



## THE CONTROL OF EMPLOYMENT ORDINANCE, 1965



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# THE CONTROL OF EMPLOYMENT ORDINANCE, 1965

<sup>1</sup>ORDINANCE NO. XXXII OF 1965

[18th September, 1965]

*An Ordinance to provide for the collection of information relating to employment in industrial undertakings and availability of persons therefor, and for the control and distribution of such employment, and matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for the collection of information relating to employment in industrial undertakings and availability of persons therefore, and for the control and distribution of such employment, and matters connected therewith or incidental thereto;

AND WHEREAS a Proclamation of Emergency issued under clause (1) of Article 30 of the Constitution is in force;

AND WHEREAS the President is satisfied that immediate legislation is necessary to meet the emergency;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 30 of the Constitution, read with clause (2) of Article 131 thereof, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

**1. Short title, extent, application and commencement.**—(1) This Ordinance may be called the Control of Employment Ordinance, 1965.

(2) It extends to the whole of Pakistan, and also applies to all citizens of Pakistan, and vehicles, vessels and aircraft registered in or chartered for Pakistan wherever they may be.

(3) It shall come into force at once <sup>2</sup>[and shall be deemed to have taken effect on the eighth day of September, 1965].

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

- (1) “Board” means a Manpower Board constituted under section 4;
- (2) “essential personnel” has the same meaning as assigned to it in clause (a) of section 2 of the Essential Personnel (Registration) Ordinance, 1948 (X of 1948), as amended from time to time;
- (3) “essential” work means any work relating to the manufacture, production, maintenance or repair of arms, ammunition and equipment or other supplies and any other work which the <sup>1</sup>[Federal Government] or the Provincial Government may, by notification in the official Gazette, declare to be essential work for the purposes of this Ordinance ;

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<sup>1</sup>Approved by the National Assembly of Pakistan on 26<sup>th</sup> November, 1965, see Gaz. of P., 1965, Ext., pp. 1424 -1429.

This Ordinance has been applied to the Provincially Administered Tribal Areas or the parts or those areas to which it does not already apply, see, Regulation No. I of 1972, s. 2 and Sch.

<sup>2</sup>Added by the Control of Employment (Second Amdt.) Ordinance, 1965 (55 of 1965), s. 2.

<sup>1</sup>Subs.by F.A.O., 1975 ,Art.2 and Table, for “CentralGovernment”

- (4) “industrial undertaking” means,—
- (a) any concern engaged in—
    - (i) the manufacture or production of any article or commodity,
    - (ii) the supply or distribution of light, power, gas or water,
    - (iii) the supply or maintenance of any kind of mechanised transport;
  - (b) any concern engaged in installing equipment or erecting premises or preparing and producing designs for, or testing the products of, any concern referred to in sub-clause (a);
  - (c) any technical training establishment or centre; and
  - (d) any other undertaking which the <sup>1</sup>[Federal Government] or the Provincial Government may, by notification in the official Gazette, declare to be an industrial undertaking for the purposes of this Ordinance ;
- (5) “Manpower Council” means the National Manpower Council set up by the <sup>1</sup>[Federal Government] in the Labour and Social Welfare Division ;
- (6) “prescribed” means prescribed by rules made under this Ordinance; and
- (7) “Tribunal” means a Manpower Tribunal constituted under section 9.

**3. Manpower Council.**—(1) The <sup>1</sup>[Federal Government] shall be the policy-making body as regards the purposes of this Ordinance <sup>2</sup>[and be responsible for co-ordinating manpower problems with the object of bringing a national approach to the labour-supply policy during an emergency] and may issue such directions in connection with the effective use of manpower to the Provincial Governments and the Manpower Board as it may consider necessary.

(2) For the efficient performance of its functions under this Ordinance, the <sup>1</sup>[Federal Government] may—

- (a) call for such information from the Provincial Governments as it may consider necessary;
- (b) co-ordinate the work of the Manpower Board; and
- (c) appoint such specialised agency to assist it as it may consider necessary.

**4. Manpower Board.**—<sup>3</sup>(1) The Provincial Government shall constitute a Manpower Board consisting of—

- (i) the Secretary of the Labour Department of the Provincial Government, who shall be the Chairman of the Board;
- (ii) one member to represent the Industries Department of the Provincial Government, to be nominated by the Department;
- (iii) a Deputy Secretary in the Finance Department of the Provincial Government, to be nominated by that Department;
- (iv) one member to represent the General Headquarters, to be nominated by that Headquarters;
- (v) one member to represent the Railway Board of the Province, to be nominated by that Board;

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<sup>1</sup>Subs. by F.A.O., 1975, Art. 2 end table for “Central Government”, which was previously amended by Ord. 35 of 1971, s. 2, for “Manpower Council”.

<sup>2</sup>Ins. by the Control of Employment (Amdt.) Ordinance, 1971 (35 of 1971), s. 2.

<sup>3</sup>Subs. *ibid.*, s. 3, for sub-section (1).

- (vi) one member to represent the Road Transport Corporation of the Province, to be nominated by that Corporation;
- (vii) the Adviser, Technical Education of the Provincial Government; and
- (viii) the Deputy Secretary (Co-ordination) in the Home Department of the Provincial Government.

<sup>1</sup>[\* \* \* \* \*]

(2) In the absence of the Secretary of the Labour Department a person nominated by him shall act as the Chairman of the Board.]

Three members of the Board (including the Chairman) shall constitute a quorum at a meeting of the Board.

(3) The Board may, subject to such conditions, if any, as it may think fit, delegate any of its powers to its Chairman.

**5. Functions and powers of the Board.**—(1) The functions of the Board shall include collection of information relating to employment in industrial undertakings and availability of persons therefor, and to control and distribution of, and taking measures to make persons available for, such employment :

Provided that the Board shall not ask from any employer any question about the employment of a foreigner except through the Department of Investment Promotion and Supplies.

(2) For the purpose of sub-section (1), the Board may—

- (a) require any person or industrial undertaking to furnish or cause to be furnished, such information and in such manner and form as it may specify;
- (b) take measures, or cause measures to be taken, by the industrial undertaking or other competent authority, to ensure that the required number of persons are available for employment in such undertaking ;
- (c) require any person to undertake any essential work he is competent to do ;
- (d) prohibit any person from accepting any employment or offer of employment ;
- (e) control or regulate the employment in any industrial undertaking ;
- (f) regulate the relinquishment of employment by, and the dismissal of, any person employed in any industrial undertaking ;
- (g) order the release, transfer, interview, training or test of skill of any person employed or to be considered for employment in any industrial undertaking ;
- (h) prohibit persons employed or engaged in any essential work from leaving the work or absenting themselves from duty or slowing down or otherwise impeding their output ;
- (i) lay down the terms and conditions of service of persons employed, or to be employed, in any industrial undertaking ;
- (j) authorize any of its members or officers to enter upon, inspect and search any premises occupied by any industrial undertaking and to ask for and examine any document relating to such undertaking and to enquire any person employed or found therein to furnish any information relating thereto ;

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<sup>1</sup> Sub-section (1A) Omitted by F.A.O., 1975 Art. 2 and Sch ;

- (k) authorize any of its officers or any persons employed in a managerial or supervisory capacity in any industrial undertaking to test therein the technical skill of such persons as the Board may, by order in writing direct and require any such undertaking to afford reasonable facilities for such test ;
- (l) require any industrial undertaking to maintain such books of accounts and records and in such form as it may direct ; and
- (m) require the employment exchanges to issue call up notices.

**6. Obligation to comply with the order or direction of the Board, etc.**—(1) Where the Board makes any order or gives any direction requiring any person or industrial undertaking to furnish any information or document or to afford any facility or to take any measure or to do or refrain from doing anything, such persons and, in the case of an industrial undertaking, the owner, director, manager, secretary or other officer or agent thereof competent for the purpose, shall subject to the other provisions of this section comply with such order or direction.

(2) Any person or industrial undertaking aggrieved by an order or direction of the Board may prefer an appeal against such order or direction to the Provincial Government or to such officer or authority as the Provincial Government may appoint, and the decision of the Provincial Government or such officer or authority, as the case may be, shall be final <sup>1</sup>[:]

<sup>2</sup>[Provided that no orders on such appeal shall be passed unless the appellant has been given an opportunity of being heard.]

(3) Failure or neglect to comply with any order or direction of the Board or, where an appeal is preferred under sub-section (2), with the final decision thereon shall be an offence under the Ordinance.

**7. Reinstatement of person released under the orders of the Board.**—<sup>3</sup>[(1) Subject to the other provisions of this section, every employer by whom a person was released for any essential work or for service under the <sup>4</sup>[Compulsory Service in the Armed Forces Ordinance, 1971 (XXXI of 1971)], in pursuance of an order or requisition of the Board or of a notice served under section <sup>5</sup>[5] of the said Ordinance shall, on the termination of, or release from, such work or service, reinstate such person in his former employment from which he was released and, if such reinstatement is less favourable to such person than that to which he would, in the ordinary course, have been entitled, give him such employment as is not so less favourable:

Provided that the employer shall not be required to so reinstate or employ any person if such person does not apply or report to him for the purpose within three months of the termination of, or release from, the essential work or such service.]

(2) Where for any reason reinstatement or employment under sub-section (1) is not practicable, the employer shall, within seven days from the date on which the person to be reinstated or employed applies or reports himself for reinstatement or employment, make an application to the Tribunal for exemption from the provisions of sub-section (1).

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<sup>1</sup> Subs. by the Control of Employment (Amdt.) Ordinance, 1984 (8 of 1984) s. 2 for full stop.

<sup>2</sup> Proviso added *ibid.*

<sup>3</sup> Subs. by the Control of Employment (Amdt.) Ordinance, 1969 (4 of 1969) s. 2 for sub, section (1) (w.e.f. 17-2-1969) i.e. the date on which the Ord. No. XXIV of 1965 has ceased to have effect under cl. 7 of Art. 30 of the Constitution.

<sup>4</sup> Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, for certain words.

<sup>5</sup> Subs. *ibid.*, for “6”



(3) Upon an application of the employer under sub-section (2), the Tribunal shall, after such enquiry and hearing as it considers necessary, make an order either—

- (a) exempting the employer from the provisions of sub-section (1); in which case the employer shall be required to pay to such person a compensation of a sum not less than six months' remuneration of the person calculated at the rate he was entitled to when he was released by the employer ; or
- (b) requiring the employer to reinstate or give employment to such person in the terms of sub-section (1) or on such terms and conditions as it may specify in the order.

(4) If any employer contravenes the provisions of sub-section (1), or fails or neglects to carry out the order of the Tribunal under sub-section (3), he shall be guilty of an offence under this Ordinance and be punishable with fine which may extend to one thousand rupees and, if the Court by which he is convicted so directs shall also be liable to pay to the person with respect to whose reinstatement or employment he has been convicted such sum not exceeding six months' remuneration of that person calculated at the rate he was entitled to when he was released as the Court may specify, in addition to pay compensation he is required to pay under clause (a) of sub-section (3).

(5) Any sum which the employer is required to pay under an order of the Tribunal under sub-section (3) or an order of the Court under sub-section (4), shall be recoverable as if it were a fine imposed by a Court.

**8. Advisory Committee.**—(1) The Board may, for obtaining advice and assistance in the discharge of its functions under this Ordinance, constitute an Advisory Committee for such area and in such place as it may think fit.

<sup>1</sup>[(2) An Advisory Committee constituted under sub-section (1) shall consist of—

- (i) the Deputy Commissioner of the District concerned, who shall be the Chairman of the Committee;
- (ii) one member to represent the Industries Department of the Provincial Government, to be nominated by that Department;
- (iii) one member to represent the Railway Board of the Province, to be nominated by that Board;
- (iv) one member to represent the Road Transport Corporation of the Province, to be nominated by that Corporation;
- (v) one member to represent the workers of the area concerned;
- (vi) one member to represent the employers of the area concerned; and
- (vii) the Manager of the Employment Exchange of the area concerned, who shall be the member-secretary of the Committee.

<sup>2</sup>[\* \* \* \* \*]

(3) Three members including the Chairman shall constitute a quorum at a meeting of the Advisory Committee.

<sup>3</sup>[(4) The Chairman of an Advisory Committee may co-opt as a member thereof any person resident in the area concerned whose association with the Committee is, in the opinion of the Chairman, likely to be of assistance to the Committee.]

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<sup>1</sup>Subs. by the Control of Employment (Amdt.) Ordinance, 1971 (35 of 1971), s. 4, for sub-section (2).

<sup>2</sup>Sub-section (2A) omitted by F.A.O., 1975, Art. 2 and Sch.

<sup>3</sup>Added by Ord. 35 of 1971, s. 4.

**9. Manpower Tribunal.**—<sup>1</sup>[(1) A Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter referred to as the Labour Court, is hereby constituted a Manpower Tribunal for the disposal of applications under sub-section (2) of section 7 in respect of the whole of the Province for which it has been established or, as the case may be, in respect of the territorial limits within which it exercises jurisdiction as such court.

(2) In addition to a Tribunal constituted under sub-section (1), the Provincial Government may constitute one or more Manpower Tribunals for such area or areas as it may consider necessary for the disposal of applications under sub-section (2) of section 7 and, where it constitutes a Tribunal for an area within the territorial limits of the jurisdiction of a Labour Court, shall, by notification in the official Gazette, specify the class of such applications which shall be disposed of by the Tribunal so constituted and not by such Labour Court.

(3) The Tribunal constituted under sub-section (2) shall consist of a chairman and two members, all being appointed by the Provincial Government, one of the members being appointed to represent the workers of the area concerned and the other to represent the employers of the area.

(3A) The Chairman of a Tribunal constituted under sub-section (2) shall be a person who has been, or is, or is qualified to be, a Judge or Additional Judge of a High Court or is a District Judge or Additional District Judge and the members shall be appointed in consultation with the workmen and the employers in such manner and on such terms and conditions as may be prescribed.]

(4) A member of the Board shall not be appointed to be member of a Tribunal.

(5) A Tribunal shall meet at such and places as it thinks fit.

(6) A Tribunal shall, for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents, have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be such Court within the meaning of sections 480, 482 and 484 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**10. Notified industrial undertakings.**—(1) The Provincial Government may, by notification in the official Gazette, declare any industrial undertaking to be a notified industrial undertaking for the purpose of this Ordinance.

(2) Every notified industrial undertaking shall report to the Board in such manner and within such period all situations in the undertaking which are vacant or are soon likely to be vacant and employ such essential personnel within such period and on such terms and conditions as the Board may direct and no such industrial undertaking shall, except with the permission of the Board, fill any vacancy in which essential personnel may be employed.

**11. False statements.**— Any person who,—

- (a) for the purpose of obtaining employment or procuring essential work, knowingly describes himself, or allows himself to be described, to any member of the Board or Advisory Committee as a person practising or engaged in any profession, occupation or employment when in fact he does not practise or engage himself in such profession, occupation or employment, or
- (b) for the purpose of obtaining release from any essential work, knowingly makes, or allows to be made, any false statement to any member of the Board or Advisory Committee, or

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<sup>1</sup> Subs. *ibid.*, s.5, for sub-sections (1), (2) and (3).

- (c) being an owner, manager, or officer discharging managerial functions, knowingly furnishes, or allows to be furnished, false information relating to the undertaking, shall be guilty of an offence under this Ordinance.

**12. Offences by Industrial undertakings.**— Where the person guilty of an offence under the Ordinance or the rules made thereunder is an industrial undertaking, every owner, director, manager, secretary or other officer or agent thereof shall, unless he proves that he made all efforts and exercised all diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

**13. Penalty and procedure.**—(1) Whoever is guilty of an offence under this Ordinance or the rules made thereunder shall, save as otherwise provided elsewhere in this Ordinance or in the rules, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence under this Ordinance shall be cognizable.

(3) No Court shall take cognizance of an offence under this Ordinance except with the previous sanction in writing of the Board.

(4) No Court inferior to that of a Magistrate of the first class shall try an offence under this Ordinance.

**14. Service of notice, etc.**— Any notice, direction or order under this Ordinance to be served on any person may be served by being sent by post addressed to such person at his last known address.

**15. Indemnity.**— No suit, prosecution or other legal proceeding shall be instituted in any Court in respect of anything in good faith done or intended to be done under this Ordinance.

**16. Power to make rules.**—(1) The <sup>1</sup>[Federal Government] may, by notification in the official Gazette, make rules <sup>2</sup>[for carrying out the purposes of this Ordinance].

(2) Rules made under sub-section (1) may provide any contravention thereof shall be punishable with a penalty not exceeding that provided in section 13.

**17. Savings.**— Nothing in this Ordinance shall apply to any industrial undertaking owned or managed, or person employed, by the <sup>1</sup>[Federal Government] or a Provincial Government or by such authority, body or institution as may be notified in this behalf by the <sup>1</sup>[Federal Government] or the Provincial Government.

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<sup>1</sup>Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

<sup>2</sup>For such rules, See Gaz. of P., 1965, Ext., pp. 1166-1167.