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**Small Scale Industry in Pakistan.
With Special Reference to their
Regulatory Framework.**

STUDY FOR

USAID, ISLAMABAD
UNDERTAKEN BY

epru

**Economic Policy Research Unit
Lahore, Pakistan**

**SMALL SCALE INDUSTRY IN
PAKISTAN, WITH SPECIAL
REFERENCE TO THEIR
REGULATORY FRAMEWORK.**

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EXECUTIVE SUMMARY.

- i. The importance of small scale industry lies in its capacity to absorb workers, to efficiently produce a variety of goods for the domestic market with a frugal use of scarce capital and to successfully carve a niche in selected export markets. The Government of Pakistan's industrial policy has traditionally been biased towards large capital intensive industry. The focus on import substituting consumer good units led to a neglect of small industries. Targeted programmes for SSI development have had a low priority. However, a number of developments -- such as an accelerating population growth rate, nationalisation of big industry and migration to the middle east -- have contributed to a dynamic growth of SSI in Pakistan.
- ii. The impact of the regulatory framework on small scale industry is analysed in this study. This assessment is based on a small survey of 18 units, interviews with officials and private sector representatives. The regulatory framework has not seriously constrained the growth of SSI in Pakistan. It is however responsible for a number of distortions and adversely affects efficiency and profitability by preventing the vertical growth of enterprises. Managerial and production economics of scale are not encouraged.
- iii. The major issues emerging from our survey and analysis are summarised below. A review of the impact of the regulatory framework is followed by recommendations aimed at reducing the distortions caused by the system.
- iv. The first point to emerge is that the regulatory framework causes little distortion to the functioning of enterprises situated at extreme ends of the size distribution. The bias towards very small size is particularly pronounced in the case of the much dreaded labour legislation. Enterprises employing less than 10 workers are exempt from the wide variety of legislative measures. Very small firms do not have to provide a range of facilities prescribed for relatively larger units; nor are they constrained by law as far as dismissing workers is concerned. The last mentioned provision is a source of considerable dissatisfaction among affected entrepreneurs who have been exerting pressure on the government to restore the right to 'hire and fire'. At the other end of the size spectrum, very large enterprises are well placed to absorb the provisions emanating from the regulatory framework. The effective increase in labour costs, due to regulations, typically represent a small fraction of total costs in large capital intensive industrial units. These establishments also have legal assistance and the administrative capacity to handle government functionaries. In addition, the owners of such firms usually have good personal relations with senior members of the bureaucracy. Government policies are frequently subsidising their activities through credit and fiscal measures which encourage investment and increase profitability. In such a favourable environment, costs associated with the regulatory framework are hardly prohibitive. Large enterprises suffer a degree of harassment from officials but their burden in this sphere is also minor compared with smaller units. The large enterprise sector also contains multinationals, who often actively collaborate with agencies such as the International Labour Office (ILO) in enforcing required measures for their work force.
- v. The implication of the above is that the regulatory framework bears down most heavily on enterprises which do not fall into the two extremes of scale. There is no precise upper limit, but enterprises which employ more than 10 workers but less than 100 are in

the range which bears the brunt of regulations. Unlike large enterprises, they are usually engaged in more labour intensive production. This involves a plethora of regulations which must be enforced in highly competitive market structures. Quite often these SSI are in export sectors which do not involve protection often given to import substituting units. SSI operating under these conditions are least able to withstand the implicit reduction in profitability, imposed by labour and tax regulations. The personal characteristics of these entrepreneurs are also not favourable towards dealing with regulatory bodies. SSI owners are often illiterate and ill-informed about regulations. They are thus open to greater harassment from government functionaries.

- vi. A second conclusion to emerge from our analysis is that the regulatory framework is often prohibiting the development of efficient economic units. Potential economies of scale are being distorted through regulations which prevent firms from developing in certain desired directions. Two examples from our survey illustrate the point. First, in the packaging industry tax relief is given on a particular sub-process of production. In order to derive benefit from this distortionary incentive, units are sub-divided within artificial boundaries. Second, labour laws favouring very small size have led to a horizontal sub-division of enterprises. Rather than benefit from the economies of scale in aggregating functions, this horizontal sub-division increases the strain on administrative capacity. Whenever an artificial sub-division of enterprise occurs - for example, by dividing a firm of 38 workers into four firms employing less than 10 each to evade labour legislation -- the firm's relationship with the regulatory bodies is weakened. Aware of artificial distortions, government officials are more relaxed at implementing the law only if adequate compensation is made. Thus, instead of developing a more efficient business enterprise the entrepreneur is involved in horizontal growth, reproducing small units to avoid regulations.
- vii. A third point to emerge from the survey is that the regulatory framework does not meet the objectives it was designed for. For example, labour legislation was framed in the 1970's to protect workers by improving the quality of their working conditions and increasing their security of tenure. In principle, these regulations involved a transfer of income from the owners to the workers, with the state acting as an enforcing intermediary. In practice, the regulations appear to be used frequently to transfer income from owners to government functionaries, rather than to workers. Because the implementation machinery is easily distorted, the government neither receives the necessary tax revenue nor do workers receive their share of benefits. If the small entrepreneur is able to successfully bend the rules, his business growth is unaffected by regulations. Thus, the regulations are often not successful in meeting their objectives. Indeed, the net effect of some of the labour legislation may have been to increase insecurity of labour, since owners are willing to go to substantial lengths to avoid giving permanent employment.
- viii. Related to the above, the regulatory framework tends to reward those small entrepreneurs who can successfully manipulate the system and handle officials from the regulatory bodies. Thus an important component of success for some SSI is not related to efficiency or market responsiveness. A substantial part of the entrepreneur's time is spent in achieving successful manipulation, rather than in concentrating on efficient business development.
- ix. The growth of sub-contracting due to the regulatory framework was confirmed by our survey. There are two legal categories of subcontracting. First, the entrepreneur can hire workers on a temporary basis, on a particular job for which he is sub-contracted to the firm. Such workers are counted as part of the work force for labour regulations. A second category of workers are those who are employed by sub-contractors to the firm. In all the sectors surveyed, there has been an exponential growth in sub-contracted labour. These

sub-contractors in turn divide their labour into units of less than 10. The growth of sub-contracting reinforces our earlier point that 1970's labour regulations may have had the perverse effect of increasing insecurity of employment for a large proportion of the workforce. At present the sub-contracting process is under review as part of forthcoming legislation on bonded labour and sub-contracting. However, negotiations leading up to the legislation revealed deep divisions on the issue within the labour movement itself.⁽¹⁾

- x. The nature of the relationship between SSI and regulatory bodies that emerges from our survey unfortunately has implications far beyond the micro manipulative level. The nature of the distorted relationship that has developed between entrepreneurs and government officials is one which does little to inculcate respect for the state. Government regulations are seen to be as good as the next 'baksheesh point'. Some of the entrepreneurs interviewed gave great details of the amount of bribes given to a variety of officials. Civil servants that EPRU spoke to acknowledged the distortions but had little to say about reforming or minimising such leakages. Such a relationship is one which contributes to an ethos of suspicion and contempt for government. The principal language of communication is bribery. At the macro economic level, when the government tries to engage in greater domestic resource mobilisation it has to encounter substantial institutional barriers from within. Individual officers have developed a personal interest in distorting the regulatory framework. The higher the number of regulations, the greater the proliferation of official agencies and the larger the opportunity to give and receive bribes. At a superficial level, such graft lubricates the system in a manner which overcomes bottlenecks. The most serious damage inflicted in the process is respect for law, regulations and authority. This environment helps create entrepreneurial attitudes which exhibit a penchant for devising ways to commit fraud, bribe officials and distort regulations. Thus a vicious circle is established. People have little faith in the government machinery which they know can be distorted. Officials view regulations as an opportunity for increasing personal incomes from eager bribers. Regulations are often bypassed but at substantive micro and macro costs to the economy and society. As one of the entrepreneurs put it, "A person would rather join the government and become a tax or a labour officer than work in my factory. The official wage I give may be higher but it is the 'chae-pani ka kharcha'⁽²⁾ which makes the difference."
- xi. So used have participants become to distorting regulations that a legal approach is avoided even when it is better for the actor concerned. According to one entrepreneur, he discovered that his cost of bribing tax officials was greater than his tax liability. He alleged that he tried to rectify this by making a declaration under the self assessment scheme. However, a punitive scrutiny by ITOs followed and he has subsequently reverted to former methods.
- xii. The lack of an effective legal machinery means that entrepreneurs are keen to settle matters through bribes rather than go through cumbersome procedures. If an entrepreneur gets caught in the legal labyrinth, he could spend a great deal of time, money and energy embroiled in a lengthy dispute. Both parties - officials and entrepreneurs - are well aware of this and act accordingly. But the lack of an effective legal system to back the regulations is a bias against the entrepreneur not the scrutinizing official. The latter can pass a judgement which embroils the former in legal procedures. This aids private settlements.

1. These divisions were evident in EPRU interviews with union leaders. There are wide differences of opinion regarding the magnitude and pace of needed reform.

2. Literally translated this means cost of buying tea. This colloquial saying refers to extraction of bribes to meet living expenses.

- xiii. Our survey indicates the emergence of a possible trend which has implications for future SSI growth. Those enterprises who have access to formal credit appear to be keen to move away from labour intensive methods. The move to higher capital intensity was due not only because of higher anticipated productivity but also due to labour legislation which penalises increases in labour force by raising the effective wage rate. Thus to avoid this scaling effect, SSI firms are likely to move towards greater capital intensity. To the extent that current SSI units are undercapitalised, the provision of greater formal credit would lead to such a result. It is however important to prevent labour legislation from acting as a further impetus to capital intensity, as access to credit markets increases.

RECOMMENDATIONS.

- xiv. Ten recommendations for the rationalisation of the regulatory framework for SSI appear to merit attention. First, the limit for exemption from a number of labour laws and components of factory act provisions ought to be raised from 10 workers to possibly 50 workers. This would release a substantial section of SSI from a maze of current regulations which are not enforced but provide avenues for corruption. A detailed review would need to be made to pinpoint the regulations which are not effective at present. Their removal would ease the functioning of SSI without substantially adverse effects on tax collection or labour conditions. Indeed these objectives could be better met through the suggestion which follows. Second, in order to contribute to better labour - management relations, and in view of equity considerations, entrepreneurs should be encouraged to contribute to the building of schools and medical clinics. These welfare provisions should be industry based. The surgical goods manufacturers association, for example, could collect revenues from member enterprises to build schools and clinics for the workers of the industry. Industry specific NGOs could be established to promote and mobilise such development. In this manner, the objective of a number of current regulations would be met without involving government regulatory agencies. Entrepreneurs would feel happier contributing directly to schools and clinics. Workers would be able to see tangible benefits. Initially, experiments should be tried on a pilot basis. For example, 3 year welfare provision targets could be set for industrial groups in return for exemption from certain regulations. If entrepreneurs do not meet these targets, the cumbersome regulatory framework would be re-introduced.
- xv. Perhaps the strongest criticism coming from small entrepreneurs relates to the maze of regulatory bodies and officers that they have to contend with. The reform proposals in this regard lead us to the familiar request for a simplified one-window operation, wherein small enterprises only have to deal with a single government body. All regulatory measures should be dealt with by a single department. This would make the system more efficient and manageable. A separate cell for small industries would be desirable. Similar to the concept of the self assessment income tax scheme, small enterprises could make a simple return regarding the number of workers they employ, the state of working conditions and the regulations they have to comply with. Entrepreneurs should be encouraged to give proposals on the duration and the manner in which they intend to rectify shortcomings. Instead of a purely punitive approach, the government could consider encouraging the adoption of certain regulations by providing credit to small industries to comply with certain measures of the Factories Act. Similarly, environmental regulations which require an enterprise's resources could be encouraged through credit lines for the purpose.
- xvi. A fourth recommendation relates to the low literacy level of small entrepreneurs. Entrepreneurs noted that they often found it difficult to deal with complicated regulations and to verify whether particular regulations do apply to him or whether they are arbitrarily set by the official visiting them. To strengthen the capacity of small entrepreneurs to deal

with the regulatory framework, collective legal bodies could be established. Law advisory centres could be set up through contributions from members of particular SSI sub-groups. Such centres would not be expensive and would strengthen the capacity of small entrepreneurs to deal with the regulatory framework. Such legal centres would contribute to the development of formal management practices amongst small entrepreneurs.

- xvii. A fifth suggestion relates to the elimination, or substantial reduction, of discretionary powers given to regulatory officials. Such powers cultivate an ethos of arbitrary authority which imposes a degree of fear among small entrepreneurs. Tax regulations in particular should not be subject to individual interpretation. To reduce awe of government, it is vital to remove the substantial discretionary powers enjoyed by scrutinizing officers.
- xviii. A sixth area of reform are municipal regulations. At present, any SSI setting up business within municipal limits has to get a No Objection Certificate (NOC) from the local authority. This is a cumbersome procedure, which can involve a great deal of time, resources and patience. For this reason, a number of units do not get themselves registered and operate in a clandestine manner. Consequently, there appears to be a need to devise a list of SSI sectors which do not require an NOC. Obviously appropriate criteria such as pollution effects and noise have to be borne in mind. Only those sectors not on the list would require an NOC from the local authority.
- xix. Seven, a systematic application of regulations requires a consistent definition of small scale industry. At present there are variations, such as some agencies excluding land from value of fixed assets, whereas other excludes land and buildings for the classification limits of SSI. Financial institutions, small industries corporations and the Government of Pakistan's other agencies need to evolve a consistent definition.
- xx. Eight, sub-contracting could be limited to a proportion of the work force. A regulation which limits the scale of sub-contracting could contribute to better labour-management relations.
- xxi. Nine, a number of environmental laws have been promulgated recently. These are likely to be added to when the National Conservation Strategy is completed later this year. A number of SSI are affected, particularly in areas such as leather processing and shoe manufacture. The efficacy of these desirable regulations may be limited if additional officials visit SSI for their monitoring. This reinforces our earlier suggestion for a single window facility. There is a danger that the forthcoming spate of environmental regulations would add to the number of officials visiting SSI. This opportunity could be utilised to press the case for a one window operation.
- xxii. Finally, it must be emphasised that reforms of the regulatory framework ought to concentrate more on the institutional mechanism rather than the regulations per se. The latter could be rationalised and simplified. If all the current regulations were rigidly applied, most SSI would find it difficult to function. But the key issue is to reduce the number of monitoring officials visiting SSI and to strengthen the legal capacity of small entrepreneurs to handle the maze of regulations. A purely punitive approach has to be replaced by one which combines incentives with regulations.

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CHAPTER 1

POLICY ENVIRONMENT FOR SMALL SCALE INDUSTRIES IN PAKISTAN.

- 1.01 The Government of Pakistan has had a compensatory framework towards small scale industry (SSI). The policy structure implicitly suggested that the mechanisms targeted towards the development of SSI were, in part, a compensation for a bias in the industrialization strategy. Policies which discriminate in favour of large units, and accommodate lower priority programmes for small industries, are not uncommon in developing countries.
- 1.02 Three features of Pakistan's industrial strategy have discriminated against SSI. Industrialization was encouraged through :
- i. Investment incentives which directed credit to particular sectors, often at a subsidized rate of interest.
 - ii. Trade regulation.
 - iii. Public sector investment programmes.
- 1.03 First, credit controls, and regulated interest rates, biased bank lending towards larger enterprises. In the aggregate the bank's lending portfolio could not bear the burden of lending to higher risk and more widely dispersed small enterprises. The structure of interest rates did not permit a more market oriented framework which may have directed more credit towards SSI, but at a higher rate than that permitted. Investment incentives tended to be directed towards tax concessions related to size of investment or included those which involved administrative work, which the larger units were better placed to take advantage of. Second, the trade regime has been biased towards large enterprises since they were better placed to obtain import permits for raw materials and machinery. These import permits and export bonus vouchers were important features of the early industrialization strategy in Pakistan. Finally, direct public investment in industry involved large capital intensive projects such as the Steel Mill. Public intervention has typically set up large units in the capital goods sector and neglected SSI development.
- 1.04 As far as the regulatory framework is concerned, our analysis suggests that its impact varies with size of enterprise. However, there is no simple inverse or linear relationship between size of business and impact of the regulatory framework. There is a relative bias at both extremes of unit size. The complex maze of rules and regulations do not typically apply to units which employ less than 10 workers. Thus, very small enterprises are beneficiaries through exemption. At the other end of the scale, large enterprises having more than 150 workers are usually operating in a sufficiently secure financial environment to absorb the regulations. They also have a management structure and legal advisors who minimize the impact of these regulations on enterprise performance. For example, labour laws become effective on a graduated scale. However, in large enterprises the proportion of costs incurred due to labour law regulations are rather low, when compared with small enterprises. In other words, the additional cost imposed through labour regulations are relatively small in relation to the firm's turnover. Thus, the brunt of the regulatory framework appears to be borne by small and medium enterprises which do not fall into either of the extreme categories. As our survey shows, the enterprises in the middle range are most vulnerable to the pressures imposed by regulatory bodies. This issue is dealt with in detail later in the report. The sections below contain an analytical summary review of industrial policies and environment in Pakistan, particularly as it relates to the development of SSI.

Early Industrialization Strategy and its effect on SSI.

- 1.05 The initial phase of industrialization in Pakistan involved, as mentioned earlier, capital intensive import substitution. The underlying rationale for the chosen strategy had three implications. First, industrial policies were to transfer income towards the emerging class of large entrepreneurs. This was on the assumption that the trader-turned-industrialist class would have an above average marginal propensity to save. Thus, policies which raised their incomes proportionately more than others would lead to a higher aggregate savings rate, yielding, in principle, a faster GNP growth rate based on an

expanded investable surplus. The policy bias towards large size and high capital intensity was reinforced by the location of industry and the social relationship between the bureaucracy and the entrepreneurs. Most of the pre-partition traders -- the emerging industrialists of the fifties -- were migrants from Indian territory who had shifted to the new capital and port city, Karachi. Their intimate links with the bureaucracy were critical for success in a highly regulated and state controlled sanctioning process. Small entrepreneurs were neither the object of policy interest nor did they have easy access to government officials, a factor which would be extremely important for the growth of small industrial units. Thus the two key factors, policy instruments and institutional access, militated against SSI development. Further, it is worth mentioning that SSI were put at a disadvantage by low or negative effective rates of protection since large units paid low prices for imported capital goods and materials. Large industries also received higher prices for their products as a result of selective tariffs, exemptions from import duties and export incentives. The plant size bias in the structure of effective incentive rates tended to be even more pronounced because of tax incentives and preferential treatment of large units with respect to provision of public utilities. Such discrimination not only had direct effects on the economic performance of SSI, but also had indirect effects by depressing demand for SSI products and limiting the ability of SSI to become more active in intermediate products and export markets. It may also be worth noting that, unlike India, there was no serious debate about the desirable scale of industrial units. In India, the development of a capital goods sector emphasized heavy industry. This preference was symbolic of the difference in outlook between Nehru and Gandhi. The latter's concern for small traditional enterprises was considered outdated by the framers of the First Five Year Plan, particularly its architect Mahanobis. Nonetheless, the Gandhian interest ensured that size issues in industry were of concern to policymakers and this pressure was reflected in early debates. In Pakistan, on the other hand, there was no important advocate of small industry, traditional or modern. Perfunctory references were made to the need for developing SSI but inevitably there was a lack of serious intent. Industrialization essentially meant capital intensive import substitution.

- 1.06 The second feature of the initial industrialization phase was the implicit transfer of resources from agriculture to industry. Consequently, the main focus of subsequent policy debate was the intersectoral resource transfer. In the mid sixties, measures were taken to address the relative neglect of agriculture. Issues within the industrial sector, such as greater emphasis on SSI, were not a subject of attention. The third feature of industrial development was its association with increased regional income inequalities. The concentration of economic and financial assets in the famous 'top 22 families' contributed to regional resentment in East Pakistan and class antagonism within the western wing. Instead of demands for a wider dispersal of private assets, in which the development of SSI may have played a role, the reaction was directed towards utilizing the public sector to acquire private monopolies and to enter directly into the productive process. In spite of its concern with employment generation, subsequent development under the public sector tended to be concentrated in long gestating and large capital goods sector projects. Even during the seventies, the focus of policy was on nationalization and the expansion of the public sector. SSI continued to receive marginal attention from policymakers. A measure of such neglect is provided by the fact that rather arbitrary assumptions were made regarding the growth of SSI. During the fifties, they were assumed to be growing at the same pace as population growth. Later the growth rate of SSI was revised to 7% annual.
- 1.07 In spite of an adverse policy environment, a number of developments provided a stimulus to the growth of small scale industries in Pakistan. The reasons for this impetus can be divided into two categories:
- i. The failure of import substitution industrialization to tackle pressing economic problems.
 - ii. Developments in the socio-economic environment which were favourable for the growth of SSI.
- 1.08 An overvalued currency, artificially low interest rates, fiscal concessions and heavy protection led to the growth of an industrial structure which was not only inefficient but

also was a poor absorber of labour. It was estimated that between one-half to two-thirds of value added was due to the protection given to the domestic industry. Thus, when measured at international or world prices, most of the large industrial units could be classified as inefficient.⁽¹⁾ Another shortcoming was that the high capital intensities of these large units led to slow growth of employment in large scale manufacturing (LSM). The inability of the LSM sector to absorb an adequate share of the labour force has been largely responsible for the greater attention being paid to SSI.

1.09 Five features of Pakistan's socio-economic environment in the seventies contributed to the growth of SSI. First, the nationalization programme was directed towards large enterprises. Private investment in LSM came to an abrupt halt. The fear of being nationalized paralyzed the development of LSM. Subsequently private investors tended to favour medium and small scale units, which would remain outside the fold of public take over. Further, the labour legislation coming in the wake of nationalization gave greater protection to workers than had ever been the case in Pakistan. The benefits introduced through such legislation raised the price of labour particularly for larger enterprises, since benefits were related to scale. Such legislation has tended to favour establishment of very small units and sub-division of existing ones in order to circumvent prescribed measures. This is a matter that we return to later in the report. The second factor promoting SSI was the 130% devaluation of the Pakistani rupee in 1972. This reduced the bias towards capital intensive import substitution.

1.10 The third factor favouring growth of SSI was the accelerating population growth rate. Pakistan's population has been growing at a higher rate every decade since the country's inception. A country of approximately 110 million is growing by 3.2% every year, making it the highest population growth rate in the world for a major country. It is quite evident from the factor proportions embodied in imported LSM units that this sector will be peripheral to employment generation. Even a 7% growth in LSM is likely to absorb only a fraction of the over 3 million people who are added annually to the Pakistani workforce. Incessant population pressure is the undercurrent which is feeding the growth of employment in the informal as well as the formal small scale sector. It is increasingly clear to policymakers that employment creation in Pakistan necessarily involved greater attention to the growth of SSI.

1.11 The fourth factor promoting SSI has been the large scale migration of Pakistani workers to the Middle East, beginning from the mid-seventies. These workers have been sending remittances⁽²⁾ and accumulating small surpluses for investing in micro enterprises. With the slowdown in the world economy, migrants have been returning to Pakistan. Typically they are engaged in efforts to establish their own small enterprise, rather than go back as wage earners in LSM. This process is promoting a diverse growth of small enterprises. Finally, a factor responsible for greater attention to small scale production is political uncertainty. Pakistan has been in a continuous state of political insecurity since the seventies. People's perceptions regarding changes in government and policies tend to lead to caution regarding large scale investment. Private, as well as public decisionmakers tend to operate on a short term horizon in such circumstances. Long gestating investments in large enterprises tend to be replaced by smaller investments with quicker returns. The economics of uncertainty favours SSI.

1. The degree of inefficiency and effective protection extended by the policy framework is a subject of controversy. A detailed examination is beyond the scope of this paper.

2. At their peak, these exceeded \$3 billion annually, which was equal to 8% of GDP in 1982-83.

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CHAPTER 2

BASIC DATA ON SMALL SCALE INDUSTRIES AND DIRECTIONS FOR FUTURE GROWTH.

2.01 The future role of SSI is central to the current debate on Pakistan's economic strategy. Strong statements and initiatives by GOP in support of private enterprise has raised fears that some of the mistakes of the Ayub era will be repeated. In particular, concern is often expressed at possible adverse distributional consequences. In this context, it may be extremely important to encourage and promote small entrepreneurs so that government policy is seen to have a favourable asset and entrepreneurial creation impact across society. Factor efficiency and distributional concerns are important considerations for the growth of the SSI sector in Pakistan.

2.02 Small scale industry however runs into a number of definitional grey areas. There is no consistent categorisation for the amorphous mass of enterprises which constitute the small scale sector. Some government departments define size by value of fixed assets, excluding land. Others use the number of workers employed, excluding subcontractor's workers. Some institutions use a combined definition of capital and labour employment. The small industries corporations define an SSI as an enterprise with a value of original fixed assets upto Rs.10 million, excluding land. Some credit lines of commercial banks have a similar fixed assets value limit, but exclude buildings as well as land.⁽¹⁾ This clause enables enterprises with substantial buildings and large subcontracted labour to take advantage of credit lines targeted at SSI. These lines often have a leakage to medium scale industry, as well as biases towards the larger side of the SSI spectrum. The Labour Department does not have a three level definition structure of small, medium and large. Different labour regulations come into effect in relation to size of workforce. Typically, the exemption limit is 10. Above this figure, numerous labour regulations come into force at different scale of employment. Income tax laws also do not correspond to a three scale definition of industry. The main classification regarding scale is the self assessment scheme, wherein income declaration of less than Rs.200,000 can be accepted, by and large, without scrutiny. Precise categorisation is compounded by three additional factors:

- i. The legality of enterprise. Many enterprises in the informal sector conform to established, diverse definitions of SSI. Some enterprises conform to basic legal requirements whereas others try and avoid regularisation. Indeed, in practice, the term informal sector itself runs into considerable operational difficulties.
- ii. The difference between cottage and small scale industry is not always clear.
- iii. Small industries embody different technological levels. Categorisation by scale often involves institutions been given a mandate to stimulate both modern SSI as well as traditional crafts.

2.03 An industrial unit in Pakistan faces a large number of regulations and regulatory bodies, once it starts operations. These include ;

- i. The social welfare department which collects social security at 7.5% of wage bill for units above certain size.
- ii. Old age employments benefits organization collects its dues separately.
- iii. State Life Insurance collects compulsory group insurance for industries of a certain size.
- iv. Municipal corporations give permission & levy taxes.
- v. Sanitation & food departments have environmental concerns.
- vi. Labour department has labour laws to implement.

1. This was noted by officials of the Punjab Small Industries Corporation, interviewed by EPRU.

Employment Generation in Pakistan's Manufacturing Sector

	1963-64 to 1969-70			1969-70 to 1980-81		
	Total	Large	Small	Total	Large	Small
Change in Employment (000 Nos)	550	152	398	720	60	660
Change in Output at Constant Prices of 1959-60 (Million Rs)	1,991	1,810	181	4,026	2,584	1,442
Investment at Constant Prices of 1959-60 (Million Rs)	6,271	5,507	764	12,650	11,114	1,536
Incremental Capital/Labour Ratio	11.402	36,230	1,920	17,569	185,233	2,327
Percentage Change in Employment	24.9	37.8	22.0	20.7	10.8	29.9
Percentage Change in Output	62.3	81.0	18.8	77.6	63.9	126.0
Employment Elasticity	0.40	0.47	1.17	0.27	0.17	0.24
Incremental Capital/Output Ratio	3.15	2.04	4.22	3.14	4.30	1.07

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Our assessment of the impact of the regulatory framework on small enterprises is largely based on a survey of five sectors and interviews with government officials as well as private sector representatives. Our review of regulations notes the confusion and definitional ambiguities. However, a resolution towards clarity and consistency is not sought in this paper. The need for rationalisation is important to eliminate current confusion. The context to our subsequent analysis is provided by some basic data on small scale manufacturing in Pakistan in this chapter. This is followed by a summary of Government of Pakistan's policy and institutional framework for the promotion of SSI. The chapter also contains suggestions for the broader development of SSI, within which a rationalisation of the regulatory framework can play a role.

- 2.04 The share of the manufacturing sector in GDP has risen from barely 7% at the time of partition to nearly 19% in 1989-90. Officially, the small scale manufacturing sector produces 4.7% of the Gross Domestic Product. Approximately 27% of total manufacturing output comes from SSI, whereas 80% of the total industrial labour force is employed by small scale industries.⁽²⁾ About 2 million workers are employed in over 100,000 establishments. The high labour intensity and capital efficiency of SSI is further substantiated by the fact that the average investment cost per job is merely \$1,800, whereas the average capital output ratio is about 0.8. The last quoted figure is indicative of the significance of SSI to employment absorption. 30% of Pakistan's manufactured exports are produced by SSI. Sialkot is a major centre for the export of goods produced by SSI. Traditionally, SSI in Pakistan have concentrated on processing raw materials, such as cotton, food and construction materials. Another important area has been exports oriented SSI such as those found in the surgical, sports goods, cutlery and carpet sectors. Leather processing and products has emerged as another important avenue for SSI based exports.
- 2.05 Light engineering, textile products and agriculture related industry are likely to remain the principal growth areas in the short and medium term. Agro-based industry typically accounts for a third of total investment in SSI. This sector's share is expected to grow, particularly in the areas of rice and flour milling, oil extraction and in the processing of fruits and vegetables for export and the domestic market. Although the current incentive structure for exports does not discriminate against small producers, it has led, in some circumstances, to a harmful proliferation of small exporters undercutting each other to a point where the country's market reputation has suffered. As a consequence, fiscal reforms have been suggested which would encourage formation of export houses, whose intermediation is intended to act partly as a quality control measure.
- 2.06 As mentioned earlier, data on SSI is not very reliable. Initially assumed to be growing as fast as the country's population, national accounts have subsequently become more realistic if not more refined. The growth rate was assumed to be 7.3% between 1972-77 and 9.4% thereafter. However, an ILO-ARTEP study has noted that the rate of growth of SSI is higher than that assumed by national income accounts. For example, the study shows a growth rate of 13.5% in SSI for the 1970-77 period.⁽³⁾ The precision of growth rate measurement may be elusive but the general direction is clear. SSI have been growing rapidly and the pace has been accelerating over the last two decades.⁽⁴⁾

2. Pakistan Economic Survey, 1989-90

3. ILO-ARTEP: Employment and Structural change in Pakistan - issues for the eighties. Bangkok, 1983.

4. It is worth noting that the World Bank's third sector loan to SSI, currently being disbursed, contains an allocation for strengthening statistical information on the small scale sector. Prior to this, the Federal Bureau of Statistics has published 3 data compilations on SSI. At present the World Bank is carrying out a major household living standards survey which should shed more light on the SSI sector.

- 2.07 The employment generating capacity of SSI is illustrated by the following. Even during the heyday of LSM (1963-1970), the brunt of employment generation in manufacturing was borne by SSI. The sector created 550,000 jobs, out of which 398,000 were in SSI. Thus SSI were creating over 250% the number of jobs as LSM during a period when the latter was the primary target of policy attention. The situation worsened in the seventies. During 1970-80, SSI generated 660,000 jobs which compares with 60,000 for the large scale sector. In other words, the small scale sector generated 11 times as many jobs as the large-scale sector. The differences between the two sub-sectors are summarised in table 1, which appears after page 6.

PUNJAB	62%
SIND	31%
NWFP	5%
BALUCHISTAN	2%

- 2.08 One of the reasons for the difference in factor proportions, between the large and small scale sectors, is access to credit. Less than 2% of SSI in Pakistan have access to bank credit.⁽⁵⁾ Small industries receive approximately 3% of the credit extended to the industrial sector. Bank credit is not available on the required scale for SSI on account of a number of inter-related factors; there is an institutional bias in favour of large industries, officially determined credit policies do not allow sufficient interest rate spreads to reflect higher risk to dispersed small borrowers, small entrepreneurs are daunted by collateral and procedural demands.

- 2.09 Although its attention may have been concentrated on large scale industry, the Government of Pakistan has periodically acknowledged the importance of SSI. The GOP has undertaken targeted assistance programmes, which have essentially constituted compensatory elements within a broad framework of large scale bias. As far as the 5 year plan documents are concerned, government's pronouncements have moved from being obvious and almost banal to those which call for a more realistic and concerted approach to develop SSI. The first five year plan (1955-60) stated that :

'Small industry has specific contributions to make to economic development. In the first place, it can contribute to the output of needed goods without requiring the organisation of large new enterprises or the use of much foreign exchange to finance the import of new equipment. Secondly, it can provide opportunities for employment beyond the narrow boundaries of urban centres. Finally, as history shows, it can perform an important function in promoting growth, providing a training ground for management and labour and spreading industrial knowledge over wide areas'.

- 2.10 The plan's recommendations resulted in the establishment of state owned Small Industries Corporations, with the diverse mandate of providing credit assistance, technical

5. Study on Small Scale Industries in Pakistan. UNIDO. Vienna 1981. GOPA Consultants.

training and assistance with marketing and production of the small scale sector. At present, these corporations are divided on a provincial basis. As can be seen from table 2, over 90% of SSI are in Punjab and Sind. As is generally the case with SSI data, the provincial distribution should be treated as approximate indicators of dispersion, since the figures relate to formal credit assistance to SSI. The distribution of enterprises seems to be biased against NWFP, a province with a thriving small business sector. The workload of the provincial small industries corporations generally reflects the geographic dispersion given in table 2. The Punjab Small Industries Corporation (PSIC) is the most active of the provincial bodies, followed by Sind. In general, the SICs have concentrated on the provision of physical facilities, development of SSI industrial estates, the building and equipping of service centres and establishing production centres for handicrafts. There are, however, substantial deficiencies in the efficacy of SIC's delivery system as well as in the quality of service provided. Currently efforts are being made, supported by aid donors such as the Netherlands Government to reform SICs by increasing their direct involvement with the private enterprises as well as developing alternative institutional channels in the private sector for SSI development. The World Bank, for example, is aiming to increase private sector involvement in areas of export marketing and technology transfer for SSI, under its present credit programme for the small sector. They have operated in an unhelpful policy environment.

2.11 The Second Five Year Plan (1960-65) noted the failure to meet the objectives of SSI development, set out in the First Plan but went on to state more general objectives. These intentions, summarised below, were repeated verbatim in the Third (1965-70) and Fourth (1970-75) Five Year Plans.

- i. to adapt small industries to changing technological, economic, and social conditions;
- ii. to stimulate production of implements and equipment required for agriculture;
- iii. to encourage the processing of indigenous raw materials;
- iv. to create additional employment opportunities;
- v. to modernize such existing units as have sound economic prospects;
- vi. to promote modernization by encouraging growth of small industries in rural areas in general and wherever resources and markets are available in particular;
- vii. to bring about a closer relationship between the small and large industries through, for example, the production of spares and accessories or components for large-scale industry or through providing facilities for the maintenance and repair of equipment in use either by large-scale industries or in other sectors of the economy; and
- viii. to preserve and promote traditional arts and crafts.

2.12 A less mechanical and more pragmatic approach was evident in the Fifth Five Year Plan (1978-83).

'the small industries sector has considerable potential for growth but it suffers from a number of problems relating to organization, financing, technology, and marketing. To facilitate the development of this sector, there is need to have a closer look at the constraints under which this sector operates and to remove the hurdles which inhibit its healthy growth. There is also need to provide some special incentives and assistance to small entrepreneurs who have the resources or skill that can be profitably exploited. Fiscal and commercial policies will give due recognition to these factors during the plan period.'

2.13 Both the Sixth and Seventh Plans acknowledge the growing significance of small scale industry. But the broad policy pronouncements have yet to be matched by sufficiently serious attention to the financial, institutional and policy measures required to support SSI development in Pakistan. Inadequate access to investment funds, markets and technology remain major obstacles to the development of SSI. The informal credit

market continues to provide financing at rates of interest which may reflect risk but also act as a hindrance to dynamic capital formation. As far as the formal sector is concerned, the five nationalised commercial banks are primarily responsible for lending to SSI.⁽⁶⁾ The State Bank sets annual aggregate targets, which are divided among the NCB's in relation to their deposit ranking. Because of a scarcity of long term finance and, until 1988, a lower lending rate for SSI term loans, the commercial banks were more inclined to lend for working capital - loans which carried a higher rate of return. Since the provision of long term funds for SSI, through credit lines extended by IDA since 1982, fixed investment loans to SSI appear to have increased. It is estimated that the formal sector's share in SSI lending has increased from 30% to 40% of credit requirements.⁽⁷⁾ Nonetheless, SSI development requires a concerted supportive effort by the Government of Pakistan. The issues which need systematic attention include :

- i. The government could consider establishing a high powered body for formulating, implementing and monitoring SSI development policies and programmes. The representation on this body is vital for its success. It ought to contain senior officials, relevant political figures, entrepreneurs, science and technology institutions. This high powered body could collaborate with sectoral associations of small entrepreneurs to develop policies and institutions in support of SSI.
- ii. A number of public sector technology and marketing assistance centres, such as the Metal Industries Development Centre (MIDC), Sialkot and the Institute of Leather Technology (ILT), Gujranwala, could be more effectively integrated with the private sector's needs. Small entrepreneurs could have more direct representation on these bodies. These centres could also arrange consultancy services of use to SSI. For example, institutions such as the Lahore University of Management Sciences could be asked by MIDC to run courses for management training relevant to the development of SSI.
- iii. A number of small scale industries are in urgent need for modernisation. Technical assistance programmes from aid donors could be targeted specially at SSI. Again institutions such as MIDC and ILT could be re-organised so that they can become effective instruments for raising SSI productivity through such technical assistance programmes. The modernisation programme should be selective. Some sub-sectors should be chosen for priority assistance, in view of their potential contribution to output and employment generation. Once these sub-sectors of SSI have been chosen, an intensive and broad modernisation programme should be launched.
- iv. The promotion of rural SSI could be more systematic than the recently announced rural industrialisation programme. Infrastructure provision and support could concentrate on chosen sectors and areas. The government does not have the resources to support a broad strategy, since tax incentives are not sufficient to tempt industry to rural areas. A more concentrated infrastructure provision for rural SSI may be required.

6. Some of the development finance institutions also have a mandate to assist SSI. Principal among these are the Small Business Finance Corporation and the Industrial Development Bank of Pakistan.

7. The World Bank : The Third Sector Loan to SSI in Pakistan.
It is perhaps worth noting that World Bank figures regarding the proportion of SSI credit requirements serviced by the formal sector are much higher than estimates published by Small Industries Corporations.

- v. The government could consider giving preference to products of SSI in its purchases. However, care needs to be taken that such reservation does not subsidise inefficient small producers. Price and quality criteria could also be incorporated.
- vi. Sub-contracting arrangements between large scale enterprises and SSI could be encouraged through the formation of subcontracting exchanges.
- vii. Support programmes could be initiated for the development of associations for women entrepreneurs. Credit lines and management training could be targeted at female entrepreneurs wishing to set up small businesses.
- viii. Development finance institutions could open special windows for small entrepreneurs, which provide a range of services consistent with a low literacy rate of small entrepreneurs. Simplified procedures, easier access and technical assistance could be more useful than subsidised credit. Currently only 5% of credit going to the industrial sector is received by SSI. The allocations to SSI should rise to at least 15%.
- ix. Some of the more innovative credit guarantee schemes and group collateral procedures adopted by institutions such as the Grameen Bank in Bangladesh could be promoted for the development of SSI.
- x. The primary constraint to the growth of SSI units tend to be internal. The combination of technical, managerial and productivity limitations could be addressed by associations of small entrepreneurs in collaboration with research institutions, government bodies and aid donors. The results of such discourse should lead to comprehensive sub-sectoral interventions.
- xi. Targeted credit lines for SSI, from aid donors, based upon systematic sub-sectoral analysis emerging from the above.
- xii. Finally, the macro-policy framework needs to be consistent with targeted assistance for SSI. The move from a compensatory to a supportive regime would require rationalisation of macroeconomic instruments.

2.14

This selective list of SSI supportive measures are of course merely indicative of the kind of changes required for a more systematic development of SSI. A comprehensive framework of policies, programmes and institutions is beyond the scope of this paper. The following chapters concentrate on the effect of the regulatory framework on small establishments and suggest measures to reduce some of the glaring burdens emerging from our analysis. The effect of regulations is assessed in the context of micro level observations of the financial, technical and working environment of 18 small enterprises in Lahore, Gujranwala and Sialkot. It must be emphasised that an overhaul of the regulatory framework would require more detailed analysis than that permitted by the time frame of our enquiries. In any case, the pattern that is emerging from this initial study suggests areas of fruitful reform. It is also worth emphasising that our study concentrates on small scale industry. Medium sized enterprises were visited but it was felt that the paper's purpose would be better served by concentrating on SSI. As is evident from our subsequent analysis, the size bias of the regulatory framework has a complex pattern. Its mechanics are better understood by examining SSI and looking at the implications for larger enterprises.

- 2.15 The areas of concern to the private sector, particularly the impediments to industrial development, are reproduced in Appendix 1. These comments were submitted to the Government of Pakistan in 1989. They include references to the regulatory framework. The typed comments in the right hand column were made by the Punjab Small Industries Corporation.

CHAPTER 3

EXISTING LEGAL AND REGULATORY FRAMEWORK REGARDING SMALL SCALE INDUSTRY.

SECTION I : LAWS

3.01 The legal and regulatory framework pertaining to manufacturing industries is comprised of various components including direct and indirect taxation and labour laws. Out of these, the system of direct taxation and labour laws are discriminatory to the scale of the industry while the indirect taxes, like import duties, excise and sales tax, vary across industrial sub-sectors. The incidence of indirect taxation depends on the nature of commodity produced and the targeted market. Therefore, for the purpose of this study, only the direct taxation system and labour laws are focussed and their impact on the growth and development of medium and small scale industries assessed.

3.02 In order to comment on the efficiency or inefficiency of the regulatory framework and its implementation mechanism, it is imperative to first have an idea of the policy structure and the implementation procedures. The basic regulatory framework regarding income tax and labour laws is described below. For details of the legislations, refer to annexure 2.

Regulations Regarding Assessment and Collection of Income Tax

3.03 According to the regulations of the income tax ordinance 1979, every businessman should get himself registered with the Income Tax Department. A National Tax number will be issued to him by the area income tax officer. Every businessman is required to file his income tax returns after the closing of his books of accounts. Under the present taxation laws, income tax returns should be filed by closing the books of accounts by the 30th of June every year. The government has given options to close the books of accounts on 30th December also, as may be desired by the businessman.

3.04 The system of income tax collection starts with the assessment of tax against the businessman by the income tax assessing officer (ITO). Based on that the assessing officer passes the assessment order. The calculation is made on the basis of returns filed by the businessman. If unsatisfied with the assessment, the assessee (businessman) can file an appeal before the commissioner of income tax appeals. Such appeals are disposed off by the income tax commissioner and opportunity is given to the assessee to explain his complaints. If still unsatisfied with the appeal decision, the appellate assessee has the right to file a further appeal before the income tax appellate tribunal of Pakistan. The income tax appellate tribunal is the final deciding authority. However, the assessee can still file reference before the high court on law matters. The tax department usually starts demanding the tax after passing assessment orders. In case of appeals, immediate remedial measures should be undertaken to obtain stay from the commissioner of income tax.

3.05 It can be seen from the procedure described above that income tax assessment appeal decisions can be very cumbersome and lengthy. Once a wrong assessment is made by the assessing officer, the businessman can get trapped in a long and complicated system of procedural details. Entrepreneurs interviewed by EPRU emphasised the significance of the absence of an effective legal machinery. The efficiency of the legal system does not conform to the extensive regulations prescribed. This gap leads to implementation difficulties and is a major cause for distortions since every effort is made to avoid litigation.

3.06 To simplify procedures and widen the tax net to include small businessmen, the GOP decided to introduce a system of self assessment in 1979-80. This was based on a system of trust and confidence which the state placed on the tax payers. The upper limit for the self assessment system was placed at a taxable income upto Rs 100,000. The

objective was to provide some relief to the small scale businessmen and firms from the interface with the income tax assessing officers. Only 5% cases were picked out through random computer balloting, for audit checking purposes. This was a measure to maintain some checks and balances in the system. The persons picked out for audit once were provided immunity from checking for the next assessment year. The taxpayers, according to the system, were only required to show their sales receipts, cost of sales, and other expenses incurred in order to arrive at the total taxable income. From this, the total tax payable was assessed by the assessee himself after deducting the basic exemption. The basic exemption has been set at Rs 40,000 for salaried persons and Rs 30,000 in other cases⁽¹⁾. On the remaining income, tax is charged in a progressive manner. Exemptions from income tax are provided for certain industries including agro-services, storage of food grains, poultry farming, fish farming, manufacturing and renting of agricultural implements⁽²⁾.

3.07 Self assessment system continued till 1988-89, albeit with slight modification for showing a progressive increase in the income assessed every year. In 1988-89, it was replaced by an even simpler system called the Simplified Assessment Procedure (SAP). According to this system, the tax payer just had to fill in a SAP assessment form⁽³⁾. It differed from the self assessment system in that for SAP, no documents had to be attached with the tax return form, providing maximum relief to the small scale tax payers. This system has, however, been recently withdrawn and replaced once again by self assessment system under the premise that people had started misusing it grossly. There was a growing tendency amongst businessmen to evade income tax by showing extremely low amount of taxable income.

3.08 The self assessment system that has been introduced in the 1990-91 budget has an upper limit of Rs 200,000. Provisions for computer determined random audit assessment have been reintroduced. It can be seen that over the years, there have been quite significant changes in the legislation regarding the assessment of income tax. However, no significant improvement has been achieved in the implementation process in order to improve the efficiency and honesty of the collection system. In 1987-88 the assessment system was changed from a single assessing officer to a panel of three assessing officers to make the tax assessment. It was hoped that with three persons making the assessment instead of one, the level of corruption in the department would be reduced. However, this change did not work out the way it was intended to. It has, therefore, been replaced again with the former system. Measures such as the self assessment scheme are steps in the right direction as far as broadening the direct tax base and reducing the role of the income tax officers is concerned. Some abuse is inevitable but the government would be well advised to pursue along this path and try to reduce rather than reintroduce greater contact of taxpayers with officials.

3.09 It has been claimed by the business community that the income tax assessing officers are provided with discretionary powers to make the assessments. This, along with a poor system of accountability, low pay scales and weak judicial system, gives further impetus for corruption to these officials. Income tax department officials, although they do not deny the charges of corruption in the system,⁽⁴⁾ claim that the initiative and incentive to corruption comes from the tax payers side. The debate of 'who corrupts who?' is infinitely long and perhaps one without a conclusive answer. However, one thing is for sure ; the system of revenue collection is highly corrupt and little has been achieved to improve its

1. ref: appendix 2: First Schedule of Income Tax Ordinance, part 1: Rates of Income Tax.
2. Second Schedule of Income Tax Ordinance, section 95-103.
3. ref: appendix 4
4. Officials were quite candid in interviews with EPRU.

efficiency. So far, most of the reforms have been made to simplify and reduce the complexity of the assessment of income tax at the lower end of the tax paying sector. Consequently, this has translated as an incentive for the industry owners to be classified as a small scale sector enterprise. As soon as the entrepreneur crosses the self assessment barrier, it falls prey to the clutches of the revenue department. In order to reverse this trend, it is imperative that reforms are made in the whole system of revenue assessment and collection. In other words, the tax procedures for higher income earners also need simplification. In the absence of this upward rationalisation, assesses have a strong incentive to understate their income, far beyond the 'natural' tendency to do so.

Regulations Regarding Labour Laws

3.10 The labour laws relating to industrial establishments are basically laid out in the Factories Act, 1934. Other regulations include the Industrial and Commercial (Standing Orders) Ordinance, 1968. The National Industrial Relations Commission (NIRC) Regulation 1973 and the Punjab Industrial Relations Rules, 1977. These regulations cover issues such as the payment of wages, minimum wages, employees' old age benefits, sharing of companies' profits, employees' social security payment benefits, employment of children and control of employment.

3.11 It is out of the scope of this report to give a comprehensive account of each of these laws and regulations. However, the mere fact that so many rules and regulations exist in connection with the employment of industrial labour is suggestive of the impracticality and redundancy of a great many of these laws. Virtually no SSI establishment in Pakistan is complying with the host of labour regulations. There is an urgent need to rationalise and reduce these to a set of practical implementable measures. Nevertheless, it is worthwhile to take a cursory view of the basic rules and regulations in order to get a handle on these. A brief summary of the clauses given in the Factories Act 1934, Industrial and Commercial Establishments (Standing Order) Ordinance and the National Industrial Reforms Commission (NIRC) Regulations is presented below:

(A) The Factories Act, 1934.

3.12 This Act describes the basic working conditions which have to be complied with by all the industrial establishments in Pakistan. A 'factory', according to this Act, is defined as 'any premises, including the precincts therein, wherein ten or more workers are working, or were working on the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily carried on with or without the aid of power but does not include a mine.' Here it is worth mentioning that the number of workers was originally stated as twenty or more, but was later changed to ten or more workers by the Factories Amendment Act of 1973.

3.13 The Act can be applied, by notification in the official gazette by the Provincial Government, to any place wherein a manufacturing process is carried on or is ordinarily carried on, whether with or without the use of power, wherever five or more workers are working therein or have worked therein on any one day of the twelve months immediately preceding'. This shows how narrow and sharp can be the cutting edge of this Act.

3.14 Before the commencement of work in any factory, the owner (occupier) has to notify the area labour inspector about the following details of the factory:

1. Name of the factory and its situation.
2. The address to which communications should be sent.
3. Nature of the manufacturing process to be carried on in the factory.
4. The nature and amount of power to be used.

5. The name of the manager.
 6. Other such particulars as may be prescribed for the purposes of the Act.
- 3.15 After the above notification, a factory is granted a registration certificate. No factory is permitted to work without this document. The registration certificate has to be renewed every year after the payment of the prescribed fee. Penalty for failure to register and get a registration certificate is punishable upto Rs 500 and upto Rs 1000 if convicted for a second time on the same offence.
- 3.16 The inspecting staff consists of various persons appointed by the provincial Government. These include, Chief Inspector, Inspectors (including every district magistrate in the area), Additional Inspectors and Certifying Surgeons (refer to chapter II of the Factories Act). The powers of these inspectors are extremely discretionary in nature and they have the right to enter and inspect any place, premises and plant, and examine any prescribed registers as they may deem necessary for the purposes of the Act. It is interesting to note that a separate inspector is appointed for the inspection of the various sections (health and sanitation, minimum wages, social security, etc.) of the department of labour. According to one estimate, given in our survey, there are about thirty to thirty-five officials with whom a businessman has to deal with in order to carry out his normal routine business. The figure may be exaggerated but the point is well taken. This indicates the consumption of a tremendous amount of time which the owner or manager has to spend with these officials at the expense of the business concern. If these inspection procedures are simplified to some extent, much of this time could be saved and spent on the development activities of the establishment.
- 3.17 Under the provisions of the Act, the following aspects are subject to inspection by a labour Inspector or certifying surgeon. ⁽⁵⁾
- 3.18 1. Health and Sanitation
Under this chapter (refer to chapter III of the Factories Act), the following clauses are included which pertain to the health and sanitation regulations applicable to all factories.
- 1.1 Cleanliness
 - 1.2 Ventilation and Temperature
 - 1.3 Dust and Fumes
 - 1.4 Artificial Humidification
 - 1.5 Overcrowding. According to this at least 350 cubic feet of space should be provided per worker in case of factories established at the time of the enactment of the labour law ordinance of 1972 and 500 cubic feet per worker in case of factories established after the ordinance.
 - 1.6 Lighting
 - 1.7 Drinking water
 - 1.8 Latrines and Urinals
 - 1.9 Spittoons
 - 1.10 Precautions against contagious or infectious disease and compulsory vaccination
 - 1.11 Provision of canteens in case of factories employing more than 250 workers.
 - 1.12 Employment of welfare officers in case of factories employing more than 500 workers.
 - 1.13 Arrangements for fire-fighting and emergency exits
 - 1.14 Fencing of machinery
 - 1.15 Work on or near machinery in motion
 - 1.16 Employment of young persons on dangerous machines
-
5. For details on the legislation, refer to appendix 4: The Factories Act, 1934.

- 1.17 Striking gear and devices for cutting off power
- 1.18 Self acting machines (automatic machines)
- 1.19 Casing of new machinery
- 1.20 Prohibition of employment of women and children near cotton openers.
- 1.21 Cranes and other lifting machinery
- 1.22 Hoists and Lifts
- 1.23 Revolving machinery
- 1.24 Pressure plant
- 1.25 Floors, stairs and means of access
- 1.26 Pits, sumps, opening in floors, etc.
- 1.27 Lifting of excessive weights
- 1.28 Protection of eyes in case of excessive exposure to heat and light
- 1.29 Powers to require specifications of defective parts or tests of stability
- 1.30 Safety of building, machinery and manufacturing process
- 1.31 Powers to make further rules to supplement the rules already laid out relating to:
 - a) Precautions against dangerous fumes
 - b) Explosive or inflammable gas, etc.
 - c) Power to exclude children
 - d) Notice of certain accidents

3.18 2. Restrictions on Working Hours of Adults

This chapter (refer to chapter IV of the Factories Act) deals with the working hours of the adult employees of the factory. The maximum number of working hours for adults in a factory has been set at 48 hours per week and 50 hours per week for a seasonal factory. If an adult worker is engaged in work which for technical reasons must be continuous throughout the day, he may work for 56 hours per week. Other provisions of the Act include:

- 2.1 Weekly holidays for adult workers on Fridays
- 2.2 Compensatory holidays
- 2.3 Daily working hours should not be more than nine hours on any day
- 2.4 Intervals for rest
- 2.5 Spillover of intervals for rest should not be more than ten and a half hours
- 2.6 Notice of periods of work for adult workers should be correctly maintained and displayed in every factory
- 2.7 Copy of notice of periods of work to be sent to the labour inspector
- 2.8 Register of adult workers
- 2.9 Powers to make rules exempting from restrictions
- 2.10 Powers to make orders exempting from restrictions
- 2.11 Further restrictions on employment of women
- 2.12 Special provision for night shift
- 2.13 Extra pay for overtime
- 2.14 Obligation to work overtime
- 2.15 Restriction on double employment
- 2.16 Control of overlapping shifts

It can be seen from the above mentioned rules and powers of the labour inspector that a considerable room for corruption and bribery exists as regards the working of overtime, exemptions and special provisions for extra shifts. It is claimed by the business community that the labour inspectors make full use or misuse of these powers. It is said that they seldom keep proper records or maintain documentation.

3.18 3. Holidays with pay.

This chapter of the Act deals (refer to Chapter IV-A of the Factories Act) with the regulations regarding paid holidays to which a regular worker is entitled.

- 3.1 Annual Holidays. Every worker who has completed a period of twelve months' continuous service shall be allowed paid holidays for a period of fourteen days. The pay for these holidays shall be paid before his holidays begin.
- 3.2 Casual leave and sick leave
- 3.3 Festival holidays

An interesting clause of this chapter is Section 49-G which reads as follows:

'Exemption of factories from the provisions of this Chapter: Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits substantially similar to those for which this chapter makes provision, it may, by written order exempt the factory from the provisions of this chapter.'

It can be well imagined as to what means the factory owners may resort to in order to make the Provincial Government 'satisfied' that the leave rules provided by the factory are similar to the ones laid out in the chapter.

3.18 4. Special Provision for Adolescents and Children

This chapter (refer to chapter V of the Factories Act) safeguards the rights and the working conditions for any adolescents and children working in the factories. The following are the salient features of this chapter;

- 4.1 Children under four years of age are not allowed to work.
- 4.2 Certificate of fitness to be given by the certifying surgeon in case of adolescents.
- 4.3 Restrictions on working hours of a child. No child or adolescent should be allowed to work in a factory for more than seven and a half hours in any day.
- 4.4 Notice of periods of work to be correctly maintained and displayed in the factory.
- 4.5 Register of children workers should be maintained
- 4.6 Hours of work to correspond with the Notice and Register
- 4.7 Power to require medical examination
- 4.8 Power to make rules to rest with the Provincial Government regarding the following;
 - i) Prescription forms of certificate of fitness
 - ii) Physical forms to be attained by the children and adolescents
 - iii) Procedure of certifying surgeons

Contravention of these clauses laid out in the Factories Act is punishable with a fine which may extend upto Rs 500. However, the labour inspector has the authority to make one Challan (penalty order) for an offence concerning (say) 100 persons or he can make separate challans for every three workers working in the factory. Powers like these add to the general misuse of authority by these officials and the degree of mistrust and harassment which the business community feels towards them.

(B) The Industrial and Commercial (Standing Orders) Ordinance, 1968.

- 3.19 This is another important legislation concerning the service conditions and other benefits which should be given to industrial labour (for the details of the Ordinance refer to appendix 6). It extends to the whole of Pakistan and is applicable to every industrial establishment or commercial establishment wherein twenty or more workmen are employed, directly or through any other person whether on behalf of himself or any other person, or were employed on any day during the preceding twelve months.

- 3.20 The inspectors of Mines appointed under section 4 of the Mines Act, 1923, the inspectors appointed under section 10 of the Factories Act 1934, and other such persons not being conciliators appointed under the Industrial Relations Ordinance 1969 as Government inspectors by notification in the Official Gazette, shall be inspectors for the purposes of the ordinance within the local limits assigned to each.
- 3.21 *An inspector may at all reasonable hours enter on any premises and make such examination of any register or document relating to the maintenance or enforcement of the Standing Orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance. There is a familiar discretionary ring to these regulations. It can be seen from this piece of legislation regarding the powers of the inspector, how excessively discretionary these are and how easily these can be distorted.*
- 3.22 An employer who modifies the Standing Orders applicable to his industrial or commercial establishment, otherwise than in accordance with Section 4, shall be punishable with fine which may extend to five thousand rupees, and in case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.
- 3.23 Whoever contravenes any of the provisions of this Ordinance shall, if no other penalty is elsewhere provided by or under this Ordinance for such contravention, be punishable with fine which may extend to one hundred rupees. Whoever, having been convicted of any offence punishable under sub-section 1, 2 and 3, again commits such offence shall, on conviction be liable to double the punishment prescribed for such offence under the aforesaid sub-sections. No prosecution to an offence punishable under this Ordinance shall be instituted except by or with the previous permission in writing of the Inspector. No court other than a Labour Court established under the Industrial Relations Ordinance, 1969 shall try any offence under this Ordinance.

The salient features of the rules and regulations laid out in the Standing Orders are as follows:

1. **Classification of workmen.** The Standing Orders classify the workmen as:
 - 1) permanent
 - 2) probationers
 - 3) badlis (one working in place of a permanent workman or probationer)
 - 4) temporary
 - 5) apprentices
2. **Tickets.** Every workman shall be given a permanent ticket, badli card, apprentice ticket or temporary ticket depending on the nature of his employment. Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service.
3. **Publication of working time.** The periods and hours of work for all classes of workmen in each shift shall be exhibited in Urdu and in the principal language of workmen employed in the industrial or commercial establishment.
4. **Publication of holidays and pay days**
5. **Publication of wage rates**

6. **Shift working.** Working of more than one shift is discretionary of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's prior notice to such discontinuance, provided that no such notice shall be necessary if, as a result of the discontinuance of the shift working, no permanent employee will be discharged.

It is important to note that the above mentioned clause of the Ordinance applies only to 'permanent workers' and thus if an employer is hiring workers on a temporary basis, this clause will not be applicable to him. This and other such regulations which exist with regard to the employment conditions of the permanent workers have been instrumental in creating a tendency amongst the employers to hire temporary or contract labour.

7. **Attendance and late coming.**
8. **Leave.** Holidays and leave with pay shall be allowed for annual holidays, festival holidays, casual leave and sick leave and other holidays in accordance with the law, contract, custom and usage.
9. **Casual leave.**
10. **Payment of wages.**
- 10.1 **Group incentive scheme.** In every industrial establishment which is a factory and in which fifty or more workers are employed there shall be introduced from such date as may be specified by the Provincial Government, by notification in the Gazette, a group incentive scheme to provide incentive for greater production to groups of workers employed in the factory. The scheme shall provide the manner in which the performance of different groups of workmen, whether in the same section, shops, departments or shifts shall be evaluated. The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the other group of workers whose production exceeds that of the other group of workers.
- 10.2 **Compulsory Group Insurance.** The employer shall have all the permanent workers employed insured against natural death and disability and death and disability arising out of contingencies not covered by the Workmen's Compensation Act, 1923 or the Provincial Employees Social Security Ordinance, 1965. The amount for which each workman shall be insured shall not be less than the amount of compensation specified in Schedule IV of the Workmen's Compensation Act, 1923.
- 10.3 **Payment of Bonus.** Every employer making profit in any year shall pay for that year within the three months of the closing of that year to the workmen, who have been in his employment in that year for a continuous period of not less than ninety days, a bonus in addition to the wages payable to such workmen. The amount of the bonus payable shall, if the amount of the profit is not more than the aggregate of one month's wages of the workmen employed, be not less than the amount of such aggregate, subject to the maximum of thirty percent of such profit.
11. **Stoppage of work.** The employer may, at any time of a natural calamity or other cause beyond his control, stop any section of the establishment, wholly or partially for any period or periods or without notice. If after stoppage, the workers are detained for a period of more than one hour, they shall be paid for the whole of the time, for which they are detained as a result of stoppage. In cases where workmen are laid off on account of failure of the plant, a temporary curtailment of production or any stoppage of work, they shall be paid by the employer an amount equal to one half of their daily wages during the first

fourteen days of lay-off as compensation. When, however, the workmen have to be laid-off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them due notice or pay in lieu thereof.

12. **Closure of establishment.** No employer shall terminate the employment of more than 50% of the workmen or close down the whole of the establishment without prior permission of the Labour court in this behalf, except in the event of fire, catastrophe, stoppage of power supply, epidemics or civil commotion.
13. **Termination of employment.** For terminating the employment of a permanent workman, for any reason other than misconduct, one month's notice shall be given either by the employer or the workman. One month's wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in lieu of notice. Temporary workmen, probationers or badlis shall not be entitled to a notice or payment of wages if his services are terminated by the employer.
14. **Procedure for retrenchment.**
15. **Re-employment of retrenched workmen.**
16. **Punishments.** A workman may be fined or reprimanded in the manner prescribed in the payment of wages act, 1936, upto three paise in a rupee of the wages payable to him in a month, for disregard or disobedience, improper behavior, making false or misleading statements, inefficient, dilatory, careless, wasteful or malingering behaviour. A workman found guilty of misconduct shall be liable to fine, withholding of increment, reduction to a lower post or dismissal without pay.
17. **Eviction from residential accommodation.**
18. **Provident Fund.** (Omitted by labour laws (amdt.)act, 1972.)
19. **Grievance procedure.**
20. **Certificate of termination of service**
21. **Liability of employer.**

3.24 *It can be seen from the above mentioned sections and clauses of the Standing Orders that a permanent worker is given a great degree of protection in these laws as compared to temporary workers, especially in case of termination of employment. This is one of the reasons why there is a growing trend in the industry to hire contract labour and the employers can avoid a number of laws in that way.*

3.25 *Moreover, since these Standing Orders are applicable only to industrial and commercial establishments hiring twenty or more workers, a trend to break up larger units into smaller ones, each employing less than twenty workers, has become quite popular especially in case of small scale sector enterprises. This is harmful to the process of industrialization in the long run as it:*

- 1) *Hampers the productivity and efficiency gains which could be achieved through economies of scale.*

ii) *Due to perpetually small (less than twenty workers) scale of the enterprise, the management potential never really grows.*

3.26 *The excessively stringent nature of these regulations are, therefore, doing more harm than good for the industry, as the real benefits of these rules seldom accrue to the workers.*

(C) National Industrial Relations Commission (procedure and functions) Regulation, 1973.

3.27 The NIRC basically deals with the registration procedures and activities of industry wise trade unions (refer to appendix 7). The maximum number of the executive of an industry wise trade union is specified as below:

Where the number of workers employed in the establishment is not more than:	Max. no. of persons forming the executive of the trade union shall be:
50	5
100	8
200	10
300	12
400	14
500	16
600	18
1000	20
5000	25

3.28 The commission maintains a register of the industry wise trade unions in form 'I' and a register of federations of such trade unions and federations at the national level in form 'J'. The annual returns are to be furnished by a registered industry wise trade union, a registered federation of such trade unions at the national level, submitted to the Registrar by the 30th day of April each year. This would be in form 'K'.

3.29 The commission also set the procedures for the determination of a collective bargaining agent, settling of industrial disputes and trials of offences.

SECTION II : INSTITUTIONAL MATTERS.

Formal and Informal Credit Systems.

3.30 Formal credit system include the various nationalized commercial banks, co-operative societies, Small Business Development Corporation (SBFC), International Development Association (IDA), Agricultural Development Bank of Pakistan (ADBP) and the Provincial Small Industries Corporations. Through these formal lines of credit short, medium and long term loans can be obtained. However, the average small scale businessman is seldom able to secure credit through these sources due to two main reasons. Firstly, in order to secure a loan from these formal sources, the businessman is required to provide a collateral. Small scale, especially micro-level enterprises usually do not have enough collateral to qualify for credit. Secondly, even if collateral is available, the procedures of loan sanctioning at these institutions are so long and heavily bureaucratic

that the businessman is often too daunted to apply. Moreover, small scale enterprises are usually set up as either sole proprietorships or partnerships. Securing a loan is extremely difficult for these enterprises as banks prefer to deal with registered companies as compared to individuals. This should lead to giving incentive to the small scale entrepreneurs to establish limited companies. However, it is actually acting as a disincentive as access to formal credit is not guaranteed even if limited companies are set up. Therefore, it eventually translates into a general disappointment from formal credit sources leading the businessmen to seek informal sources of credit. The informal credit system is more efficient but at times abnormally high interest rates are charged for the amount lent. This interest rate can be as high as 50%. Informal credit is also sometimes provided by the buyer in the form of an advance payment. However, this form of credit also carries an undefined interest cost to it as, invariably, the customer who pays in advance demands some sort of discount in the total price of the product.

- 3.31 In addition to the above export oriented industries are provided credit through the Export Refinance Scheme. Under this, an exporter can obtain credit upto 66% of the value of the export order. This scheme has generally helped the small and medium scale exporters in providing prompt and timely credit. A concessionary rate of interest (6%) is charged for refinance credit. However, a few businessmen interviewed by EPRU expressed the opinion that this scheme is also being excessively misused by some exporters. Nevertheless, exporters are generally satisfied by this arrangement.

Promotional Institutions.

- 3.32 Promotional Institutions set up by the government to patronize small scale industry include the Provincial Small Industries Corporation and their subsidiaries. These corporations were established with a view to providing training, advice, credit and common facilities to the small scale industry. The objective is to introduce new production techniques and improve the quality as well as the quantity of the output of small scale industries. The industries to which the Punjab Small Industries Corporation is providing assistance include ceramics and pottery, leather, metallurgy, light engineering, cutlery and surgical instruments, carpet weaving and sports goods. The assistance is provided at the various training centres and subsidiaries of PSIC which include:

- i) Institute of Ceramics, Gujrat.
- ii) Institute of Leather Technology, Gujranwala.
- iii) Institute of Pottery Development, Shahdara, Lahore.
- iv) Metal Industries Development Centre, Sialkot.
- v) Cutlery and Small Tools Industries Service Centre, Wazirabad.
- vi) Sports Goods Service Centre, Sialkot.
- vii) Wood Working Service Centre, Gujrat.
- viii) Light Engineering Service Centre, Gujranwala.
- ix) Carpet Weaving Training Centres; 53 centres in the various small cities in Punjab.

- 3.33 *The training provided at these centres is highly questionable and leaves a lot to be desired. Indeed a sweeping reform of these centres could play an important role in stimulating SSI development. These centres provide a useful physical infrastructural base for promoting SSI. Their limited utility is largely due to organisational shortcomings and lack of resources. If the private sector and technical assistance programmes of aid donors could be integrated with these centres, the effect on selective SSI sub-sectors could be considerable.*

- 3.34 In addition to these, the Punjab Small Industries Corporation is controlling about 16 industrial estates, half of which are almost fully colonized while the remaining are in the

process of development. The industrial estates scheme provides industrial plots which are equipped with all the basic infrastructural facilities. These plots are allotted to businessmen on easy terms and financial assistance is also provided in the form of purchase of machinery and cash, both in foreign as well as local currencies. These loans are arranged through the commercial banks and the Industrial Development Bank of Pakistan (IDBP). It was frequently alleged that these sanctions are not made on the merits of the project but determined by the contacts and resources of the businessman.

Impact of the Various Regulatory Policies on Different Stages of Business Growth.

3.35 Small scale business enterprises pass through various stages of development as they grow and expand their operations. One such model of the growth of small business concerns has been presented by Churchill and Lewis⁽⁶⁾ in which they have identified five stages of small business development, namely, Existence, Survival, Success, Take-off and Maturity. The factors which distinguish one stage from the other include size, diversity and complexity of the operations. Consequently, different types of skills, management style, organization structure and extent of formal systems is also needed at each of these stages of growth. According to this theoretical framework, the owner's involvement in the business should be reduced as the enterprise develops into a profitable business concern.⁽⁷⁾ Professional management should be hired so as to guide the business along more profitable lines and optimize the resources of the enterprise.

3.36 Pakistani businessmen have been blamed for their unwillingness to delegate control to the professional managers and the lack of development of formal systems at their business concerns. Many explanations have been given in this regard relating to the inavailability of good professional managers and the lack of training and formal education of most of the business owners. However, one aspect has always been neglected while considering the various aspects of business growth and that is the impact of the regulatory framework on the various stages of business growth. Initial analysis of the above mentioned aspects of the regulatory framework and its implementation procedures indicates that as the business grows, the scope of profitable operations is narrowed by the imposition of these laws, i.e. income tax and labour laws. Therefore, after the survival phase⁽⁸⁾, the horizontal growth of the business becomes less profitable, due to the increased degree of regulations and controls, as compared to vertical growth. As a result, at that stage, instead of expansion most business enterprises split into smaller units and thus evade the regulatory controls associated with expansion. This trend is detrimental to the longer run development of the industry as it curtails the opportunity to :

- i) Hire and develop professional management which could run the business along more profitable lines.
- ii) Invest in fixed assets, modern machinery and technical training of the workers.
- iii) Failure of the establishment to grow and reap the benefits of economies of scale.

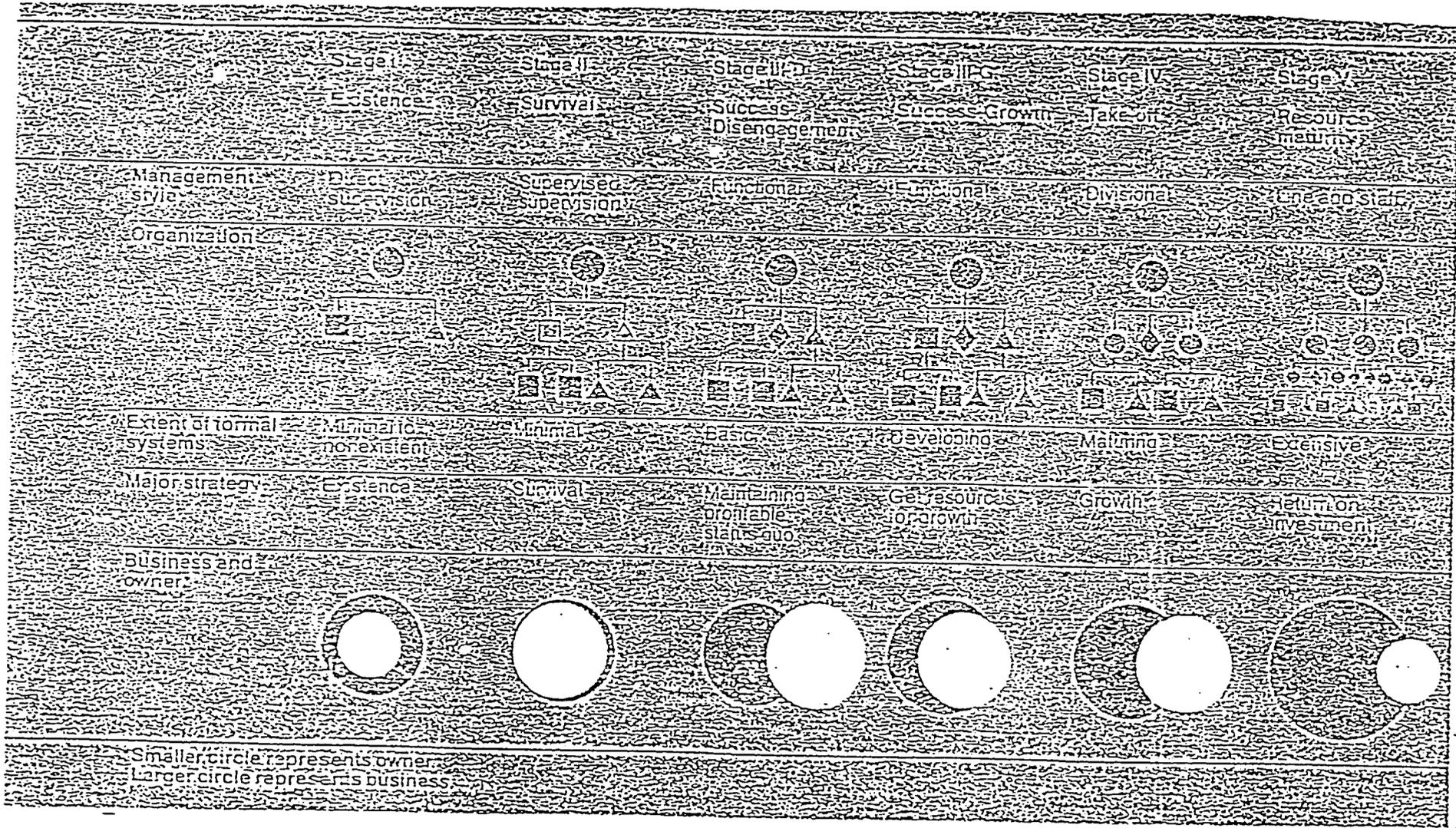
6. Churchill, Neil C, and Lewis, Virginia L., The five stages of small business growth Harvard Business Review (May-June 1989), PP. 30-51

7. See figure Characteristics Of Small Business At Each Stage Of Development.

8. Ibid.

Figure 1

CHARACTERISTICS OF SMALL BUSINESS
AT EACH STAGE OF DEVELOPMENT



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- 4.01 The scope of the study was limited to medium and small scale business enterprises located in the urban areas of the Punjab province. As mentioned earlier, the principal focus is on SSI. Areas covered included important industrial centers like Lahore, Sialkot and Gujranwala. The survey encompassed five industry sub-sectors. A total of eighteen enterprises were covered in the survey. Thus results should be treated with the caution duly reserved for small sample size.

Industry Sub-Sectors Considered.

- 4.02 Five sub-sectors were considered while doing the survey in order to make a diverse and multi-variate sample. While selecting the sub-sectors, an attempt was made to focus on those industries in which medium and small scale units account for a significant portion of the total production. Most of these industries are based on highly labour intensive processes and indigenous technologies. The industry sub-sectors considered were as follows:

1. Surgical Instruments Industry.
2. Carpets (Hand Knotted) Industry.
3. Electric Fans Industry.
4. Furniture Industry.
5. Packaging Industry.

Surgical Instruments Industry.

- 4.03 Basically concentrated in the Sialkot district, the surgical instruments industry has existed since the time of united India. After partition, this industry made great progress and emerged as a significant export earning industry for Pakistan. The industry is comprised of various large, medium and small scale units located in and around the city of Sialkot. The industry consists predominantly of small scale producers. Main concentration is seen in the Industrial Estate (SIE) established by the Punjab Small Industries Corporation (PSIC). The Industrial Estate in Sialkot is spread over an area of 98 acres and is supplied with all the basic infra-structural facilities like water, power and telecommunications. PSIC is now setting up another industrial estate in Sialkot over an area of about 100 acres. In addition to providing infrastructural support, the industry is also supplied technical assistance in the form of technical advice and use of common facilities at the Metal Industries Development Centre (MIDC), a subsidiary of PSIC.⁽¹⁾

1. An evaluation of the role of MIDC in promoting SSI in Sialkot is made in EPRU : Assessment Of MIDC Performance. (Lahore, 1990). Netherlands Government.

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CHAPTER 4

BASIC INFORMATION ON SSI SUB-SECTORS SURVEYED.

4.04 The export performance of the industry over the past few years can be seen in Table 1.

TABLE 1 EXPORT OF SURGICAL INSTRUMENTS BY VALUE	
Year	Value (Rs in million)
1969-70	15
1970-71	18
1971-72	23
1972-73	45
1973-74	85
1974-75	129
1975-76	131
1976-77	134
1977-78	161
1978-79	211
1979-80	240
1980-81	264
1981-82	252
1982-83	287
1983-84	430
1984-85	774
1985-86	842
1986-87	956
1987-88	998
Jul-Mar	
1987-88	624
1988-89	662

Source: Pakistan Economic Survey 1989-90

4.05 As can be seen from table 1, the surgical goods industry has been booming since 1982. In the next six years, export revenues increased by over 300%. Given that the annual inflation rate has averaged around 12% over the period, the growth rate in revenues is substantial. SSI in Sialkot's surgical goods industry have been doing extremely well during this boom. It may, however, be quite significant that most of the small units have adjusted to the favourable market conditions by increasing sub-contracted labour, rather than enlarging plant size. This appears to be due to a combination of entrepreneur's expectation regarding duration of boom and penalties imposed by the regulatory framework.

4.06 A significant decline in the unit value of the exports has been seen in the past five years. According to one estimate, the decrease in the prices is in the vicinity of 50 percent, in nominal terms. Many reasons are cited for this deterioration in prices, the major ones being:

- i) The price deterioration is a universal phenomenon which is due to the increased competition in the international market. Low cost producers like China, South Korea and Taiwan have almost driven countries like Britain and West Germany out of the general surgical goods industry. These countries have now resorted to an upward segmentation

strategy, that is, making only specialized instruments which are of very high precision and quality. This leaves behind the low quality/low price "disposable kit" end of the market available for the low cost producers. Most of the surgical instruments exported from Pakistan are comprised of these low quality/low price products. Since price is the key variable, therefore, in order to be competitive in the international market, the quality aspect is often compromised with.

- ii) Price deterioration is a direct consequence of the declining quality of the output. High import duties are levied on stainless steel, the basic raw material for the industry, which makes it unfeasible for the average producer to use it, despite the compensatory rebate given to the industry. Local raw material supplied by the steel mills (steel re-rolling units) is cheap and of a sub-standard quality which makes for the low quality of the final product. However, since these low quality products are ideal for the "disposable kit" market, the producers find it more economical and profitable to produce them and sell at low prices.
- iii) It is claimed that some exporters are misusing the Export Refinance Scheme introduced by the Government. According to the scheme, an exporter can get refinance upto 66% of the value of the exports. In case an exporter fails to export goods worth the same amount as that of the previous year, he has to remit the credit. Therefore, in order to keep their export figures at par with those of the previous year's, the producers tend to quote very low prices and make up for it by reducing the product quality. The impact of this pressure is amplified as other sources of credit are few and difficult to attain. Consequently, a strong trend of price reduction and quality deterioration is seen in the industry.

Carpets Industry.

- 4.07 The Carpets Industry is another important export oriented industry which is based on the traditional craft of carpet weaving. Pakistani hand-knotted carpets are renowned the world over for their intricate oriental designs and fine craftsmanship. The exports of carpets and rugs from Pakistan have shown a mixed trend over the years. However, the unit value alongwith the total value of exports has shown an overall increasing trend during the last few years. The export figures for the year 1975-76 to 1988-89 are given in Table 2. Since 1987 there has been a substantial decline in the number of woolen carpets exported. Concern over this trend was expressed in the Trade Policy statement issued by the Commerce Minister on 29-06-90. A Rs.2 million donation has been made towards a carpets training institute -- a grant which appears somewhat peripheral to the structural problems faced by this industry.

TABLE 2 EXPORTS OF CARPETS AND RUGS			
Years	Value (Rs in millions)	Quantity (mil sq.metre)	Unit Value (Rs/sq metre)
1975-76	719	2.0	359.5
1976-77	912	2.1	434.3
1977-78	1171	1.9	616.3
1978-79	1765	2.5	706.0
1979-80	2198	2.7	814.1
1980-81	2243	2.5	897.2
1981-82	1679	1.9	883.7
1982-83	1913	2.2	869.5
1983-84	2323	4.7	494.3
1984-85	2031	2.1	967.1
1985-86	2693	2.7	997.4
1986-87	3439	2.8	1228.0
1987-88	4445	3.1	1434.0
Jul-Mar			
1987-88	3212	2.2	1460.0
1988-89	3051	2.1	1453.0

Source : Pakistan Economic Survey 1989-90

4.08

The process of making hand-knotted carpets is extremely labour intensive and time consuming. The industry exists largely as very small scale cottage enterprises which are usually family owned and rural based. These micro-level producers act as sub-contractors for larger scale producers, dealers or exporters. As such they are eternally dependent on these dealers and exporters due to lack of capital and access to urban and export markets. The dealers provide these cottage sector producers the essential raw materials needed, i.e. woolen yarn of the desired colors and quality, and some cash in advance to equip themselves with the carpet weaving looms. As such, the dealers have greater bargaining power over the manufacturers due to their financial resources. A few of the dealers were asked as to why they do not set up small carpet weaving factories in these rural areas since this would definitely lead not only to productivity gains but also to better quality control. In response, they gave 'excessive interference from the labour department' as the main reason impeding the establishment of organized production units. Other reasons cited included lack of availability of permanent labour since the rural manufacturers are usually associated with agriculture also. Therefore, during plantation and harvest time, they devote all their efforts to these activities which result in critical seasonal shortages of labour. However, if given proper incentives in the form of better income generation prospects, this vast pool of rural labour could be better utilized.

Electric Fans Industry

- 4.09 The electric fans industry is mainly concentrated in the Gujranwala and Gujrat districts. It is comprised of many cottage and small scale units with only a few medium and large scale ones. Cottage sector is basically engaged in the production of components like blades, motors, and transformers. These components are then sold to small and medium scale producers who assemble these parts to make the complete fan. These assemblers sell their output either through dealers with their own brand name or act as subcontractors for larger manufacturers.
- 4.10 Electric fans have wide ranging application both in the consumer as well as in the industrial markets. Apart from being used as ceiling or pedestal fans, these are also used for making exhaust fans, air conditioners and desert coolers. Due to this diversity of application, the electric fans industry has shown tremendous growth during the last few years. However, this has given rise to a lot of fierce competition also. This, coupled with the general lack of quality consciousness, has led to deterioration of the quality of fans produced. High rate of duty on imported raw material (electric sheets) is another factor pushing the industry towards substituting it with low quality local raw material which makes for the poor quality. The production of fans has been stagnating with no significant increase over the years. The production figures are given in Table 3. The output in 1987-88 was the same as 1975-76, a figure indicative of the problems faced by this sector.

Years	Total Fans ('000 Nos)
1965-66	186.4
1966-67	208.9
1967-68	210.2
1968-69	166.3
1969-70	161.9
1970-71	215.7
1971-72	201.1
1972-73	233.0
1973-74	191.0
1974-75	193.2
1975-76	143.2
1976-77	175.8
1977-78	207.2
1978-79	207.4
1979-80	288.5
1980-81	245.3
1981-82	215.6
1982-83	132.2
1983-84	200.8
1984-85	178.8
1985-86	190.1
1986-87	208.2
1987-88	146.1

Source: Pakistan Economic Survey 1989-90

Furniture Industry

- 4.11 The furniture industry, basically a crafts industry, has shown considerable growth over the years. This has been due to the general improvement in the standard of living of the people. One of the key problems currently being faced by the industry relates to raw material. Pakistan's high quality forest wood is being used for fuel. There is large scale deforestation. Wood is likely to become increasingly expensive; a trend which has already affected producers in recent years. The local supply of wood is stated to be insufficient in quantity and inferior in quality. Import of wood for furniture making is not allowed by the government. The production statistics of the industry for the years 1969-70 to 1984-85 are given in Table 4.

Years	(Rs in Millions)
1969-70	18
1975-76	33
1976-77	23
1977-78	32
1978-79	35
1979-80	64
1980-81	85
1981-82	79
1982-83	148
1983-84	130
1984-85	238

Source: Pakistan Economic Survey 1989-90

- 4.12 From the data presented above, it can be seen that the growth in this industry has not been very steady and there have been quite frequent fluctuations in the value of the output. This has led to dissatisfaction amongst the producers who claim that government policies regarding the import of raw material for this industry are largely to be blamed for this uneven trend.

Packaging Industry

- 4.13 Packaging has become a necessary part of all marketing activities. Consequently, the packaging industry has shown sizable growth during the past few years. However, most of the growth in the industry has been in the informal sector while very few establishments exist in the formal sector. In the informal sector, these establishments operate as micro-level enterprises which are set up by making use of manually driven indigenous cutting and pressing dies and machines. Fluting paper, the basic raw material needed for making the packages, is either imported or made locally by a few paper mills in the country. A strong oligopolistic market mechanism controlling the import and manufacture of fluting paper makes these small scale producers vulnerable to price fluctuations and market instability. At times the mills refuse to supply the raw material on credit which puts the squeeze on the small scale sector enterprises since they have little

access to formal credit sources. They, therefore, have to resort to informal sources of credit which command abnormally high interest rates.

Constraints in Gathering Data.

- 4.14 Many constraints were encountered in gathering primary data for the survey. Respondents were, often wary of expressing their opinion openly. Major constraints in data collection were as follows:

Hesitation From the Small Scale Businessmen

- 4.15 As mentioned above, some of the small scale businessmen were rather reluctant to answer the questions as they were afraid that any information which they divulge might be reported to the concerned government departments and used as evidence against them. Moreover, since most of them were availing the simplified assessment procedure (SAP) for filing their income tax returns, they had understated their income, hence were hesitant to quote the actual production and capacity figures. Similarly, quite a few respondents also gave lower than actual figures for the employees working in their establishments. This was out of fear of the labour laws which are enforced on firms hiring ten or more employees.

Vague Idea of Actual Capacity

- 4.16 Due to the high labour intensity of the industries and availability of contract labour, many entrepreneurs did not have a clear idea of their actual production capacities. Especially in the carpet industry, since most of the work is done by sub-contracting to cottage sector, the capacity figures quoted were quite vague. Moreover, in other sub-sectors, as the production technologies were basically indigenous and manually driven, they did not have any proper rated capacities as the rate of production varied according to the dexterity of the operator.

Small Scale of the Sample

- 4.17 While carrying out the study, it was strongly felt that the sample size for the survey was very small for the findings to be statistically significant upto a reasonable degree of certainty. It was, therefore, attempted to increase the sample size from a minimum of twelve enterprises, as given in the terms of reference, to eighteen. The number of industry sub-sectors were also increased from four to five. This increase in the sample size helped in making the findings slightly more representative. However, for individual sub-sectors, the number of enterprises was still quite small to make it representative of the total population. Nevertheless, the study helped in highlighting some of the problems and difficulties being faced by the medium and small scale entrepreneurs with regard to the legal and regulatory framework. It also aided in indicating the trends in hiring labour and the usefulness of the assistance given by PSIC and its subsidiaries.

Location and Reach to Distant Areas

- 4.18 Cottage and small scale industries located in the rural and less developed areas were difficult to be reached by the survey team due to long distances and sporadic location of these enterprises. Therefore, although it was desired that some of these enterprises should be covered, the survey was largely limited to the urban based enterprises.

Time Constraint

- 4.19 Time constraint was another factor in limiting the scope of the survey which had to be confined to a narrow spectrum of the medium and small scale enterprises operating in the country. It is felt that with a bigger and more representative sample covering other industry sub-sectors also, more specific recommendations could be made applicable to most of the small and medium scale enterprises.

CHAPTER 5

SURVEY RESULTS.

Methodology of the Survey.

- 5.01 Primary data for the study was sought with the help of a survey covering five industry sub-sectors and a total of eighteen enterprises. The survey was based on a standard set of questions which were asked from all the respondents. The questions asked were intended to get the basic information on respondent regarding his scale of operations, the mode of employment and the major problems faced by them regarding the legal and regulatory framework. The enterprises were selected on a random basis taking care that the sample should contain atleast one medium scale enterprise in each sub-sector.
- 5.02 Secondary data relating to the legal and regulatory framework concerning medium and small scale enterprises was collected by visiting the various government departments responsible for implementing these policies and procedures. High ranking officials were interviewed and their opinions taken. These departments included the Central Excise and Taxation Department, Labour and Industrial Relations Department and The Industrial Relations Institute.

Designing of the Questionnaire

- 5.03 The questionnaire was designed to provide basic data on the enterprises with regard to their, capital base, production capacity, scale of operations, number of employees and the usual mode of employment. The entrepreneurs were also asked about their relationship with the various government departments like income tax department, labour department, excise and sales tax and the Punjab Small Industries Corporation (PSIC).
- 5.04 Both open and close ended questions were asked in order to get qualitative as well as quantitative data. Entrepreneurs were asked about their satisfaction or dissatisfaction with the various government departments responsible for the implementation of the regulatory policies. They were also asked about the major impediments to the growth of that particular industry and any suggestions they could make to improve the existing policy framework and its implementation.

Survey Findings

- 5.05 The survey results are analysed (i) generally to include all industry sectors and (ii) particularly for each sub-sector considered. The objective of this approach is to first have a cross-sectional view to see the over-all industry trends and identify problem areas which are common to all small scale sector enterprises. After that, data pertaining to particular sub-sectors is analysed to focus on problems which are specific to these sub-sectors.

Overall and Sectoral Trends Observed

The following trends were observed from the survey regarding all sectors and for each industry sub-sector. In the data relating to all sectors, responses which were unique to a particular sub-sector are not included.

Capital base

- 5.07 The average capital base of the enterprises was computed to be around Rs 89,33,333. This includes the value of fixed assets as well as the working capital. However, the actual capital base is believed to be much more as there was a general tendency

amongst the entrepreneurs to understate their investment in the business. This was partly due to the fear of the income tax department and partly due to lack of proper documentation and cost control systems. The average capital base for the sub-sectors is as follows:

Sector	No of Respondents	Average Capital Base
Surgical Instruments	4	29,50,000
Carpets	3	3,19,33,333
Electric Fans	4	77,75,000
Furniture	4	52,25,000
Packaging	3	4,00,000
All Sectors	18	89,33,333

5.08 It can be seen from the table above that the carpets industry has the largest capital base out of all the industries. This is because these entrepreneurs were basically dealers who act as money lenders to the system. Packaging industry has the lowest capital base because all the enterprises surveyed were micro-level establishments which were operating mostly in the informal sector.

Access to Credit

5.09 Out of the eighteen enterprises surveyed, nine (50%) were availing credit of some sort. Of these, six (33.33%) had access to formal credit from banks as export refinance, working capital or machinery loans. For these loans, the interest rate varied from concessionary credit of 6% for machinery loans and export refinance to 16% for regular working capital loans. The remaining three (16.67%) were using informal credit from friends or relatives for which the interest rate varied from 0%, in case of advances from customers, to 50% in certain cases. Only two out of the eighteen (11.1%) had taken long term loans while the rest (38.9%) were utilizing short term loans basically for their working capital requirements. This trend was partly due to lack of access to long term finance and partly because of the greater need of working capital, in small scale enterprises, as compared to investment in fixed assets. A sectoral analysis of access to credit is given in Table 2.

Sector	Availing Credit		Type of Credit		Source of Credit	
	No	% age	*LT	*ST	Formal	Informal
All Sectors	9	50%	2 11.1%	7 38.9%	6 33.3%	3 16.7%
Surgical Instruments	3	75%	1	2	3	0
Carpets	2	67%	0	2	1	1
Electric Fans	1	25%	0	1	1	0
Furniture	2	50%	1	1	1	1
Packaging	1	33%	0	1	0	1

* LT : Long Term Credit

* ST : Short Term Credit

Employment Generation and Mode of Employment

5.10 The carpet industry was excluded from the computation of average number of workers per unit. Their information was unreliable due to the high degree of subcontracting arrangements. Disregarding the carpet industry, the average for the remaining enterprises came to around 39 workers per enterprise. The average number of employees for each sub-sector is presented in Table 3.

Sector	Average no. of Employees*
All Sectors	39
Surgical Instruments	34
Carpets	N.A.
Electric Fans	64
Furniture	42
Packaging	10

* These figures include indirect labour also.

5.11 The carpets industry is an exception because of its unique characteristics. Firstly, the industry is rural based and manufacturing is done through contractor system. Since the producers are mostly in the cottage sector, therefore it is easy for the dealers to sub-contract to them and hoodwink the labour department. Secondly, the industry is inherently very labour intensive and time consuming. Apart from the carpets industry, the number of employees in the remaining sub-sectors ranges from 10-64 with the overall average of 39. Mostly the number of employees was less than 20 for small scale enterprises whereas it was more than 20 for medium scale enterprises. The tendency to keep less than 20 workers was basically due to evasion of rules and regulations laid out in the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 which is applicable to all industrial and commercial establishments employing twenty or more workers. For micro-level enterprises, like in the packaging industry, the number of employees was never quoted higher than ten, including the owner. This was usually an understated figure so as to remain out of the range of the Factories Act 1934 which applies to all industrial establishments employing ten or more workers.

5.12 The modes of employment being used by the medium and small scale sector enterprises surveyed are given in Table 4. The figures do not tally because of multiple modes of employment being used at some enterprises. It can be seen that the most common mode of employment is through informal contract system in which the labour is either employed through a contractor or labour is employed on a monthly pay basis but no formal record or documentation is maintained. In either case, the employer can manage to evade interference from the labour department inspectors. Sector wise breakdown of the modes of employment also show more or less the same pattern.

Sector	Total No.	Informal Contract	Daily Wages	Piece Rate	Formal Contract
All Sectors	18 100.0%	14 77.78%	8 44.44%	7 38.89%	1 5.56%
Surgical Instruments	4	3	1	3	0
Carpets	3	3	1	1	0
Electric Fans	4	4	0	1	1
Furniture	4	2	4	2	0
Packaging	3	2	2	0	0

Production and Capacity Utilization

5.13 Estimating the production capacity of the small scale enterprises is at times not only difficult but also quite erroneous as the owners themselves do not have an exact idea of the actual capacity. As mentioned earlier, since most of the processes are manually driven and a lot of work is done through sub-contracting, there exists a great deal of flexibility in the volume of production for these micro-level enterprises. Sector wise

production and capacity utilization figures are given in Table 5. Most of the enterprises interviewed noted that they viewed production capacity in terms of ability to sub-contract. Thus their estimates were clearly unrealistic and we have not used them. Average production figures for the sub-sector are given in the table below.

TABLE 5 PRODUCTION AND CAPACITY UTILIZATION				
Sector	Production Capacity	(Unit)	Average Production	Capacity Utilization
Surgical Instruments	N.A.	Pcs.	38100	N.A.
Carpets	N.A.	Sq.ft.	71400	N.A.
Electric Fans	N.A.	Pcs.	24750	N.A.
Furniture	N.A.	Pcs.	722	N.A.
Packaging	33000	Boxes	23000	69.7%

N.A.: Not Available

Future Plans.

5.14 The owners were also asked about their future plans regarding growth and expansion. Since it was felt that there was a growing trend in the industry to establish multiple small scale units instead of expansion of the original one, this aspect was especially probed into. The industry wide and sectoral trends indicated are as follows;

TABLE 6 FUTURE PLANS					
Sector	No. of Resp.	Expansion	Set up other Unit	Quit	N.R.
All Sectors	18	5 27.8%	3 16.7%	3 16.7%	7 38.8%
Surgical Inst.	4	1	2	1	0
Carpets	3	0	0	0	3
Electric Fans	4	2	0	1	1
Furniture	4	2	0	0	2
Packaging	3	0	1	1	1

N.R.: No response

- 5.15 It can be seen from the data that collectively about 33% of the small scale entrepreneurs either want to establish another similar set up or are desirous of getting out of that sub-sector. Most of the people who wished to set up similar units wanted to because of evasions from taxation and labour laws, which is possible for a small scale enterprise as compared to a bigger one. However, 27.8% of the respondents wanted to expand their existing establishments which is a welcome sign.
- 5.16 Sectorally, in the surgical instrument sub-sector greater inclination was seen towards setting up new units. This was probably because the industry has become very price sensitive and smaller units are not only easier to manage for the owner but are also economical because of fewer liabilities towards the workers. No response was seen from the carpets sub-sector as the enterprises covered were basically dealers and exporter who sub-contracted to the cottage sector and were not into direct manufacturing themselves. Furniture makers were desirous of expanding their existing set ups as they were basically hiring labour on piece rate(contract) or on daily wages. Therefore, although they were generally wary of the labour department, they were not directly affected by the service laws laid out in the standing orders ordinance.

Distribution Channels.

- 5.17 The distribution channels used by these small sector enterprises varied from direct retailing in the local market to exports to foreign countries. Some of these manufacturers were sub-contracting for other producers and manufacturers while a few were selling their output through dealers. The channels used by the sub-sectors were as follows;

Sector	No. of Resps.	Direct Retail	Through Dealer	Sub-contracting	Any Other (Exports)
All Sectors	18 61.1%	11 27.8%	5 27.8%	5 27.8%	5 27.8%
Surgical Inst.	4	4	0	2	3
Carpets	3	2	2	0	2
Electric Fans	4	1	3	0	0
Furniture	4	4	0	0	0
Packaging	3	0	0	3	0

N.R.: No response

- 5.18 It can be seen that most of the producers are using multiple means of selling their output. All the surgical instruments producers were into direct retailing and sub-contracting, mostly to the export markets. This also correlates well with the greater access to credit by these producers. A similar trend can be seen for the carpet dealers. Electric fan producers were mostly selling their output through dealers due to the fact that the

Industry is concentrated in a less developed area and the production can not be totally absorbed in the local (regional) market. The furniture makers were retailing directly through their own outlets while packaging producers were basically sub-contracting for the other producers. It can, therefore, be observed that the product and the markets also, to some extent, determine the credit availability and the production operations of the business concern. Marketing channels affect access to suppliers credit, particularly for working capital.

Views About Income Tax Laws and Implementation Procedures.

5.19 In the survey, the small entrepreneurs were asked about their opinion with respect to the various aspects of the regulatory framework and its implementing departments. The business community was generally dissatisfied with the income tax department. The following responses were given by the businessmen when asked whether they were satisfied with the income tax laws and their implementation procedures:

TABLE 8 Q. ARE YOU SATISFIED WITH INCOME TAX LAWS?			
	No. of Resps.	Yes	No
All Sectors	18	7 38.9%	11 61.1%
Surgical Inst.	4	2	2
Carpets	3	2	1
Electric Fans	4	2	2
Furniture	4	0	4
Packaging	3	1	2

5.20 From table 8, it can be seen that the majority of people (61.1%) are dissatisfied with the income tax laws (and implementation procedures). It should however be noted that nearly 40% of the respondents expressed satisfaction with the tax machinery. They were pleased with the self assessment scheme and, in the relevant sub-sectors, satisfied with the rebate system. Some entrepreneurs were also somewhat apprehensive of criticising tax authorities. Those who expressed dissatisfaction, gave the following as the main reasons for dissatisfaction:

Reason	No. of Resps.	%age
Discretionary powers of the ITOs	8	72.72%
Tax rates are too high	3	27.27%
There is no accountability of the ITOs	1	9.09%

5.21 It can be seen from the data presented above that the main reason for dissatisfaction for medium and small scale businessmen is the discretionary powers which rest with the income tax officers responsible for assessing the tax. Some businessmen protested that the ITOs did not accept the cost and expense receipts shown by them. They claimed that those were the only receipts that the raw material suppliers gave them. Since they were small businessmen, they could not afford to argue with them and, therefore, had to comply with their whims and wishes. It was suggested to them that they should form associations in order to increase their bargaining power with the suppliers. The association could then demand that the suppliers should provide them proper receipts of the transactions which take place. To that they responded that they had even tried that but the suppliers agreed to give them proper receipts only on cash payment. This was even worse as without the 15-20 days credit, which the suppliers normally extend to them, they would be unable to survive since their buyers also paid after 15-30 days. Upsetting of this credit cycle could be very detrimental to the survival of their business. These small scale entrepreneurs claimed that they were being exploited from both sides, that is:

- i) By the suppliers who did not give them proper receipts, and
- ii) By the ITOs who refused to accept these receipts.

Views about Labour Laws and Implementation Procedures.

5.22 In the survey, medium and small scale entrepreneurs expressed their views most vehemently about the functioning of the labour department. The response regarding their satisfaction with the department was as follows:

Table 10 Q. ARE YOU SATISFIED WITH THE LABOUR LAWS?			
Sectors	No. of Resps.	Yes	No
All Sectors	18	5 27%	13 73%
Surgical Inst.	4	1	3
Carpets	3	2	1
Electric Fans	4	3	1
Furniture	4	0	4
Packaging	3	1	2

3.23 It can be seen that the majority (73%) of the businessmen were dissatisfied with the labour laws and the implementation system. A few micro-level entrepreneurs even claimed that they were afraid to hire more workers out of fear of the labour laws and labour department. A few had even divided their establishments into two sections, each having less than twenty workers, in order to evade the labour laws. Moreover, the more stringent application of these laws in case of permanent workers as compared to contract labour has also led to the growing trend amongst the businessmen to hire contract labour. This provides an easy refuge for them to hoodwink the labour laws but harms the development and growth of the enterprise in the long run.

5.24 The main reasons for dissatisfaction with the labour department were mentioned as follows:

TABLE 11 REASONS FOR DISSATISFACTION		
Reason	No. of Resps.	%age
Corruption and faulty record keeping by the inspectors.	6	54.5%
Discretionary Powers of the labour inspectors	4	36.4%
Procedures are ill-defined and complicated	2	18.2%
Labour laws and policies are too strict and biased in favour of the workers.	3	27.3%

- 5.25 It can be seen from the reasons mentioned above that small entrepreneurs are dissatisfied with the implementation of the labour laws. The labour inspectors are said to have discretionary powers and do not maintain proper records and paper work. The procedures are also claimed to be too lengthy, involving various departments, each with its own inspectors, policies and procedures. A few businessmen were also of the view that the labour laws are unreasonably protective towards the workers and this has been the main reason for the owners to develop a preference to hire contract labour for which the laws are not that strict.

Views about the Availability of Credit.

- 5.26 Credit availability is an important aspect in the growth and development of business, especially in the start-up and growth phase. Therefore, it was deemed pertinent to enquire the views of the entrepreneurs regarding the availability of credit (formal). It includes both long term as well as short term credit. Long term machinery loans are given at a concessionary rate of 6%, by the various financial institutions established by the Government to promote industry (e.g. PICIC and IDBP). Therefore, the demand for these loans is very high. Consequently, the large scale sector, due to its greater resources, ends up securing most of these loans while the small scale sector gets crowded out. The response observed in the survey was as follows:

Table 12 Q. ARE YOU SATISFIED WITH THE AVAILABILITY OF CREDIT ?			
Sectors	No. of Resps.	Yes	No
All Sectors	18	5 27%	13 73%
Surgical Inst.	4	2	2
Carpets	3	1	2
Electric Fans	4	3	1
Furniture	4	1	3
Packaging	3	1	2

- 5.27 It can be seen that the majority (73%) of the business community seemed dissatisfied with the credit availability situation. This is not a surprising result in view of prevailing credit markets. This result is also consistent with surveys on SSI across the world, where shortage of capital has been signalled out consistently as the key constraint to SSI development. The main reasons given for the dissatisfaction were as follows:

Reason	No. of Resps.	%age
Credit is not readily available.	13	100.0%
Banks do not extend credit without collateral appropriate for SSI.	8	61.0%

5.28 It can be seen that a common cause of dissatisfaction regarding the access to formal credit is the lack of credit lines for SSI and resulting capital scarcity. This was cited unanimously by all the respondents who expressed their dissatisfaction. Complicated credit sanctioning procedures, the over-reliance on collateral and bureaucracy in the system, all lead to the inefficient and inadequate availability of credit to medium and small scale entrepreneurs. Due to the inaccessibility of long-term loans, there has been a generally low level of investment in the installation of modern machinery and equipment. This has, in turn, resulted in the deterioration of the quality of production. Moreover, this has also given impetus to the development of informal credit systems which often have a very high cost of capital. Availability of working capital loans is also very important for small scale industries as these are basically less capital intensive and, therefore, the bulk of the investment is in the form of working capital. Due to the fact that these are less capital intensive, there is little investment in fixed assets and hence the problem of inadequate collateral also intensifies. This is a serious problem faced by the medium and small scale sector and one which has traditionally been hampering its development.

Views about Excise Laws

5.29 In the survey, the following responses were recorded about the central excise laws. It is worth mentioning that most exports are exempt from the levy of excise and sales tax. Excise and Sales Tax are levied on all goods manufactured, produced or imported in Pakistan, whichever event takes place first, unless exempted by special notification. The excise rate is currently fixed at 5% of the value of the product.

Table 14 Q. ARE YOU SATISFIED WITH THE EXCISE LAWS?			
Sectors	No. of Resps.	Yes	No
All Sectors	18	12 66.7%	6 33.3%
Surgical Inst.	4	3	1
Carpets	3	2	1
Electric Fans	4	3	1
Furniture	4	2	2
Packaging	3	2	1

5.30 It can be seen that the business community seems generally satisfied with the excise taxes levied by the government. The ones who were dissatisfied were so mainly because of the high prices of inputs (raw materials) which they have to bear because of the excise duties. Since the exporters get compensated for these cost disadvantages by the compensatory rebate which is given to most export based industries, they were generally satisfied. However, a few debated that there should be a free market system devoid of these regulatory controls.

5.31 The main reasons cited for dissatisfaction were as follows:

TABLE 15 REASONS FOR DISSATISFACTION		
Reason	No. of Resps.	%age
The rate of excise duty is too high.	2	33.3%
The raw material cost gets very high.	1	16.7%
Certain exemption policies are lop-sided.	1	16.7%
Excise rate is not fixed (flat rate).	1	16.7%

5.32 It can be seen that the main source of discontentment is the excise duty rate and the ensuing increase in the cost of production. However, this does not effect the medium and small scale industries in particular but has industry wide application. In case of the packaging industry it was mentioned that there were certain exemption and licencing laws associated with certain manufacturing processes which were creating discontent in the industry. These excise policies were reported to be the major cause of the break up of

larger units (of packaging) into smaller ones. Thus in the case of packaging the excise taxes appear to be causing a break up of units, similar to those which were due to labour laws. There is an obvious need to rationalise such anomalies.

Views about Sales Tax

- 5.33 Similar to the excise duty, sales tax is also levied on all goods manufactured, produced or imported in Pakistan, except exempted by notification, at a rate of 12.5% of the value of the goods. Previously, this used to be a single point tax while in the recent finance bill (1990-91) a multiple stage concept of sales tax collection is proposed. Under this system, sales tax would be collected at each stage of value addition and wherever the sale takes place. Exports and cottage industry is exempt from the levy of sales tax.
- 5.34 The following views were expressed by the medium and small scale businessmen about the sales tax system.

Table 16 Q. ARE YOU SATISFIED WITH THE SALES TAX SYSTEM?			
Sectors	No. of Resps.	Yes	No
All Sectors	18	14 77.8%	4 22.2%
Surgical Inst.	4	3	1
Carpets	3	3	0
Electric Fans	4	2	2
Furniture	4	3	1
Packaging	3	3	0

- 5.35 It can be seen that the majority of the business community seemed satisfied with the sales tax. This was particularly so because the surgical instruments and carpets industries are basically export oriented industries which are exempted, while the packaging industry units were operating basically as cottage sector enterprises. Some dissatisfaction was seen in the fans and furniture industries which are supplying mainly to the domestic market.

Any other cause/reason for Dissatisfaction

- 5.36 Other general responses which emerged from the survey included the following : The main reason given was the low rate of compensatory rebate which is given to the exporters. The surgical instruments and carpets were the sub-sectors which expressed this concern. In their view, the existing rebate structure was not acting as an appropriate incentive for the exporter. Although mentioned in the questionnaire, patent protection laws were not cited as a cause for concern in any sub-sector.

Impediments to Growth of the Industry.

- 5.37 When asked about their views regarding the major impediments to the growth of the industry in their particular sub-sector, the medium and small scale entrepreneurs gave the following response. Factors common to more than one sub-sector are enumerated below:

Table 17 Impediments to Growth of Industry		
All sectors	No. of Resps.	%age
Availability of credit	8	44.4%
Availability/Quality of raw materials	6	33.3%
High Import duties	6	33.3%
High Income tax rates	2	11.1%

- 5.38 It was perhaps significant that the regulatory framework did not appear among the high priority constraints to the development of respective SSI sectors. This is largely because businessmen felt that the regulatory bodies and government officials could be handled through informal cash transactions. Frequently, entrepreneurs mentioned how on paper the regulations were prohibitive but in practice these were circumvented through devices such as sub-division of units or through old fashioned graft.

Assistance from PSIC.

- 5.39 The Punjab Small Industries Corporation (PSIC) provides assistance to the small scale industries in a variety of ways ranging from technical training to credit facilities. In the survey, the business community was asked about the assistance they were getting from PSIC and its subsidiaries (if any) and its impact on their business growth. The following response was observed for the various sub-sectors:

Sectors	No. of Resps.	Yes	No
All Sectors	18	5 27.8%	13 72.2%
Surgical Inst.	4	4	0
Carpets	3	0	3
Electric Fans	4	1	3
Furniture	4	0	4
Packaging	3	0	3

5.40 It can be seen that only the surgical instruments and the electric fans industry was getting assistance from PSIC in some form while the remaining sub-sectors denied having assistance of any sort from PSIC. This was surprising since PSIC claims to be operating 58 training centres for carpet weaving yet none of the carpet dealers was hiring any craftsman trained from these centres. A number of entrepreneurs in the furniture and carpets industry expressed disappointment at PSIC's efforts to promote the craft industries. PSIC was accused of being too bureaucratic, lacking in innovation and unable to stimulate creative processes which are a key to sustainable development of these traditional industries.

5.41 Assistance from PSIC was being availed in the following forms:

	No. of Resps.	%age
Technical Training	3	60.0%
Technical Advice	2	40.0%
Use of Common Facilities	3	60.0%

5.42 The surgical instruments industry was getting the most benefit from PSIC through its subsidiary, MIDC. Especially, the use of common facilities like vacuum heat treatment, laboratory testing and copy milling has helped the industry in improving its export performance. None of the enterprises surveyed were availing any form of credit from PSIC.

Suggestions for Improvement.

5.43 The following suggestions were made in order to improve the regulatory framework pertaining to medium and small scale industries.

Table 20 Suggestions for Improvement.		
All sectors	No. of Resps.	%age
Improve Labour policy and its implementation	15	83.3%
Income Tax should be simplified	2	11.1%
Reduce regulations	16	88.8%
One window facility for dealing with Government Department.	14	77.0%

5.41 The two clear suggestions regarding reform of the regulatory framework are rationalisation of labour laws and the establishment of a 'one window' facility for dealings with the government departments. Although businessmen noted that they frequently 'got around' the difficulties which arise, they expressed strong desire for reforms which would reduce their exposure to numerous officials. It was pointed out that there were too many and unrealistic regulations for SSI to comply with. A reduction in these regulations, easing of labour laws and less contact with officials are desired by entrepreneurs.

CASE STUDY 1.

FEMALE ENTREPRENEUR. SMALL SCALE UNIT, LAHORE.

- i. The owner has unusual characteristics for an entrepreneur in Pakistan. An educated female, she has built up a very successful business since its establishment in 1980. The principal investment came through family assistance, both in terms of financial savings as well as land for the rather small premises.
- ii. The owner spoke somewhat vehemently of continuous harassment by officials. She estimated that 12 different functionaries had visited her establishment during the past year. She alleged that her refusal to give bribes has involved the following difficulties.
 - a. A court notice has been issued against her regarding the financial year 1981-82. Details of transactions are being requested even though her business had just started. She claims that an arbitrary profit figure has been calculated by the income tax officer.
 - b. Her company's bank account was frozen last year and a compulsory withdrawal of tax liability was made. She subsequently keeps very little in the bank.
 - c. The labour department has sent 6 different wings to monitor her unit for regulation compliance. They have imposed a penalty on her which she thinks is illegal but wishes not to be embroiled in court proceedings.
 - d. The owner claims that she is willing to comply with all regulations and meet her tax obligations but feels that the officials are more interested in private gain rather than in ensuring welfare provision implementations.
 - e. The owner suggested the need for a single window operation to deal with the government.
 - f. With regard to future growth, the owner indicated a preference to break up her unit into small sub-categories. These sub-units would be separate firms and have a different owner, atleast on paper.

CASE STUDY 2 :

MALE ENTREPRENEUR, SMALL SCALE UNIT, SIALKOT.

- i. The owner has a thriving export business in the surgical goods sector. His father had established this enterprise in 1974. They are mainly producing surgical goods for disposable kits in the U.S.
- ii. The owner responded to the labour legislation of 1973 by resorting to large scale sub-contracting. In fact, his brothers own the units which are sub-contracting to his firm. His permanent labour force used to be 30. It is now 8. This has happened over a period when his firm has grown rapidly. He could not quote a precise figure for the amount of sub-contracted labour, but noted that it varies with orders. The highest number of sub-contracted workers he could recall was 110, early in 1990. At present, there were 50.
- iii. The owner was not unduly perturbed by regulations or regulatory bodies. He has a good working relationship with the officials. His enterprise runs smoothly and without hassle by the authorities.
- iv. The owner viewed officials as practical and experienced people. "They are more strict about enforcing legislation in large industrial units. With smaller units, such as mine, they are more pragmatic". This realism seemed to involve a private transfer of resources. "We are all practical men here. There is work to be done and we can not let every little regulation bother us".
- v. The owner was very pleased with the export incentives given by the government, particularly the export re-financing scheme.
- vi. The owner felt that the direct taxation system was least cumbersome because the self assessment scheme made his task simple.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS.

- 6.01 The importance of small scale industry lies in its capacity to absorb workers, to efficiently produce a variety of goods for the domestic market with a frugal use of scarce capital and to successfully carve a niche in selected export markets. The Government of Pakistan's industrial policy has traditionally been biased towards large capital intensive industry. The focus on import substituting consumer good units led to a neglect of small industries. Targeted programmes for SSI development have had a low priority. However, a number of developments -- such as an accelerating population growth rate, nationalisation of big industry and migration to the middle east -- have contributed to a dynamic growth of SSI in Pakistan.
- 6.02 The impact of the regulatory framework on small scale industry is analysed in this study. This assessment is based on a small survey of 18 units, interviews with officials and private sector representatives. The regulatory framework has not seriously constrained the growth of SSI in Pakistan. It is however responsible for a number of distortions and adversely affects efficiency and profitability by preventing the vertical growth of enterprises. Managerial and production economics of scale are not encouraged.
- 6.03 The major issues emerging from our survey and analysis are summarised below. A review of the impact of the regulatory framework is followed by recommendations aimed at reducing the distortions caused by the system.
- 6.04 The first point to emerge is that the regulatory framework causes little distortion to the functioning of enterprises situated at extreme ends of the size distribution. The bias towards very small size is particularly pronounced in the case of the much dreaded labour legislation. Enterprises employing less than 10 workers are exempt from the wide variety of legislative measures. Very small firms do not have to provide a range of facilities prescribed for relatively larger units; nor are they constrained by law as far as dismissing workers is concerned. The last mentioned provision is a source of considerable dissatisfaction among affected entrepreneurs who have been exerting pressure on the government to restore the right to 'hire and fire'. At the other end of the size spectrum, very large enterprises are well placed to absorb the provisions emanating from the regulatory framework. The effective increase in labour costs, due to regulations, typically represent a small fraction of total costs in large capital intensive industrial units. These establishments also have legal assistance and the administrative capacity to handle government functionaries. In addition, the owners of such firms usually have good personal relations with senior members of the bureaucracy. Government policies are frequently subsidising their activities through credit and fiscal measures which encourage investment and increase profitability. In such a favourable environment, costs associated with the regulatory framework are hardly prohibitive. Large enterprises suffer a degree of harassment from officials but their burden in this sphere is also minor compared with smaller units. The large enterprise sector also contains multinationals, who often actively collaborate with agencies such as the International Labour Office (ILO) in enforcing required measures for their work force.
- 6.05 The implication of the above is that the regulatory framework bears down most heavily on enterprises which do not fall into the two extremes of scale. There is no precise upper limit, but enterprises which employ more than 10 workers but less than 100 are in the range which bears the brunt of regulations. Unlike large enterprises, they are usually engaged in more labour intensive production. This involves a plethora of regulations which must be enforced in highly competitive market structures. Quite often these SSI are in export sectors which do not involve protection often given to import substituting units. SSI operating under these conditions are least able to withstand the implicit reduction in profitability, imposed by labour and tax regulations. The personal characteristics of these entrepreneurs are also not favourable towards dealing with regulatory bodies. SSI owners

are often illiterate and ill-informed about regulations. They are thus open to greater harassment from government functionaries.

- 6.06 A second conclusion to emerge from our analysis is that the regulatory framework is often prohibiting the development of efficient economic units. Potential economies of scale are being distorted through regulations which prevent firms from developing in certain desired directions. Two examples from our survey illustrate the point. First, in the packaging industry tax relief is given on a particular sub-process of production. In order to derive benefit from this distortionary incentive, units are sub-divided within artificial boundaries. Second, labour laws favouring very small size have led to a horizontal sub-division of enterprises. Rather than benefit from the economies of scale in aggregating functions, this horizontal sub-division increases the strain on administrative capacity. Whenever an artificial sub-division of enterprise occurs - for example, by dividing a firm of 38 workers into four firms employing less than 10 each to evade labour legislation -- the firm's relationship with the regulatory bodies is weakened. Aware of artificial distortions, government officials are more relaxed at implementing the law only if adequate compensation is made. Thus, instead of developing a more efficient business enterprise the entrepreneur is involved in horizontal growth, reproducing small units to avoid regulations.
- 6.07 A third point to emerge from the survey is that the regulatory framework does not meet the objectives it was designed for. For example, labour legislation was framed in the 1970's to protect workers by improving the quality of their working conditions and increasing their security of tenure. In principle, these regulations involved a transfer of income from the owners to the workers, with the state acting as an enforcing intermediary. In practice, the regulations appear to be used frequently to transfer income from owners to government functionaries, rather than to workers. Because the implementation machinery is easily distorted, the government neither receives the necessary tax revenue nor do workers receive their share of benefits. If the small entrepreneur is able to successfully bend the rules, his business growth is unaffected by regulations. Thus, the regulations are often not successful in meeting their objectives. Indeed, the net effect of some of the labour legislation may have been to increase insecurity of labour, since owners are willing to go to substantial lengths to avoid giving permanent employment.
- 6.08 Related to the above, the regulatory framework tends to reward those small entrepreneurs who can successfully manipulate the system and handle officials from the regulatory bodies. Thus an important component of success for some SSI is not related to efficiency or market responsiveness. A substantial part of the entrepreneur's time is spent in achieving successful manipulation, rather than in concentrating on efficient business development.
- 6.09 The growth of sub-contracting due to the regulatory framework was confirmed by our survey. There are two legal categories of subcontracting. First, the entrepreneur can hire workers on a temporary basis, on a particular job for which he is sub-contracted to the firm. Such workers are counted as part of the work force for labour regulations. A second category of workers are those who are employed by sub-contractors to the firm. In all the sectors surveyed, there has been an exponential growth in sub-contracted labour. These sub-contractors in turn divide their labour into units of less than 10. The growth of sub-contracting reinforces our earlier point that 1970's labour regulations may have had the perverse effect of increasing insecurity of employment for a large proportion of the workforce. At present the sub-contracting process is under review as part of forthcoming

legislation on bonded labour and sub-contracting. However, negotiations leading up to the legislation revealed deep divisions on the issue within the labour movement itself.⁽¹⁾

- 6.10 The nature of the relationship between SSI and regulatory bodies that emerges from our survey unfortunately has implications far beyond the micro manipulative level. The nature of the distorted relationship that has developed between entrepreneurs and government officials is one which does little to inculcate respect for the state. Government regulations are seen to be as good as the next 'baksheesh point'. Some of the entrepreneurs interviewed gave great details of the amount of bribes given to a variety of officials. Civil servants that EPRU spoke to acknowledged the distortions but had little to say about reforming or minimising such leakages. Such a relationship is one which contributes to an ethos of suspicion and contempt for government. The principal language of communication is bribery. At the macro economic level, when the government tries to engage in greater domestic resource mobilisation it has to encounter substantial institutional barriers from within. Individual officers have developed a personal interest in distorting the regulatory framework. The higher the number of regulations, the greater the proliferation of official agencies and the larger the opportunity to give and receive bribes. At a superficial level, such graft lubricates the system in a manner which overcomes bottlenecks. The most serious damage inflicted in the process is respect for law, regulations and authority. This environment helps create entrepreneurial attitudes which exhibit a penchant for devising ways to commit fraud, bribe officials and distort regulations. Thus a vicious circle is established. People have little faith in the government machinery which they know can be distorted. Officials view regulations as an opportunity for increasing personal incomes from eager bribers. Regulations are often bypassed but at substantive micro and macro costs to the economy and society. As one of the entrepreneurs put it, "A person would rather join the government and become a tax or a labour officer than work in my factory. The official wage I give may be higher but it is the 'chae-pani ka kharcha'⁽²⁾ which makes the difference."
- 6.11 So used have participants become to distorting regulations that a legal approach is avoided even when it is better for the actor concerned. According to one entrepreneur, he discovered that his cost of bribing tax officials was greater than his tax liability. He alleged that he tried to rectify this by making a declaration under the self assessment scheme. However, a punitive scrutiny by ITOs followed and he has subsequently reverted to former methods.
- 6.12 The lack of an effective legal machinery means that entrepreneurs are keen to settle matters through bribes rather than go through cumbersome procedures. If an entrepreneur gets caught in the legal labyrinth, he could spend a great deal of time, money and energy embroiled in a lengthy dispute. Both parties - officials and entrepreneurs - are well aware of this and act accordingly. But the lack of an effective legal system to back the regulations is a bias against the entrepreneur not the scrutinizing official. The latter can pass a judgement which embroils the former in legal procedures. This aids private settlements.
- 6.13 Our survey indicates the emergence of a possible trend which has implications for future SSI growth. Those enterprises who have access to formal credit appear to be keen to move away from labour intensive methods. The move to higher capital intensity was due not only because of higher anticipated productivity but also due to labour legislation which

1. These divisions were evident in EPRU interviews with union leaders. There are wide differences of opinion regarding the magnitude and pace of needed reform.

2. Literally translated this means cost of buying tea. This colloquial saying refers to extraction of bribes to meet living expenses.

penalises increases in labour force by raising the effective wage rate. Thus to avoid this scaling effect, SSI firms are likely to move towards greater capital intensity. To the extent that current SSI units are undercapitalised, the provision of greater formal credit would lead to such a result. It is however important to prevent labour legislation from acting as a further impetus to capital intensity, as access to credit markets increases.

RECOMMENDATIONS.

- 6.14 Ten recommendations for the rationalisation of the regulatory framework for SSI appear to merit attention. First, the limit for exemption from a number of labour laws and components of factory act provisions ought to be raised from 10 workers to possibly 50 workers. This would release a substantial section of SSI from a maze of current regulations which are not enforced but provide avenues for corruption. A detailed review would need to be made to pinpoint the regulations which are not effective at present. Their removal would ease the functioning of SSI without substantially adverse effects on tax collection or labour conditions. Indeed these objectives could be better met through the suggestion which follows. Second, in order to contribute to better labour - management relations, and in view of equity considerations, entrepreneurs should be encouraged to contribute to the building of schools and medical clinics. These welfare provisions should be industry based. The surgical goods manufacturers association, for example, could collect revenues from member enterprises to build schools and clinics for the workers of the industry. Industry specific NGOs could be established to promote and mobilise such development. In this manner, the objective of a number of current regulations would be met without involving government regulatory agencies. Entrepreneurs would feel happier contributing directly to schools and clinics. Workers would be able to see tangible benefits. Initially, experiments should be tried on a pilot basis. For example, 3 year welfare provision targets could be set for industrial groups in return for exemption from certain regulations. If entrepreneurs do not meet these targets, the cumbersome regulatory framework would be re-introduced.
- 6.15 Perhaps the strongest criticism coming from small entrepreneurs relates to the maze of regulatory bodies and officers that they have to contend with. The reform proposals in this regard lead us to the familiar request for a simplified one-window operation, wherein small enterprises only have to deal with a single government body. All regulatory measures should be dealt with by a single department. This would make the system more efficient and manageable. A separate cell for small industries would be desirable. Similar to the concept of the self assessment income tax scheme, small enterprises could make a simple return regarding the number of workers they employ, the state of working conditions and the regulations they have to comply with. Entrepreneurs should be encouraged to give proposals on the duration and the manner in which they intend to rectify shortcomings. Instead of a purely punitive approach, the government could consider encouraging the adoption of certain regulations by providing credit to small industries to comply with certain measures of the Factories Act. Similarly, environmental regulations which require an enterprise's resources could be encouraged through credit lines for the purpose.
- 6.16 A fourth recommendation relates to the low literacy level of small entrepreneurs. Entrepreneurs noted that they often found it difficult to deal with complicated regulations and to verify whether particular regulations do apply to him or whether they are arbitrarily set by the official visiting them. To strengthen the capacity of small entrepreneurs to deal with the regulatory framework, collective legal bodies could be established. Law advisory centres could be set up through contributions from members of particular SSI sub-groups. Such centres would not be expensive and would strengthen the capacity of small

entrepreneurs to deal with the regulatory framework. Such legal centres would contribute to the development of formal management practices amongst small entrepreneurs.

- 6.17 A fifth suggestion relates to the elimination, or substantial reduction, of discretionary powers given to regulatory officials. Such powers cultivate an ethos of arbitrary authority which imposes a degree of fear among small entrepreneurs. Tax regulations in particular should not be subject to individual interpretation. To reduce awe of government, it is vital to remove the substantial discretionary powers enjoyed by scrutinizing officers.
- 6.18 A sixth area of reform are municipal regulations. At present, any SSI setting up business within municipal limits has to get a No Objection Certificate (NOC) from the local authority. This is a cumbersome procedure, which can involve a great deal of time, resources and patience. For this reason, a number of units do not get themselves registered and operate in a clandestine manner. Consequently, there appears to be a need to devise a list of SSI sectors which do not require an NOC. Obviously appropriate criteria such as pollution effects and noise have to be borne in mind. Only those sectors not on the list would require an NOC from the local authority.
- 6.19 Seven, a systematic application of regulations requires a consistent definition of small scale industry. At present there are variations, such as some agencies excluding land from value of fixed assets, whereas other excludes land and buildings for the classification limits of SSI. Financial institutions, small industries corporations and the Government of Pakistan's other agencies need to evolve a consistent definition.
- 6.20 Eight, sub-contracting could be limited to a proportion of the work force. A regulation which limits the scale of sub-contracting could contribute to better labour-management relations.
- 6.21 Nine, a number of environmental laws have been promulgated recently. These are likely to be added to when the National Conservation Strategy is completed later this year. A number of SSI are affected, particularly in areas such as leather processing and shoe manufacture. The efficacy of these desirable regulations may be limited if additional officials visit SSI for their monitoring. This reinforces our earlier suggestion for a single window facility. There is a danger that the forthcoming spate of environmental regulations would add to the number of officials visiting SSI. This opportunity could be utilised to press the case for a one window operation.
- 6.22 Finally, it must be emphasised that reforms of the regulatory framework ought to concentrate more on the institutional mechanism rather than the regulations per se. The latter could be rationalised and simplified. If all the current regulations were rigidly applied, most SSI would find it difficult to function. But the key issue is to reduce the number of monitoring officials visiting SSI and to strengthen the legal capacity of small entrepreneurs to handle the maze of regulations. A purely punitive approach has to be replaced by one which combines incentives with regulations.

APPENDIX 1

Comments submitted by private sector representatives to the GOP, regarding constraints to industrial development including the regulatory framework. Comments in the right hand column are made by the Punjab Small Industries Corporation.

IMPEDIMENTS IN INDUSTRY AS POINTED OUT BY THE PRIVATE SECTOR AND SOLUTIONS PROPOSED.

IMPEDIMENTS	SOLUTIONS
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1. Sanctioning Procedures

a. Though Government have allowed industrial promoters to take their proposals directly to financing institutions, there are still many projects which require prior approval of CIPC/ECC.

No comments.

b. Central Investment Promotion Committee of IPB may be abolished.

Specific projects should not also be referred to ECC or Industries Ministry.

This is necessary to avoid delay as sanctions issued by CIPC/ECC are not taken seriously by agencies which are consequently approached for financing or capital structuring.

No comments.

c. The Investment Promotion Bureau should be re-organized to handle matters in which assistance is readily needed.

The reorganized IPB should collect and supply correct data to investors and assist them in expediting their projects through financing agencies and securing infrastructure.

We support this demand.

2. Financing of Industrial Projects.

Financing Institution now hold control over sanctioning as well as financing of a project; they have become more

IMPLIEMENTS	SOLUTION
<p>bureaucratic than the Government departments. Though the Cost Evaluation Committee (CEC) has been abolished, the behaviour of banks has not changed.</p>	<p>Opening of new banks/Development Finance Institutions in private sector with Govt. controls may be encouraged.</p>
<p>It is proposed that all DFIs and banks be privatised except one or two which Government may wish to retain. Permission may liberally be given for opening private banks/development finance companies subject to a prescribed Code of conduct.</p>	<p>We support these measures. At present Small Industries Sector gets 5% of the total credit made available to the industrial sector whereas its total share in production is around 30% and it employs over 80% of the industrial labour force. It is, therefore, strongly recommended that at-least 20% of the total long term loan is reserved for the Small Industries Sector.</p>
<p>Specific measures may be taken to ensure that (i) DFIs clear the projects in time; (ii) do not make exorbitant charges for evaluating projects; (iii) avoid raising frivolous objections and (iv) do not prescribe impossible conditions e.g. personal guarantees.</p>	<p>We support it.</p>
<p>Besides, banks should develop better safeguards against leakages through violent or underhand means. Favouritism in clientele should be avoided.</p>	<p>Industries based on local machinery should be encouraged</p>
<p>Banks are a little too inclined towards lending to import - based industries as these yield large profits to banks by way of L/C charges and foreign exchange commission.</p>	<p>We support this proposal.</p>
<p>Financing institutions should be distributed over the Provincial/Divisional Headquarters.</p>	

3. Location

Apart from regional dispersion, location of industries should be oriented to market, materials and skills.

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<p>Of late, the skill factor is gaining greater importance.</p>	<p>We endorse the views that the Readymade Garments and Electronics Industries may be allowed to be set up in Karachi and other big cities of the country.</p>
<p>As such ready made garment, electronic, technical and small component making industries which require less room and less power may be allowed to be setup in Karachi and other big cities. These industries would increase outlets for employment of women-folk.</p>	<p>We support this view point. With-drawn fiscal incentives in case of Districts of D.G.Khan, Rajanpur and Industrial Estates at Mianwali, Khushab, Bhakkar and Chunion may be restored.</p>
<p>b. Once concessions are announced for an area these may not be denied. Hooriabad Estate in the case in point. For all intents and purposes, this Estate falling in the Dadu District was free from duties and taxes. Suddenly, by virtue of a CBR Circular of March, 1988 it has been excluded from the list of approved industrial estates. This has caused disappointment to industrialists who moved into the Estate five years ago to set up their units.</p>	
<p>2. <u>Provision of Infrastructure</u></p>	
<p>The following points were raised:-</p>	
<p>i) Acquisition of land or procurement of infrastructure are virtually impossible without palmpoasing.</p>	<p>No comments.</p>
<p>ii) Electricity rates are exorbitant.</p>	<p>It is a fact and need amendments</p>
<p>iii) Lower priority is given by Railways for allocating wagoons for transporting industrial materials for Karachi. In a specific case, 1,000 tonnes of Scrap is lying at the port and incurring demurrage.</p>	<p>No comments.</p>

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iv) One window system is good but you cannot get ticket from that window. Connections of electricity, water, power and telephone are not available when needed.

One window system needs improvement. All concerned agencies should hold a fortnightly joint meeting of such representatives who can decide the issues then and there.

5. Taxes, Tariffs and Fiscal Anomalies.

The following obstacles were identified:-

a) Fiscal Anomalies abound in every industry using imported materials. Present method of resolving them is not satisfactory. A Tariff Commission may be established. Better still, a Tariff Committee with Minister of Industries as Chairman and Finance and Commerce Ministers as Members be set up to give award on applications within 30 days.

A good proposal, which may be implemented.

b) Clarity. SRO and Notifications should be clearly expressed leaving little room for ambiguity. It should convey what Government intentions are.

We support this demand.

c) Custom Tariff. Custom tariff should be simplified in matters of classification. Items described under a generic head and attracting duties with little variations may be consolidated under an appropriate caption.

A reasonable demand, which we do support.

d) Raw materials or intermediate goods drawn from the same materials should have uniform rates.

(Example: Plastic granules carry a duty of Rs.13 per Kg. but plastic sheet is charged Rs.110 Kg.

We do not support this proposal, as there is a need to protect the local industries. As in the ^{given} example, the duty on plastic sheets needs to be on the higher side as compared to that on plastic granules in order to protect the local plastic sheets manufacturing industry. However, differential should not be as high as given in this example.

- bcd -

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e) Valuation of Customs.

Interpretation of Sections 24 and 30 of the Customs Act leads to loading beyond proportion. A clearer rule be framed.

No comments.

f) Duty Rates

Duty rates are very high and should be rationalized. The following suggestions may be considered:-

.. Industrial Raw Materials.	20%
.. Spare Parts	10%
.. Raw Materials & Goods manufactured locally.	80%
.. Plant & Machinery	0%
.. Sales Tax.	5%

We support the suggestions except that spare parts, plants and machinery which are locally manufactured of the desired quality should not be allowed on zero duty

Sales Tax should be levied with a positive attitude. Excise duty should be levied on those industries which yield significant profits.

We endorse this suggestion.

-do-

g) Duties on Materials Imported for commercial or industrial use should be the same.

-do-

-do-

h) Flat Rate of Duty be charged on each article.

i) A Unified system of duties and taxes collection be developed.

-do-

j) Consolidation of Duties and Taxes.

There are, at present, several agencies and functionaries responsible for collecting taxes and duties. It is proving too costly for the industrialists.

A system be evolved whereby the No. of tax collectors is reduced to the minimum and use of their personal discretion eliminated completely.

We endorse this suggestion.

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k. Audit

Customs Procedure should be subject to a continuous audit and brought in line with industrialized countries.

We endorse this view point.

l. Re-organization of CBR

CBR, should be made into a Revenue Ministry and divided into two divisions, namely (i) Customs and Excise and (ii) Income Tax and other taxes.

We endorse this view point.

This would enable the Government to exercise greater control over functionaries, eliminate delays and improve performance.

The Ministry should be staffed with professionals.

m. Protective Duty on Import of U.S. Diesel Engines upto 20 HP.

Government has extended protection to 12 H.P. diesel engines being manufactured only by PECO. While a complete built up imported unit is available at \$205, PECO are spending \$329 on CKD kit.

No comments.

Besides, PECO are not producing U.S. Diesel engines of other ranges (e.g. 3, 5, 7, 10 and 20 H.P.) Industrialists and others may be allowed to import these for industrial and agricultural uses.

Import ban on other diesel engines (200 KVA etc) may also be lifted.

n. Cycle Industry.

Import of cycle parts being manufactured in the country is adversely affecting the industry. Appropriate change may be made in S.No.495 of the positive list of industry.

Those cycle parts which are being manufactured of desired quality in sufficient quantity in the country must be protected.

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o. Plastics

Pharmaceutical industry are allowed to import their materials including plastics for extruding vials etc for packaging free of duty.

To ensure the availability of medicines at reasonable prices, this policy may not be changed.

This is adversely affecting small plastic units of the country.

p. Fax.

Fax machines should be allowed to be imported duty free.

This demand needs to be accepted.

q. Import of Materials.

Import of materials by industry should be allowed on performance basis.

In order to ensure fair competition we do not endorse this suggestion.

r. Management of Bonded Warehouses

Management of bonded warehouses is not satisfactory.

Reconciliations are not done in time. Renewal of licences is unduly delayed. Staff attendance is not regular. At Stalkot there is no staff available for the management of warehouses.

No comments.

s. Sports Goods Industry, Stalkot.

Costs of Raw Materials for Sport Goods Industries have gone up. Consequently, exemption from duty be given on all items which are 120 in number.

Duty on industrial raw materials may be rationalized.

During periods of low business the operating industries, particularly small industries (sports goods) may be allowed tax relief.

No comments.

t. Income Tax Officers.

ITOs are generally dishonest and discriminative. They need to go through a process of re-education that should induct in them the values of honesty, proper living, and good behaviour.

No comments.

ii. Social Security Taxes.

System is ridden with ad hocism. All social security charges be lumped and allowed to be deposited voluntarily, subject to post-audit.

We endorse this suggestion.

v. Duties on Transit Goods.

No Duties should be charged on goods passing through Karachi for processing in factories outside Karachi.

No comments.

x. Tax Limit Cottage Industries.

For tax purposes, the limit of cottage industry be raised to Rs. 3 lac. Similarly, the limit of small industries be enhanced.

No comments.

y. Shortage of Imported Materials.

Imported materials in bonded houses should be allowed to be stored for 3 years instead of 1 year and the present practice of charging 2% penal interest may be waived.

No comments.

Industrial Licensing.

a. Licensing for New Units

A new unit faces hardship in getting its first import licence. A certificate of assessment of raw materials is obtained from the Provincial Directorate of Industries. The Directorate asks for bill of lading which means action is initiated only after shipment of machinery. This leaves little time for obtaining the first consignment of imported materials and commencement of plant is delayed. The procedure should be improved.

There is sufficient time lag between the shipment of the machinery and its ultimate installation for trial production, for arranging import of raw materials. However, licence should be issued immediately on the receipt of bill of lading of machinery.

PROBLEMS

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as one of the criteria for quota allocation.

Problems in Textile Industry

... of Production
... to enforce locally
... spinning plants on
... industry and decision of
... Ministry (Beg
... to first revive the
... hampered installation
... textile mills between
... these decisions have
... done an irreparable damage to
... textile industry and Pakistan lost
... the opportunity of availing
... herself of the sharp increase in
... textile yarn during 1986-88.

The Cost Evaluation Committee of Pakistan Banking Council was further responsible in delaying the setting-up of textile mills based even on local machinery. Unnecessary objections were raised on cost and other items.

Nationalized Banks are not favourably inclined to textile industry. Permission may be granted to setup private banks.

It is realized that the main hurdle in textile expansion came from insistence on the use of locally fabricated equipment, which failed. The private sector should be allowed to set up its own units for making textile machinery.

Problems in Textile quota distribution

LBB are too secretive. Daily quota list should be issued, transfers approved, names of persons involved in transferring displayed and credits supplied to textile associations.

Opening of banks may be allowed in the private sector under Government control.

This item is not in the list of specified industries.

No comments.

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reasons beyond his control. In such a situation, the 4% fee charged from him should be refunded, if he fails to utilize the licence within 180 days.

e. Opening of L/C against RMP Import Licences.

State Bank of Pakistan has directed Commercial banks to open L/C for the advance RMR against nil margin, but they want 10% to 20%.

No comments.

f. Refund of Security Deposits.

Security Deposit is liable to be confiscated for deficiency in export performance. Where this happens for reasons beyond one's control the Security Deposit should be refunded.

No comments.

g. Russian Refrigerators.

Russian refrigerators can be imported against import of ready made garments. The C&F price of a 260 - litre Russian refrigerator is Rs.6795 as against Rs.11,047 for a Japanese refrigerator. Duty base should be changed from value to capacity.

We endorse this suggestion.

h. Classification of Kemp.

Kemp should be classified as wool under ITC Classification.

No comments.

(Haji Dost Muhammad who made this request at the meeting held on 25.5.88 died on 29.5.88 of heart failure)

i. Textile Exports.

The existing quota system should be abolished and quota made available on the basis of value added. Besides, export to non-quota countries be treated

No comments.

IMPEDIMENTSSOLUTIONDeregulation and disinvestment.

a. Sind Alkali should be disinvested.

No comments.

b. Obstacles in Disinvestment.

Raja Abdur Rehman an industrialist of Azad Kashmir and manufacturer of Vespa Scooter has requested for an audience with the President. He wishes to bring to his notice the irregularities and manipulations of the last Government in disinvestment cases.

By way of example, he quoted the case of re-organization of National Motors Ltd. Karachi on which a summary was prepared for ECC. In this summary it was said that as the National Motors were losing, its management should be handed to a private party by transfer of 43.2% of shares (Total capital Rs.65.6 million) held by NIT & ICP. Transfer was to be made at a negotiated value. The case was still under process when the Government of Mr. Junejo collapsed.

No comments.

Raja Abdur Rehman also asked for expediting the case for the manufacturing of a ~~compact~~ car lying pending for years. He wants to set up a Daihatsu plant.

Indigenisation/Deletion

Engineering industry has not achieved the desired level of development because of the indifferent approach of government and businessman. A proper programme should be developed for attaining progressive manufacturing in engineering. The programme should be implemented by a Monitoring Authority. The following specific suggestions may be considered:-

a. Monitoring should be done at the time of issuing programme/schedule of deletion and during its implementation.

The suggestion is supported.

RECOMMENDATIONS

The monitoring authority should have powers to make such adjustment as may be necessary from time to time.

b. Demand. Defence factories, Railway, WAPDA, Shipyard etc. may be approached to make greater use of plants as produced under progressive manufacturing programmes. This would help modernization of vending shops as well as their expansion.

No comments.

c. Finance. Low cost financing is, at present, available to industries producing locally fabricated machines. The industries producing machines for aforementioned industries cannot avail themselves of this concession. It should also be extended to them under a proper mechanism.

We support this view point.

d. Supply of materials.

Arrangements should be made whereby steel can be procured from the Pakistan State Mills without delay, on demand and according to specifications.

The demand needs sympathetic consideration only in case the demand is for steel products of standard specifications.

All materials which have to be imported for Engineering Industry should be allowed duty free. For this purpose all factories engaged in hot/cold forming, heat and surface treatment should be considered at par for the purpose of above mentioned concession.

As most of the materials imported for engineering industry also frequently find use in other sector, it may not be possible to accede this request.

e. Import of Machinery.

Import of machinery for making machines should be allowed duty free. NRI scheme has proved very effective for this purpose.

It is proposed that the users of such machinery whether in Pakistan or outside should be allowed to import such machinery directly on

Most of the machinery used for making machines is the same which is used for producing different metal products, hence it would be difficult to segregate the machinery to allow the same free of custom duty for machinery making units.

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production of bank draft in foreign exchange or bearers certificate.

1. Training of manpower and labour laws.

The units of engineering industry should be encouraged to train apprentices who should be kept out of the purview of labour law.

1. Small engineering industries.

Small engineering industries should be kept outside the purview of labour laws as long as the total strength does not exceed 50 workers and cost of machinery is around Rs. one million.

Labour

Labour productivity is too low. Labour policies are over-protective. Govt. keep up discipline, performance and productivity; employers may be allowed the right of doing away with the services of workers who lead to create law and order situation.

Under Manpower Division the apprenticeship training programme for big industrial units is already in operation and the apprentices appointed under that scheme are exempted from labour laws. In case the units which are not already covered under Apprenticeship Scheme may approach the Manpower Division for the inclusion of their units under Apprenticeship to avail exemption from Labour Laws.

The exemption from labour laws may be provided to all small industrial units upto 70 workers.

Protection to labour is essential but the employers should have the right to do away with the services of workers who create law and order situation after it is proved to the satisfaction of competent authority in the Govt.

Smuggling

The possession of smuggled goods should attract deterrent punishment.

No comments.

Import of automotive industry.

1. Proposed policy (Mr. Rafiq Habib).

No comments.

A new automotive policy should encompass the following:-
a. Abolish concessional custom duty for assembling trucks (15%) and passenger cars (10%). The current levels of duty are counter productive and no detolition can take place under these conditions.

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All components must be imported at the normal custom duty.

i. Allow two additional plants for car assembling.

No comments.

ii. After two years, the import of completely built up cars be stopped.

No comments.

iii. After 3 years of allowing two plants, the import duty on cars may be increased 10% per year for 5th years fixing it ultimately at 120%.

No comments.

iv. Deletion should be made then or completion of 8 years.

No comments.

v. A Board should be set up to assess the progress of assemblies and vendors.

No comments.

(Mr. Rafiq Habib is interested in getting sanction for a car plant).

Other projects for cars.

i. Raja Abdur Rahman - Datsun would provide interchangeability of assemblies and components in the range of 800-1000 C.C.

No comments.

ii. 80% deletion within 7 years.

iii. Export commitment to neighbouring market in line with international standards.

iv. 40% equity by foreign collaborations.

v. Have already developed ground facilities for assembling and manufacturing autoparts.

vi. Track record of 50% indigenization.

vii. Performance Award given to Raja Abdur Rahman by the President of Pakistan and at International level.

IMPEDIMENTS	SOLUTION
<u>Mazda Project.</u>	
<p>Submitted to Government in March 1982 for assembly of progressive manufacturing of Morris, but approval was inordinateley delayed by Government. Now they have submitted a proposal for Mazda Car, but this has also been delayed.</p>	No comments.
<p>The party has spent millions of rupees in running about, negotiating abroad and completing procedural formalities.</p>	
<p>The foreign participants have wanted too long. Would come forward only if a proper sanction was accorded by the Government.</p>	
<u>Other parties.</u>	
<p>Other parties interested in car projects are Mr. Yuusaf Shirazi, Ittefaq Foundary and Gandhara Industries.</p>	
<p><u>Specific Points of Bahawalpur Champer of Commerce and Industry:-</u></p>	
<p>a. Tehsil Bahawalpur may be declared "Zero" duty area and given tax holiday for a long time.</p>	Tehsil Bahawalpur being a less developed area, needs encouragement for the establishment of industries.
<p>b. Small industrial plants lying closed be re-opened.</p>	We support the suggestion.
<p>c. Branches of OFIs opened at Bahawalpur.</p>	-do-
<p>d. A display centre of EPB installed.</p>	-do-
<p>e. HQ of at least two banks be changed to Bahawalpur.</p>	No comments.
<p>f. An industrial estate for large and medium industries may be set up.</p>	No comments as it does not pertain to us.
<p>g. Develop dairy and livestock industry.</p>	We support the suggestion as B/pur is a suitable area for Dairy Farming.

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- h. Private sector be allowed to export cotton directly.
- i. Loadshedding of electricity should be stopped.
- j. Export Duty on cotton Yarn be abolished.
- k. Infrastructure should be provided.
- l. Social Security taxes should be lumped.
- m. Petroleum dealers should be given higher commission (3%).

- No comments.
- To endorse the view point of the Chamber.
- No comments.
- To endorse the suggestion.
- To endorse the suggestion.
- No comments.

Separate Chamber of Industries.

At present the joint Chambers of Commerce and Industry cannot competently represent the interests of industry, as majority of members in the Chambers are traders.

To endorse the establishment of separate Chamber of Industries in the country.

In the interest of industrial development, separate Chambers of industry should be allowed to be set up.

Recommendations on Industrial Policy

- a. Disinvestment and Deregulation process be accelerated.
- b. Relief in taxes given to encourage reinvestment.
- c. Allow private banks.
- d. Abolish Sanctioning procedures.
- e. Provide Infrastructure on PPP lines.
- f. Labour laws should give right to replace workers.
- g. The present 55% rate for private limited Companies be brought at par with those of Cooperative Companies and the cost of borrowing reduced.

- To endorse the views.
- do-
- do-
- The sanctioning procedure in majority of the cases already stands abolished.
- To endorse the views.
- This point already stands discussed
- No comments.

IMPEDIMENTS	SOLUTION
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Social Issues.

The situation in Karachi needs immediate attention with a view to restoring law and order. The following points are brought to notice:-

No comments.

- i. Student coming from Punjab are maltreated by Karachi schools.
- ii. Government policy has been oriented to Sindhis, which has adversely affected settlement of mohajirs.
- iii. Mohajirs have taken most of the posts in Karachi.
- iv. Mohajirs are creating a rift between Sindhis and Punjabis.
- v. The practice of domicile certificates may be abolished. All citizens are Pakistanis and should have equal rights.
- vi. Do not let people from India come to Pakistan and settle here.
- vii. Government should bring about social integration in Karachi as early as possible.

Specific Issues.

1. Steel Mill and Electric Furnaces.

Steel Mill production is being unnecessarily protected. If this policy is to be continued steps be taken to also protect small units making similar steel items.

For the growth of industries, healthy competition should be encouraged.

2. Cellulose Paper Mill.

Machinery for the mill is lying packed and undergoing heavy demurrage. This cannot be set up at a place other than Karachi. The case is pending with Facilitation Board.

No comments.

3. EPZ

Not operating satisfactorily.

No comments.

IMPEDIMENTS	SOLUTION
4. <u>F.E.U.</u>	
Federal Export Board has stopped meeting. It used to resolve many problems when it met under the Chairmanship of the President.	Federal export board may be revived to provide a high-forum to resolve the problems of industrialists expeditiously.
5. <u>Existing Units at Karachi.</u>	
The existing units at Karachi should be allowed BMR facilities.	No comments.
6. <u>Minerals.</u>	
Develop mining through private sector.	The mining is a very vast sector and it should be developed by the joint efforts of private and public sector.

APPENDIX 2

THE FIRST SCHEDULE

(See Section 9, 10 and 50)

PART I

RATES OF INCOME TAX

1[A. In the case of every individual unregistered firm, an association of persons, Hindu undivided family and every artificial juridical person referred to in clause (32) of Section 2, not being a case to which paragraph B of this Part applies,—

(1) Where the total income is less than Rs. 100,000, the income tax shall be charged at the rate of ten per cent of the total income:—
Provided that,—

(a) no income tax shall be payable by an assessee where his total income (being less than Rs. 100,000) does not exceed :

(i) Rs. 40,000, in case the total income consists of, or includes any income chargeable under the head 'Salary', and such income constitutes more than fifty per cent of his total income ; and

(ii) Rs. 30,000, in other cases ;

(b) the income tax payable shall be reduced by,—

(i) Rs. 4,000, in case the total income consists of, or includes any income chargeable under the head 'Salary', and such income constitutes more than fifty per cent of his total income ; and

(ii) Rs. 3,000, in other cases ;

(c) notwithstanding anything in this Schedule, no reduction in income tax and super tax, under sub-paragraph (2) of paragraph A of Part IV, shall be admissible ; and

(d) notwithstanding anything contained in this Ordinance, no rebate for any allowance under Sections 39, 40, 41, 42, 43, 44, 44-A, 46 or 47 shall be admissible.

(2) Where the total income is Rs. 100,000, or more, the income tax shall be chargeable at the following rates, namely,—

	Rate
(1) Where the taxable income is Rs. 76,000 ...	Rs. 11,500.
(2) Where the taxable income exceeds Rs. 76,000 but does not exceed Rs. 100,000.	Rs. 11,500 plus 25 per cent of the amount exceeding Rs. 76,000

1. Subs. by the Finance Ordinance, 1988.

Income Tax Ordinance, 1979

(3) Where the taxable income exceeds Rs. 100,000 but does not exceed Rs. 200,000

Rate
Rs. 17,500
plus 35 per
cent of the
amount
exceeding
Rs. 100,000.

(4) Where the taxable income exceeds Rs. 200,000

Rs. 52,500
plus 45 per
cent of the
amount ex-
ceeding
Rs. 200,000;

Provided that notwithstanding anything contained in this Ordinance, the rebate for any allowance under Section 39, 40, 41, 42, 43, 44, 44-A, 45 or 47 shall be computed at the average rate of tax and allowed accordingly.]

B. In the case of every local authority ...

30 per cent of the total income.

C. In the cases of every company [including a foreign association declared to be a company by the Central Board of Revenue under clause (16) of Section 2], on the total income excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub-paragraph (2) or sub-paragraph (3) of paragraph A of Part II applies and income to which Chapter V applies.

30 per cent of such income.

D. Rate of income tax for purposes of deduction under sub-section (2) of Section 50,—

On the whole of income chargeable under the head Interest on securities (not being interest payable on debentures issued by or on behalf of a local authority or a company).

30 per cent of such income.

¹[DD. Rate of income tax for purposes of deduction under sub-section (2-A) of Section 50,—

(a) where the sum does not exceed Rs. 1,000 Nil.

(b) where sum exceeds Rs. 1,000

... 10 per cent of the amount exceeding Rs. 1,000.]

DDD. Rate of income tax for purposes of deduction under sub-section (3) of Section 50.

30 per cent of the sum chargeable or the rate applicable to a resident person, whichever is the greater.

1. Paragraph DD subs. by the Finance Ordinance, XXVIII of 1984. This Paragraph DD was earlier ins by the Finance Ordinance of 1980. This paragraph was ...

First Schedule

¹[DDDD. Rate of income tax for purposes of deduction under sub-section (3-A) of Section 50.

20 per cent of the surr.]

E. Rate for collection of income tax under sub-section (4) of Section 50.

There per cent of the amount of payment.

²[F. Rate for collection of income tax under sub-section (5) of Section 50,—

(a) where the assessee is liable to pay advance tax under Section 53 during the financial year in which goods are imported.

One and one-half per cent.

(b) in other cases

... Two per cent.]

G. Rates for collection of income tax under sub-section (6) of Section 50,—

(1) goods transport vehicles with registered laden weight of 2030 Kilograms or more.

One thousand rupee per annum.

³[(2) Passenger transport vehicles with registered seating capacity of not less than twenty persons—

(a) in case such vehicles ply within the city limits

Fifteen rupees per seat per annum.

(b) in other cases.

... Twenty rupees per seat per annum.]

⁴[H. Rate for collection of income tax under sub-section (7-A) of Section 50.

Three per cent of the sale price.]

1. Added by the Finance Act, VI of 1987.
2. Subs. by the Finance Ordinance, XXIV of 1981 (w.e.f. 1-7-1981). It was earlier subs. by the Finance Ordinance, XXV of 1980.
3. Subs. by the Finance Ordinance, XXV of 1980.
4. Paragraph H added by the Finance Ordinance, XXIV of 1981 (w.e.f. 1-7-1981).

PART II
RATES OF SUPER TAX

A. In the case of a company,—

- | | |
|---|--|
| | <i>Rates</i> |
| (1) on the total income excluding such part of the total income as consists of dividends or bonus or bonus shares to which sub-paragraph (2) or sub-paragraph (3) applies | 35 per cent of such income in the case of a banking company and 25 per cent of such income in the case of a company other than a banking company : |

Provided that in the case of a domestic company, rebate shall be allowed as follows :—

- (i) a rebate of 5 per cent to such company not being a banking company if it is a public company :

¹[Provided that, for any assessment year commencing on or after the first day of July, 1986, this clause shall have effect as if for the figure and words "5 per cent" the figure and words "15 per cent" were substituted ;]

- (ii) a rebate of 5 per cent to such company not being a banking company if it is a public company to which clause (iii) does not apply, if its paid-up capital plus free reserves as on the last day of the income year does not exceed Rs. 500,000 :

²[Provided that, where such public company is listed on a registered stock exchange in Pakistan, between the first day of July, 1984, and the thirtieth day of June, 1986, this clause shall have effect as if for the figure "500,000" the figure "5,000,000" were substituted ;]

³[Provided further that the aggregate of rebates admissible to the assessee under the foregoing provisos shall not exceed the super tax payable by him under this paragraph ;]

- (iii) a rebate of 5 per cent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the income year does not exceed Rs. 1,000,000 :

1. Proviso added by the Finance Act of 1985. Effective from July, 1986.
2. Proviso added by the Finance Ordinance, XXVIII of 1984.
3. Proviso added by the Finance Act, I of 1985. Effective from July, 1986.

¹[Provided that, where such public company is listed on a registered stock exchange in Pakistan, between the first day of July, 1984, and the thirtieth day of June, 1986, this clause shall have effect as if for the figure "1,000,000" the figure "10,000,000" were substituted ;]

- (iv) a rebate of 5 per cent on so much of the income, profits and gains of such company, as are derived by it from an industrial undertaking commencing commercial production at any time between the first day of July 1975, and the thirtieth day of June ²[1988] (both dates inclusive) if the original cost of fixed assets (excluding the cost of land) owned by the company and used by the undertaking does not exceed Rs. ³[5,000,000] so however, that no rebate under clauses (i) and (iii) shall be allowed to such company :

- (v) a rebate of 10 per cent to such company in respect of its income, profits and gains to which clause (c) of Section 26 applies or which are derived by it in Pakistan from processing, freezing, preserving and canning of food, vegetable, fruit, grain, meat, fish and poultry ; and

- (vi) a rebate of 15 per cent to such company on so much of the income, profits and gains accruing or arising outside Pakistan to which clause (2) of paragraph A of Part IV does not apply as are brought by it into Pakistan :

Provided further that where the total income of a company includes any profit and gains from the life insurance business, super tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion ;

- (2) to which paragraph C of Part I applies, on the amount representing income from dividends from a Pakistani Company :—

Rates

- (a) where such dividends are received by a public company and are declared and paid by a Pakistani Company in respect of the share-capital issued, subscribed and paid after the fourteenth day of August, 1947. ⁴[5] per cent of such amount.
- (b) where such dividends are received by ⁵[a body corporate referred to in sub-clause amount ;

1. Proviso added by the Finance Ordinance, XXVIII of 1984.
2. Subs. for the figure "1983" by the Finance Ordinance, XIV of 1983. This figure was earlier subs. for "1980" by the Finance Ordinance, XXV of 1980.
3. Subs for the figure "3,000,000" by the Finance Ordinance, XXV of 1980 (w. e. f. assessment year 1981-82).
4. Subs. for the figures "10" by the Finance Ordinance, XII of 1982.
5. Ins. by the Finance Ordinance, XXIV of 1981. It was earlier deemed to have been ins. by S. R. O. 1162 (I)/80, dated 20th November.

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(c) of clause (16) of Section 2 or] a foreign association declared to be a company by the Central Board of Revenue under clause (16) of Section 2.

(c) in other cases ... ¹[20] per cent of such amount.

(3) On the whole of the amount representing ²[the face value of any bonus shares or] the amount of any bonus issued by the company, with a view to increasing its paid-up capital —

Rates

(a) where a company which issued ³[bonus shares or] the bonus in a public company. 10 per cent of such amount ;

(b) in other cases ... 15 per cent of such amount

B. In the case of every local authority, on the whole of the total income ... 12.5 per cent of the amount.

⁴[C. In the case of every registered firm,—

where the total income does not exceed Rs. 24,000 *Nil.*

where the total income exceeds Rs. 24,000 but does not exceed Rs. 50,000 5 per cent of the amount exceeding Rs. 24,000 ;

where the total income exceeds Rs. 50,000 but not exceed Rs. 100,000 Rs. 1,300 plus 10 per cent of the amount exceeding Rs. 50,000

where the total income exceeds Rs. 1,00,000 but does not exceed Rs. 150,000. Rs. 6,300 plus 20 per cent of the amount exceeding Rs. 100,000 ;

where the total income exceeds Rs. 150,000 Rs. 16,300 plus 30 per cent of the amount exceeding Rs. 150,000].

D. Rate of super tax for the purposes of deduction under sub-section (2) of Section 50—

On the whole of the income chargeable under the head "Interest on securities" paid to non-resident—

(i) where such person is a company ... the rate applicable to a company ;

(ii) where such person is not a company ... the rate applicable to a resident person, not being a company.

1. Subs. for the figure '20' by the Finance Ordinance, XII of 1952.

2. Words inst. by the Finance Ordinance, 1983.

3. Words inst. by the Finance Ordinance

E. Rate of super tax for the purposes of deduction under sub-section (3) of Section 50.—

(i) in the case of a company ... the rate applicable to a company on the sum chargeable ;

(ii) in other cases ... the rate applicable to a resident person, not being a company, on the sum chargeable.]

²[PART III

...RATE OF SURCHARGE

Where the total income of any person for the income year, relevant to the assessment year commencing on or after the first day of July, 1988, is two hundred thousand rupees or more, the surcharge shall be payable at the rate of ten per cent of the income tax and super tax, if any, payable for the year.]

1. Added by the Finance Ordinance, XXV of 1980.
2. Part III inst. by the Finance Ordinance, 1988.

PART IV

A. Notwithstanding anything contained in this Schedule, ¹[except clause (c) of the proviso to sub-paragraph (1) of paragraph A of Part I thereof]—

- (1) where the assessee is a co-operative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph C of Part I and paragraph A of Part II of this Schedule as if the assessee were a company to which the first proviso to paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee ;
- (2) where the total income of an assessee includes any profits and gains derived from export of goods manufactured in Pakistan ;—
 - (a) income tax and super tax, if any, payable in respect of such profits and gains shall, subject to the other provisions of this clause, be reduced by an amount equal to ²[fifty] per cent of the amount of income tax and super tax, if any attributable to the sale proceeds of such goods ²[or, in respect of any good specified] ³[in the eighth Schedule] by an amount equal to such percentage of the amount of the income tax and super tax, if any, attributable to the sale proceeds of such goods, as ⁴[are specified in that Schedule :]

Provided that in the case of a registered firm, super tax payable by it under paragraph C of Part II of this Schedule shall be reduced under this clause by so much of such amount calculated on the basis of the income tax payable on its total income under paragraph A of Part I as if it were the total income of an unregistered firm as does not exceed the said super tax :

⁵[Provided further that the provision of this clause shall apply to profits and gains derived from the—

- (a) export of vegetable, fresh fruits and cut flowers ; or
- (b) sale, in Pakistan, of goods manufactured in Pakistan against an international tender, where the contract under which such sale is made is approved by the Commissioner,

as are applicable to profits and gains derived from the export of goods manufactured in Pakistan ;]

- (b) nothing in sub-clause (a) shall apply to a company which is not a domestic company ; and

1. Words inst. by the Finance Ordinance, 1988.
2. Ins. by the Finance Act, VI of 1987.
3. Words subs. by the Finance Ordinance, 1988.
4. Words subs. by the Finance Ordinance, 1988.
5. Proviso inst. by the Finance Ordinance, 1988.

(c) nothing in sub-clauses (a) and (b) shall apply in respect of the following goods or class of goods, namely :—

- ¹[(i) raw cotton ;
- (ii) rice ;
- (iii) rice bran ;
- (iv) wheat bran ;
- (v) lamb skin ;
- (vi) such other goods as may be notified by the Central Board of Revenue]

The Central Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales for the purposes of sub-clause (a) and for such matters as may be necessary to give effect to the provisions of this clause :

²[(2-A) where an assessee,—

- (a) being a company registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan, repatriates to Pakistan any income chargeable to tax under the head 'Income from business or profession' in any income year which has been derived by it from a construction work executed by it outside Pakistan, no super tax shall be payable by it on such income ;
- (b) not being a company, who is resident in Pakistan, repatriates in any income year any income earned abroad by way of fees for any technical or consultancy services rendered outside Pakistan, he shall be entitled to a rebate equal to thirty per cent of income tax or super tax payable on the income so repatriated :

Provided that—

- (i) such income is received in Pakistan in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange ; and
- (ii) where the assessee is a registered firm, super tax payable by it shall be reduced by an amount calculated on the basis of the income tax payable on its total income if it were the total income of an unregistered firm as does not exceed the said super tax.

(2-B) No super tax shall be payable by a registered firm in respect of the income, profits and gains derived by it from the exercise of a profession if such income, profits and gains depend wholly or mainly on the professional qualifications of its partners who are prevented by any law for time being in force or by convention or rules or regulations of the professional association, society or similar body of which they are members to constitute themselves into a corporate body with a limited liability which can be registered as a company under the Companies Ordinance, 1984 (XLVII of 1984), unless such profession consists wholly or mainly in the making of contracts on behalf of other persons or the

1. Subs. by the Finance Ordinance, 1988.
2. Clauses (2-A) and (2-B) ins. by the Finance Ordinance, XXV of 1980 (w.o.f. assessment year 1981-82).

giving to other persons of advice of a commercial nature in connection with the making of contracts ;]

(3) where a person, not being a company, is not resident in Pakistan, the tax, including super tax payable by him or on his behalf on his total income shall be an amount equal to—

(a) the income tax which would be payable on his total income at the rate of thirty per cent or the income tax which would be payable on his total income if it were the total income of the person resident in Pakistan, whichever is the greater ; plus

(b) the super tax which would be payable on his total income if it were the total income of the person resident in Pakistan ;

Provided that any such person may, on the first occasion subsequent to the thirty-first day of March, 1956, on which he is under this Ordinance or the repealed Act, assessable for any year by notice in writing given to the Income Tax Officer before the thirtieth day of September in the year of assessment declare (such declaration being final and being applicable to all assessments thereafter) that the tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax, which would have been payable on his total world income had it been his total income, the same proportion as his total income bears to his total world income ;

Provided further that where any such person satisfies the Income Tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income Tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time, on or after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment has not been completed before such declaration) and all assessment thereafter ; and

(4) where the total income of an assessee includes any income chargeable under the head "Capital gains" (hereinafter referred to as the said income), the tax including super tax payable by him on his total income shall be—

(a) where the said income has arisen as a result of disposal by the assessee of his capital assets after not more than twelve months from the date of their acquisition by him—

income tax and super tax payable on the total income (including the said income) ;

(b) where the said income consists of capital gains which have arisen on account of the disposal by the assessee of his capital assets after twelve months from the date of their acquisition by him—

(i) in the case of a company or a firm registered under Section 68 (including a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of Section 69—

(1) income tax and super tax payable on the total income, as reduced

by the said income had such reduced income been the total income, plus

(2) income tax at the rate of twenty-five per cent on the whole amount of the said income ;

(ii) in the case of other assessee's income tax payable on—

(1) the total income, as reduced by the said income had such reduced income been the total income, plus

(2) the amount of the said income as reduced by—

(i) an amount equal to sixty per cent of the amount of the said income, or

(ii) five thousand rupees, whichever is the greater ;

Provided that as respects the assessments for the years ending on the thirtieth day of June, 1981, income tax and super tax shall, subject to the other provisions of this Ordinance, be payable on the total income as reduced by the said income.

B. As used in this Schedule.—

(1) "industrial undertaking" means an undertaking which is set up or commenced in Pakistan on or after the thirtieth day of August, 1947, and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency ; or (ii) the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is—

(i) engaged in—

(a) the manufacture of goods or materials or the subjecting of goods or materials to any process, which substantially changes their original condition ;

(b) ship-building ;

(c) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power ; or

(d) the working of any mine, oil-well or other source of mineral deposits not being an undertaking to which the Fifth Schedule applies or ;

(ii) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause ;

[(2) "Public company" means—

(a) a company in which not less than fifty per cent of the shares are held by the Government ;

(b) a company whose shares were the subject of dealing in a registered stock exchange in Pakistan at any time during the income year and remained listed on the stock exchange till the close of that year ; or

(c) a trust formed by or under any law for the time being in force ;]

† Sub-paragraph (2) subs. by the Finance Ordinance, XIV of 1982

(3) "registered firm" means a firm registered under Section 68 or a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of Section 69;

(4) "taxable income" means the total income of the assessee as diminished by an allowance of Rs. ¹[24,000]; and

(5) "total world income" includes all income, profits and gains wherever accruing or arising except any income which is not includible in the total income of an assessee.

1. Subs. for figure '13,000' by the Finance Ordinance, XIV of 1982.

¹[THE SECOND SCHEDULE

[See Section 14(1)]

PART I

²[EXEMPTIONS] FROM TOTAL INCOME

Incomes, or classes of income, or persons or classes of persons, enumerated below, shall be exempt from tax, subject to the condition and to the extent specified hereunder :—

Agricultural income :

(1) Agricultural income :

³[Provided that, in case an assessee has, in any income year, any income (other than the agricultural income) which is chargeable to tax (hereinafter called "chargeable income"), the agricultural income shall be included in the total income, so however that the tax payable on the chargeable income shall be an amount which bears that same proportion to the chargeable income as the tax on the total income bears to the total income.]

Salary income :

(2) Any income chargeable under the head "Salary" derived by any employee of a foreign Government (including a consular or other officer or a non-diplomatic representative) as remuneration for services to such Government, if—

- (a) such employee is a citizen of the foreign country and not a citizen of Pakistan; and
- (b) the services performed by him are of a character similar to those performed by employees of the Government of Pakistan in foreign countries; and
- (c) the foreign Government grants a similar exemption to employees of the Government of Pakistan performing similar services in such foreign country.

(3) Any income chargeable under the head "Salary" received by or due to any person (whose contract of service is approved by the Commissioner and who is neither a citizen of Pakistan nor was resident in Pakistan in any of the four years immediately preceding the year in which he arrived in Pakistan) for a period of two years from the date of his arrival in Pakistan as remuneration for services rendered by him during such period as a professor or a teacher at a recognised university, college, school or other educational institution in Pakistan :

- 1. The Second Schedule subs. by the Finance Ordinance, XXIV of 1981.
- 2. Subs. for 'Exclusions' by the Finance Ordinance, 1988.
- 3. Proviso added by the Finance Ordinance, 1988.

APPENDIX 3

FORM OF RETURN OF TOTAL INCOME UNDER THE INCOME TAX ORDINANCE, 1979.
(For Resident Non-Salaried Individuals, Unregistered Firms (URFs), Associations of Persons (APs) and Hindu Undivided Families (HUFs) whose Total Income chargeable to tax is less than Rs. 100,000 derived 50% or more from sources other than salary.)

National Tax Number

□ □ - □ □ - □ □ □ □ □ □ □ □

Assessment Year ██████████
1989-90

Name

(IN BLOCK LETTERS)

Address

(IN BLOCK LETTERS)

Name of Business

(IN BLOCK LETTERS)

Nature of Business

(IN BLOCK LETTERS)

Business

Code

(for office use only)

1. I certify that my total income chargeable to income tax during the income year relevant to the assessment year ██████████ after making legally admissible deductions was Rs. _____ and my tax computation is as follows:

- i) From business/profession.....
- ii) From property.....
- iii) From salary where applicable.....
- iv) From other sources
- Total:
- a) Tax due @ 10% of Total income.....
- minus b) Statutory Tax credit.....
- c) Tax payable (a) - (b).....
- d) Less: Tax deducted at source.....
- e) Net Tax Payable/Refundable.....

for computer only	
Code 211	Rs. _____
Code 231	Rs. _____
Code 261	Rs. _____
Code 257	Rs. _____
Code 999	Rs. _____
Code 511	Rs. _____
	Rs. <u>3,000</u>
Code 528	Rs. _____
Code 531	Rs. _____
Code 559	Rs. _____

- 2. I also certify that I have no income chargeable to tax other than the amounts shown above.
- 3. I further certify that my last assessed income for the assessment year _____ was Rs. _____.
- 4. I attach herewith the required particulars, details and documents, specified overleaf, in support of the tax deducted or collected under section 50 of the Income Tax Ordinance, 1979.
- 5. I request that credit for the tax of Rs. _____ deducted at source may be given against the tax of Rs. _____ payable by me; and
 For Adjustment: Net tax of Rs. _____ paid as per Treasury Challan No. _____ dated _____ enclosed herewith may be accepted in full discharge of my tax liability.
 OR
 For Refund: Refund of Rs. _____ being in excess of my tax liability of Rs. _____ may be allowed to me.
 (cross out what is not applicable)

Signature _____

Identity Card Number

□ □ □ □ - □ □ □ □ - □ □ □ □ □ □ □ □

ACKNOWLEDGEMENT (For office use only)
The above return has been accepted and this photo copy shall constitute your assessment order for the assessment year ██████████ 1989-90

DIRECTIONS

"Total Income chargeable to tax" does not include the following:

- a) receipts during the income year relevant to the assessment year 1988-89, which are generally or specifically tax exempt per se e.g. return on investments in the national savings schemes; and
- b) expenses legally admissible.

PARTICULARS / DETAILS AND DOCUMENTS REQUIRED FOR ADJUSTMENT / REFUND OF TAXES DEDUCTED AT SOURCE UNDER SECTION 50 OF THE INCOME TAX ORDINANCE, 1979.

1. Interest on securities u/s 50 (2): Description, serial number and amount of securities held, date-wise amounts of interest received, and attested photocopies of the documents showing deduction of tax at source.
2. Payment for supply of goods or rendering services u/s 50(4): Details of supplies made or services rendered with photocopies of bills issued, Bank branch with account numbers where cheques for payment were deposited, and attested photocopies of the documents showing deduction of tax at source.
3. Payment for execution of contracts u/s 50 (4): Details of contracts executed and amounts received with photocopies of bills issued, Bank branch with account numbers where cheques for payment were deposited and attested photocopies of the documents showing deduction of tax at source.
4. Import of goods u/s 50 (5): Details of bills of entry with description and value of goods imported, Bank branch with account number through which L.C. was opened and import documents were retired, attested photocopies of challans showing deduction of tax at source and photocopies of Import Licences obtained.
5. Motor vehicles u/s 50 (6): Description of motor vehicles (with make, model and seating capacity), attested photocopies of ownership entries in registration book and attested photocopies of documents showing deduction of tax at source.
6. Public auction of property u/s 50 (7A): Description and details of property acquired by public auction, total amount paid for the property, and attested photocopies of documents showing deduction of tax at source.

APPENDIX 4

Sections

- 57. Hours of work to correspond with Notice and Register
- 58. Power to require medical examination
- 59. Power to make rules
- 59-A. Provisions to be in addition to Act XXVII of 1938

CHAPTER VI
PENALTIES AND PROCEDURE

- 60. Penalty for contravention of Act and rules
- 61. Enhanced penalty in certain cases after previous conviction
- 62. Penalty for failure to give notice of commencement of work or change of manager
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CHAPTER VII
SUPPLEMENTAL

- 76. Display of factory notice
 - 77. Power of Provincial Government to make rules
 - 78. Control of rules made by Local Government
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- The Schedule—(Repealed)

The Factories Act, 1934

(XXV OF 1934)

[20th August, 1934]

An act to consolidate and amend the law regulating labour in factories

Preamble: Whereas it is expedient to consolidate and amend the law regulating labour in factories; it is hereby enacted as follows:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement: (1) This Act may be called the Factories Act, 1934.

(2) It extends to the whole of Pakistan

(3) It shall come into force on the 1st day of January, 1935.

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

(a) "adolescent" means a person who has completed his fifteenth but has not completed his seventeenth year;

(b) "adult" means a person who has completed his seventeenth year;

(c) "child" means a person who has not completed his fifteenth year;

(d) "day" means a period of twenty-four hours beginning at midnight;

(e) "week" means a period of seven days beginning at mid night on Saturday night;

(f) "power" means electric energy, and any other form of energy which is mechanically transmitted and is not generated by human nor animal agency;

(g) "manufacturing process" means any process—

(i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) for pumping oil, water or sewage, or

(iii) for generating, transforming or transmitting power.

1. For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. v. pp. 175. For Report of Select Committee, see *ibid.*, 1934, Pt. v. pp. 44 and 45.

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(h) "worker" means a person employed, ²[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, incidental to or connected with the subject of the manufacturing process, 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;

(j) "factory" means any premises, including the precincts thereof, wherein ³[ten] or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on ⁴[or is ordinarily carried on with or without the aid of power] but does not include a mine, subject to the operation of the Mines Act, 1923 (1V of 1923);

(k) "machinery" includes all plant whereby power is generated, transformed, transmitted or applied;

(l) "occupier" of a factory means the person who has ultimate control over the affairs of the factory;

Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(m) whether work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and the period or periods for which it works is called a "shift"; and

(n) "prescribed" means prescribed by rules made by the Provincial Government under this Act.

3. Reference to time of day: Reference to time of day in this Act are references to Standard Time which is five ⁵[xxx] hours ahead of Greenwich Mean Time:

Provided that for any area, in which Standard Time is ordinarily observed the Provincial Government may make rules—

(i) specifying the area,

(ii) defining the local mean time ordinarily observed therein, and

(iii) permitting such time to be observed in all or any of the factories situated in the area.

4. Seasonal factories: (1) For the purposes of this Act, a factory, which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or cotton jute pressing, the decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any of the aforesaid processes, is a seasonal factory:

Provided that Provincial Government may by notification in the official Gazette, declare any specified factory in which manufacturing processes are ordinarily carried on for more than one hundred and eighty

2. Ins. by the Factories (Amendment) Act, XVI of 1973, S. 2.

3. Subs. for "twenty" by the Factories (Amendment) Act, XVI of 1973, S. 2.

4. Subs. by the Factories (Amendment) Act, XVI of 1973, S. 2.

5. The words "and-a-half" omitted by the Factories (Amendment) Act, XVI of 1973, S. 3.

working days in the year, not to be a seasonal factory for the purposes of this Act.

(2) The Provincial Government may by notification in the official Gazette, declare any specified factory in which manufacturing processes are ordinarily carried on for more than one hundred and eighty working days in the year and cannot be carried on except during particular season or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

5. Power to apply to provisions applicable to factories to certain other places: (1) The Provincial Government may by notification in the official Gazette, declare that all or any of the provisions of the Act applicable to factories shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether with or without the use of power whenever ⁶[five] or more workers are working therein or have worked therein on any one day of the twelve months immediately preceding.

(2) A notification under sub-section (1) may be made in respect of any one such place or in respect of any class of such places or generally in respect of all places.

(3) Notwithstanding anything contained in clause (1) of Section 2, a place to which all or any of the provisions of the Act applicable to factories are for the time being applicable in pursuance of a declaration under sub-section (1) shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.

THE FACTORIES (PUNJAB AMENDMENT) ACT, 1940

After section 5 of the Factories Act, 1934 (XXV of 1934), (hereinafter referred to as the said Act), the following section shall be deemed to be inserted, namely—

"5-A. *Establishment or extension of certain factories.*—(1) No factory shall be established or extended for the purpose of carrying on one or more of the manufacturing processes mentioned in the schedule to this Act, or for purposes incidental thereto, save with permission in writing of the Provincial Government or such persons as it may direct:

Provided that if an application for such permission has been despatched to the prescribed authority by registered post acknowledgment due and the decision of Government or the prescribed authority has not been communicated to the applicant for six months after the date of its receipt, the applicant shall be regarded as having obtained that permission; and provided further that a factory shall not be considered as extended within the meaning of this section merely because of any renewal of or addition to existing machinery or appliances within the limits prescribed.

(2) Where an order rejecting an application for the establishment or extension of a factory has been made by an authority other than the Provincial Government an appeal by the applicant shall lie to the Provincial Government within fifteen days of the date on which such order has been communicated to him.

6. Subs. for "ten" by the Factories (Amendment) Act, XVI of 1973, S. 4.

(3) The Provincial Government may, by notification in the official Gazette, add to or exclude from the schedule the name of any manufacturing process it may deem fit, and such addition or exclusion shall take effect as if it had been made by this Act.

(4) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to 1,000 rupees and in addition, with fine which may extend to 100 rupees for each day, the period during which the contravention continues."

Schedule mentioned in section 5-A (1) of Factories Act as applicable to Punjab

1. Textile :
 - (a) Cotton.
 - (b) Woollen.
2. Glass.
3. Cement and allied products.
4. Chemicals including medicines.
5. Hydrogenated oils—edible and others.
- 7[* * * * *]
7. Hosiery manufacture.
8. Flour mills.
9. Steel-rolling mills.

THE FACTORIES (NORTH-WEST FRONTIER PROVINCE AMENDMENT) ACT, 1964

After section 5 of the Factories Act, 1934 (Act XXV of 1934) (hereinafter referred to as the said Act), the following sections shall be deemed to be inserted namely :

"5-A. *Establishment or extension of certain factories.*—(1) No factory shall be established or extended for the purpose of carrying on one or more of the manufacturing processes mentioned in the schedule to this Act, or for purposes incidental thereto save with the permission in writing of the Provincial Government or such person or persons as it may direct :

Provided that if an application for such permission has been despatched to the prescribed authority by registered post acknowledgement due and the decision of Government or the prescribed authority has not been communicated to the applicant for six months after the date of its receipt, the applicant shall be regarded as having obtained that permission; and provided further that a factory shall not be considered as extended within the meaning of this section merely because of any renewal of or addition to existing machinery or appliances within the limits prescribed.

(2) Where an order rejecting an application for the establishment or extension of a factory has been made by an authority other than the

7. Entry No. 6 "Cotton Ginning and Pressing" omitted in exercise of powers under sub-section (3) of section 5-A, Notn No. 1314-52/604-Dev., 10 June 1962, PunjabGaz., Pt. I, 20 June 1962, p. 484.

provincial Government an appeal by the applicant shall lie to the Provincial Government within fifteen days of the date on which such order has been communicated to him.

(3) The Provincial Government may, by notification in the official Gazette, add to or exclude from the schedule the name of any manufacturing process it may deem fit, and such addition or exclusion shall take effect as if it had been made by this Act.

(4) Any person who contravenes the provisions of sub-section (1) above shall on conviction be punishable with fine which may extend to 5,000 rupees and in addition, with fine which may extend to 100 rupees for each day of the period during which the contravention continues."

Schedule mentioned in Section 5-A (1) of Factories Act as applicable to N-W.F.P.

1. Textile.
2. Chemical.
3. Cotton ginning and pressing.
4. Flour milling.
5. Sugar manufacturing.
6. Tanning.
7. Match making.
8. Fruit and vegetable processing.

6. *Power to declare department to be separate factories:* The Provincial Government may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

7. *Power to exempt on a change in the factory:* When the Provincial Government is satisfied that following upon a change of occupier of a factory or in the manufacturing process carried on therein, the number of workers for the time being working in the factory is less than twenty and is not likely to be twenty or more on any day during the ensuing twelve months, it may by order in writing exempt such factory from operation of this Act :

Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

8[7-A. *Exemption from certain provisions of the Act:* The provisions of section 14, clause (b) of sub-section (1) of Section 15, Sections 16, 17, 18, 19, 22, 23, 25 and sub-section (3) of Section 33-Q shall not apply in the first instance to any factory wherein not more than nineteen workers are working or were working on any one day of the twelve months immediately preceding :

Provided that the Provincial Government may, by notification in the official Gazette, apply all or any of the said provision to any such factory or any class of such factories].

8. Sec. 7-A Ins. by the Factories (Amendment) Act, XVI of 1973, S. 5.

8. Power to exempt during public emergency : In any case of public emergency the Provincial Government may, by notification in the official Gazette, exempt any factory from any or all of the provisions of this Act for such period as it may think fit.

9. Notice to Inspector before commencement of work : (1) Before work is begun in any factory after commencement of this Act, or before work is begun in any seasonal factory each season, the occupier shall send to the Inspector a written notice containing—

- (a) the name of the factory and its situation,
- (b) the address to which communications relating to the factory should be sent,
- (c) the nature of the manufacturing processes to be carried on in the factory,
- (d) the nature and amount of the power to be used,
- (e) the name of the person who shall be the manager of the factory for the purposes of this Act, and
- (f) such other particulars as may be prescribed for the purposes of this Act.

[(1-A) In respect of all factories which come within the scope of this Act for the first time on the commencement of the Factories (Amendment) Ordinance, 1972 (XLII of 1972), the occupier shall send a written notice to the Inspector containing particulars specified in sub-section (1) within thirty days of such commencement].

(2) Whenever another person is appointed as manager the occupier shall send to the Inspector a written notice of the change, within seven days from the date on which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of a factory under this section, or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purpose of this Act.

THE FACTORIES (PUNJAB AMDT.) ACT, 1940

After section 9 of the said Act, the following sections shall be deemed to be inserted, namely :—

“9-A. *Registration certificate for working factory.*—(1) No factory carrying on one or more of the manufacturing processes mentioned in the schedule to this Act or for purposes incidental thereto shall be worked or permitted to be worked by a manager or an occupier unless a registration certificate has been granted in respect thereof; and if the factory has been extended after the grant of a registration certificate, unless such certificate has been endorsed in such manner and subject to such conditions as may be prescribed for the grant of such a certificate or for an endorsement thereon.

(2) A registration certificate granted under sub-section (1) shall remain in force for one year from the date of the grant or endorsement and shall be renewable automatically on payment of the prescribed fee.”

9. Sub-sec.(1-A) Ins. by the Factories (Amendment) Act, XVI of 1973, S. 6.
10. For Schedule Sec. S. 5-A, on p. 720, ante.

“9-B. *Rules.* : (1) The Provincial Government may, after previous publication, make rules—

- (a) as to the authority by which, the form in which and the conditions subject to which a registration certificate may be granted or an endorsement made under sub-section (1) of section 9-A;
- (b) prescribing the fee on payment of which a registration certificate may be granted or renewed or an endorsement made under section 9-A;
- (c) specifying the lines within which any renewal of or addition to existing machinery or appliances in a factory shall not be regarded as extension of a factory within the meaning of section 5-A(1); and
- (d) specifying the person or persons to whom authority may be delegated under section 5-A(1).

(2) In making rules the Provincial Government may prescribe different rates of fees for factories classified according to the number of workers employed in them and the nature of goods produced by them.”

THE FACTORIES (N.-W.F.P. AMDT.) ACT, 1946

After section 9 of the said Act the following sections shall be deemed to be inserted, namely :—

“9-A. *Registration Certificate for working factory.* : (1) No factory carrying on one or more of the manufacturing processes mentioned in the schedule to this Act or for purposes incidental thereto shall be worked or permitted to be worked by a manager or an occupier unless a registration certificate has been granted in respect thereof; and if the factory has been extended after the grant of a registration certificate unless such certificate has been endorsed in such manner and subject to such conditions as may be prescribed for the grant of such a certificate or for an endorsement thereon.

(2) A registration certificate granted under sub-section (1) shall remain in force for one year from the date of the grant or endorsement and shall be renewable automatically on payment of the prescribed fee.

9-B. *Rules.* : (1) The Provincial Government may, after previous publication in the Official Gazette, make rules relating to all or any of the matters mentioned below :

- (a) as to the authority by whom, the form in which and the conditions subject to which, a registration certificate may be granted or an endorsement made under sub-section (1) of section 9-A;
- (b) prescribing the fee on payment of which a registration certificate may be granted or renewed or an endorsement made under section 9-A;
- (c) specifying the limit within which any renewal of or addition to existing machinery or appliance in a factory shall not be regarded as extension of a factory within the meaning of section 5-A(1); and
- (d) specifying the person or persons to whom authority may be delegated under section 5-A(1).

(2) In making rules the Provincial Government may prescribe different rates of fees for factories classified according to the number of workers employed in them and the nature of goods produced by them.”

CHAPTER II
THE INSPECTING STAFF

10. Inspector : (1) The Provincial Government may by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) The Provincial Government may, by notification as aforesaid, appoint any person to be a Chief Inspector, who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the Provinces.

(3) No person shall be appointed to be Inspector under sub-section (1) or a Chief Inspector under sub-section (2) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The Provincial Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of the Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one the Provincial Government may, by notification as aforesaid declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspectors shall be deemed to be a public servant within the meaning of the Pakistan Penal Code (XLV of 1860) and shall be officially subordinate to such authority as the Provincial Government may specify in this behalf.

11. Powers of Inspector : Subject to any rules made by the Provincial Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

- (a) enter with such assistants (if any), being persons in the service of the State or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under provisions of Section 5;
- (b) make such examination of the premises and plant and of any prescribed registers, and take on the spot or such evidence of persons as he may deem otherwise necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act;

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

12. Certifying surgeons: (1) The Provincial Government may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

(2) A certifying surgeon may authorise any registered medical practitioner to exercise any of his powers under this Act :

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

Explanation : In this section a "registered medical practitioner" means any person registered ¹²[xxx] under any Act of the Central Legislature or any Provincial Legislature providing for the maintenance of a register of medical practitioners, and includes, in any area where no such register is maintained, any person declared by the Provincial Government by notification in the official Gazette to be a registered medical practitioner for the purpose of this section.

¹³CHAPTER III
HEALTH AND SAFETY

13. Cleanliness : (1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular,—

- (a) accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of work-rooms and from stair-cases and disposed of in a suitable manner;
- (b) the floor of every work-room shall be cleaned at least once in every week by washing, using disinfectant where necessary or by some other effective method;
- (c) where the floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
- (d) all inside walls and partitions, all ceilings, or tops of rooms, and walls, sides and tops or passages and stair-cases shall—
 - (i) where they are painted or varnished, be repainted or revarnished at least once in every five years;
 - (ii) where they are painted or varnished and have smooth impervious surfaces, be cleaned at least once in every fourteen months, by such methods as may be prescribed;
 - (iii) in any other case, be kept white-washed or colour-washed and the white-washing or colour-washing shall be carried out at least once in every fourteen months; and
- (e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Provincial Government may, by an order, exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

14. Disposal of wastes and effluents : (1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

12. Certain Words omitted by the Federal Laws (Revision and Declaration) Ordinance, XXVII of 1981.
13. Chapter III Subs. by the Labour Laws (Amendment) Ordinance, IX of 1972, s. 2.
w.c.f. 13-4-1972.

(2) The Provincial Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with that sub-section shall be subjected to the approval of such authority as may be prescribed.

15. Ventilation and temperature : (1) Effective and suitable provisions shall be made in every factory for securing and maintaining in every work-room—

- (a) adequate ventilation by the circulation of fresh air, and
- (b) such temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health, and in particular—
- (i) the walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable ;
- (ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperature, such adequate measures as are practicable shall be taken to protect the workers therefrom by separating the process which produces such temperature from the work-room by insulating the hot parts or by other effective means.

(2) The Provincial Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Provincial Government that in any factory or class or description of factories excessively high temperature can be reduced by such methods as white-washing, spraying or insulating and screening outside walls or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, by other method, it may prescribe such of these or other methods to be adopted in the factory.

16. Dust and fume : (1) In every factory which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such extent as is likely to be injurious or offensive to the workers employed therein, effective measures shall be taken to prevent its accumulation in any work-room and its inhalation by workers and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into open air and exhaust pipes are insulated to prevent scalding and radiation heat, and no internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the workers employed in the work room.

17. Artificial humidification : (1) The Provincial Government may, in respect of all factories in which humidity of the air is artificially increased, make rules—

- (a) prescribing standards of humidification ;
- (b) regulating the methods used for artificially increasing the humidity of the air :

(c) directing prescribed test for determining the humidity of the air to be correctly carried out and recorded ; and

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the work-rooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified, he may serve on the Manager of the factory an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

18. Overcrowding : (1) No work-room in any factory shall be overcrowding to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of the provisions of sub-section (1) there shall be provided for every worker employed in a workroom—

(a) at least three hundred and fifty cubic feet of space in the case of a factory in existence on the date of the commencement of the Labour Laws (Amendment) Ordinance, 1972 ; and

(b) at least five hundred cubic feet of space in the case of a factory built after the commencement of the Labour Laws (Amendment) Ordinance, 1972.

Explanation : For the purpose of this sub-section no account shall be taken of a space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each work-room of a factory a notice specifying the maximum number of workers who may in compliance with the provisions of this section be employed in the room.

(4) The Chief Inspector may, by order in writing, exempt, subject to such conditions as he may think fit to impose, any work-room from the provisions of this section if he is satisfied that compliance therewith in respect of such room is not necessary for the purpose of health of the workers employed therein.

19. Lighting : (1) In every part of a factory where workers are working or passing, there shall be provided and maintained—

(a) sufficient and suitable lighting, natural or artificial or both; and

(b) emergency lighting of special points in work-room and passages to function automatically in case of a failure of the ordinary electric system.

(2) In every factory all glazed windows and sky-lights used for the lighting of the work-room shall be kept clean on both the outer and inner surfaces and free from obstruction as far as possible under the rules framed under sub-section (3) of Section 15.

(3) In every factory effective provisions shall, so far as is practicable, be made for the prevention of—

(c) glare either directly from any source of light or by reflection from a smooth or polished surface; and

(b) the formation of shadows to such an extent as to cause eye strain or risk of accident to any worker.

(4) The Provincial Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

20. **Drinking Water:** (1) In every factory effective arrangements shall be made to provide and maintain at suitable points convenient situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in language understood by the majority of the workers; and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling the drinking water during the hot weather by effective means and for distribution thereof and arrangements shall also be made for—

(a) the daily renewal of water if not laid on; and

(b) a sufficient number of cups or other drinking vessels, unless the water is being delivered in an upward jet.

(4) The Provincial Government may, in respect of all factories or any class or description of factories, make rules for securing compliance with the provisions of this section.

21. **Latrines and urinals:** (1) In every factory—

(a) sufficient latrines and urinals of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are in the factory;

(b) enclosed latrines and urinals shall be provided separately for male and female workers;

(c) such latrines and urinals shall be adequately lighted and ventilated and no latrine and urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any work room except through an intervening open space or ventilated passage;

(d) all such latrines and urinals shall be maintained in a clean and sanitary condition at all times with suitable detergents or disinfectants or with both;

(e) the floors and internal walls of the latrines and urinals and the sanitary blocks shall, up to a height of three feet, be finished to provide a smooth polished impervious surface; and

(f) washing facilities shall be provided near every sanitary convenience.

(2) The Provincial Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the number of male and female workers ordinarily employed therein and such further matters in respect of sanitation in the factories as it may deem fit.

22. **Spittoons.** (1) In every factory there shall be provided, at convenient places, a sufficient number of spittoons which shall be maintained in a clean and hygienic condition.

(2) The Provincial Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and such further matters as may be deemed necessary relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose. A notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whosoever spits in contravention of sub-section (3) shall be punishable with a fine not exceeding two rupees.

23. **Precautions against contagious or infectious disease:** (1) Each worker in a factory shall be provided with a 'Hygiene Card' in which during the 13[months of January and July every year entries] shall be recorded after examination by appointed factory doctor to the effect that the worker is not suffering from any contagious or infectious disease. The fee of such an examination shall be fixed by the Provincial Government and will be borne by the occupier or manager of the factory.

(2) If a worker is found to be suffering from any contagious or infectious disease on an examination under sub-section (1), he shall not be appointed on work till he is declared free of such a disease.

14[23 A. **Compulsory vaccination and inoculation:** Each worker in a factory shall be vaccinated and inoculated against such diseases and at such intervals as may be prescribed. The expenses, if any, of such vaccination and inoculation shall be borne by the occupier or manager of the factory].

24. **Power to make rules for the provision of canteens:** (1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) representation of the workmen in the management of the canteens;

(e) enabling, subject to such conditions, if any, as may be specified, the power to make rules under clause (c) to be exercised also by the Chief Inspector.

15[24-A. **Welfare Officers:** In every factory wherein not less than five hundred workers are ordinarily employed, the occupier or manager shall employ such number of welfare officers, having such qualifications, to perform such duties and on such terms and conditions as may be prescribed].

3. Subs. by the Factories (Amendment) Act, XVI of 1973, S. 7.

4. Sec. 23-A Ins. by the Factories (Amendment) Act, XVI of 1973, Sec. 8.

5. Sec. 24-A Ins. by the Factories (Amendment) Act, XVI of 1973, S. 9.

25. Precautions in case of fire : (1) Every factory shall be provided with such means of escape in case of fire as may be prescribed.

(2) If it appears to the Inspector that any factory is not provided with the means of escape prescribed under sub-section (1) he may serve on the manager of the factory an order in writing specifying the measure which should be adopted before a date specified in the order.

(3) In every factory the doors affording exit from any room shall not be locked or fastened so that they can be easily and immediately opened from inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards or where the door is between two rooms, in the direction of the nearest exit from the building and such door shall not be locked or obstructed while work is being carried on in the room and shall at all times be kept free from any obstruction.

(4) In every factory every window, door or other exit affording means of escape in case of fire, other than means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(5) In every factory there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein.

(6) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the factory.

(7) In every factory wherein more than ten workers are ordinarily employed in any place above the ground floor, or explosive or highly inflammable materials are used or stored, effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(8) The Provincial Government may make rules prescribing in respect of any factory, or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

26. Fencing of machinery : (1) In every factory the following shall be securely fenced by the safeguards of substantial construction which shall be kept in position while the parts of machinery required to be fenced are in motion or in use, namely—

- (a) every moving part of a prime mover, and every fly-wheel connected to a prime mover ;
- (b) the headrace and tailrace of every water wheel and water turbine ;
- (c) any part of a stock-bar which projects beyond head stock of a lathe ; and
- (d) unless they are in such position or of such construction as to be as safe to every person employed in the factory as they would be if they were securely fenced—
 - (i) every part of an electric generator, a motor or rotary convertor ;
 - (ii) every part of transmission machinery ; and

(iii) every dangerous part of any machinery :

Provided that, in the case of dangerous parts of machinery that cannot be securely fenced by reason of the nature of operation, such fencing may be substituted by other adequate measures, such as—

- (i) devices automatically preventing the operation from coming into contact with the dangerous parts ; and
- (ii) automatic stopping devices :

Provided further that, for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of Section 27.

(2) Without prejudice to any other provisions of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion and all spur, worm and other toothed or friction gearing in motion with which such worker should otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(3) The Provincial Government may exempt, subject to such conditions as may be imposed, for securing the safety of the workers, any particular machinery or part from the provisions of this section.

(4) The Provincial Government may, by rules, prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof.

27. Work on or near machinery in motion : (1) Where in any factory it becomes necessary to examine any part of machinery referred to in Section 26 while the machinery is in motion, or as a result of such examination to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged, such worker shall not handle belt at a moving pulley unless the belt is less than six inches in width and unless the belt joint is either laced or flush with the belt.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of machinery while that part is in motion, or to work between moving parts or between fixed and moving parts of any machinery which is in motion.

(3) The Provincial Government may, by notification in the official Gazette, prohibit in any specified factory or class or description of factories the cleaning, lubricating or adjusting by any person, of specified parts of machinery when those parts are in motion.

28. Employment of young persons on dangerous machines : (1) No child or adolescent shall work at any machine unless he has been fully

instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

- (a) has received sufficient training in work at the machine, or
 - (b) is under adequate supervision by the person who has thorough knowledge and experience of the machine.
- (2) This section shall apply to such machines as may be notified by the Provincial Government to be of such a dangerous character that [children or adolescents] ought not to work at them unless the foregoing requirements are complied with.

29. Striking gear and devices for cutting off power: (1) In every factory—

- (a) suitable striking gear or other sufficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on the fast pulleys;
 - (b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion;
- (2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.
- (3) In respect of factories in operation before the commencement of this Ordinance¹⁸ the provisions of the sub-section (2) shall apply only to work-rooms in which electricity is used for power.

30. Self acting machines: No traversing part of self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or otherwise be allowed to run on an outward or inward traverse within a distance of eighteen inches from a fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of machine installed before the commencement of the Labour Laws (Amendment) Ordinance, 1972, which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

31. Casing of new machinery: (1) In all machinery driven by power and installed in any factory after the commencement of the Labour Law (Amendment) Ordinance, 1972—

- (a) every set screw, belt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and
- (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

17. Subs. for "young persons" by the Factories (Amendment) Act, XVI of 1973, S. 10.
18. Subs. by the Labour Laws (Amendment) Ordinance, IX of 1972, which came into force on April 13, 1972.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment, for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) The Provincial Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

32. Prohibition of employment of women and children near cotton openers: No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work:

Provided that if the feed end of a cotton opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed end is situated.

33. Cranes and other lifting machinery: (1) The following provisions shall apply in respect of cranes and all other lifting machinery, other than hoists and lifts in any factory—

(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—

- (i) of good construction, sound material and adequate strength;
- (ii) properly maintained;
- (iii) thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly marked thereon;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place or come into accidental contact with live electrical lines;

(d) limit switches shall be provided to prevent over-running; and

(e) jib cranes, permitting the rising or lowering of the jib shall be provided with an automatic safe load indicator or have attached to them a table indicating the safe working load at corresponding inclinations of the jib.

(2) The Provincial Government may make rules in respect of any machinery or class or description of lifting machinery in factories—

(a) prescribing requirements to be complied with in addition to those set out in this section; or

(b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable.

19[33-A. Hoists and lifts : (1) In every factory—

(a) every hoist and lift shall be—

- (i) of good mechanical construction, sound material and adequate strength ;
 - (ii) properly maintained, and shall be thoroughly examined by a competent person authorised by the Chief Inspector in this behalf at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination of which a copy shall be forwarded to the Chief Inspector ;
- (b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part ;
 - (c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon ;
 - (d) the cage of every hoist or lift, used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing ;
 - (e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other sufficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of the Labour Laws (Amendment) Ordinance, 1972, namely :—

- (a) Where the cage is supported by rope or chain there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its minimum load ;
- (b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments ;
- (c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Ordinance which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The Provincial Government may, if in respect of class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

33-B. Revolving machinery : (1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near, each machine in use a notice indicating the maximum safe working peripheral speed of every grind stone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in the notice under sub-sec. (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage basket, fly-wheel, pulley, disc or similar appliance driven by power is not exceeded.

33-C. Pressure Plant : (1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure, effective measure shall be taken to ensure that safe working pressure of such part is not exceeded.

(2) The Provincial Government may make rules providing for examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may, in its opinion, be necessary in any factory or class or description of factories.

33-D. Floors, stairs and means of access : In every factory—

- (a) all floors, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety, steps, ladders, passages and gangways shall be provided with substantial handrails ;
- (b) there shall so far as is reasonably practicable be provided and maintained safe means of access to every place at which any person is at any time required to work ;
- (c) all places of work from which a worker may be liable to fall a distance exceeding three feet and six inches shall be provided with fencing or other suitable safeguards ; and
- (d) adequate provision shall be made for the drainage of floors in wet processes and for the use of slatted stands and platforms.

33-E. Pits, sumps, opening in floors, etc. : In every factory, every fixed vessel, sump, tank pit or opening in the ground or in a floor which by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The Provincial Government may, by order in writing exempt, subject to such conditions as may be imposed, any factory or class or description of factories in respect of any vessel sump, tank pit or opening from compliance with the provisions of this section.

33-F. Excessive weights : (1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause injury.

(2) The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in carrying on any specified process.

33-G. Protection of eyes. The Provincial Government may, in respect of any manufacturing process carried on in any factory, by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, a process which involves—

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light or heat.

33-H. Powers to require specifications of defective parts or tests of stability: If it appears to the Inspector that any building or any part of the ways, machinery or plant in a factory, is in such a condition that it may be dangerous to human life or safety, he may serve on the Manager of the factory an order in writing, requiring him before a specified date—

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof.

33-I. Safety of building, machinery and manufacturing process: (1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant or manufacturing process in a factory is in such a condition that it is dangerous to human health or safety, he may serve on the Manager of the factory an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Chief Inspector that the requisitions made under sub-section (1) are not satisfactorily fulfilled thereby involving exposure of workers to serious hazards, he may serve on the Manager of the factory an order in writing, containing a statement of the grounds of his opinion, prohibiting until the danger is removed, the employment, in or about the factory or part thereof, of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant or manufacturing process in a factory involves imminent danger to human health or safety he may serve on the Manager of factory an order in writing prohibiting, until the danger is removed, the employment, in or about the factory or part thereof, of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Nothing in sub-section (2) or (3) shall be deemed to effect a discontinuance in the employment of the factory of a person whose employment in or about the factory or part thereof is prohibited under that sub-section.

33-J. Powers to make rules to supplement this Chapter: The Provincial Government may make rules requiring that—

(1) In any factory or in any class or description of factories, such further devices and measures for securing the safety of the persons employed therein as it may deem necessary shall be adopted; and

(2) Work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory until a certificate of stability in the prescribed form and signed by a person possessing the prescribed qualifications has been sent to the Chief Inspector.

33-K. Precautions against dangerous fumes: (1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1) and, where the fumes present are likely to be inflammable, a lamp or light other than of flame proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent ingress of fumes and unless either—

- (a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter; or
- (b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory, any boiler furnace, boiler, flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Provincial Government may make rules prescribing the maximum dimensions of the manholes referred to in sub-section (1) and may, by order in writing, exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

33-L. Explosive or inflammable dust, gas, etc.: (1) Where in any factory any manufacturing process produces dust, gas, fumes or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:—

- (a) before the fastening of any joint of any pipe connected with the part of the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;
- (b) before any such fastening as aforesaid is removed all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;
- (c) where any such fastening as aforesaid has been loosened or removed, effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced:

Provided that the provisions of the sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat or to any drilling or other operation which is likely to create heat or sparks, unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Provincial Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

33-M. Power to exclude children: (1) The Provincial Government may make rules prohibiting the admission to any specified class of factories, or to specified parts thereof, of children who cannot be lawfully employed therein.

(2) If it appears to the Inspector that the presence in any factory or part of a factory of children who cannot be lawfully employed therein may be dangerous to them or injuries to their health, he may serve on the manager of the factory an order in writing directing him to prevent the admission of such children to the factory or any part of it.

33-N. Notice of certain accidents: Where in any factory an accident occurs which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours after the accident occurred, or which is of any nature which may be prescribed in this behalf, the manager of the factory shall

send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

33-P. Appeals: (1) The Manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Chapter, or the occupier of the factory, may, within thirty days of service of the order, appeal against it to the Provincial Government, or to such authority and the Provincial Government, or appointed authority may, subject to rules made in this behalf by the Provincial Government, confirm, modify or reverse the order.

(2) The Appellate Authority may, and if so required in the petition or appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as the Provincial Government may prescribe in this behalf:

Provided that if no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor, or if it thinks fit, without the aid of any assessor.

(3) Except in the case of an appeal against an order under sub-section (3) of Section 33-I or sub-section (2) of Section 33-M the Appellate Authority may suspend the order appealed against pending the decision of the appeal, subject however to such conditions as to partial compliance or the adoption of temporary measures as it may choose to impose in any case.

33-Q. Additional power to make health and safety rules relating to shelters during rest: (1) The Provincial Government may make rules requiring that in any specified factory wherein more than one hundred and fifty workers are ordinarily employed, an adequate shelter shall be provided for the use of workers during periods of rest, and such rules may prescribe the standards of such shelters.

(2) Rooms for children: The Provincial Government may also make rules—

(a) requiring that in any specified factory, wherein more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women, and

(b) prescribing the standards for such rooms and the nature of the supervision to be exercised over the children therein.

(3) Certificate of stability: The Provincial Government may also make rules, for any class of factories and for the whole or any part of the Province, requiring that work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory after the commencement of this Act, until a certificate of stability in the prescribed form, signed by a person possessing the prescribed qualifications, has been sent to the Inspector.

(4) Hazardous operations: Where the Provincial Government is satisfied that operation in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class of factories in which the operation is carried on—

(a) specifying the operation and declaring it to be hazardous.

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circumstances permit, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may make rules prescribing the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

36. Daily hours : No adult worker shall be allowed or required to work in a factory for more than nine hours in any day :

Provided that a male adult worker in a seasonal factory may work for ten hours any day.

37. Intervals for rest : The periods of work of adult workers in a factory during each day shall be fixed either,—

(a) so that no period shall exceed six hours and so that no worker shall work for more than six hours before he had an interval for rest of at least one hour ; or

(b) so that no period shall exceed five hours, and so that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour, before he has at least two such intervals.

38. Spread over : The periods of work of an adult worker in a factory shall be so arranged that along with his intervals for rest under Sec. 37, they shall not spread over more than ten and-a-half hours, or where the factory is a seasonal one, eleven and-a-half hours in any day, save with permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory.

39. Notice of periods for work for adults and preparation thereof : (1) There should be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of Sec. 76 a Notice of Periods for Work for Adults showing clearly the periods which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed before hand in accordance with the following provisions of this section and shall be such that workers working for these periods would not be working in contravention of any of the provisions of Sections 34, 35, 36, 37 and 38.

(3) Where all the adult workers in a factory are required to work within the same periods, the manager of the factory shall fix those periods, for such workers generally.

(4) Where all the adult workers in a factory are not required to work within the same periods, the manager of the factory shall classify them into groups according to the nature of their work.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods within which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to pre-determined periodical changes of shifts, the Manager of factory shall fix the period within which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays be subject to pre-determined periodical changes of shifts, the manager of

(b) prohibiting or restricting the employment of women, adolescent or children upon the operation,

(c) providing for the medical examination of persons employed or seeking to be employed upon the operation and prohibiting the employment of persons not certified as fit for such employment, and

(d) providing for the protection of all persons employed upon the operation or in the vicinity of the places where it is carried on.

²⁰(5) The Provincial Government may also make rules requiring the occupiers or managers of factories to maintain stores of First Aid appliances and provide for their proper custody and use].

CHAPTER IV

RESTRICTIONS ON WORKING HOURS OF ADULTS

34. Weekly hours ; No adult worker shall be allowed or required to work in a factory 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 :

Provided that an adult worker in a factory engaged in work which for technical reasons must be continuous throughout the day may work for fifty-six hours in any week.

35. Weekly holiday : (1) No adult worker shall be allowed or required to work in a factory on a Friday unless—

(a) he had or will have a holiday for a whole day on one of the three days immediately before or after that Friday, and

(b) the manager of the factory has, before that Friday or the substituted day, whichever is earlier—

(i) delivered a notice to the office of the Inspector of his intention to require the worker to work on the Friday and of the day which is to be substituted, and

(ii) displayed a notice to the effect in the factory ;

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notice given under sub-section (1) may be cancelled by a notice delivered to the office of the Inspector and a notice displayed in the factory not later than the day before the Friday or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1) any worker works on a Friday and has had a holiday on one of the three days immediately before it, the Friday shall, for the purpose of calculating the weekly hours of work, be included in the preceding week.

35-A. Compensatory holidays : (1) Where as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the worker therein from the provisions of Section 35, a worker is deprived of any of the weekly holidays for which provision is made by sub-section (1) of that section, he shall be allowed, as soon as

20. Sub-sec. (5) added by the Factories (Amendment) Act, XVI of 1973, Sec. 11.

the factory shall draw up a scheme of shifts whereunder the periods within which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The Provincial Government may make rules prescribing forms for the Notice of Periods for Work for Adults and the manner in which it shall be maintained.

40. Copy of Notice of Periods of Work to be sent to Inspector: (1) A copy of the Notice referred to in sub-section (1) of Section 39 shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, before the day on which it begins work.

(2) Any proposed change in the system of work in a factory which will necessitate a change in the Notice shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

41. Register of Adult Workers: (1) The manager of every factory shall maintain a Register of Adult Workers, showing—

(a) the name ²¹[and age] of each adult worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted, and

(e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of routine of factory gives, in respect of any or all of the workers in the factory, the particulars required under this section he may, by order in writing, direct that such muster roll or register shall, to the corresponding extent, be maintained in place of and be treated as the Register of Adult Workers in that factory:

Provided further that, where the Provincial Government is satisfied that the conditions of work in any factory or class of factories are such that there is no appreciable risk of contravention of the provisions of this Chapter in the case of that factory or factories of that class, as the case may be, the Provincial Government may, by written order, exempt, on such conditions as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section.

(2) The Provincial Government may make rules prescribing the form of the Register of Adult Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

42. Hours of work to correspond with Notice under Sec. 39 and Register under Sec. 41: No adult worker shall be allowed or required to work otherwise than in accordance with the Notice of Periods for Work for Adults displayed under sub-section (1) of Sec. 39 and the entries made beforehand against his name in the Register of Adult Workers maintained under Sec. 41.

43. Powers to make rules exempting from restrictions: (1) The Provincial Government may make rules defining the persons who hold

positions of supervision or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of Sec. 45 and of the provisions to that sub-section, shall not apply to any person defined.

(2) The Provincial Government may make rules for adult workers providing for the exemption, to such extent and subject to such conditions as may be prescribed in such rules,—

(a) of workers engaged on urgent repairs from the provisions of Secs. 34, 35, 36, 37 and 38;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory—from the provisions of Secs. 34, 36, 37 and 38;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under Sec. 37—from the provisions of Secs. 34, 36, 37 and 38;

(d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day—from the provisions of Sections 34, 35, 36, 37 and 38.

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day—from the provisions of Section 35;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons—from the provisions of Section 35;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces—from the provisions of Section 35 and Section 37; and

(h) of workers engaged in engine-rooms or boiler-houses—from the provisions of Section 35.

(3) Rules made under sub-section (2) providing for any exemption may provide for any consequential exemption from the provisions of Secs. 39 and 40 which the Provincial Government may deem to be expedient, subject to such conditions as it may impose.

(4) In making rules under this section the Provincial Government shall prescribe the maximum limits for the weekly hours of work for all classes of workers, and any exemption given, other than an exemption under clause (a) of sub-section (2), shall be subject to such limits.

(2) Rules made under this section shall remain in force for not more than three years.

44. Powers to make orders exempting from restrictions: (1) Where the Provincial Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require at the periods of work of any adult workers in any factory or class of factories should be fixed beforehand; it may, by written order, relax or modify the provisions of Sections 39 and 40 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over period of work.

(2) The Provincial Government, or subject to the control of the Provincial Government the Chief Inspector, may, by written order, exempt, on such conditions as it or he may deem expedient, any or all the adult workers in any factory, or group or class of factories, from any or all of the provisions of Sections 34, 35, 36, 37, 38, 39 and 40, on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) An exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits, prescribed under sub-section (4) of Sec. 43.

(4) An order under sub-section (2) shall remain in force for such period, and exceeding two months from the date on which notice thereof is given to the manager of the factory, as may be specified in the order :

Provided that if the opinion of the Provincial Government the public interest so requires, the Provincial Government may from time to time, by notification in the official Gazette, extend the operation of any such order for period, not exceeding six months at any one time, as may be specified in the notification.

45. Further restrictions on the employment of women: (1) The provisions of this Chapter shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of Section 36 may be granted in respect of any woman ; and

(b) no woman shall be allowed to work in a factory except between 6 a.m. and 7 p.m. :

Provided that the Provincial Government may, by notification in the official Gazette, in respect of any class or classes of factories and for the whole year or any part of it, vary the limits laid down in clause (b) to any span of ten and-a-half hours, or where the factory is a seasonal one, of eleven and-a-half hours, between 5 a.m. and 7-30 p.m. :

Provided further, that, in respect of any seasonal factory or class of seasonal factories in a specified area, the Provincial Government may make rules imposing a further restriction by defining the periods of the day within which women may be allowed to work, such that the period or periods so defined shall lie within the span fixed by clause (b) or under the above proviso and shall not be less than ten hours in the aggregate.

(2) The Provincial Government may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to or deterioration in any raw material.

(3) Rules made under sub-section (2) shall remain in force for not more than three years.

46. Special provision for night shift: Where a worker works on a shift which extends over mid-night, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after mid night shall be counted towards the previous day :

Provided the Provincial Government may, by order in writing, direct that in the case of any specified factory or any specified class of workers

therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

47. Extra pay for overtime: (1) Where a worker —

(a) in a non-seasonal factory works for more than nine hours in any day or for more than forty-eight hours in any week, or

(b) in a seasonal factory works for more than nine hours in any day or for more than fifty hours in any week,

shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay.

22-23[Explanation: In this sub-section, 'ordinary rate of pay' means all remuneration capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include—

(i) the value of any house-accommodation, supply of light, water, medical attendance or other amenity ;

(ii) any contribution paid by the employer to any pension fund or provident fund ;

(iii) any travelling allowance or the value of travelling concession ; or

(iv) any gratuity, bonus or share in the profits of the factory.

(3) Where any workers are paid on a piece-rate basis, the Provincial Government in consultation with the industry concerned may for the purposes of this section fix time-rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section.

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

24[47-A. Obligation to work overtime: Any adult workers may be required to work overtime, provided that such working conforms to the provisions of this Act and the rules made thereunder].

48. Restriction on double employment: No adult worker shall be allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

49. Control of overlapping shifts: The Provincial Government may make rules providing that in any specified class or classes of factories work shall not be carried on by a system of shifts so arranged in work for the same kind at the same time save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory.

22-23. Explanation added by the Factories (Amendment) Act, XVI of 1973, S. 13.

24. Sec. 47-A added by the Factories (W.P. Amendment) Ordinance of 1966.

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25 CHAPTER IV-A

HOLIDAYS WITH PAY

49-A. Application of Chapter: (1) The provisions of the Chapter shall not apply to a seasonal factory.

(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other enactment, or under the terms of any award, agreement or contract of service.

49-B. Annual Holidays: (1) Every worker who has completed a period of twelve months' continuous service in a factory shall be allowed, during the subsequent period of twelve months holidays for a period of ²⁶[.....] fourteen consecutive days, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of Section 35.

(2) If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to be holidays to be allowed to him under sub-section (1) in the succeeding period of twelve months, so however that the total number of holidays which may be carried forward to a succeeding period shall not exceed ²⁷[.....] fourteen.

(3) If a worker entitled to holidays under sub-section (1) is, discharged by his employer before he has been allowed the holidays, or if, having applied for and having been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under Section 49-C in respect of the holidays.

Explanation: A worker, shall be deemed to have completed a period of twelve months' continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by lock-out or by a strike which is not an illegal strike or by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorised leave shall be deemed not to include any weekly holiday under Section 35 which occurs at beginning or end of an interruption brought about by the leave.

49-C. Pay during annual Holidays: Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of Section 35, the worker shall, for the remaining days of the holidays allowed to him under Section 49-B, be paid at a rate equivalent to the daily average of his wages as defined in the Payment of Wages Act, 1936 (IV of 1936), for the days on which he actually worked during the preceding three months, exclusive of any earning in respect of overtime.

49-D. Payment when to be made: A worker who has been allowed holidays under Section 49-B shall, before his holidays begin, be paid half the total pay due for the period of holidays.

49-E. Power of Inspector to act for worker: Any Inspector may institute proceeding on behalf of any worker to recover any sum required to be paid under this Chapter by an employer which the employer has not paid.

25. Chapter IV-A ins. by the Factories (Amendment) Act, III of 1945, S. 3.
26-27. The words "ten or, if a child" omitted by the Factories (Amendment) Act, XVI of 1973.

49-F. Power to make rules: (1) The Provincial Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section prescribing the keeping by employers of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

(3) *Omitted by A. O., 1964 Art 2 and Sch.*

49-G. Exemption of factories from provisions of this Chapter: Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits substantially similar to those for which this Chapter makes provision, it may, by written order exempt the factory from the provisions of this Chapter.

²⁸[49-H. Casual leave and sick leave: (1) Every worker shall be entitled to casual leave with full pay for ten days in a year.

(2) Every worker shall be entitled to sixteen days' sick leave on half average pay in a year.]

²⁹[49-I. Festival holidays: (1) Every worker shall be allowed holidays with pay and on all days declared by the Provincial Government to be festival holidays.

(2) A worker may be required to work on any festival holiday, but one day's additional compensatory holiday with full pay and a substitute holiday shall be allowed to him in accordance with the provisions of Section 35.

CHAPTER V

SPECIAL PROVISIONS FOR ADOLESCENTS AND CHILDREN

50. Prohibition of employment of young children: No child who has not completed his ³⁰[14] year shall be allowed to work in any factory.

51. Non-adult workers to carry tokens giving reference to certificates of fitness: No child who has completed his ³⁰[14] year and no adolescent shall be allowed to work in any factory unless—

(a) a certificate of fitness granted to him under Section 52 is in the custody of the manager of the factory, and

(b) he carries while he is at work a token giving a reference to such certificate.

52. Certificate of fitness: (1) A certifying surgeon shall, on the application of any ³¹[child of adolescent] who wishes to work in a factory or of the parent or guardian of such person or of the factory in which such person wishes to work, examine such person and ascertain his fitness for such work.

(2) The certifying surgeon after examination, may grant to such person, in the prescribed form—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that such person has completed his twelfth year, that he

28. Sec. 49-H added by the Factories (Amendment) Act, XVI of 1973, S. 15.

29. Section 49-I added by the Factories (Amendment) Act, XVI of 1973, S. 16.

30. Subs. for "twelfth" by the Labour Laws (Amendment) Act, XVII of 1977.

31. Subs. for the words "young persons" by the Factories (Amendment) Act, XVI of 1973, S. 17.

has attained the prescribed physical standards (if any), and that he is fit for such work ; or

(b) a certificate of fitness to work in a factory as an adult if he is satisfied that such person has completed his fifteenth year and fit for full day's work in a factory.

(3) A certifying surgeon may revoke any certificate granted under sub-section (2) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.

(4) Where a certifying surgeon or a practitioner authorised under sub-section (2) of Section 12 refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate state his reasons in writing for so doing.

53. Effect of certificate granted to adolescent : (1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult, under clause (b) of sub-section (2) of Section 52, and who, while at work in a factory, carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter IV.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under sub-section (2) of Section 52, shall notwithstanding his age, be deemed to be a child for the purposes of this Act.

54. Restrictions on the working hours of a child : (1) No child ³²[or adolescent] should be allowed to work in a factory for more than five hours in a day.

(2) The hours of work of a child shall be so arranged that they shall not spread over more than seven and-a-half hours in any day.

(3) No child ³²[or adolescent] shall be allowed to work in a factory except between 6. a.m. and 7 p.m. :

Provided that the Provincial Government may, by notification in the official Gazette in respect of any class or classes of factories and for the whole year or any part of it, vary those limits to any span of thirteen hours between 5 a.m. and 7-30 p.m.

(4) The provisions of Section 35 shall apply also to child workers, but no exemption from the provisions of that section may be granted in respect of any child.

(5) No child shall be allowed to work in any factory on any day on which he has already been working in another factory.

55. Notice of periods for work for children : (1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of Section 76, a Notice of Periods for Work for Children, showing clearly the periods within which children may be required to work.

(2) The periods shown in the Notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult in Section 39 and shall be such that children working for those periods would not be working in contravention of Section 54.

32. Subs. for the words "young persons" by the Factories (Amendment) Act, XVI of 1973, Sec. 17.

(3) The provisions of Section 40 shall apply also to the Notice of Periods for Work for Children.

(4) The Provincial Government may make rules prescribing forms for the Notice of Periods of Work for Children and the manner in which it shall be maintained.

56. Register of children workers : (1) The manager of every factory in which children are employed shall maintain a Register of Child Workers showing—

(a) the name ³³[and age] of each child worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted,

(e) the number of his certificate of fitness granted under Section 52, and

(f) such other particulars as may be prescribed.

(2) The Provincial Government may make rules prescribing the form of the Register of Child Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

57. Hours of work to correspond with Notice and Register : No child shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Children displayed under sub-section (1) of Section 55 and the entries made beforehand against his name in the Register of Child Workers maintained under sub-section (1) of Section 56.

58. Power to require medical examination : Where an Inspector of opinion—

(a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or

(b) that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person, or that such child or adolescent, as the case may be, shall be examined by a certifying surgeon or by a practitioner authorised under sub-section (2) of Section 12, and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been granted a certificate of fitness, as the case may be.

59. Power to make rules : The Provincial Government may make rules—

(a) prescribing the forms of certificate of fitness to be granted under Section 52, providing for the grant of duplicates in the event of loss of original certificates, and fixing the fees which may be charged for such certificate and such duplicates ;

(b) prescribing the physical standards to be attained by children and adolescents ;

(c) regulating the procedure of certifying surgeons under this Chapter, and specifying other duties, which they may be required to perform in connection with the employment of children and adolescent in factories ; and

Ins. by the Factories (Amendment) Act, XVI of 1973. S. 18.

(d) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

34 59-A. Provisions to be in addition to Act, XXVII of 1938: The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVII of 1938)].

CHAPTER VI

PENALTIES AND PROCEDURE

60. Penalty for contravention of Act and rules: If in any factory—

(a) there is any contravention—

(i) of any of the provisions of Sections 13 to 32 inclusive, or

(ii) of any order made under any of the said sections, or

(iii) of any of the sections read with rules made in pursuance thereof under clause (a) of section 33 or

(iv) of any rules made under any of the said sections, or under Sections 33-J and 33-Q], or

(v) of any condition imposed under sub-section (3) of Section 33-P], or

(b) any person is allowed to work in contravention—

(i) of any of the provisions of Sections 34 to 38 inclusive 42, 45 48, 49-H and 49-I].

(ii) of any rule made under any of the sections, or under Section 49, or

(iii) of any condition attached or any exemption granted under Section 43 or Section 44 or Section 45 or to any permission granted under Section 38 or Section 49, or

(c) there is any contravention of any of provisions of Sections 39 to 41 inclusive or of any rules made under Section 39, Section 41 or Section 47, or of any condition attached to any exemption granted under Section 41 or to any modification or relaxation made under Section 44, or

(d) any person is not paid any extra pay to which he is entitled under the provisions of Section 47, or

(e) any adolescent or child is allowed to work in contravention of any of the provisions of Sections 50, 51, 54, 55, 57 and 58, or

(f) there is any contravention of Section 55 or Section 56 or of any rules made under either of these sections, or under clause (d) of Section 59, or

(g) there is any contravention of Section 49-B, 49-C or 49-D, or of any rules made under Section 49-F,

the manager and occupier of the factory shall each be punishable with fine which may extend to five hundred rupees:

34. Sec. 59-A subs. for Chapter V-A by the Factories (Amendment) Act, XVI of 1973, S. 19.

35. Subs. by the Labour Laws (Amendment) Act, XI of 1975.

Provided that if both the manager and the occupier are convicted, the aggregate of the fines in respect of the same contravention shall not exceed this amount.

61. Enhanced penalty in certain cases after previous conviction: If any person who has been convicted of any offence punishable under clauses (b) to (g) inclusive of Section 60 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on the second conviction with fine which may extend to seven hundred and fifty rupees, and shall not be less than one hundred rupees and if he is again so guilty, with fine which may extend to one thousand rupees and shall not be less than two hundred and fifty rupees:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

62. Penalty for failure to give notice of commencement of work or change of manager: An occupier of a factory who fails to give any notice required by sub-section (1) 36[sub-section (1-A)] or sub-section (2) of section 9 shall be punishable with fine which may extend to five hundred rupees.

THE FACTORIES (PUNJAB AMDT.) ACT, 1940

After section 62 of the said Act, the following section shall be deemed to be inserted, namely:—

“62-A. *Penalty for failure to register*:— A manager or an occupier who contravenes the provisions of section 9-A or the conditions on which a registration certificate is granted or an endorsement made shall be punishable with fine which may extend to five hundred rupees, or, if he has previously been convicted of an offence under that section of the said Act, to one thousand rupees on the second conviction. For every subsequent offence the maximum amount of fine which may be imposed shall be enhanced by five hundred rupees subject to a maximum of two thousand and five hundred rupees.”

THE FACTORIES (N.-W.F.P. AMDT.) ACT, 1946

After section 62 of the said Act, the following section shall be deemed to be inserted, namely:—

“62-A. *Penalty for failure to register*.—A manager or an occupier who contravenes the provisions of section 9-A or the conditions on which a registration certificate is granted or an endorsement made shall be punishable with fine which may extend to five hundred rupees, or, if he has previously been convicted of offence under that section of the said Act, to one thousand rupees on the second conviction. For every subsequent offence the maximum amount of fine which may be imposed shall be

Ins. by the Factories (Amendment) Act, XVI of 1973, S. 19.

enhanced by five hundred rupees subject to a maximum of two thousand and five hundred rupees.

63. Penalty for obstructing Inspector: Whoever wilfully obstructs an Inspector in the exercise of any power under Section 11, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of the rules made thereunder, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with fine which may extend to five hundred rupees.

64. Penalty for failure to give notice of accident: A manager of a factory who fails to give notice of an accident as required under Section 33-N shall be punishable with fine which may extend to five hundred rupees.

65. Penalty for failure to make returns: If in respect of any factory any return is not furnished as required under Section 77, the manager and the occupier of the factory shall each be liable to fine which may extend to five hundred rupees:

Provided that if both the manager and the occupier are convicted the aggregate of the fines inflicted shall not exceed this amount.

66. Penalty for smoking or using naked light in vicinity of inflammable material: Whoever smokes, or uses a naked light or causes or permits any such light to be used in the vicinity of any inflammable material in a factory shall be punishable with fine which may extend to five hundred rupees.

Exception: This provision does not extend to the use, in accordance with such precautions as may be prescribed, of a naked light in the course of a manufacturing process.

67. Penalty for using false certificate: Whoever knowingly uses or attempts to use, as a certificate granted to himself under Section 52 a certificate granted to another person under that section, or who having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made by another person, shall be punishable with fine which may extend to twenty rupees.

68. Penalty on guardian for permitting double employment of a child: If a child works in a factory on any day on which he has already been working in another factory, that parent or guardian of the child or the person having custody of, or control over him or obtaining any direct benefit from his wages shall be punishable with fine which may extend to twenty rupees, unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, guardian or person.

69. Penalty for failure to display certain notices: A manager of a factory who fails to display the notice required under sub-section (1) of Section 76 or by any rule under this Act, or to display or maintain any such notice as required by sub-section (2) of that section, shall be punishable with fine which may extend to five hundred rupees.

70. Determination of "occupier" for purposes of this Chapter: (1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:—

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in Pakistan to be the occupier of the factory for purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:—

Provided that the company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case in Pakistan to be the occupier, of the factory for the purposes of this Chapter and such director or shareholder shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be director or shareholder.

71. Exemption of occupier from liability in certain cases: (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act; and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appeal to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act; and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as he were the occupier or manager.

72. **Presumption as to employment:** If a child over the age of six years is found inside any part of a factory in which children are working, he shall until the contrary is proved, be deemed to be working in the factory.

73. **Evidence as to age:** (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that worker.

74. **Cognizance of offences:** (1) No prosecution under this Act, except a prosecution under Sec. 65, shall be instituted except by or with the previous sanction of the Inspector.

(2) No Court inferior to that of a Magistrate of the First Class shall try an offence against this Act, or any rule or order made thereunder, other than an offence under Section 66 or Section 67.

(3) *Omitted by the Factories (Amendment) Act, XVI of 1973, Sec. 21.*

75. **Limitation of prosecution:** No Court shall take cognizance of any offence under this Act or any rule or order thereunder, other than an offence under Section 62 or Section 64, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that when the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the offence is alleged to have been committed.

CHAPTER VII

SUPPLEMENTAL

76. **Display of factory notice:** (1) In addition to the notice required to be displayed in any factory by this Act or the rule made thereunder, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the vernacular of the majority of the workers as the Provincial Government may prescribe.

(2) All notices required to be displayed in a factory shall be displayed at some conspicuous place at or near the main entrance to the factory and shall be maintained in a clear and legible condition.

77. **Power of Provincial Government to make rules:** The Provincial Government may make rules requiring occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

78. **Control of rules made by Local Government:** *Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.*

79. **Publication of rules:** (1) All rules made under this Act shall be subject to the condition of previous publication, and the date to be specified under clause (3) of Section 23 of the General Clauses Act, 1897 (X of 1897) shall not be less than three months from the date on which the draft of the proposed rules was published.

(2) All such rules shall be published in the official Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

80. **Application to Government Factories:** This Act shall apply to factories belonging to the Government.

81. **Protection to persons acting under this Act:** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

82. **Repeal and Savings:** *[Repealed by the Repealing and Amending Act, XX of 1937, S. 3 and Second Schedule.]*

The Schedule [Repealed by the Repealing and Amending Act, XX of 1937, Sec. 4, Sch. II].

APPENDIX 5

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7. Attendance and late coming
8. Leave
9. [Omitted]
10. Payment of wages
- 10-A. Group incentive scheme
- 10-B. Compulsory Group insurance
- 10-C. Payment of bonus
11. Stoppage of work
- 11-A. Closure of establishment
12. Termination of employment
13. Procedure for retrenchment
14. Re-employment of retrenched workmen
- 14-A. Special provisions for construction workers
15. Punishments
16. Eviction from residential accommodation
17. [Omitted]
18. [Omitted]
19. Certificate of termination of service
20. Liability of employer

The Industrial & Commercial Employment (Standing Orders) Ordinance [VI OF 1968]

[9th May, 1968]

An Ordinance to amend and consolidate the law relating to
Industrial employment in the Provinces

Preamble: Whereas it is expedient to amend and consolidate the law relating to industrial employment in ¹(the Provinces):

And whereas the Provincial Assembly of ²(a Province) is not in sessions and the Governor of ¹(the Province) is satisfied that circumstances exist which render immediate legislation necessary:

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of ¹(a Province) is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement: This Ordinance may be called the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968.

(2) It extends to the whole of ²(Pakistan).

(3) It shall come into force at once.

(4) It applies to—

(a) Every industrial establishment or commercial establishment wherein twenty or more workmen are employed, directly or through any other person whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months);

(b) Omitted by the Industrial & Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973, S. 2 (a).

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

¹Subs. for the words "West Pakistan" by the Federal Adaptation of Laws Order, 4 of 1975.

²Subs. for the words "Province of West Pakistan" by the Federal Adaptation of Laws Order, 4 of 1975, S. 2 (1) and Sch.

³Clause (a) Subs. for the original clauses (a) & (b) by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

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Provis... the... the... shall apply to industrial and commercial establishments carried on by or under the authority of the Federal or any Provincial Government, where statutory rules of service, conduct or discipline are applicable to the workmen employed therein :

[Provided further that the provisions of Standing Orders 10-B and 11, clauses (6) and (8) of Standing Order 12 and Standing Order 15 shall not apply in the first instance, to any industrial establishment wherein not more than forty-nine persons were employed on any day during the preceding twelve months but Government may by notification in the Official Gazette, extend all or any of the said provisions to any such industrial establishment or any class of such establishments.]

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

- (a) "collective agreement" means an agreement in writing, intended to specify the conditions of employment, and entered into between one or more employers on the one hand, and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other ;
- (b) "commercial establishment" means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs workmen, a unit of a joint stock company, an insurance company, a banking Company or a Bank, a broker's Office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the Official Gazette declare to be a commercial establishment for the purposes of this Ordinance ;
- [(bb) "Construction industry" means an industry engaged in the construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundation of, any such work or structure];
- (e) "employer" means the owner of an industrial or commercial establishment to which this Ordinance for the time being applies, and includes—
 - (i) in a factory, any person named under Clause (e) of sub-section (1) of Section 9 of the Factories Act, 1934 (XXV of 1934), as manager of the factory;
 - (ii) in any industrial establishment under the control of any department of the Federal or any Provincial Government, the authority

- 4. Proviso added by the Industrial and Commercial Establishment (Standing Orders) (Amendment) Act, XXIII of 1973.
- 5. Clause (bb) added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

appointed by such Government in this behalf, or where no such authority is so appointed, the head of the department:

- (iii) in any other industrial or commercial establishment, any person responsible to the owner for the supervision and control of such establishment ;
- (d) "go-slow" means an organised, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply, or in the supply of normal materials and spare parts of machinery ;
- (e) "Government" means the [Provincial Government];
- (f) "industrial establishment" means—
 - (i) an industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936 (IV of 1936); or
 - (ii) a factory as defined in clause (j) of Section 2 of the Factories Act, 1934 (XXV of 1934); or
 - (iii) a Railway as defined in clause (4) of Section 3 of the Railways Act, 1890 (IX of 1890); or
 - (iv) the establishment of a contractor who, directly or indirectly, employs workmen in connection with the execution of a contract to which he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on ; or
 - (v) the establishment of a person who, directly or indirectly employs workmen in connection with any construction industry.]

Explanation : "Contractor" includes a sub-contractor, headman or agent.

(g) "Standing Orders" means the Orders contained in the Schedule, read with such modifications, if any, as may be made in pursuance of the provisions of Section 4;

(h) "trade union" means a trade union for the time being registered under the Industrial Relations Ordinance, 1969 (XXIII of 1969) ;

(n) "workman" means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical work for hire or reward.

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

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

- by Federal Adaptation of Laws Order, IV of 1974.
- for the original clause by Ord., XVIII of 1972.
- clause (v) added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.
- clause (h) subs. by ibid.

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

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

6. Inspectors : (1) The Inspectors of Mines appointed under Section 4 of the Mines Act, 1923 (IV of 1923), the Inspectors appointed under Section 10 of the Factories Act, 1934 (XXV of 1934), and such other persons not being ¹⁰[Conciliators appointed under the Industrial Relations Ordinance, 1969 (XXIII of 1969)] as Government may by notification in the official Gazette, appoint, shall be the Inspectors for the purposes of this Ordinance within the local limits assigned to each.

(2) An Inspector may at all reasonable hours enter on any premises and make such examination of any register or document relating to the maintenance or enforcement of the Standing Orders and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Ordinance.

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

7. Penalties and procedure : (1) An employer who modifies the Standing Orders applicable to his industrial or commercial establishment, otherwise than in accordance with Section 4, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.

(2) An employer who does any act in contravention of the Standing Orders as applicable to his industrial or commercial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first day during which the offence continues.

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

(4) Whoever, having been convicted of any offence punishable under sub-section (1), (2) or (3), again commits such offence shall, on conviction, be liable to double the punishment prescribed for such offence under the aforesaid sub-sections.

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

10. Words subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

11((6) No Court other than a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969) shall try any offence under this Ordinance.]

7.A. Omitted by Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

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

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

10. Repeal : The Industrial and Commercial Employment (Standing Orders) Ordinance, 1960 (III of 1960), in its application to the Provinces, is hereby repealed.

by the Labour Laws (Amendment) Act, XI of 1976.

SCHEDULE

STANDING ORDERS

[Section 2 (g)]

1. Classification of workmen : (a) Workmen shall be classified as—

- (1) permanent,
- (2) probationers,
- (3) badlis,
- (4) temporary,
- (5) apprentices.

(b) A "permanent workman" is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months, including breaks due to sickness, accident, leave lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment¹² and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months.]

(c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) "Badli" is a workman who is appointed in the post of permanent workman or probationer, who is temporarily absent.

(e) A "temporary workman" is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a period not exceeding nine months.

¹³(f) An "apprentice" is a person who is an apprentice within the meaning of the Apprenticeship Ordinance, 1962 (LVI of 1962).]

2. Tickets : (1) Every workman employed in an industrial establishment shall be given a permanent ticket unless he is a probationer, a badli or a temporary workman or an apprentice.

12. Words added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

13. Clause (f) subs., by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

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

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

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

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

2-A. Terms and conditions of Service to be given in writing : Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service].

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

4. Publication of holidays and pay days : Notices specifying (a) the days observed by the industrial or commercial establishment as holidays and (b) pay days shall be posted on the said notice board.

5. Publication of wage rates : Notices specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the notice boards.

6. Shift working : More than one shift may be worked in a department or any section of a department of the industrial or commercial establishment at the discretion of employer.

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

7. Attendance and late coming : All workmen shall be at work at the establishment at the time fixed and notified under Standing Order 3. Workmen attending late shall be liable to the deduction provided for in the Payment of Wages Act, 1936 (IV of 1936).

Standing Order 2-A added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973. S. 6 (b).

8. Leave : ¹⁵[(1) Holidays and leave with pay shall be allowed as hereinafter specified ;

- (a) Annual holidays, festival holidays, casual leave and sick leave as provided for in Chapter IV-A of the Factories Act, 1934 (XXV of 1934), and
- (b) other holidays in accordance with the law, contract, custom and usage.]

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

(3) & (4) Omitted by the Industrial and Commercial Employment (Standing Orders) Amendment Act, XXIII of 1973, S. 6 (e).

9. Casual Leave : Omitted by Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

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

(2) All workmen shall be paid wages on a working day before the expiry of the 7th or 10th day after the last day of the wage period, in respect of which the wages are payable if the total number of workmen employed in the establishment is 1,000 or less or exceeds 1,000 respectively.

¹⁶[10-A. Group incentive scheme : (1) In every industrial establishment which is a factory and in which fifty or more workmen are employed there shall be introduced from such date as may be specified by the Provincial Government, by notification in the official Gazette, a group incentive scheme to provide incentive for greater production to groups of workmen employed in the factory. The scheme shall provide the manner in which the performance of different groups of workmen, whether in the same section, shops, department or shift or in different sections, shops, department or shifts, shall be evaluated.

(2) The incentive shall be in the form of additional wages or additional leave with wages or in both such forms to the members of the group of workmen whose production exceeds that of the other groups of the average of all the groups. The incentive shall be according to such

15. Sub-section (1), subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

16. Standing Order 10-A added by the Labour Laws (Amendment) Ordinance, IX of 1972, Sec. 2 and Sch.

scales as may be prescribed and shall be related to the extent of the excess production achieved by the group with the best performance.]

¹⁷[10-B. Compulsory group Insurance : (1) The employer shall have all the permanent workmen employed by him insured against ¹⁸[natural death and disability and] death and injury arising out of contingencies not covered by the Workmen's Compensation Act, 1923 (VIII of 1923), or the ¹⁹[Provincial] Employees' Social Security Ordinance, 1965 (Ordinance No. X of 1965).

(2) The employer shall in all cases be responsible for the payment of the amount of premia and for all administrative arrangements whether carried out by himself or through an insurance company.

(3) The amount for which each workman shall be insured shall not be less than the amount of compensation specified in Schedule IV to the Workmen's Compensation Act, 1923 (VIII of 1923)].

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

(5) All claims of a workman or his heirs or recovery of money under clause (4) shall be settled in the same manner as is provided for the determination and recovery of compensation under the Workmen's Compensation Act, 1923)].

²¹[10-C. Payment of bonus : (1) Every employer making profit in any year shall pay ²²[for that year within the three months of the closing of] that year to the workmen who have been in his employment in that year for a continuous period of not less than ninety days a bonus in addition to the wages payable to such workmen.

(2) The amount of the bonus payable shall—

(a) if the amount of the profit is not less than the aggregate of one month's wages of the month's wages of the workmen employed, be not less than the amount of such aggregate, subject to the maximum of thirty per cent, of such profit.

[Illustration 1 : If the profit is Rs. 1,20,000.00, and the aggregate of one month's wages of the workmen is Rs. 30,000.00, the amount of bonus payable shall be not less than the aggregate of one month's wages, that is to say, Rs. 30,000.00.

[Illustration 2 : If the profit is Rs. 33,000.00 and the aggregate of one month's wages of the workmen is also Rs. 30,000.00, the amount of bonus

Standing Order 10-B added by the Labour Laws (Amendment) Ordinance IX of 1972, S. 2 and Sch.

Ins. by the Labour Laws (Amendment) Act, XI of 1976.

Ins. by the Federal Adaptation of Laws Order, IV of 1975.

Added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XLVIII of 1974.

Standing Order 10-C added by the Labour Laws Ordinance, IX of 1972, Sec. 2 and Sch.

Subs. for the word 'in' by Act XXIII of 1973 S. 6 (e)(i).

Illustration added by Act, XXIII of 1973.

payable shall be not less than thirty per cent. of the profit, that is to say, Rs. 9,000,00 ;].

(b) If the amount of the profit is less than the aggregate referred to in paragraph (a), the amount of bonus payable shall be not less than fifteen per cent. of such profit.

(3) The bonus payable to a workman entitled thereto under clause (1) shall bear to his monthly wages the same proportion as the total bonus payable by the employer bears to the aggregate of the wages referred to in paragraph (a) of clause (2) and shall be paid either in cash or in N.I.T. Units of equivalent value at the option of such workman.

(4) Nothing in this section shall be deemed to affect the right of any workman to receive any bonus other than that payable under clause (1) to which he may be entitled in accordance with the terms of his employment or any usage or any settlement or an award of a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969).

Explanation : For the purpose of this section—

(a) "N.I.T. Units" means the Units referred to in the National Investment (Unit) Trust Ordinance, 1965 (VII of 1965) ;

(b) "Profit" means the "net profits" as defined in Section 87-C of the Compensation Act, 1913 (VII of 1913) ; and

(c) "wages" does not for the purpose of calculating the bonus payable to a person under clause (1), include the bonus referred to in clause (vi) of Sec : 2 of the Payment of Wages Act, 1936 (IV of 1936).

11. Stoppage of work : (1) The employer may, at any time, in the event of fire, catastrophe, break-down of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods or without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put up on the notice board in the departments concerned or in the office of the employer, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage.

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

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

24. Clause (3) subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

their services may be terminated after giving them due notice or pay in lieu thereof.]

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

²⁵[11-A. Closure of establishment : Notwithstanding anything contained in Standing Order 11, no employer shall ²⁶[terminate the employment or more than 50 per cent. of the workmen or] close down the whole of the establishment without prior permission of the Labour Court in this behalf, except in the event of fire, catastrophe, stoppage of power supply, epidemics or civil commotion.

Explanation : 'Close down' in this Standing Order includes lay-off of workmen beyond fourteen days where such lay-off results in closure of an establishment but does not include lock-out declared, commenced or continued in accordance with the provisions of the Industrial Relations Ordinance, 1969 (XXIII of 1969)].

²⁷[12. Termination of employment : (1) For terminating employment of a permanent workman, for any reason other than misconduct, one month's notice shall be given either by the employer or the workman.

One month's wages calculated on the basis of average wages earned by the workman during the last three months shall be paid in lieu of notice.

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

(3) The services of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken. In case a workman is aggrieved by the termination of his services or removal, retrenchment, discharge or dismissal, he may ²⁸[take action in accordance with the provisions of] Section 25-A of the Industrial Relations Ordinance, 1969 (XXIII of 1959), and thereupon the provisions of the said section shall apply as they apply to the redress of an individual grievance.

(4) Where the services of any workmen are terminated, the wages earned by him and other dues, including payment for unavailed leave as defined in clause (1) of Standing Order 8, shall be paid before the expiry of the second working day from the day on which his services are terminated.

25. S. O. 11-A added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973, S. 6 (g).

26. Inserted by the Labour Laws (Amendment) Act, XI of 1976.

27. S. O. 12 subs. for the original by the Labour Laws (Amendment) Act, V of 1972.

28. Subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXII of 1973.

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

(6) Where a workman resigns from service or his services are terminated by the employer, for any reason other than misconduct, he shall, in addition to any other benefit to which he may be entitled under this Ordinance or in accordance with the terms of his employment or any custom, usage or any settlement or an award of a Labour Court under the Industrial Relations Ordinance, 1969 (XXIII of 1969), be paid gratuity equivalent to ²⁹[twenty] days' wages, calculated on the basis of the ³⁰wages admissible to him in last month of service if he is fixed-rated workman or the highest pay drawn by him during the last twelve months if he is a piece-rated workman] for every completed year of service or any part thereof in excess of six months :

Provided that, where the employer has established a Provident Fund to which the workman is a contributor and the contribution of the employer to which is not less than the contribution made by the workman, no such gratuity shall be payable for the period during which such Provident Fund has been in existence.

(7) A workman shall be entitled to receive the amount standing to his credit in the Provident Fund, including the contributions of the employer to such Fund, even if he resigns or is dismissed from service ³¹[xxx].

³²(8) Where a workman dies while in the service of the employer, his dependant shall be paid gratuity in accordance with the provisions of clause (6) :

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

(9) If the employer fails to deposit the amount of the gratuity under clause (8) the dependant of the deceased may make an application to the Commissioner for the recovery of the amount thereof.

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

13. Procedure for retrenchment: Where any workman is to be retrenched and he belongs to a particular category of workmen, the employer shall retrench the workman who is the last person employed in the category.

14. Re-employment of retrenched workmen: Where any number of workmen are retrenched and the employer proposes to take into his employment any person within a period of one year from the date of such retrenchment he shall give an opportunity to the retrenched workmen belonging to the category concerned, by sending a notice by registered post to their last known addresses to offer themselves for re-employment, and they shall have

29. Subs.for "fifteen" by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.
 30. Subs.by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.
 31. Certain words omitted by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.
 32. Clauses (8) and (9) added *ibid*.

preference over the persons, each having priority according to the length of his service under the employer :

³³[Provided that, in the case of a seasonal factory within the meaning of Section 4 of the Factories Act, 1934 (XXV of 1934), a workman who was retrenched in one season and reports for duty within ten days of the resumption of work in the factory in the immediately following season ³⁴[shall be given preference for employment by the employer] :

³⁵[Provided further that, in the case of such a seasonal factory, the employer may by sending notice by registered post to the last known address of a workman who was retrenched in one season require him to report on a day specified in the notice, not being earlier than ten days before resumption of work in such factory, and if such workman so reports he shall be given preference for employment and paid full wages from the day he reports.]

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

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

15. Punishments : (1) A workman may be reprimanded or fined in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), upto three paise in the rupee of the wages payable to him in a month, for any of the following acts or omissions, namely :—

- (i) in cases where the Payment of Wages Act, 1936 (IV of 1936), is applicable, the list of acts and omissions for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned ;
 (ii) in other cases, the following shall be list of acts and omissions—
 (a) disregard or disobedience of rules or orders ;
 (b) improper behaviour, such as drunkenness ;
 (c) making false or misleading statements ;
 (d) inefficient, dilatory, careless or wasteful working ;
 (e) mainlingering.

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

- (i) fine in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), up to three paise in the rupee of the wages payable to him in a month ;

Proviso added by the Labour Laws (Amendment) Ordinance, IX of 1972. Sec. 2 and First Sch.
 Subs. for "shall be re-employed" by the Labour Laws (Amendment) Act, V of 1972.
 Second Proviso added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XLVIII of 1974, S 3.
 Standing Order 14-A added by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

- exceeding one year ;
- (iii) reduction to a lower post ; or
 - (iv) dismissal without payment of any compensation in lieu of notice.
- (3) The following acts and omissions shall be treated as misconduct—

- (a) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior ;
- (b) theft, fraud, or dishonesty in connection with the employer's business or property ;
- (c) wilful damage to or loss of employer's goods or property ;
- (d) taking or giving bribes or any illegal gratification ;
- (e) habitual absence without leave or absence without leave for more than ten days ;
- (f) habitual late attendance ;
- (g) habitual breach of any law applicable to the establishment ;
- (h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline ;
- (i) habitual negligence or neglect of work ;
- (j) frequent repetition of any act or omission referred to in clause (1) ;
- (k) striking work or inciting others to strike in contravention of the provisions of any law, or rule having the force of law ;
- (l) go-slow.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct ³⁷[within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer's] and is given an opportunity to explain the circumstances alleged against him. The approval of ³⁸[the employer shall be required in every case of dismissal] and, the employer shall institute independent inquiries before dealing with charges against a workman :

³⁹[Provided that the workman proceeded against may, if he so desires for his assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.]

(5) Where, for the purposes of conducting an inquiry into the alleged misconduct of a workman, the employer considers it necessary, he may suspend the workman concerned for a period not exceeding four days at a time ³⁷[so, however that the total period of such suspension shall not exceed four weeks except where the matter is pending before an arbitrator, a Labour Court, Tribunal or Conciliator for the grant of permission under

Section 46 of the Industrial Relations Ordinance, 1969 (XXII of 1969)]. The order of suspension shall be in writing and may take effect immediately on delivery to the workman. During the period of suspension, the workman concerned shall be paid by the employer subsistence allowance of not less than fifty per centum of the wages. If the workman is found not guilty, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended.

16. Eviction from residential accommodation : (1) Notwithstanding the provisions of any law for the time being in force, including those of the Urban Rent Restriction Ordinance, 1959 (VI of 1959), a workman occupying residential accommodation provided by his employer, who has resigned or retired or has been retrenched, discharged or dismissed or whose services have been terminated, shall vacate such accommodation within a period of two months from the date of his retrenchment, dismissal or termination of services, as the case may be, provided that in case of re-instatement of the workman, the employer shall be bound to provide him with similar residential accommodation from the date of such re-instatement or pay him per mensem an allowance in lieu thereof at the rate of three times the wages of the last full working day.

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

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

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

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

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

17. Provident Fund : [Omitted by the Labour Laws (Amdt.) Act, V of 1972.]

18. Grievance Procedure : ³⁷[Omitted by the Labour Laws Amdt. Ordinance, IX of 1972.]

37. Ins. by the Labour Laws (Amendment) Act, XI of 1976.

38. Subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

39. Ibid.

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19. Certificate of termination of service : Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge, retrenchment or retirement from service.

20. Liability of employer : The employer of an industrial and commercial establishment shall personally be held responsible for the proper and faithful observance of the Standing Orders, whether or not the workmen of such establishment are employed through contractors.

THE
PAYMENT OF WAGES
ACT, 1936

CONTENTS

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APPENDIX 6

Islamabad, the 18th April, 1973

S.R.O. 536 (I)/73.—In exercise of the powers conferred by section 22F of the Industrial Relations Ordinance, 1969 (XXIII of 1969), the National Industrial Relations Commission, with the prior approval of the Federal Government, is pleased to make the following regulations relating to its procedure and the performance of its functions namely :—

CHAPTER I PRELIMINARY

1. Short title and commencement.—(1) These regulations may be called the National Industrial Relations Commission (Procedure and Functions) Regulations, 1973.

(2) They shall come into force at once.

2. Definition.—(1) In these regulations unless there is anything repugnant in the subject or context,—

(a) "Bench" means a Bench of the Commission or, as the case may be, a Full Bench of the Commission, constituted under section 22B ;

(b) "Chairman" means the Chairman of the Commission and includes the Senior Member nominated by him to perform the functions, and exercise the powers of the Chairman during his absence ;

(c) "Commission" means the National Industrial Relations Commission constituted under section 22A and includes a Bench ;

(d) "form" means a form appended to these regulations ;

(e) "Ordinance" means the Industrial Relations Ordinance, 1969 (XXIII of 1969) ;

(f) "Registrar" means the Registrar of the Commission appointed under regulation 6 and includes the Deputy Registrar of the Commission so appointed ;

(g) "Secretary" means the Secretary of the Commission appointed under regulation 6 ;

(h) "Section" means section of the Ordinance ; and

(i) words and expression used but not defined in these regulations shall have the same meanings as in the Ordinance.

CHAPTER II ESTABLISHMENT

3. Head office.—The Commission shall have its head office Islamabad.

4. Bench offices.—(1) For the purpose of efficient performance of functions, the Commission may set up offices of its Benches in each Province under the supervision and control of the Secretary of the Labour Department of the Province concerned.

5. Working hours and holidays.—(a) Subject to regulation 7, the head office of the Commission shall observe such working hours and holidays as are observed by the Federal Government at Islamabad ; and

(b) Each Bench office shall observe such working hours and holidays as are observed by the Provincial Government of the Province concerned.

6. Officers and staff.—(1) The Federal Government or, if authorised by it, the Chairman may appoint a Secretary, a Registrar and one or more Registrars of the Commission.

(2) The Chairman may appoint such other staff for the Commission as he considers necessary and each member of the staff shall perform such functions as may be assigned to him.

7. Place and time of sittings of Benches.—The sittings of each Bench shall be held at such times, days and places as the Chairman or, subject to his general control, the Bench may fix :

Provided that no sitting shall be held on a holiday unless the Chairman or, subject to his general control, the Bench thinks it expedient so to do.

CHAPTER III REGISTRATION

8. Application for registration.—(1) Every application for registration of an industry-wise trade union shall be in form "A".

(2) Every application for registration of a federation of industry-wise trade unions or a federation at the national level shall be in "form" B.

9. Certificate of registration.—The certificate of registration under section 9 read with clause (d) of sub-section (8) of section 22A shall be issued in form "C" under the signature of the Registrar.

10. Procedure for registration.—For the registration of an industry-wise trade union, a federation of such trade unions and a federation at the national level, the Commission shall, subject to the provisions of this Chapter, follow the procedure laid down in the Ordinance for the registration of a trade union or, as the case may be, a federation of trade unions :

Provided that, if an application for registration is made by an industry-wise trade union, a federation of such trade unions or a federation at the national level which has previously been registered by the Registrar appointed under section 12, the applicant shall submit with the application a copy of the certificate of registration issued to it.

11. Limitation.—Subject to the provisions of section 65B, an appeal under sub-section (3) of section 8, relating to the functions of the Commission shall be preferred within sixty days —

(a) from the date of the order rejecting an application for registration, if the appeal is preferred against such order ;

(b) from the last day of the period of fifteen days provided in sub-section (1) of section 8, if the appeal is preferred against the delay in disposal of the application within such period.

(c) from the last day of the period of three days as provided in sub-section (2) of section 8, if the appeal is preferred against the delay in issuing a certificate of registration within such period.

12. Maintenance of registers etc.—(1) An application for the membership of an industry-wise trade union shall be in form "D".

(2) Every registered industry-wise trade union, federation of such trade unions and a federation at the national level shall maintain.—

- (a) a list of its members in form "E" ;
- (b) a register in form "F" showing the particulars of the monthly subscriptions paid by the members and arrears, if any ;
- (c) printed receipt books in form "G" which shall be bound and of which—
 - (i) every page shall be serially numbered, and ;
 - (ii) an account shall be maintained ;
- (d) an account book in form "H" showing the receipt and expenditure which shall be bound and of which every page shall be serially numbered ; and
- (e) a minute-book, which shall be bound and of which every page shall be serially numbered, wherein shall be entered—
 - (i) the date, place and time at which a meeting of the general body or the executive of the trade union is held ;
 - (ii) details of all points discussed and all resolutions passed at such a meeting ; and
 - (iii) in case of a meeting of the general body the approximate number of workmen who attended the meeting and in case of meeting of the executive the names and signatures of the officers who attended the meeting.

(3) No minutes entered in a minute-book referred to in paragraph (e) of clause (2) shall be valid until they have been confirmed by the person presiding at the subsequent meeting after their having been read out loudly at such meeting and the consent of all persons present at the meeting having been obtained.

13. Limit of members of the executive.—The maximum number of members of the executive of an industry-wise trade union shall be as specified below :—

Where the number of workers employed in the establishment of the industry is

(1) not more than—	Number
50	5
100	8
200	10
300	12
400	14
500	16
600	18
1,000	20
5,000	25
(2) 10,000 or more	50

Provided that, in addition to the members whose number is specified in the above table, there shall be one member of the executive from amongst the workers employed in every establishment of the industry.

14. Register of industry-wise trade unions, etc.—The Commission shall maintain a register of industry-wise trade unions in form "J" and a register of federations of such trade unions and federations at the national level in form "J".

15. Annual Return —The annual return to be furnished by a registered industry-wise trade union, a registered federation of such trade unions and a registered federation at the national level shall be submitted to the Registrar by the 30th day of April each year and shall be in form "K".

CHAPTER IV. COLLECTIVE BARGAINING AGENT

16. Procedure.—For the purpose of determining the Collective Bargaining Agent amongst the registered industry wise trade unions, federations of such trade unions and the federations at the national level, the Commission shall follow the procedure as under :—

- (1) Supply of list of members.—The trade unions applying for determination of Collective Bargaining Agent shall submit list of their members showing in respect of each member, his parentage, age, the section or department and the place where he is employed, his ticket number and the date of his becoming a member of the trade union.
- (2) Fixing date and place for ballot.—The Commission shall fix the date and time during which the ballot shall be held under intimation to the contesting trade union and the employer ;
Provided that the date or time so fixed may be postponed by the Commission if for reasons to be recorded in writing the ballot cannot be held at such date or time.
- (3) Allotment of symbols.—The Commission shall, after consultation with the duly authorised representatives of the contesting trade unions, allot different symbols to the contesting trade unions for the ballot ;

Provided that in case of a dispute between the contesting trade unions about allotment of symbols the decision of the Commission shall be final and binding on all the contesting trade unions ;

Provided further that if a union fails to indicate the symbols the Commission may allocate any symbol to such union and its decision shall be final and binding on the union concerned

- (4) Form of ballot paper.—The votes shall be cast by means of a ballot paper which shall be in Form 'L'.
- (5) Supply of ballot boxes.—The employers shall provide to the Commission at least three days before the ballot as many wooden boxes as may be required by it which shall be of the size as specified by the Commission.

Regulation 16 subs. for the original, Gaz. of Pak. Extr. Pt. II, 2 Aug. 1980. 1518 [S. R. O. 816 (1) 80].

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(6) *Stoppage of ballot.* If at any time the ballot at any polling station is interrupted or obstructed for any reason, the Commission may stop the ballot and cancel the votes cast and shall, as soon thereafter as possible, appoint another date, time and place for a fresh ballot for that polling station on the basis of the list of voters already verified.

(7) *The number of polling booths.*—The Commission shall decide the number and location of the booths to be provided for the ballot which may be in accordance with the specification given in Form 'M';

Provided that the Commission may at its discretion in cases of establishments employing less than fifty workers call for votes by post in accordance with the procedure laid down for such postal ballot by it.

(8) *Appointment of Polling Officers and Balloting Officers, etc.*—The Commission may appoint as many Polling Officers, Balloting Officers and other staff as it may deem necessary for conducting and supervising the ballot who shall perform all such duties and exercise all such powers as are assigned to them by the Commission.

(9) *Appointment of polling agents.*—(a) The contesting trade unions may appoint one polling agent at a time for each booth and give notice thereof to the polling officer half an hour before the commencement of the polling :

Provided that failure to nominate an agent shall not delay the commencement or affect the conduct of the ballot.

(b) The polling agents will witness the voting and assist the polling officer in identification of voters.

(10) *Commencement of ballot.*—Before commencement of ballot the Polling Officer shall, in the presence of all the polling agents, satisfy himself that the ballot box is empty and thereafter seal the ballot box in the presence of the polling agents and record a certificate to this effect in Form 'N'.

(11) *Identification of voters.*—The Polling Officer may require the voter to produce evidence of identification as required by the Commission before issuing the ballot paper to him.

(12) *Issuance of ballot paper.*—Ballot paper shall be issued to a voter only after his name and other full particulars have been verified from the list of voters approved by the Commission.

(13) *Marking of ballot paper and casting of vote.*—(a) After a voter has been issued a ballot paper, he shall mark the ballot paper by putting cross (X) mark on the portion bearing the name and symbol of the union of his choice.

(b) The marking of the ballot paper under sub-paragraph (a) shall be done in a segregated area provided for this purpose in the polling booth.

(c) After marking the ballot paper, the voter shall fold and draw the ballot box which is to be kept before the Polling Officer.

(14) *The ballot box.*—(a) Only one ballot box shall be used at a time in a polling booth.

(b) If the course of the polling one ballot box has been filled to capacity and, in the opinion of the Polling Officer, can no longer be used for polling, the Polling Officer shall seal it in the manner specified in sub-paragraph (b) of paragraph (15) and provide a new ballot box in the manner laid down in paragraph 10.

(15) *Commencement and closing of ballot.*—(a) No person shall be given the ballot paper before or after the hours fixed for ballot, except those persons who are within the polling booth at the closing time who shall be given the ballot papers and allowed to vote.

(b) After all the persons present within the polling booth at the closing time have cast their votes, the Polling Officer shall forthwith seal the opening provided for dropping the ballot paper in the ballot box in the presence of the polling agents and will record a certificate to this effect in Form 'O'.

(16) *Unsealing of the ballot box and counting of votes.*—(a) After the ballot box has been sealed under sub-paragraph (b) of paragraph (15), the Polling Officer shall unseal it in the presence of the polling agents and record a certificate to this effect in Form 'P'; Provided that the absence of a polling agent shall not affect or delay the unsealing of the ballot boxes.

(b) After the ballot box has been unsealed under sub-paragraph (a), the Polling Officer shall, in the presence of Polling agents, count the votes and record the result of counting along with a certificate in Form 'Q' duly signed by the polling agents.

(c) If a polling agent refuses to sign the result sheet and the certificate under sub-paragraph (b), this fact shall be recorded by the Polling Officer on the result sheet in the presence of two witnesses.

(17) *Decision of objections.*—All objections by the contesting trade union whether before or at the time of ballot shall be given in writing by the authorised representatives of the trade union to the Polling Officer who shall give his decision at the spot which shall be final and binding on the parties.

(18) *Invalid ballot paper.*—The Polling Officer shall give a decision about challenged votes at the spot and the decision shall be binding on the contesting trade unions.

(19) *Challenging of votes.*—When a vote is challenged by any of the polling agents during the course of the ballot a fee of Rs. 5/- for every vote challenged shall be deposited with the Polling Officer and the amount of such fee shall be paid in cash and a receipt in Form 'R' shall be issued by the Polling Officer who will submit full account of the amount so received to the Commission and deposit the same in the Government Treasury under the Head XXXVI Misc. Department Fee under the Industrial Relations Ordinance.

(20) *Duties of Polling Officers.*—(a) The Polling Officer shall prepare a ballot paper account showing the number of blank ballot papers received by him, the number of ballot papers taken out of the ballot boxes, the number of unissued and spoiled ballot papers and prepare a certificate in Form 'S'.

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- (b) The Polling Officer shall, as soon as possible after the counting of votes is completed, send to the Commission the result sheet, the used and un-used ballot papers, the ticked list of voters and other documents and papers.
- (21) *Declaration of Collective Bargaining Agent*—On receipt of the result from the Polling Officers, the Commission or its authorised agent shall declare the trade union which has received the highest number of votes to the Collective Bargaining Agent in accordance with clause (c) of sub-section (9) of section 22 and issue a certificate to this effect in Form 'T'.
- (22) *Ballot to be repeated in case a union receives less than the required number of votes*.—Notwithstanding the provision of paragraph (21), if the number of votes received by the winning trade union is less than one-third of the total number of workmen employed in the establishment, such trade union shall not be declared as Collective Bargaining Agent and the ballot shall be held afresh on such date and time as may be fixed by the Commission.
- Provided that the fresh ballot may be held on the basis of a fresh list of voters to be prepared by the Commission in the manner provided in section 22.
- (23) *Ballot to be repeated in case of a tie*.—In case the contesting trade unions receive equal number of votes, the secret ballot shall be held a fresh on such date and time as may be fixed by the Commission.
- (24) *Procedure to be followed in case of ballot in more than one city*.—Notwithstanding anything contained in these regulations if the ballot is to take place at more than one polling station located in different areas in one city or more than one cities, the procedure for the ballot and all ancillary matters thereon may be determined to suit the requirements of the occasion by the Commission or its authorised officers under intimation to the contesting trade unions.
- (25) *Registration of trade unions during pendency of secret ballot proceedings*.—The Commission may allow or disallow a trade union to participate in the ballot which is registered during the pendency of the secret ballot proceedings.
- (26) *Code of conduct for contesting unions, during the poll*.—The Commission shall formulate a code of conduct to be observed by the contesting unions during the poll and the code shall provide for canvassing during office hours, slogan raising, processions, demonstrations, badges, exploitation of political parties affiliation or use of their symbols or signs, general body or gate meeting, pamphlets and banners and any other matter on which the Commission may issue direction as it deems fit.
- (27) *Expenses during the poll*.—(a) All the contesting unions shall submit a statement of their accounts to the Commission as they stood on a specified date and submit the account of expenses incurred during the poll which shall in no case exceed the fund shown to the Commission.
- (b) The violation of the provision of clause (a) may render the successful union liable to be disqualified for being declared as Collective Bargaining Agent.]

CHAPTER V INDUSTRIAL DISPUTE

17. *Application*.—As application for adjudication and determination of an industrial dispute shall be in form "L".
18. *Decision by the Commission*.—(1) A decision of the Commission shall be made in writing and announced in public and two copies thereof shall be forwarded forthwith to the Federal Government provided that, if a Provincial Government is a party to the dispute, two copies of the decision shall be forwarded to that Government as well.
- (2) A decision of the Commission shall become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein. The Commission shall specify dates from which the 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 a decision applies to the Commission for reduction of the said period on the ground that the circumstances in which the decision as given 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.
- (3) A decision of the Commission in appeal from an award of Bench shall be effective from the date of the award.
- (4) Notwithstanding the expiry of the period for which an award is to be effective under sub-regulation (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.
19. *Application of the Code of Civil Procedure, 1908 (Act V of 1908)*.—Subject to the provisions of these regulations, the procedure prescribed under the Code of Civil Procedure, 1908 (*Act V of 1908*), in regard to suits may be followed, as far as it can be made applicable, in the proceedings for adjudication and determination of industrial disputes before the Commission.

CHAPTER VI TRIAL OF OFFENCES

20. *Postponement of issue of process*.—(1) The Commission, on receipt of a complaint of an offence of which it is authorised to take cognizance, may, if it thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either enquire into the case itself or direct an inquiry or investigation to be made by a Labour Court, Junior Labour Court, a Magistrate, a Police Officer, or such other person as it thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.
- (2) If any inquiry or investigation under this regulation is made by a person not being a Magistrate or a Police Officer, such person shall exercise all the powers conferred by the Code of Criminal Procedure, 1898 (*Act V of 1898*), on an officer-in-charge of a police station, except he shall not have power to arrest without warrant.
- (3) Any Court inquiring into a case under this regulation, may, if it thinks fit, the evidence of witnesses on oath.

21. Issue of process.—(1) If in the opinion of the Commission there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the Second Schedule to the Code of Criminal Procedure, 1898 (*Act V of 1898*), a summons should issue in the first instance, it shall issue summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, it may issue a warrant, or if it thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before the Commission.

(2) Nothing in this regulation shall be deemed to affect the provisions of regulation 20.

22. Issue of warrant in lieu of, or in addition to summons.—The Commission may, in any case in which it is empowered under the Code of Criminal Procedure, 1898 (*Act V of 1898*), or these regulations to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrests—

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Commission sees reasons to believe that he has absconded or will not obey the summons, or

(b) if at any time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

23. Petition of complaint and copies.—In all cases instituted upon a complaint in writing, the complainant shall—

(a) state in the petition of complaint the name of the accused, the substance of accusation, the names of the witnesses and the gist of the evidence which he is likely to adduce at the trial; and

(b) within three days of the order of the Commission under regulation 21 for issue of process to the accused, file before the Commission for supply to the accused as many copies of the complaint and any other document which he has filed with his complaint as the number of the accused:

Provided that the provisions of his regulation shall not apply to any case in which the complaint has been made by a public servant acting or purporting to act in the discharge of his official duties.

24. Charge to be framed.—When the accused appears or is brought before the Commission, a formal charge shall be framed relating to the offence of which he is accused and he shall be asked whether he admits that he has committed the offence with which he is charged.

25. Conviction on admission of truth of charge.—If the accused admits that he has committed the offence with which he is charged, his admission shall be recorded as early as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Commission may convict him accordingly.

26. Procedure where no such admission is made.—(1) If the Commission does not convict the accused under the preceding regulation or if the accused does not make such admission, the Commission shall proceed to

bear the complainant and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produce in his defence.

(2) The Commission may, if it thinks fit, on the application of the complainant or accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Commission may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited with the Commission.

27. Acquittal or conviction.—If the Commission, upon taking the evidence referred to in regulation 26 and such further evidence (if any) as it may, of its own motion, cause to be produced, and (if it thinks fit) examining the accused, finds the accused not guilty, it shall record an order of acquittal, or if it finds the accused guilty, pass sentence upon him according to law.

28. Non-appearance of complainant.—If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Commission may, notwithstanding anything herein before contained, either discharge the accused or proceed with the case:

Provided that, where the complainant is a public servant or a workman and his personal attendance is not required, the Commission may dispense with his attendance, and proceed with the case.

29. Withdrawal of complaint.—If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Commission that there are sufficient grounds for permitting him to withdraw his complaint, the Commission may permit him to withdraw the same, and shall thereupon acquit the accused.

30. Power to stop proceedings.—If any case instituted otherwise than upon complaint, the Commission may for reasons to be recorded by it, stop the proceedings at any stage without pronouncing any judgment, either of acquittal or conviction and may thereupon release the accused.

31. Application of the Code of Criminal Procedure, 1898.—Subject to the provisions of this Chapter, the Code of Criminal Procedure, 1898 (*Act of 1898*), shall apply to the proceedings in relation to trials of offences before the Commission.

CHAPTER VII

UNFAIR LABOUR PRACTICE

32. Manner of dealing with unfair labour practices.—(1) Where an unfair labour practice has been committed, and the case falls under section 25A, section 34 or section 53, as the case may be, the Commission may deal with the case under that section:

Provided that the Commission while awarding punishment under section 53, may also direct the re-instatement of a worker and allow consequential benefits to him.

(2) Where a case of unfair labour practice is likely to occur, the Commission may take the following measures, namely:—

be set
etc

CHAPTER IX

GENERAL

- (a) it may summon all or any of the persons connected with the case which is likely to occur, hereafter in this chapter referred to as the connected persons, hear them and hold such enquiry as it deems fit;
- (b) ascertain the factors which are likely to give rise to unfair labour practice;
- (c) advise, direct or prohibit all or any of the connected persons to do or refrain from doing any act or to conduct themselves or their affairs in a manner calculated to avoid occurrence of unfair labour practice.
- (d) reprimand or warn all or any of the connected persons that if they conduct themselves in an improper way it would be deemed to be in furtherance of the commission of an offence punishable under section 53; and
- (e) initiate security proceedings in order to prevent the occurrence of an unfair labour practice.

(3) Where a person whom the Commission has reprimanded or warned under sub-regulation (2) commits an unfair labour practice, the Commission may consider, for the purpose of awarding punishment under section 53, the reprimand or warning as a circumstance aggravating the offence.

33. Procedure.—(1) The Commission, while asking the Registrar appointed under section 12 to inquire into a case and report or referring a case to a Junior Labour Court or a Labour Court either for report or disposal, may direct such connected persons as may be before it to appear before the Registrar, the Junior Labour Court, or the Labour Court, as the case may be.

(2) The Commission, while dealing cases based on allegations of unfair labour practices brought before it for enforcement of, or for redress of individual grievance in respect of any right guaranteed or secured to any worker by or under any law or any award or settlement, shall follow the procedure laid down for the Junior Labour Courts under section 25A and section 36B.

CHAPTER VIII

SPECIAL RULES OF EVIDENCE

34. Power to curtail examination etc.—(1) In the interest of expeditious disposal of the business before the Commission, it may direct any examination or cross-examination or re-examination to be cut short or dispensed with.

(2) In matters relating to industrial disputes, the Commission may endeavour to remove differences between the parties and secure an amicable settlement of the issues before it.

35. Inspection of documents.—All books, papers and other documents things produced before the Commission, whether voluntarily or in pursuance of a summons, may be inspected by the Commission and also by such parties as the Commission may allow; but the information obtained therefrom shall not, except as provided in the Ordinance, be made public.

36. Expenses of witnesses.—Every witness who, on being summoned by the Commission, appears before it, shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses appearing before the Lahore High Court, Lahore.

37. Standing Orders.—Subject to the Ordinance and these regulations, the Chairman may make standing orders for general superintendance of the affairs of the Commission under sub-section (1) of section 22B.

FORM A

[See Regulation 8(1)]

Application for registration of an industry-wise trade union to the National Industrial Relations Commission, Islamabad, or Bench at—

Dated the—day of—19 .

- (1) We hereby apply for the registration of an industry-wise trade union under the name of—
- (2) The address of the head office of the union is—
- (3) The union came into existence on the—day of—19 .
- (4) The union is a union of employers/workers engaged in the industry (name) or group of establishments namely—and has its membership in the Provinces of—
- (5) The particulars, required under sub-clause (iii) of clause (a) of section 6 of the Industrial Relations Ordinance, 1969, are given in Schedule I appended hereto.
- (6) The particulars given in Schedule II appended hereto show the provisions made in the rules for the matters detailed in section 7 of the Industrial Relations Ordinance, 1969.
- (7) Total No. of membership is—
- (8) The particulars required by sub-clause (iv-a) of clause (a) of section 6 of the Industrial Relations Ordinance, 1969, are given in Schedule III appended hereto.
- (9) We append three copies of the constitution of the trade union conforming to the provisions of the Industrial Relations Ordinance, 1969, together with a copy of the resolution mentioned in clause (b) of section 6 of the Industrial Relations Ordinance, 1969.
- (10) We append a certificate to the effect that no officer of the union was convicted under section 61 of the Industrial Relations Ordinance,

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