

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, সেপ্টেম্বর ৫, ২০০৪

The Government of the People's Republic of Bangladesh
Ministry of Law, Justice and Parliamentary Affairs

Dated the 4th September, 2004

S.R.O. No.-268/Law/2004- The Government, in exercise of the powers conferred by section 96 of the EPZ Workers Association and Industrial Relations Act, 2004 (Act No. 23 of 2004), is pleased to publish the authentic text translated into English from the original text in Bangla to be called the Authentic English Text of the Act, and it shall be deemed to be effective from the date on which the original Bangla text was made effective, namely, Sunday, July 18, 2004.

ACT NO. 23 of 2004

AN ACT TO MAKE PROVISIONS RELATING TO THE EPZ
WORKERS ASSOCIATION AND INDUSTRIAL RELATIONS

WHEREAS it is expedient and necessary to enact law in order to make provisions for recognizing the right of the workers to form association, regulation of relations and settlement of differences or disputes arising between employers and workers in the Export Processing Zones and for matters connected therewith and ancillary thereto;

(৫৩৩৫)

মূল্য : টাকা ৮.০০

It is hereby enacted as follows:-

CHAPTER-I PRELIMINARY

1. **Short title, extent and commencement.** – (1) This Act may be called the EPZ Workers Association and Industrial Relations Act, 2004.

(2) It extends to the whole of Bangladesh.

(3) It shall apply to workers and employers in the Export Processing Zones established under the Bangladesh Export Processing Zones Authority Act, 1980 (Act No. XXXVI of 1980).

(4) It shall come into force at once.

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

(1) “arbitrator” means a person appointed as such under section 53;

(2) “Appellate Tribunal” means a EPZ Labour Appellate Tribunal established under section 59;

(3) “association” means a workers association formed under this Act;

(4) “Authority” means the Bangladesh Export Processing Zones Authority established under the Bangladesh Export Processing Zones Authority Act, 1980 (Act No. XXXVI of 1980);

(5) “award” means the determination by Tribunal, Arbitrator or Appellate Tribunal of any industrial dispute or any matter relating thereto and it includes an interim award;

(6) “Collective Bargaining Agent” in relation to an industrial unit or units, means the workers association which under section 45, is the agent of the workers in the industrial unit or units in the matter of collective bargaining;

(7) “company” means a company registered under the Companies Act, 1994, having one or more industrial units in a Zone;

(8) “conciliation proceedings” means any proceeding pending before a Conciliator under this Act;

(9) “Conciliator” means a person appointed as such under section 48;

- (10) "employer" in relation to an industrial unit, means any person or body of persons, whether incorporated or not, who or which employs workers in an industrial unit under a contract of employment; and a registered company employing workers in any industrial unit or units in a Zone shall be deemed to be an employer;
- (11) "Executive Chairman" means the Executive Chairman of the Bangladesh Export Processing Zones Authority;
- (12) "Executive Council" means the Council to which the management of the affairs of an association is entrusted by its constitution;
- (13) "EPZ" means an export processing zone established under the Bangladesh Export Processing Zones Authority Act, 1980;
- (14) "illegal lock-out" means a lock-out declared, commenced or continued otherwise than in accordance with the provisions of this Act;
- (15) "illegal strike" means a strike declared, commenced or continued otherwise than in accordance with the provisions of this Act;
- (16) "industrial dispute" means any dispute or difference between employers and workers, which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person;
- (17) "industrial unit" means any industrial unit established in a Zone for manufacturing or producing any goods or commodity, and for the purposes of CHAPTERS II and III more than one industrial units under the same employer or company in a Zone shall be deemed to be one industrial unit;
- (18) "lock-out" means the closing of a place of employment or part of such place or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workers employed by him where such closing, suspension or refusal occurs in connection with an industrial dispute, or closure of an industrial unit, suspension of work or refusal by the employer to allow the workers to work for the purpose of compelling workers to accept certain terms and conditions affecting employment;

- (19) "organization" means the organization of the workers association of the eligible workers of an industrial unit for furthering and defending the interests of workers;
- (20) "officer" in relation to an association means any member of the Executive Council thereof ;
- (21) "prescribed" means prescribed by rules or regulations;
- (22) "regulations" means regulations made under this Act;
- (23) "rules" means rules made under this Act;
- (24) "settlement" means a settlement arrived at in the course of conciliation proceeding, and includes an agreement between an employer and his workers arrived at otherwise than in the course of any conciliation proceeding, where such agreement is in writing and has been signed by the parties thereto;
- (25) "strike" means cessation of work by a group of workers employed in any industrial unit acting in combination under a common understanding ;
- (26) "signature" shall include thumb impression, if the expression is used in relation to a worker;
- (27) "Tribunal" means an EPZ Labour Tribunal established under section 56;
- (28) "Workers Association" means an association formed by workers for the purpose of regulating the relations between workers and employers under this Act;
- (29) "worker" means any person (including an apprentice) not falling within the definition of employer, who is employed in an industry in a Zone for wages or reward either directly or through a contractor to do any skilled, unskilled, manual, technical or clerical work, whether the terms of employment be expressed or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid-off or otherwise removed from employment in connection with or as a consequence of that dispute, or whose dismissal, discharge, retrenchment, lay-off or removal has led to that dispute, but does not include a person –
 - (i) employed as a member of the watch and ward or security staff or confidential assistant, cipher assistant or as casual workers or workers employed by kitchen or food preparation contractors;

- (ii) employed in a managerial or administrative capacity;
- (iii) who, being employed in a supervisory capacity performs, by virtue of the duties attached to his office or by reason of the powers given to him, functions of managerial or administrative nature; and

(30) "Zone" means a Zone established by the government under section 10 of the Bangladesh Export Processing Zone Authority Act, 1980.

3. **Overriding effect of the Act.** – Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of this Act shall prevail.

4. **Inability to exempt from any provision of the Act.** – The Government shall not, by notification in the official Gazette or otherwise, exempt any industry or any class or description of industries in a Zone or Zones from any of the provisions of this Act.

CHAPTER - II

WORKERS REPRESENTATION AND WELFARE COMMITTEE

5. **Workers Representation and Welfare Committee.** – (1) After commencement of this Act, the Executive Chairman or any officer authorized by him in that behalf, shall require the employer and the workers in an industrial unit in a Zone to constitute, in prescribed manner, a Workers Representation and Welfare Committee, hereinafter referred to as the Committee.

(2) Every employer registered as a company with a separate certificate of incorporation and operating as such in a Zone shall have one Committee under it in that Zone:

Provided that two or more industrial units in a Zone under an employer registered as a company shall be deemed to be one industrial unit for the purposes of this section.

(3) The Committee shall, subject to the provision of sub-section (4), consist of not more than 15 (fifteen) and not less than 5 (five) members with one of them as the convener.

(4) If number of workers eligible to vote is above 500 (five hundred), the number of members in the Committee shall be increased over 05 (five) at the ratio of 1 (one) per 100 (one hundred) workers, but shall not exceed the aforesaid 15 (fifteen).

(5) The Committee shall be formed only with the eligible workers employed in the industrial unit in a Zone for which the Committee is formed.

(6) The members of a Committee shall be elected through secret ballots from among the eligible workers, and the Convener from among the elected members of the said Committee, in a manner to be determined by the Executive Chairman.

(7) The procedure of election under this Chapter shall be determined by the Authority.

(8) The employer shall provide necessary space within the Zone for establishing the office of the Committee.

6. **Special definition of eligible worker.** - For the purposes of this Chapter "eligible worker". -

- (a) in relation to capacity to elect members in the Committee, in respect of an industrial unit which has commenced commercial production prior to the commencement of this Act, shall mean a worker from the first day of his service;
- (b) in relation to capacity to be elected as a member in the Committee, in respect of an industrial unit which has commenced commercial production prior to the commencement of this Act, shall mean a confirmed worker for not less than 9 (nine) months;
- (c) in relation to capacity to elect members in the Committee in respect of an industrial unit, commencing commercial production after commencement of this Act, shall mean a confirmed worker for not less than 3 (three) months; and
- (d) in relation to capacity to be elected as a member in the Committee, in respect of an industrial unit commencing commercial production after commencement of this Act, shall mean a confirmed worker for not less than 3 (three) months employed in the concerned industrial unit in a Zone for which the Committee is formed.

7. **Registration and status of Workers Representation and Welfare Committee.** - (1) The Workers Representation and Welfare Committee for any industrial unit in a Zone shall be registered with a name with the Executive Chairman of the Authority.

(2) The Committee registered under sub-section (1) shall be deemed to be a body corporate and as such shall have capacity, in its registered name, to enter into contract, perform limited functions within the ambit of this Act, to sue and be sued and to do and perform all other incidental acts and functions; and it shall have a common seal and perpetual succession.

8. Rights and Functions of the Committee. - (1) A Committee shall have the right to negotiate with the employer on working conditions, remuneration or payment for productivity enhancements and worker education programs. No reasonable requests for information from the Committee to the employer for negotiation purposes relating to working conditions, remuneration or payment for productivity enhancements and worker education programs shall be denied.

(2) During the existence of a Committee in any industrial unit in a Zone, the wages and financial benefits determined by the Authority shall be in effect; and any benefit as per sub-section (1) shall be in addition thereto.

(3) Any agreement between the employer and the Committee shall be in writing, and such agreement effected by negotiations under sub-section (1) shall be legally binding and judicially enforceable.

(4) The functions of the Committee shall be to engage in industrial relations, conflict prevention and resolution, and also to promote measures for securing and preserving good relations between an employer and his workers and, in particular -

- (a) to endeavour to maintain understanding between the employer and workers;
- (b) to promote security of employment for the workers and conditions of safety, health and job satisfaction in the work;
- (c) to encourage vocational training within the industrial unit;
- (d) to take measures for facilitating good and harmonious working conditions in the industrial unit; and
- (e) to discuss other matters of mutual interest with a view to promoting better labour-management.

(5) The Authority may further provide, by regulations, for details regarding the role and other functions of such a Committee.

9. Meeting of the Committee. - (1) The Workers Representation and Welfare Committee shall meet at least once in every two months to discuss and exchange views for recommending measures for performance of the functions under section 8.

(2) The proceedings of every meeting of the Committee shall be submitted to the Executive Chairman and the Conciliator within fifteen days of the date of the meeting.

10. Freedom of Committee provision of sub-section (2), a Committee formed under this section shall be independent to draw up its own internal policies, rules and procedures.

(2) The internal policies, rules and procedures to be drawn up by the Committee under sub-section (1) shall not be inconsistent with any provision of this Act and rules or regulations made under the Act.

11. Duration and cessation of Committee. – (1) A Committee constituted in a Zone shall be in existence till October 31, 2006.

(2) Subject to the provision of sub-section (3), a Committee may continue to function even after October 31, 2006 at the option of the employer.

(3) A Committee shall cease to exist as soon as a Workers Association is formed in that industrial unit.

12. Protection and discipline of elected officers of Committee. – (1) The Convener or any member of a Committee shall not be transferred from one Zone to another or one industrial unit to another within the Zone without the prior approval of the Executive Chairman.

(2) The Convener or any member of a Committee shall not be suspended, dismissed, terminated or otherwise removed from the employment without the prior approval of the Executive Chairman.

(3) Notwithstanding the provision of sub-section (2), the employer shall not be deemed to be barred from suspending any elected officer of a Committee or drawing up disciplinary proceedings against him on the allegation of unfair labour practice prohibited under this Act, or rules or regulations made thereunder.

(4) The Executive Chairman shall have the authority to rule on the legitimacy of any action of the employer under sub-section (3) so as to uphold or set aside the action and also to direct to reinstate the officer to his position and reimburse him with unpaid wages and **to determine rules and procedures.** – (1) Subject to the prebenefits.

CHAPTER – III

WORKERS ASSOCIATION

13. **Formation of Workers Association.** – (1) With expiry of October 31, 2006 and beginning of November 1, 2006, the workers in an industrial unit situated within the territorial limits of a Zone shall have the right to form association to engage in industrial relations subject to the provisions made by or under this Act.

(2) Every employer registered as a company with a separate certificate of incorporation and operating as such in a Zone shall have one Workers Association under it in that Zone:

Provided that two or more industrial units in a Zone under an employer registered as a company shall be deemed to be one industrial unit for the purposes of this section.

(3) The duration of a Workers Association shall be through October 31, 2008 from November 1, 2006.

14. **Requisition for formation of association.** – (1) If the workers in an industrial unit situated within the territorial limits of a Zone intend to form an association, not less than 30% (thirty percent) of the eligible workers of the industrial unit shall apply in a prescribed form to the Executive Chairman demanding formation of a workers association.

(2) Upon receipt of an application under sub-section (1), the Executive Chairman shall verify and ascertain that not less than 30% (thirty percent) of the eligible workers have subscribed to the application by signature or thumb impression.

(3) No employer shall in any manner discriminate against a worker for subscribing to an application under sub-section (1), should ultimately the workers association be not formed on the basis of the result of the referendum held under section 15; and any such discrimination shall be deemed to be an unfair labour practice by the employer under section 41.

(4) A form signed by a worker under this section shall remain valid up to six months from the date of its signature; and such form shall not be filled in or signed before November 1, 2006.

15. **Referendum to ascertain support for association.** – (1) If the Executive Chairman is satisfied under sub-section (2) of section 14 that not less than 30% of the eligible workers have applied in prescribed forms

demanding formation of association, he shall arrange to hold a referendum of the eligible workers of the industrial unit within the Zone, within a period not later than five days from the date of receipt of the application under sub-section (1) of section 14 to ascertain the support of the eligible workers in favour of formation of workers association.

(2) If more than 50% (fifty percent) of the eligible workers do not cast votes, the referendum under this section shall be ineffective.

(3) If more than 50% (fifty percent) of the workers cast votes, and more than 50% (fifty percent) of the votes cast are in favour of formation of workers association, the workers in the said industrial unit shall, thereby, acquire the legitimate right to form an association under this Act; and the Executive Chairman shall be required to accord registration to that association within 25 (twenty five) working days of the date of the referendum.

(4) The referendum shall be held through secret ballots and the Executive Chairman shall determine the necessary procedure in respect of holding of the referendum, if not, in the meantime, prescribed by regulations.

16. No further referendum in one year. – If in a referendum held under section 15, mandate can not be obtained for formation of workers association, no further referendum shall be held for the same industrial unit until the expiry of one year since thereafter.

17. Constitution of the workers association. – (1) If workers exercise their option under section 15 in favour of formation of workers association, the Executive Chairman shall, within a period not later than five days thereafter, ask the workers to form a Constitution Drafting Committee (hereinafter referred to as the “the Constitution Committee” as and when deemed to be appropriate), consisting of not more than nine representatives with one of them as the Convener.

(2) The Executive Chairman shall, on being satisfied, approve the Constitution Committee within 5 days of receipt of the proposal, and shall ask the Constitution Committee to frame and submit a constitution of the workers association within a period of 15 days.

(3) No provision of the constitution shall be contrary to any provision of this Act, and it shall conform to the provisions of this Act.

- (4) The constitution of an association under this Act shall propose, -
- (a) a General Council to consist of the eligible workers who shall be registered as members of the workers association; and
 - (b) an Executive Council to consist of, among other positions, a President, a General Secretary, a Treasurer and such number of other positions not exceeding fifteen in total. All the members in the Executive Council shall be elected by the members of the General Council.

18. **Further requirements of the constitution.** - (1) A constitution for the formation of an association shall not be approved under this Act, unless the constitution thereof further provides for the following matters, namely: -

- (a) the name and address of the workers association;
- (b) the objects for which the workers association has been formed;
- (c) the manner in which a worker may become a member of the workers association specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution;
- (d) the sources of the fund of the workers association and the purposes for which such fund shall be applicable;
- (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the workers association and under which any fine or forfeiture may be imposed on him;
- (f) the maintenance of a list of the members of the workers association and of adequate facilities for the inspection thereof by the officers and members of the workers association;
- (g) the manner in which the constitution shall be amended, varied or repealed;
- (h) the safe custody of the funds of workers association, its annual audit, the manner of audit and adequate facilities for inspection of the account books by the officers and members of workers association;

- (i) the manner in which the workers association may be de-registered;
- (j) the manner of election of officers by the General Council of the workers association and the term for which an officer may hold office upon his election or re-election;
- (k) the procedure about resignation from the General Council of the workers association and cancellation of membership;
- (l) the procedure for expressing want of confidence in any officer of the workers association; and
- (m) the meetings of the Executive Council and General Council of the workers association, where there shall be obligation for the Executive Council to meet at least once in every four months and for the General Council to meet at least once in every year.

(2) No workers association shall obtain or receive any fund from any outside source without the prior approval of the Executive Chairman.

19. **Approval of constitution.** – The Executive Chairman, on being satisfied that the constitution has been framed with due compliance with the provisions of the Act and does not contravene any provision of the Act and rules or regulations, shall approve the constitution and shall issue a letter of approval to that effect within 5 days.

20. **Application for registration of association.** – The Convener of the Constitution Drafting Committee shall apply to the Executive Chairman for registration of the workers association formed under the constitution approved under section 19.

21. **Requirements for application.** – Every application for registration of workers association shall be made to the Executive Chairman and shall be accompanied by –

- (a) three copies of the approved constitution; and
- (b) a statement showing –
 - (i) the name of the workers association and its address;
 - (ii) date of formation of the association;
 - (iii) the titles, names, ages, addresses of the members of the workers association; and
 - (iv) a statement of total paid membership.

22. Registration of association. – (1) The Executive Chairman, on being satisfied that the workers association has complied with all the requirements of this Act and has been formed within the framework of the approved constitution, shall register the workers association in a prescribed register within a period of 10 days from the date of receipt of the application under section 20.

(2) If the application is found by the Executive Chairman to be deficient in a material respect or respects, he shall communicate in writing his objection to the workers association within a period of 10 days from the receipt of the application and the workers association shall reply thereto within a period of 10 days from the date of receipt of the objections.

(3) When the objections raised by the Executive Chairman have been satisfactorily met, the Executive Chairman shall register the workers association as provided in sub-section (1), and If the objections are not satisfactorily met, the Executive Chairman may reject the application.

(4) If the application is rejected or the Executive Chairman has, after settlement of the objections, delayed disposal of the application beyond the period of 10 days provided in sub-section (1), the workers association may apply to the Tribunal which, for reasons to be stated in its judgment, may pass an order directing the Executive Chairman to register the workers association and to issue a certificate of registration, or may reject the application.

23. Certificate of registration. – The Executive Chairman, on registering an association under section 22, shall issue a certificate of registration in the prescribed form which shall be deemed to be the conclusive evidence that the workers association has been duly registered under this Act.

24. No association in a new industrial unit for three months. - No workers association shall be allowed to be formed under this Act, in any industrial unit established in a Zone after the commencement of this Act, unless a period of three months has expired after the commencement of commercial production in that industrial unit.

25 Restriction in respect of number of association. – (1) There shall not be more than one workers association in an industrial unit in a Zone.

(2) If there are more than one industrial units under the same employer or company in a Zone and any of the said units comes within the restriction under section 24, that shall not bar formation of workers association for rest of the units.

26. Authority of the Executive Chairman to determine ownership of an industrial unit. – If any doubt or dispute arises as to whether any two or more industrial units are under the same employer within the same Zone, the decision of the Executive Chairman on that issue shall be final.

27. Activities and membership of association. - (1) The activities of the workers association shall be confined only within the territorial limits of the Zone.

(2) A worker shall be eligible to be a member only of the workers association in respect of the industrial unit in which he is employed.

(3) Subject to the right to form Federation of Workers Associations under section 32, an association formed within the territorial limits of one Zone shall not associate or affiliate in any manner with another workers association in the same Zone or another Zone or with any other workers association beyond any Zone.

28. Election of Executive Council. – (1) The members of the Executive Council of a workers association formed under this Act shall be elected by the registered general members of the said workers association through secret ballot in an election organized and conducted by the Authority.

(2) Only eligible workers shall be entitled to vote and to be elected to an office in the Executive Council under this Chapter.

(3) For the purposes of this Chapter “eligible worker” -

- (a) in relation to capacity to elect members in the Executive Council in respect of an industrial unit which has commenced commercial production prior to the commencement of this Act, shall mean a worker from the first day of service;
- (b) in relation to capacity to be elected as a member in the Executive Council, in respect of an industrial unit which has commenced commercial production prior to the commencement of this Act, shall mean a confirmed worker in the concerned industrial unit for not less than 9 (nine) months;
- (c) in relation to capacity to elect members in the Executive Council in respect of an industrial unit, commencing commercial production after commencement of this Act, shall mean a confirmed worker in the concerned industrial unit for not less than 3 (three) months; and

- (d) in relation to capacity to be elected as a member in the Executive Council, in respect of an industrial unit commencing commercial production after commencement of this Act, shall mean a confirmed worker for not less than 3 (three) months in the concerned industrial unit.

29. **Approval of the Executive Council.** - The Executive Council, if duly elected within the framework of the constitution, shall be approved by the Executive Chairman within 5 (five) days of the declaration of results of the election.

30. **Tenure of the Executive Council.** - The Executive Council of an association shall hold office for a period of four years from the date of its being approved by the Authority, unless earlier de-registered or otherwise ceases to exist on or before October 31, 2008.

31. **Holding of next election.** - (1) The next election of the Executive Council of an association shall be held within the period of 90 days prior to the date of expiration of the fixed term.

(2) If the Executive Council of an association is dissolved prior to expiration of the fixed term, the next election shall be held within 90 days after such dissolution.

32. **Federation of Associations.** - (1) If more than 50% (fifty percent) of the workers associations in a Zone agree, they shall be entitled to form one Federation of Workers Associations in that Zone.

(2) Unless earlier de-registered or ceases to exist, a federation formed under this section shall hold office for a period of four years from the date of its being approved by the Executive Chairman.

(3) A federation formed within the territorial limits of one Zone shall not affiliate or associate in any manner with another federation in another Zone or with any other federation beyond any Zone.

(4) The Authority shall determine, by regulations, the procedure of election and other details in respect of the Federation of Workers Associations.

33. **Disqualifications for being an officer of an association.** - Notwithstanding anything contained in the constitution or the rules of the workers association, a person shall not be entitled to be, or to be elected as, an officer of the workers association if he has been convicted of an offence involving moral turpitude or an offence punishable under this Act or rules or regulations, and sentenced to imprisonment for any term, unless a period of two years has elapsed since his release.

34. Maintenance of register, etc. by registered workers association – Every registered workers association shall maintain in such form as may be prescribed –

- (a) a register of members showing particulars of subscriptions paid by each member ;
- (b) an accounts book showing receipts and expenditure; and
- (c) a minute book for recording the proceedings of meetings.

35. De-registration of workers association. – (1) At any time during the existence of a workers association, not less than 30% of the eligible workers may apply in prescribed form to the Executive Chairman demanding de-registration of the Association.

(2) Upon receipt of an application under sub-section (1), the Executive Chairman shall verify and ascertain that not less than 30% of the eligible workers have subscribed to the application by signature or thumb impression.

(3) If the Executive Chairman is satisfied under sub-section (2), he shall hold a referendum in 5 days by secret ballots of the eligible workers to ascertain demand in favour of such de-registration.

(4) If more than 50 percent of the eligible workers cast votes in the referendum and if more than 50 percent of the votes cast are in favour of de-registration of the Association, the Executive Chairman shall, within 25 days thereafter, issue an order notifying de-registration.

(5) No employer shall in any manner discriminate against a worker for subscribing to an application under sub-section (1), should ultimately the workers association be not de-registered under sub-section (4) on the basis of the result of the referendum held under sub-section (3); and any such discrimination shall be deemed to be an unfair practice on the part of the employer under section 41.

(6) The Authority shall, by regulations, determine and prescribe procedure and further details in respect of referendum under this section.

(7) Once an association is de-registered under this section, no further association shall be allowed in that industrial unit until the expiry of one year from the date of notification of de-registration.

(8) A form signed by a worker under sub-section (1) shall remain valid up to six months from the date of signature.

36. **Cancellation of registration of workers association.** (1) In addition to the procedure regarding de-registration under section 35, the Executive Chairman may also, subject to the provision of sub-section (2), cancel the registration of a workers association on any of the grounds stated below, that the workers association has –

- (a) ceased to exist on any ground;
- (b) obtained registration by fraud or by misrepresentation of facts;
- (c) contravened any of the provisions of its constitution;
- (d) committed any unfair practice;
- (e) inserted in its constitution any provision which is inconsistent with this Act or rules or regulations made thereunder;
- (f) failed to submit its annual report to the Executive Chairman as required under this Act;
- (g) elected as its officer a person who is disqualified under this Act to be elected as such officer; or
- (h) contravened any of the provisions of this Act or rules or regulations made thereunder.

(2) Where the Executive Chairman is of opinion that the registration of a workers association should be cancelled, he shall submit an application to the Tribunal praying for permission to cancel such registration.

(3) The Executive Chairman shall cancel the registration of a workers association within five days of the date of receipt of permission from the Tribunal.

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

37. **Appeal against cancellation of registration.** – An association aggrieved by an order of the Tribunal under sub-section (3) of section 36, may, within 30 days from the date of the order, appeal to the Appellate Tribunal, and the Appellate Tribunal may uphold, reject or amend the order.

38. No workers association to function without registration. – (1) No workers association, which is not registered, or has been de-registered, or registration of which has been cancelled, shall function as workers association or collective bargaining agent.

(2) No person shall collect any subscription for the fund of any workers association mentioned in sub-section (1).

39. Powers and functions of the Executive Chairman. – The following shall be the powers and functions of the Executive Chairman -

- (a) to register workers associations under this Act and maintain a register for that purpose ;
- (b) to lodge complaints with the Tribunal for action against workers associations or employers for any alleged offence or any unfair practice or violation of any provision of this Act, rules or regulations;
- (c) to determine the question as to the legitimacy of any workers association formed for any industrial unit or units in a Zone and its capacity to act as the Collective Bargaining Agent; and
- (d) to exercise or perform such other powers or functions as may be conferred by rules or regulations.

40. Incorporation of workers association. – (1) Every registered workers association shall be a body corporate and shall have perpetual succession with a common seal and power to contract and to acquire, hold and dispose of property, and it may, by its name, sue and be sued.

(2) The employer shall provide space within the Zone for establishment of the office of the Workers Association.

CHAPTER – IV

UNFAIR PRACTICES, AGREEMENTS, ETC.

41. Unfair practices on the part of employers. – (1) It will be an act of unfair practice for an employer, or person acting as employer, to –

- (a) impose any condition in a contract of employment to restrain the right of a person who is a party to such contract to join an association or continue his membership of an association;

- (b) refuse to employ or refuse to continue to employ any person on the ground that such person is or is not, a member or officer of an association;
- (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is or is not, a member or officer of an association;
- (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a worker or injure or threaten to injure him in respect of his employment by reason that the worker-
 - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of an association;
 - (ii) participates in the promotion, formation or activities of an association; or
 - (iii) exercises any right under this Act;
- (e) induce any person to refrain from becoming, or to cease to be, a member or officer of an association, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person;
- (f) compel any officer of the workers association to sign a memorandum by intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power or telephone facilities or resorting to and other similar technique;
- (g) interfere with or influence, in any manner, the balloting provided for holding of any election under this Act; or
- (h) recruit any new worker during the period of strike under section 54, or during the continuation of a strike which is not illegal, except where the Executive Chairman has, being satisfied that complete cessation of work is likely to have the risks of causing serious damage to the machinery or installation or future operation of the industry, permitted temporary employment of such limited number of workers as may be deemed necessary to avoid the aforesaid likely risks.

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

42. Unfair practices on the part of workers or association. - (1) It will be an act of unfair practice for a worker, workers association or any person acting on behalf of such a worker or workers association to -

- (a) persuade a worker to join or refrain from joining an association during working hours;
- (b) intimidate any person to become, or refrain from becoming, or to continue to be or to cease to be a member or officer of an association;
- (c) induce any person to refrain from becoming, or cease to be a member or officer of an association, by conferring or offering to confer any advantage on or by procuring or offering to procure any advantage for, such person or any other person;
- (d) compel or attempt to compel the employer to sign a memorandum of settlement by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities or resorting to any other similar technique; or
- (e) compel or attempt to compel any worker to pay, or refrain from paying, any subscription towards the fund of any workers association by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water and power facilities or resorting to any other similar technique.

(2) It shall be an unfair practice for a worker or an association to interfere with a ballot for holding any referendum or election under this Act, by the exercise of undue influence, intimidation, impersonation or by bribery through its Executive Council or through any person acting on its behalf.

43. Enforceability of agreement. - (1) An agreement reached between an association and the employer shall be legally binding upon the parties and it shall be judicially enforceable.

(2) Nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, or recovering damages for the breach of, any agreement.

44. Submission of returns and information. - (1) There shall be submitted annually to the Executive Chairman, on or before such date as may be prescribed, a general statement audited in the prescribed manner of all receipts and expenditure and of the assets and liabilities of every workers association of the previous year ending on the 31st day of December.

(2) Together with the general statement, there shall be sent to the Executive Chairman, a statement showing the up to the date position of all members of the Executive Council and the General Council of the year to which the general statement refers, together with a copy of the constitution of the workers association corrected up to the date.

(3) A copy of every alteration made in the constitution of the workers association and of a resolution of the General Council having the effect of a provision of the constitution shall be sent to the Executive Chairman within 15 (fifteen) days of the making of the alteration or adoption of the resolution.

45. Collective Bargaining Agent. - (1) The workers association registered under this Act in an industrial unit shall be the Collective Bargaining Agent (CBA) for that industrial unit.

(2) It shall have the right to negotiate with the employer on wages, hours and other terms and conditions of employment. No reasonable request for information from the association to the employer for negotiation purposes shall be denied.

(3) The Collective Bargaining Agent in relation to an industrial unit shall be further entitled to –

- (a) undertake collective bargaining with the employer on matters connected with employment, non-employment, and the conditions of work;
- (b) represent all or any of the workers in any proceedings; and
- (c) give notice of, and declare, a strike in accordance with the provisions of this Act.

(4) In any Zone where under any employer or company there is a registered workers association, only the minimum starting wages, as are determined by law or other applicable legal orders for the workers there at the entry level, shall apply. Other wage issues such as; increments, promotions, or other enhanced benefits would be subject to negotiation between the association and the employer.

46. **Check-off.** - (1) If a Collective Bargaining Agent so requests, the employer of the member-workers of an association shall deduct from the wages of those workers such amounts, not exceeding one percent of the basic wage, towards their subscription to the funds of the workers association as may be specified with the approval of each such individual worker named in the demand statement furnished by the workers association.

(2) An employer, making any deduction from the wages under sub-section (1) shall, within 15 (fifteen) days thereafter, deposit the entire amount so deducted by him in the account of the workers association on whose behalf such deductions have been made.

(3) The employer shall provide facilities to the Collective Bargaining Agent for ascertaining whether deductions from the wages of its members are being made under sub-section (1).

CHAPTER - V

CONCILIATION AND ARBITRATION

47. **Negotiation relating to industrial disputes.** - (1) If, at any time, an employer or a Collective Bargaining Agent finds that an industrial dispute is likely to arise between the employer and any of the workers, the employer or, as the case may be, the Collective Bargaining Agent shall communicate his or its views in writing to the other party.

(2) Within fifteen days of the receipt of a communication under sub-section (1), the party receiving it shall, in consultation with the representatives of the other party, arrange a meeting with the representatives of the other party for collective bargaining on the issues raised in the communication with a view to reaching an agreement thereon through the procedure of a dialogue.

(3) If the parties reach a settlement on the issues discussed, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Executive Chairman and the Conciliator.

48. **Conciliator.** - The Government shall, upon recommendation of the Executive Chairman, by notification in the official Gazette, appoint as many conciliators as it considers necessary for the purposes of this Act and shall specify in the notification the Zone or Zones within which, or the class of industrial units or industries in relation to which in a Zone or Zones, each one of them shall perform his functions.

49. **Conciliation before notice of strike, etc.** - Where the parties to an industrial dispute fail to reach a settlement by negotiation under section 47, any of them may report to the Executive Chairman and the Conciliator that the negotiations have failed and request the Conciliator in writing to conciliate in the dispute and the Conciliator shall, on receipt of such request, proceed to conciliate in the dispute.

50. **Notice of strike or lock-out.** - (1) If the Conciliator fails to settle the dispute within 10 days from the date of receipt of a request made under section 49, the Collective Bargaining Agent or the employer may, subject to the provision of sub-section (2), and in accordance with the provisions of this Act, serve on the other party to the dispute 21 days' notice of strike or, lock-out, as the case may be.

(2) No Collective Bargaining Agent shall serve any notice of strike unless three-fourths of the members of the Executive Council of the workers association have given their consent to it through secret ballots specifically held for the purpose, in a manner approved by the Executive Chairman, if not, in the meantime, prescribed by regulations.

51. **Conciliation after notice of strike or lock-out.** - (1) Where a party to an industrial dispute serves a notice of strike or lock-out under section 50, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to conciliate or, as the case may be, continue to conciliate in the dispute notwithstanding the notice of strike or lock-out.

(2) Before proceeding to conciliate in the dispute, the Conciliator shall satisfy himself as to the validity of the notice of strike, and if the notice does not conform to the provisions of this Act or the rules of the constitution of the concerned workers association, the notice of strike shall not be deemed to have been given under the provisions of this Act, and in such cases the Conciliator may, at his discretion, decide not to proceed with the conciliation.

52. Proceedings before Conciliator. - (1) The Conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of settlement of the dispute through conciliation.

(2) The parties to the dispute shall appear before the Conciliator in person or through their nominated representatives, and they may authorise such representatives to negotiate on their behalf and to enter into agreement to be binding on them.

(3) The Conciliator shall perform such functions in relation to a dispute before him as may be prescribed, and may, in particular, suggest to either party to the dispute such concessions or modifications in its demand as are, in the opinion of the Conciliator, likely to promote an amicable settlement of the dispute.

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

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

53. Arbitration. - (1) If the conciliation fails, the Conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator, and if the parties agree, they shall make a joint request in writing for reference of the dispute to an Arbitrator agreed upon by them.

(2) The Arbitrator, to whom a dispute is referred under sub-section (1), shall be a person borne on a panel to be maintained by the Executive Chairman; and such a panel of Arbitrators shall be reviewed by the parties every 18 months.

(3) The Arbitrator shall give his award within 30 days from the date on which the dispute is referred to him under sub-section (1) or such other extended time as may be agreed upon by the parties to the dispute.

(4) After he has made an award, the Arbitrator shall forward a copy thereof to the parties and to the Executive Chairman for its due implementation.

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

54. **Strike and Lock-out.** - (1) If no settlement is arrived at during the course of conciliation proceedings and the parties to the dispute do not agree to refer it to an Arbitrator under section 53, the workers may go on strike or, as the case may be, the employer may declare a lock-out, on the expiry of the period of the notice under section 50, or upon the issuance of a certificate by the Conciliator to the parties to the dispute to the effect that the conciliation proceedings have failed, whichever is the later.

(2) The parties to the dispute may, at any time, either before or after the commencement of a strike or lock-out, make a joint application to the EPZ Labour Tribunal for adjudication of the dispute.

(3) If a strike or lock-out continues for more than 15 days, the Executive Chairman may, by order in writing, prohibit the strike or lock-out.

(4) Notwithstanding the provision of sub-section (3), the Executive Chairman may, by order in writing, prohibit a strike or lock-out at any time before the expiry of 15 days, if he is satisfied that the continuance of such strike or lock-out is causing serious harm to productivity in the Zone or is prejudicial to public interest or national economy.

(5) In any case in which the Executive Chairman prohibits a strike or lock-out, he shall, forthwith, refer the dispute to the EPZ Labour Tribunal.

(6) The Tribunal shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible, but not exceeding 40 days from the date on which the dispute was referred to it.

(7) The Tribunal may also make an interim award on any matter of dispute, and any delay by the Tribunal in making an award shall not affect the validity of any award made by it.

(8) An award of the Tribunal shall be valid for such period, as may be specified in the award, but shall not be valid for more than two years.

CHAPTER - VI

EPZ LABOUR TRIBUNAL, APPELLATE TRIBUNAL, ETC.

55. **Application to EPZ Labour Tribunal.** - Any Collective Bargaining Agent or worker may apply to the EPZ Labour Tribunal for the enforcement of any right under any law or any award or settlement.

56. **EPZ Labour Tribunal.** - (1) The Government shall, by notification in the official Gazette, establish for the Export Processing Zones as many EPZ Labour Tribunals as it considers necessary to dispose of industrial disputes and try offences under this Act, and where it establishes more than one EPZ Labour Tribunal, it shall specify in the notification the Zone or Zones in which each of those shall exercise jurisdiction under this Act.

(2) A Tribunal shall consist of a Chairman appointed by the Government and two Members to be appointed in the prescribed manner to advise the Chairman, one to represent the employer and the other to represent the worker.

(3) A person shall not be qualified for appointment as Chairman unless he has been or is a District Judge or an Additional District Judge.

(4) A EPZ Labour Tribunal shall -

- (a) adjudicate and determine an industrial dispute which has been referred to or brought before it under this Act;
- (b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Executive Chairman;
- (c) try offences under this Act and rules or regulations made thereunder, and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf; and
- (d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Act or any other law.

(5) Notwithstanding anything contained in the Workmen's Compensation Act, 1923, or the Payment of Wages Act, 1936, the Government may, by notification in the official Gazette, appoint a Tribunal to be, or confer upon it any power or function of, any Authority under any of the said Act, and upon such notification, the Tribunal shall be deemed to be such Authority and shall exercise the powers and perform the functions of such Authority under the relevant Act.

(6) If any one Member of the Tribunal is absent from, or is otherwise unable to attend any sitting of the Tribunal, the proceedings of the Tribunal may continue, and the decision or award may be given in the absence of such one Member; and no act, proceedings, decision or award of the Tribunal shall be invalid or be called in question merely on the ground of such absence of that Member.

57. **Procedure and powers of Tribunal.** - (1) Subject to the provisions of this Act, the Tribunal shall, in matters of criminal proceedings, follow as nearly as possible summary procedure as prescribed under the Code of Criminal Procedure, 1898.

(2) A Tribunal shall, for the purpose of trying an offence under the Act, have the same powers as are vested in the Court of a Magistrate of the first class under the Code of Criminal Procedure, 1898, and shall, for the purpose of appeal from a sentence passed by it, be deemed to be a Court of Sessions under that Code.

(3) A Tribunal shall, for the purpose of adjudicating and determining any industrial dispute, be deemed to be a Civil Court and shall have the same powers as are vested in such Court under the Code of Civil Procedure, 1908, including the powers of -

- (a) enforcing the attendance of any person before the Tribunal and examining him on oath;
- (b) compelling the production of documents and material objects to the tribunal;
- (c) issuing commissions for the examination of witnesses or documents; and
- (d) delivering *ex parte* decision in the event of failure of any party to appear before the Tribunal.

(4) No Court fee shall be payable for filing, exhibiting or recording any document, or obtaining any document from the Tribunal.

58. **Awards and decisions of Tribunal.** - (1) An award or decision of the Tribunal shall be given in writing and delivered in open Tribunal and a copy thereof shall be forwarded forthwith to the Executive Chairman.

(2) An award or decision of a Tribunal shall, in every case, be delivered within 25 days following the date of filing of the case, unless the parties to the dispute give their consent in writing to extend the time limit.

(3) No award or decision of a Tribunal shall be invalid merely on the ground of delay in its delivery.

(4) Any party aggrieved by an award given under sub-section (1), may prefer an appeal to the Appellate Tribunal within 30 days of the delivery thereof and the decision of the Appellate Tribunal in such appeal shall be final.

(5) All decisions of the Tribunal, other than awards referred to in sub-section (2) of this section, and sentences referred to in sub-section (2) of section 57, shall be final and shall not be called in question in any manner before any Court or authority.

59. EPZ Labour Appellate Tribunal. - (1) The Government shall, by notification in the official Gazette, establish an EPZ Labour Appellate Tribunal for the purposes of this Act, and such Appellate Tribunal shall consist of one member to be appointed by the Government by notification in the official Gazette.

(2) The member of the Appellate Tribunal shall be a person who is or has been a Judge of the High Court Division of the Supreme Court, and he shall be appointed on such terms and conditions as the Government may determine.

(3) The Appellate Tribunal may, on appeal, confirm, set aside, vary or modify any decision, order, sentence or award of the Tribunal, and shall exercise all the powers conferred by this Act on the Tribunal. The Appellate Tribunal shall dispose of an appeal within a period of 40 (forty) days of filing of the appeal.

(4) A decision of the Appellate Tribunal shall not be rendered invalid by reason of any delay in its delivery.

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

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

(7) Any person, convicted and sentenced by the Appellate Tribunal under sub-section (6) to imprisonment for any period, or to pay a fine exceeding 5000 (five thousand) taka, may prefer an appeal to the Appellate Division, subject to leave granted by that Division.

60. Settlements and awards on whom binding. - (1) A settlement arrived at in the course of a conciliation proceeding, or an award of an Arbitrator, or an award or decision of the Tribunal delivered under section 58 or the decision of the Appellate Tribunal under section 59 shall -

- (a) be binding on all parties to the industrial dispute;
- (b) be binding on all other parties summoned to appear in any proceedings before a Tribunal as parties to the industrial dispute, unless the Tribunal specifically otherwise directs in respect of any such party;

- (c) be binding on the heirs, successors or assignees of the employer as one of the parties to the dispute; and
- (d) where a Collective Bargaining Agent is one of the parties to the dispute, be binding on all workers who were employed in the industrial unit to which the industrial dispute relates on the date on which the dispute first arose or who are employed therein after that date.

(2) A settlement arrived at by agreement between the employer and an association, otherwise than in the course of conciliation proceeding, shall be binding on the parties to the agreement.

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

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

(2) A settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year from the date on which the memorandum of settlement is signed by the parties to the dispute.

(3) An award given under sub-section (1) of section 58 shall, unless an appeal against it is preferred to the Appellate Tribunal, become effective on such date and remain effective for such period, not exceeding two years, as may be specified therein.

(4) The Arbitrator, the Tribunal, or the Appellate Tribunal, shall specify dates from which the award on various demands shall be effective and the limits by which it shall be implemented in each case.

(5) A decision of the Appellate Tribunal in appeal under section 59 shall be effective from the date of the award.

(6) Notwithstanding the expiry of the period for which an award is to be effective under sub-section (3), the award shall continue to be binding on the parties until the expiry of two months from the date on which either party informs the other party in writing of its intention to be no longer bound by the award.

62. **Commencement and conclusion of proceedings.** - (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out is received by the Conciliator under section 50.

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

- (a) where settlement is arrived at, on the date on which a memorandum of settlement is signed by the parties to the dispute; and
- (b) where no settlement is arrived at -
 - (i) if the dispute is referred to an Arbitrator under section 53, on the date on which the Arbitrator has given his award; or otherwise;
 - (ii) on the date on which the period of the notice of strike or lock-out expires.

(3) Proceedings before a Tribunal shall be deemed to have commenced -

- (a) in relation to an industrial dispute on the date on which an application has been made under section 54 or section 55; and
- (b) in relation to any other matter, on the date on which it is referred to the Tribunal.

(4) Proceedings before a Tribunal shall be deemed to have concluded on the date on which the award or decision is delivered under sub-section (1) of section 58.

63. **Certain matters to be kept confidential.** - (1) There shall not be included in any report, award or decision under this Act, any information obtained by the Executive Chairman, Conciliator, Tribunal, Arbitrator or Appellate Tribunal in the course of any investigation or enquiry as to any business carried on by any association or person, unit or company or employer, which is not available otherwise than through the evidence given before such authority, if the relevant association, person, unit or company in question has made a request, in writing, to the authority that such information be treated as confidential; nor shall such proceedings of the case disclose any such information without the consent, in writing, of the President of the association or the relevant person, unit or company in question, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), nothing contained in this section shall apply to disclosure of any such information for the purposes of prosecution under section 193 of the Penal Code of 1860.

64. Raising of industrial disputes. - No industrial dispute shall be deemed to exist unless it has been raised in the prescribed manner by a Collective Bargaining Agent.

65. Prohibition on serving notice of strike or lock-out while proceedings pending. - No notice of strike or lock-out shall be served by any party to an industrial dispute while any conciliation proceedings or proceedings before any Conciliator, Arbitrator or Tribunal or an appeal to the Appellate Tribunal are or is pending in respect of any matter constituting such industrial dispute.

66. Powers of Tribunal and Appellate Tribunal to prohibit strike etc. - (1) When a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time when, in respect of such industrial dispute, there is made to, or is pending before, a Tribunal, an application under section 55, the Tribunal may, by an order, in writing, prohibit continuance of the strike or lock-out.

(2) When an appeal in respect of any matter arising out of an industrial dispute is referred to the Appellate Tribunal under section 59, the Appellate Tribunal may, by an order, in writing, prohibit continuance of any strike or lock-out in pursuance of such industrial dispute which had already commenced and was in existence on the date on which the appeal was preferred.

67. Illegal strikes and lock-out. - (1) A strike or lock-out shall be illegal if-

- (a) it is declared, commenced or continued without giving to the other party to the dispute, in the prescribed manner, a notice of strike or lock-out on or before the date of strike or lock-out specified in such notice, or in contravention of section 65; or
- (b) it is declared, commenced or continued in consequence of an industrial dispute raised in a manner other than that provided in section 64; or

- (c) it is continued in contravention of an order made under section 66; or
- (d) it is declared, commenced or continued during the period in which a settlement or award is in operation in respect of any of the matters covered by a settlement or award.

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

68. Conditions of service to remain unchanged while proceedings are pending. - (1) No employer shall, while any conciliation proceeding or proceeding before any Conciliator, Arbitrator, Tribunal or Appellate Tribunal in respect of an industrial dispute is pending, alter to the disadvantage of any worker concerned in such dispute, the conditions of service applicable to him before the commencement of the conciliation proceeding or of the proceeding before the Arbitrator, Tribunal or Appellate Tribunal, nor shall he,-

- (a) save with the permission of the Conciliator, while any conciliation proceeding is pending, or
- (b) save with the permission of the Arbitrator, the Tribunal or Appellate Tribunal, while any proceeding before the Arbitrator, Tribunal or Appellate Tribunal is pending, discharge, dismiss or otherwise punish any worker or terminate his service except for misconduct not connected with such dispute.

(2) Notwithstanding anything contained in sub-section (1), an officer of a workers association shall not, during the pendency of any proceeding referred to in sub-section (1) be discharged, dismissed or otherwise punished for misconduct, except with the previous permission of the Tribunal.

69. Protection and discipline of elected officers of association. -

(1) The President, General Secretary or any other officer of the Executive Council of any workers association shall not be transferred from one Zone to another or one industrial unit to another within the Zone without the prior approval of the Executive Chairman.

(2) The President, General Secretary or any other officer of the Executive Council of any workers association shall not be dismissed, suspended, terminated or otherwise removed from the employment without the prior approval of the Executive Chairman.

(3) The employer shall not be deemed to be barred from suspending any elected officer of WA or drawing up disciplinary proceedings against him on the allegation of unfair labour practice prohibited under this Act, rules or regulations.

(4) The Executive Chairman shall have the authority to rule on the legitimacy of any action of the employer under sub-section (3) so as to uphold or set aside the action and also to direct to reinstate the officer to his position and reimburse him with unpaid wages and benefits.

70. Protection of certain persons. - No person refusing to take part or to continue to take part in any illegal strike or illegal lock-out shall, by reason of such refusal, be subject to expulsion from any workers association or to any fine or penalty or to the deprivation of any right or benefit which he or his legal representatives would otherwise have been entitled, or, be liable to be placed in any respect, either directly or indirectly under any disability or disadvantage as compared with other members of the workers association.

71. Representation of parties. - (1) A worker, who is a party to an industrial dispute, shall be entitled to be represented in any proceeding under this Act by an officer of the workers association and, subject to the provisions of sub-sections (2) and (3), any employer, who is a party to an industrial dispute, shall be entitled to be represented in any such proceeding by a person duly authorised by him.

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

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceeding before the EPZ Labour Tribunal, Appellate Tribunal or Arbitrator with the permission of that Tribunal, Appellate Tribunal or Arbitrator.

72. Interpretation of settlement and awards. - (1) If any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it shall be referred to the Appellate Tribunal established under this Act.

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

73. Recovery of money due from an employer under a settlement or award. - (1) Any money due from an employer under a settlement, or under an award or decision of the Arbitrator, EPZ Labour Tribunal or Appellate Tribunal may be recovered as arrears of land revenue or as a public demand upon application by the Executive Chairman if it is moved in that behalf by the person entitled to the money under that settlement, award or decision.

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

CHAPTER - VII

PENALTIES AND PROCEDURE

74. Penalty for unfair labour practices. - (1) Whoever contravenes any provision of section 41, shall be punished with fine which may extend to twenty thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

(2) Any worker who contravenes any provision of section 42, shall be punished with fine which may extend to two thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

(3) Whoever, being a workers association or any person other than a workers association, contravenes any provision of section 42, shall be punished with fine which may extend to twenty thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

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

- (a) for the first offence, with fine which may extend to five thousand Taka and, in default, to suffer simple imprisonment which may extend to six months; and
- (b) for each subsequent offence with fine which may extend to ten thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

76. **Penalty for failing to implement settlement, etc.** - Whoever willfully fails to implement any term of any settlement, award or decision which it is his duty under this Act to implement, shall be punished with fine which may extend to twenty thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

77. **Penalty for false statements, etc.** - Whoever willfully makes or causes to be made in any application or other document submitted under this Act or the rules or regulations made thereunder, any statement which he knows or has reason to believe to be false, or willfully neglects or fails to maintain or furnish under this Act or any rule or regulation, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka, or with both.

78. **Penalty for illegal strike or lock-out.** - (1) Any worker who commences, continues or otherwise acts in furtherance of an illegal strike, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand Taka, or with both.

(2) Any employer who commences, continues or otherwise acts in furtherance of an illegal lock-out, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand Taka, or with both, and in the case of a continuing offence, with a further fine which may extend to two thousand Taka for every day after the first during which the offence continues.

79. **Penalty for instigating illegal strike or lock-out.** - Whoever instigates or incites others to take part in or expends or supplies money or otherwise acts in furtherance or support of an illegal strike or an illegal lock-out, shall be punished with imprisonment which may extend to six months, or with fine, which may extend to ten thousand Taka, or with both.

80. Penalty for contravening provision of section 68.- Any employer who contravenes the provisions of section 68, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka, or with both.

81. Penalty for embezzlement or misappropriation of funds. - (1) Any officer or any other employee of a registered workers association, guilty of embezzlement or misappropriation of workers association funds shall be punished with imprisonment for a term which may extend to one year and shall also be liable to fine, which shall not exceed the amount found by the Court to have been embezzled or misappropriated.

(2) Upon realisation under sub-section (1), the amount of fine may be reimbursed by the Court to the concerned workers association.

82. Penalty for other offences. - Whoever contravenes, or fails to comply with any of the provisions of this Act, shall, if no other penalty is provided by this Act for such contravention or failure, be punished with fine which may extend to five thousand Taka.

83. Penalty for contravening provision of section 52. - A person who willfully fails, except for satisfactory reasons, to appear before the Conciliator or to send representative to him in compliance with the provisions of sub-section (2) of section 52, shall be punished with fine which may extend to five thousand Taka and, in default, to suffer simple imprisonment which may extend to six months.

84. Offences by company. - Where the person guilty of any offence under this Act is a company or a body corporate, every Director, Manager, Secretary or other officer or agent thereof shall, unless he proves that the offence was committed without his knowledge or consent or that he exercised all due diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

85. Trial of offences. - (1) No Tribunal or Court other than the Labour Tribunal established under this Act shall try any offence punishable under this Act and no prosecution for an offence punishable under this Chapter shall be instituted and taken cognizance of by the Tribunal except by or under the authority, or with the previous permission of the Executive Chairman or an officer authorised by him in that behalf.

(2) All offences punishable under this Act shall be non-cognizable and bailable.

CHAPTER - VIII
MISCELLANEOUS

86. **Indemnity.** - No suit, prosecution or other legal proceedings shall lie against any person for anything which is, done or intended to be done in good faith in pursuance of this Act or any rule or regulation made thereunder.

87. **Bar to linkage with political parties.** - (1) No workers association or federation of workers associations in a Zone shall maintain any linkage, overt or covert, with any political party or organization affiliated with any political party.

(2) Upon a complaint by any employer that any workers association or federation of workers associations in a Zone has committed an act in contravention of sub-section (1), if the Executive Chairman finds the complaint to be true upon enquiry, he shall forthwith cancel the registration of that workers association or federation of workers associations, as the case may be, and upon such cancellation of registration, the workers in the industrial unit or units, or the associations in the Zone, as the case may be, shall not be allowed to form association or federation, as the case may be, for next one year.

(3) If aggrieved by an order of the Executive Chairman under sub-section (2), an employer, association or federation may prefer an appeal to the EPZ Labour Tribunal, and the decision of the Tribunal may be challenged in the Appellate Tribunal, and the decision of the Appellate Tribunal shall be final on the matter.

(4) For the purposes of this section, political party shall mean a political party as defined in article 152 of the Constitution of the People's Republic of Bangladesh, and shall also include any other organization affiliated with such political party.

88. **Transitional and temporary provisions.** - Notwithstanding anything contained in this Act, the transitional and temporary provisions contained in this section shall be effective, -

(1) **No strike or lock out.**- No strike or lock out shall be permissible in any industrial unit in a Zone till October 31, 2008.

(2) **Mandatory and binding arbitration.**-(a) Notwithstanding anything contained in section 53, arbitration shall be mandatory for the parties during the period beginning with commencement of this Act and ending with October 31, 2008.

(b) Mutually acceptable arbitrator shall be appointed by the parties form a list of arbitrators approved by the Authority. If the parties cannot agree on the selection of the arbitrator, the Executive Chairman shall assign an arbitrator form its approved list. The selection or appointment of the arbitrator shall be completed and the date of the arbitration hearing shall be fixed within 15 working days form the date of the request for arbitration. The arbitration hearing shall be completed and a written award shall be given within 30 days form the date of the first hearing.

(c) The decision of the arbitrator shall be binding on the parties and enforceable by the Executive Chairman. The Executive Chairman shall be authorized to take punitive measures as required to enforce the terms of the arbitrator's decision.

(d) An appeal from an arbitrator's decision shall be limited to decisions where there is reasonable suspicion and evidence of fraud, corruption or other major defects in the arbitrator's decision.

(e) An appeal under clause (d) shall lie to the Labour Appellate Tribunal, and the Appellate Tribunal shall dispose the appeal within 30 days of the filing of the appeal, and the decision of the Appellate Tribunal shall be final and binding on the parties.

89. **Reference to CBA and WA to include Committee.** - Unless the context otherwise requires, any reference to Collective Bargaining Agent or Workers Association in Chapter IV and V of this Act shall be construed also to include Workers Representation and Welfare Committee.

90. **Executive Chairman to determine wages etc. in the absence of Workers Association.** - The Executive Chairman shall determine the minimum standards regarding wages, working hours, salaries, other financial benefits and other service conditions of the workers of an industrial unit in a Zone for which there shall be no workers association as the Collective Bargaining Agent:

Provided that, only the minimum starting wage applicable to the workers at the entry level in any zone shall apply to the workers employed in any industrial unit in a zone where a workers association is registered; and other wage issues, such as, increment of wages, promotion, or other enhanced facilities would be subject to negotiation between the workers association and the employer.

91. **Monitoring of referendum and elections.** - (1) Any election or referendum under any of the provisions of this Act shall be fairly monitored by representatives of the Authority, employers, workers and neutrals.

(2) The Authority shall determine and prescribe procedure and further details in respect of monitoring of election or referendum referred to in sub-section (1).

(3) The companies or employers shall provide lists with the names of all workers eligible to vote in the referendum or election in respect of workers association before any such referendum or election is held under this Act.

(4) The companies or employers shall affix the lists of workers referred to in sub-section (3) in a conspicuous place of the relevant factories in a visible manner for the 72 hours prior to the referendum or election.

(5) The election or referendum in relation to registration of any workers association shall be scheduled at such a time and location so that it does not obstruct the workers to vote.

(6) In the period between the request for election and ultimate completion of that election of workers association, there shall be no intimidation or threats of reprisal by either party.

(7) No party shall conduct campaigns or call or conduct any special or general meeting of the workers relating to the election for registration of workers association on the premises of the industrial unit or during its working hours.

92. **Executive Chairman to extend time.** - The Executive Chairman may, on reasonable grounds, extend time if certain duty or function can not be discharged or performed within the specified time under any provision of this Act.

93. **Executive Chairman to delegate powers.** - The Executive Chairman may, subject to the approval of the Authority, delegate any of his powers under this Act to an officer subordinate to him.

94. **Executive Chairman, etc. to be public servants.** - The Executive Chairman, a Conciliator, the Chairman of an EPZ Labour Tribunal and the Member of the Tribunal and Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860).

95. Authority to administer the Act and other matters.- Notwithstanding anything contained in any other law, rules or regulations, for the time being in force, the Bangladesh Export Processing Zones Authority shall be responsible for administration of this Act and to deal with all matters relating to rights of workers and industrial relations in the Zones.

96. Original text and text in English. – The original text of this Act shall be in Bangla, and there shall be an authentic text of it translated into English:

Provided that in the event of conflict between the Bangla and the English texts, the Bangla text shall prevail.

97. Powers to make rules and regulations.- (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The Bangladesh Export Processing Zones Authority may, with previous approval of the Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

By order of the President

Md. Israil Hossain

Deputy Secretary.

মোহাম্মদ আলমগীর হোসেন, উপ-নিয়ন্ত্রক (ভারপ্রাপ্ত), বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।

মোঃ আমিন জুবেরী আলম, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরম ও প্রকাশনা অফিস,

তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।