choice to the prescribed authority.

#### 4.1.6 Other Leaves under the Ordinance

- ✓ **Annual Leave** Fourteen (14) days with full wages after continuous employment in an establishment for a period of Twelve (12) months. Any leave not availed shall be added to succeeding year's leave up to maximum of Thirty (30) days. In lieu of the leave not availed of, at request, be paid by the employer full wages for such leave.
- ✓ **Casual Leave** Ten (10) days with full wages in a calendar year but not to be granted for more than three days at a time and shall not be accumulated.
- ✓ **Sick Leave** Eight (8) days in every year with full wages. If not availed, may be carried forward but total accumulation of such leave shall not exceed sixteen days at any one time.
- ✓ **Festival holidays** Ten (10) days in a year with full wages. The days and dates for such festival the employer in the beginning of the calendar year shall notify holidays to employees.

#### 4.1.7 Penalties

For omissions with respect to any register, record, notice a fine ranging from Rs. 50/- to Rs. 250/-

For contravention of sections 6, 7, 19 or 20, upon conviction a fine for first offence up to Rs. 250/-, for second or subsequent offence a fine up to Rs. 500/- or with simple imprisonment which may extend to three months or with both.

For contravention of any other provisions of the Ordinance, upon conviction a fine for first offence up to Rs. 150/-, for second or subsequent offence a fine up to Rs. 250/- or with simple imprisonment which may extend to three months or with both.

## 4.2 Industrial & Commercial Employment (Standing Orders) Ordinance, 1968

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### 4.2.1 Applicability

This law applies to every industrial or commercial establishment wherein twenty or more workmen are employed.

### 4.2.2 Purpose of the Law

The purpose of the Ordinance is to amend and consolidate the law relating to industrial employment and provide minimum service conditions for certain establishments as specified therein. The law inter alia, also provides specification of terms and conditions of service by employer such as issuance of tickets to a permanent workman, publication of working time, holidays, pay days, rate of wages, provision of terms and conditions of service in writing, etc.

### 4.2.3 Definition of Workman under the Ordinance

Means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical work for hire or reward (section 2(i)).

### 4.2.4 Classification of Workmen under the Ordinance

- ✓ Permanent
- ✓ Probationers
- ✓ Badlis
- ✓ Temporary
- ✓ Apprentices
- ✓ Contract worker

### 4.2.5 Important Provisions

- Tickets/cards shall be given to every workman showing his or her nature of employment unless a probationer, badly, temporary workman or apprentice.
- Terms and conditions of service be provided in writing to every workman at the time of appointment, transfer or promotion.
- The periods and working hours for all classes of workmen be exhibited in Urdu and in the principle language of workmen on notice boards at or near the main entrance of the establishment and timekeeper's office, if any.
- Notice specifying (a) the pay days and (b) holidays shall be pasted on the notice boards.
- Notice specifying the rates of wages payable to all classes of workmen be displayed on the notice boards.
- In case of shift working, no shift working shall be discontinued without notice of one month. However, no such notice is necessary where no permanent employee shall be discharged as a result of such discontinuance of shift. In case of discharge of service of a permanent workman, regard must be had to the length of their service, those with the shortest term of service being discharged first.
- Annual holidays, festival holidays, casual and sick leave shall be as provided in Factories

Act, 1914;and

- Other holidays in accordance with the law, contract, custom and usage.
- **Group Incentive Scheme:** To provide incentive for greater production to group of workmen in the factory. Such incentive shall be additional wages or additional leave with wages or in both such forms. However, this provision is applicable to industrial establishments where **fifty or more** workmen are employed.
- **Compulsory Group Insurance:** Every employer is required to have all the permanent workmen insured against natural death and disability and death and injury arising out of contingencies not covered by the Workmen's Compensation Act,1923 or the Provincial Employees Social Security Ordinance,1965.
- **Payment of Bonus:** Every employer earning profit in any year shall pay for that year withinthreemonthsoftheclosingofthatyeartotheworkmenwhohavebeeninhis employment in that year for a continuous period of not less than ninety days' bonus in addition to the wages payable to such workmen as specified under the Ordinance.
- **Termination of Employment:** One month's prior notice and one month's wages in lieu of such notice be given for termination of employment of a permanent workman.
- **Payment of Gratuity:** To be paid in case a workman resigns or his services are terminated for any reason other than misconduct or to the workman's heirs in case of his death while in service of employer. The gratuity shall be paid equivalent to one-month wages for every completed year of service. It is payable for every completed year of service or any part thereof in excess of six months. **PROVIDED** that the provisions of this Ordinance shall apply to all industrial and commercial establishments employing twenty or more workmen either now or any time during the preceding twelve months.

#### 4.2.6 Penalties

Penalty for violation of any provision of the Ordinance, inter alia, a fine up to Rs. 5000/- and in case of continuous violation a further fine up to Rs. 200/- for every day after the first day the offence continues.

### 4.3 The Factories Act, 1934

#### 4.3.1 Applicability

The law applies to all factories employing 10 or more workers.

#### 4.3.2 Purpose of the Law

The purpose of the Act is to consolidate and amend the law regulating labor in factories. The categories regulated include, inter alia:

- (a) Cleanliness
- (b) Disposal of wastes and effluents
- (c) Ventilation and temperature
- (d) Dust and fume

- (e) Artificial humidification
- (f) Overcrowding
- (g) Lighting
- (h) Drinking water
- (i) Latrines and urinals
- (j) Spittons
- (k) Compulsory vaccination and inoculation
- (l) Canteens
- (m) Precautions in case of fire
- (n) Fencing of machinery
- (o) Safety of building, machinery and manufacturing process
- (p) Working hours

This law is quite comprehensive and covers almost all aspects of a healthy working environment.

#### **4.3.3 Definition of Worker under the Act**

Means a person employed directly or through an agency whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on.

#### **4.3.4 Notice to Inspector before Commencement of Work**

Before the commencement of work in a factory, the occupier thereof is required to give a written notice in the Inspector under the Act (section 9).

#### **4.3.5 Weekly Hours and Weekly Holidays**

- **Weekly hours:** No adult worker shall be allowed to work for more than forty eight hours in any week, or where the factory is a seasonal one, for more than fifty hours in any week.
- **Weekly holiday:** Shall be Sunday; however, an adult worker may be allowed or required to work on Sunday if he had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday.
- **Compensatory holidays:** Where a worker is deprived of any of the weekly holidays as a result of the passing of an order or the making of a rule under the provisions of this Act exempting the factory or the workers as provided, such worker shall be allowed as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.
- **Daily Hours:** For an adult worker, nine hours in a day, which may be extended to ten hours in case of a seasonal factory

- **Intervals for rest:** One Hour after Six hours of work; or, Half an hour after Five Hours of work; or, at least two such intervals for more than Eight and a half hours.
- **Notice of Period of Work:** To be displayed and correctly maintained in the factory and copy of such notice be sent to Inspector.
- **Register of Adult Workers:** Must be maintained showing the name, age, nature of work, the group (if any), where the group works on shifts of workers, etc.
- ✓ **Annual Holidays:** Fourteen (14) days with full wages after completion of 12months continuous service. Any leave not availed shall be added to succeeding year's leave up to maximum of 14days.
- **Casual Leave:** Ten (10) days with full wages in a calendar year.
- **Festival holidays:** Entitlement as declared by the Provincial Government.
- **Sick Leave:** Sixteen (16) days on half average pay in a year.

#### 4.3.6 Penalties

Chapter VI of the Act provides for different penalties for contravention of the Act and Rules, which vary depending on the contravention in question and includes enhancement in cases after previous conviction.

### 4.4 Employment (Record of Services) Act, 1951

#### 4.4.1 Applicability

It applies to all persons concerned as employers and employees in such classes of employment and in such areas, as specified by the Provincial Government.

#### 4.4.2 Purpose of the Law

The Act provides for compulsory maintenance of the records of service of persons in certain classes of employment in certain areas.

#### 4.4.3 Procedure

Employers are required to maintain a service book on each employee. However, on termination of the employment, the service book is to be handed over to the employee except where an employee has kept and maintained a duplicate.

Form of the Service Book

- Passport size photo of employee
- Identification of employee
- Names and other particulars
- Period of employment
- Occupation
- Rate of wages including allowances,
- Leave

- Record of conduct

#### **4.4.4 Penalties**

Under this Act both employer and employee can be liable. In case employer violates the provisions of the Act, he shall be punishable with fine which may extend to Rs. 50/- and in case of an employee, he shall be liable for a fine which may extend to Rs.5/-.

### **4.5 The Employment of Children Act, 1991**

#### **4.5.1 Applicability**

It applies to the whole of Pakistan and prohibits employment of children (under 14 years of age) in occupations and processes listed in the Schedule to the Act.

#### **4.5.2 Purpose of the Law**

The Act prohibits the employment of children (under 14 years of age) in certain occupations and processes as stated therein and regulates working conditions of those children who are allowed to work.

#### **4.5.3 Working Hours**

Under the Act, no child or adolescent shall work for more hours than those prescribed for such an establishment and on each day not for a period of more than 3 hours before the child or adolescent has an interval of at least one hour for rest. No work permitted between 7 pm – 8 am and if already been working on a day at another establishment.

#### **4.5.4 Notice to Inspector**

Every occupier in relation to an establishment, which employs any child, is required to give notice of such employment to the Inspector within whose jurisdiction such an establishment is situated. Such notice must be given within thirty days of the commencement of such employment and must contain the following particulars:

- a) The name, location and address of the establishment;
- b) The name of the person in actual management of the establishment;
- c) The address to which the communications relating to the establishment should be sent;  
and
- d) The nature of the occupation or processes carried out in the establishment.

#### **4.5.5 Maintenance of Register**

Under the Act, every employer in respect of children employed or permitted to work in an establishment is required to maintain a register to be available for inspection by an inspector at all times during working hours showing:

- a) The name and date of birth of every child so employed or permitted to work;
- b) Hours and periods of work of any such child and the intervals of rest to which he is

entitled;

- c) The nature of work of any such child; and
- d) Such other particulars as may be prescribed.

#### **4.5.6 Penalties**

For violation of the provisions of the Act, imprisonment which may extend up to one year or fine which may extend up to Rs. 20,000/- or both. Enhancement for repeat offence, if there is an earlier conviction.

### **4.6 The Apprenticeship Ordinance, 1962***[along with Rules (1966)]*

#### **4.6.1 Applicability**

The law is applicable to industrial establishments having fifty or more employees. It requires that an industrial establishment having fifty or more employees must train apprentices in a proportion not less than 20% of the persons employed, with the incentive of the employer not having to pay income tax in respect of any expenditure incurred by him on the operation of an apprenticeship programme in accordance with the Ordinance. Exemption from application of the law vests with the Provincial Government.

#### **4.6.2 Purpose of the Law**

To promote, develop and regulate systematic apprenticeship programs in the industries and for securing certain minimum standards of skill.

#### **4.6.3 Stipend, Incentive and Reward**

The law requires payment of stipend to apprentices by the employer in following terms:

- 1<sup>st</sup> 20% of the duration of apprenticeship
  - Not less than 40% of the wages of a skilled worker
- 2<sup>nd</sup> 20% of the duration of apprenticeship
  - Not less than 50% of the wages of a skilled worker
- 3<sup>rd</sup> 20% of the duration of apprenticeship
  - Not less than 60% of the wages of a skilled worker
- 4<sup>th</sup> 20% of the duration of apprenticeship
  - Not less than 70% of the wages of a skilled worker
- 5<sup>th</sup> 20% of the duration of apprenticeship
  - Not less than 80% of the wages of a skilled worker

**Provided** that no stipend is to be paid on the basis of piecework and the working hours, leaves and holidays will be the same as are admissible to other employees of the undertaking.

**4.6.4 Record Keeping**

Under the law, the employer is required to maintain proper records of the apprentices and his training program. The competent authority may from time to time prescribe progress card and other forms to be maintained by the employer.

**4.6.5 Penalties**

For violation of the provisions of the Ordinance, a fine which may extend to Rs. 10,000/- and in default of payment, with imprisonment which may extend to six months.