



KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 7th June, 2022.

No. PA/Khyber Pakhtunkhwa/Bills-212/2022/14799.— The Khyber Pakhtunkhwa Occupational Safety and Health Bill, 2022 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 31st May, 2022 and assented to by the Governor of the Khyber Pakhtunkhwa on 6th June, 2022 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA OCCUPATIONAL SAFETY AND HEALTH ACT, 2022. (KHYBER PAKHTUNKHWA ACT NO. XV OF 2022)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa. (Extraordinary), dated the 7th June, 2022).

AN ACT

to make provisions for occupational safety and health of all persons at workplaces in the Province of the Khyber Pakhtunkhwa

WHEREAS it is expedient to make provisions for the occupational safety and health of the persons at workplace and to protect them against risks arising out of the occupational hazards in order to promote safe and healthy working environment catering to the physical, physiological and psychological needs of the workers at workplace and to provide for matters connected therewith or ancillary thereto:

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

CHAPTER-I

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Occupational Safety and Health Act, 2022.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once on such date as the Department may by notification in the official Gazette specify.

(4) Government may, by order, exempt specified workplaces from the operation of this Act, either wholly or partially, and for such period as may be specified.

2. **Definitions.**---(1) In this Act, unless there is anything repugnant in the subject or context,-

- (a) “accident” means an incident that happens unexpectedly and unintentionally during the course of employment and thereby causes damage or harm;
- (b) “contractor” means any person or a body, whether incorporated or not, who contracts to carry out the whole or part of any work undertaken by the principal in the course of or for the purpose of the principal’s trade or business and includes sub-contractor;
- (c) “Council” means the Khyber Pakhtunkhwa Occupational Safety and Health Council constituted under section 16 of this Act;
- (d) “Chief Inspector” means the Chief Inspector appointed under the Khyber Pakhtunkhwa Factories Act, 2013 (Khyber Pakhtunkhwa Act No. XVI of 2013);
- (e) “Department” means Labour Department of Government;
- (f) “employer” means a person or agent that employs, contracts or engages in any manner whatsoever one or more people for wages or salary;
- (g) “establishment” includes any business, trade, profession, service, office, firm, factory, society, undertaking, company, educational institution, hospital, clinic, laboratory, shop, workshop, godown, warehouse, enterprise or organization of whatsoever nature including Government, a local government, any semi-autonomous or autonomous body or transportation which employs or engages a worker directly or through a contractor or sub-contractor for the purpose of carrying on any business activity, industry, service, municipal services, sanitation or excavation and includes all its departments, branches and premises whether situated at the same place or at different places:

Provided that the Department may, by notification in the official Gazette, declare any workplace or class thereof, to be establishment for the purposes of this Act;

- (h) “factory” means a factory as defined in the Khyber Pakhtunkhwa Factories Act, 2013 (Khyber Pakhtunkhwa Act No. XVI of 2013);
- (i) “Government” means the Government of Khyber Pakhtunkhwa;
- (j) “harm” means illness, disease, injury or a combination of these and includes physical or mental harm caused by any work-related incident;

- (k) "hazard" means an arrangements, circumstances, event, occurrence, phenomenon, process, situation or substance, whether arising or used within or outside a place of work, that is an actual or potential cause or source of harm;
- (l) "Inspector" means an Inspector appointed under the Khyber Pakhtunkhwa Factories Act, 2013 (Khyber Pakhtunkhwa Act No. XVI of 2013);
- (m) "local government" shall have the same meaning as given to it in the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
- (n) "machinery" means an engine, motor or other appliances providing energy derived from compressed air, the combustion of fuel, electricity, gas, gaseous products, steam, water, wind or any other source and includes:
 - (i) any plant by or to which the motion of any machinery is transmitted; and
 - (ii) a lifting machine, a lifting vehicle, a machine whose motive power is wholly or partly generated manually and a tractor;
- (o) "premises" means any place and includes:
 - (i) a land, building or part of any building;
 - (ii) a vehicle, watercraft or aircraft;
 - (iii) an installation on land including the foreshore and other land intermittently covered by water and offshore installation and any other installation whether floating or resting on the riverbed or the subsoil thereof or resting on other land covered with water or the subsoil therefore;
 - (iv) a tent or moveable structure; and
 - (v) a drain, sewage line, sewer, water channel, treatment plant, reservoir, pondage, water body, dams, barrages or canals etc;
- (p) "occupational disease" means an occupational disease as provided in the Khyber Pakhtunkhwa Factories Act, 2013 (Khyber Pakhtunkhwa Act No. XVI of 2013) or to be notified by the Government for the purpose of this Act;
- (q) "prescribed" means prescribed by rules or regulations made under this Act;
- (r) "risk" means the likelihood of an occurrence of a hazardous event and the severity of injury or damage to the health of people caused by this event;
- (s) "regulations" mean the regulations made under this Act;
- (t) "rules" mean the rules made under this Act;
- (u) "Schedule" means the Schedule appended to this Act;

- (v) "self-employed person" means an individual who works for gain or reward otherwise than under a contract of employment, whether or not that person employs other persons;
- (w) "society" means a society as defined in the Societies Registration Act, 1860 (Act No. XXI of 1860);
- (x) "volunteer" means a person who does not expect to be rewarded for work to be performed and does not receive reward for work performed but does not include a person who is in a place of work for the purpose of receiving on the job training or gaining work experience;
- (y) "worker" means any person employed or engaged, whether directly or indirectly for wages or any other form of any other consideration or a volunteer to do any skilled or unskilled, professional, technical, clerical, manual or other work, in connection with the affairs of an establishment under any contract of service or apprenticeship, whether written or oral, express or implied and includes such a person when laid off or terminated, retrenched, dismissed and or removed from employment under this Act and includes any person or class of persons which Government may specify by notification in official Gazette, but does not include:
 - (i) a person employed in the Armed Forces; and
 - (ii) a person employed in sensitive installations as may be prescribed by Government; and
- (z) "workplace" means any establishment or premises where work is carried out, by one or more persons and includes premises used for the storage of tools, machinery, equipment or substances.

Explanation: A person is in a place of work wherever he may perform work, including a place that the person moves through.

(2) Expressions used in this Act but not defined herein shall have the same meanings as assigned to them in the relevant labour laws.

3. Duties of employer.---(1) Every employer shall-

- (a) take all possible and reasonably practicable measures to ensure safety and health of the workers at the workplace;
- (b) ensure systematic and effective identification of the existing and new hazards and risks at the workplace on a regular basis;
- (c) arrange for training of safety and health representatives every year to attend health and safety training as approved by Government and shall bear all expenses thereof;
- (d) get, at his own expense, the workers vaccinated and inoculated against occupational deceases at such intervals as may be prescribed;
- (e) ensure provision and application of processes, systems of work and tasks to be safe and without risks of harm to health;

- (f) ensure provision and maintenance of tools, machinery, equipment and appliances which are safe and without risks of harm;
- (g) make arrangements to control and prevent physical, chemical, biological, radiological, ergonomics and psycho-social or any other hazards to the workers and other persons at the workplace;
- (h) provide such information, instructions, training and supervision, as is necessary or required under this Act and the rules;
- (i) keep the workplace in safe, clean orderly and harm-free condition, and provide and maintain safe means of access to and egress from the workplace;
- (j) inform the workers in an understandable manner and in accessible written form, before any work commences, the hazards associated with their work, risks involved and the preventative and protective measures that need to be taken;
- (k) provide where necessary to the workers, at his own expense, if hazards cannot otherwise be eliminated or controlled, adequate protective clothing and protective equipment as may be approved by Government, to prevent every risks of harm and of adverse effects on health;
- (l) maintain in the general register particulars of all accidents including dangerous occurrences, commuting accidents and suspected cases of occupational diseases at the workplace and submit the extracts thereof to Government;
- (m) provide where necessary measures including adequate first aid arrangements to deal with emergencies, dangerous occurrences, accidents and industrial disasters;
- (n) ensure the establishment and efficient functioning of a safety and health committee and the recognition of safety and health representatives; and
- (o) take all practical measures for the prevention of fires or explosions and for the provision of safety measures in the event of fire or explosions as well.

(2) The employer shall record particulars of an accident or harm which occurs at a workplace and shall take all reasonably practicable steps to ensure that the event is so investigated as to determine the cause of accident or harm.

(3) Wherever two or more undertakings engage in activities simultaneously at one workplace, the employers of each undertaking shall collaborate in applying the provisions of this Act.

4. Duties of workers.--- Every worker at the workplace shall ensure:

- (a) reasonable care for his own safety and that of other persons who may be affected by his acts or omissions at the workplace without willfully doing anything to endanger himself or other persons;
- (b) proper use of any protective clothing and protective equipment;
- (c) no willful interference with or misuse of any means, appliances, equipment or any other thing;

- (d) his escape from the place of danger and report forthwith to the immediate supervisor of any situation; and
- (e) to report any occupational accident, immediately to the employer or the Department in the prescribed manner:

Provided that where the threat cannot be controlled in view of the Department, it may direct the workers who could be affected, to cease work until remedial action is taken to the satisfaction of the Department:

Provided further that where work ceases, the employer may allow the workers to undertake temporary alternative work on the same terms and conditions and continuance of his employment shall not be affected until the dispute is resolved by the Department.

5. Duties of self-employed persons and employers to persons other than their employees.---
--Every self-employed person and every employer so far as reasonably practicable, shall ensure-

- (a) that he himself and other persons not his workers are not exposed to risk to their safety and health; and
- (b) take necessary steps in the prescribed manner for awareness of the potential affectees, about such aspects that might affect their health and safety.

6. Duties of persons in control of certain premises to persons other than their workers.---
Every person, who is in control of a workplace, not being a worker but using a premises, shall, so far as is reasonably practicable ensure that the premises, all means of access thereto or egress there from available for use by persons using the premises and any plant or substance in the premises is or are used in a safe manner and without risks to health.

7. Duties of suppliers regarding articles and substances.---(1) It shall be the duty of supplier who designs, manufactures, imports or supplies any article for use at workplace to take specified steps sufficient to-

- (a) ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to health when properly used;
- (b) carry out or arrange for carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
- (c) take such steps as are necessary to secure that there shall be available in connection with the use of the article at work adequate information about the use for which it is designed and has been tested and about any condition necessary to ensure that, when put to that use, it shall be safe and without risk to health; and
- (d) ensure, so far as is reasonably practicable, that the substance is safe and without risk to health when properly used.

(2) It shall be the duty of supplier who designs, manufactures or supplies any tools, machinery, equipment or substance for use at work, to ensure-

- (a) that such tools, machinery, equipment or substance is safe and without risk of injury to health when correctly used with regard to safe practices; and
- (b) that persons to whom such tools, machinery, equipment or substance are supplied, be proved with all information as regards handling, commissioning, use and maintenance.

Explanation: In this section supply of tools, machinery and equipment includes handling, assembling, installing, erecting and testing.

CHAPTER-II

8. Safety and Health.---(1) Government upon the recommendation of the Council, by notification in the official Gazette, make rules for the safety and health of persons in any establishment or a class of establishments in the prescribed manner.

(2) Without prejudice to the generality of the foregoing provision, the rules made under sub-section (1), may include but not be limited to the following matters:

- (a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress there from;
- (b) lighting, ventilation, odour, temperature, noise, dust, fume, artificial humidification and cleanliness of workplaces;
- (c) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their removal and transfer;
- (d) prevention of harmful physical or mental stress due to conditions of work;
- (e) handling, stacking and storage of loads and materials, manually or mechanically;
- (f) guarding and fencing of the machinery and work at or near machinery in motion;
- (g) instructions, training and supervision in relation to employment on dangerous machine and fencing or casing of machinery, wet floors, open wiring, safety escapes, emergency exits, safe electric wiring and fitting etc;
- (h) manufacture, packing, labeling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
- (i) control of the atmosphere and other ambient factors of workplaces;
- (j) prevention and control of hazards due to high and low barometric pressures;
- (k) prevention of fires and explosions and measures to be taken in case of fire or explosion;

- (l) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (m) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water and any other welfare facilities connected with occupational safety and health;
- (n) use, handling and storage of excessive weights;
- (o) use and handling of loading and earth moving machinery;
- (p) use, handling and storage of cranes, hoist, lifts and other lifting operations;
- (q) installation and use of scaffolding and work at height;
- (r) first-aid treatment;
- (s) establishment of emergency plans; and
- (t) supervision of the health of workers.

(3) Government shall make occupational safety and health policy and shall develop plan for its implementation.

9. Written statement of policy.--- Every employer shall, except in such cases as may be prescribed, declare a statement in writing, duly approved by Chief Inspector, prepared in consultation with workers and their representatives of a general policy, with respect to the safety and health of all persons at the workplace and the policy shall be reviewed and revised when:

- (a) alteration to the procedures for managing risks to safety is made; and
- (b) changes to the premises where persons work, to the systems or methods of work or to the plant or substances used for work are made that may affect safety, health or welfare.

10. Consultation.---(1) At every workplace the employer shall-

- (a) provide for the election of safety and health representatives from amongst the workers in a work place with more than five workers and such representatives shall represent the workers in all matters relating to the safety, health and welfare at work in the manner as may be prescribed; and
- (b) appoint a competent person to function as safety and health officer at the workplace in the prescribed manner.

11. Precautions against contagious, occupational or infectious disease at workplaces.---(1) Each worker shall be provided with a hygiene card in which, during the month of January and July every year, entries shall be recorded after examination by a registered medical practitioner, appointed by the employer, to the effect that the worker is not suffering from any contagious, occupational or infectious disease. The fee of such an examination shall be fixed by Government and shall be borne by the employer.

(2) If the worker is found to be suffering from any contagious, occupational or infectious disease, on an examination under sub-section (1), he shall not be permitted to work till he is declared fit by the medical practitioner appointed under sub-section (1).

(3) In case of extraordinary circumstances including epidemic, pandemic or any highly contagious disease, wherein continuation of operation of an establishment poses eminent danger to the health and safety of workers, the Chief Inspector with the approval of Department may order closure of such establishment till such time, the danger is removed.

12. Registration of workplaces and approval of sites, buildings and other constructions to be used as workplaces.--- An employer or self-employed person shall not build, fit out, alter or use any site or building as a workplace, unless such plan, site or building are approved in a prescribed manner.

13. Notification and investigation of accidents, dangerous occurrences and occupational illness.---(1) Every employer shall maintain a register of accidents and harm in the prescribed manner and shall record in the register the prescribed particulars relating to:

- (a) every accident that harmed or as the case may be might have harmed any worker at work; or any person in a place of work controlled by the employer; and
- (b) every occurrence of harm to an worker or self-employed person at work or as a result of any hazard to which worker was exposed while at work in the employment of the employer.

(2) Every self-employed person shall maintain a register of accidents and harm in the prescribed form and must record in the register the prescribed particulars relating to:

- (a) every accident that harmed or as the case may be might have harmed the self-employed person at work;
- (b) every accident resulting from the work of the self-employed person that harmed or as the case may be might have harmed any person; and
- (c) every occurrence of harm to the self-employed person:
 - (i) while at work; or
 - (ii) as a result of any hazard to which the self-employed person was exposed while at work.

(3) Every employer or self-employed person shall maintain a register and record of any accident that occurs in a workplace which-

- (a) causes loss of life;
- (b) disables any person from reporting to normal work for more than seven days; and
- (c) makes any person unconscious as a result of any action or process related to work.

(4) The employer and self-employed person shall report every accident in the prescribed manner to the Inspector within twenty four hours of the occurrence of the accident.

(5) Where an accident results in disablement or death of person at the workplace, a notice in writing of such disablement or death shall be sent to the employer or the self-employed person in control of the workplace within twenty four hours of the communication of the disability or death.

(6) Where at any workplace the possibility of the workers being subjected to special risks or hazards to safety and health at work, the Chief Inspector may require such workers to undergo pre-employment and periodic medical examinations suited for the circumstance and at periods so determined which the employer and the workers shall comply.

(7) The medical examination shall be performed at a hospital authorized by Government and the cost thereof shall be paid by the employer.

14. No interference at accident scene.---Where a person is seriously harmed while at work, no person shall, unless authorized to do so by an Inspector, remove or in any way interfere with or disturb any wreckage, article, or thing related to the incident except to the extent necessary to-

- (a) save the life or prevent harm to, or relieve the suffering of, any person; or
- (b) maintain the access of the public to an essential service to utility; or
- (c) prevent serious damage to or loss of property.

15. Power to direct formal investigation of incidents, accidents and cases of disease.---(1) Department may direct a formal investigation into any accident occurring or any occupational disease or any other disease contracted or suspected to have been contracted in a work place and if its causes and circumstances.

(2) Department may nominate a competent person or any entity from public or private sector to hold the investigation, and may appoint any person or persons possessing legal or special technical knowledge to act as assessor in holding the investigation.

(3) The person appointed to hold any such inquiry shall have all the power of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of enforcing the attendance of witness and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Pakistan Penal Code (XLV of 1860).

(4) The investigator shall make a report to the Department stating the causes and circumstances of the incident, accident or case of disease and adding any observation which he thinks fit to make.

(5) The person holding inquiry under this section may exercise such of the power of an inspector under this Act as he may think it necessary or expedient to exercise for the purposes of inquiry.

(6) The Department may cause the report of the investigator to be made public.

CHAPTER-III

16. The Khyber Pakhtunkhwa Occupational Safety and Health Council.---(1) After the commencement of this Act, the Government shall, by notification in the official Gazette, establish a Council to be known as the Khyber Pakhtunkhwa Occupational Safety and Health Council, to exercise such powers and perform such functions assigned to it under the provisions of this Act.

(2) The Council shall consist of-

- (a) Secretary to Government Labour Department; Chairperson
- (b) Secretaries to Government Health, Industry, Mines and Minerals, Local Government, Environment Departments or their nominees not below the rank of an Additional Secretary; Members
- (c) four persons from organizations representing employers; Members
- (d) four persons from organizations representing workers; Members
- (e) four persons, including at least one female and one minority, shall be from organizations or professional bodies the activities of whose members are related to occupational safety and health and who are able to contribute to the work of the Council; and Members
- (f) Director Labour Khyber Pakhtunkhwa. Member- cum- Secretary

(3) The members under clauses (c), (d) and (e) of sub-section (1) shall hold office during the pleasure of Government.

(4) Members under clause (c), (d) and (e) shall respectively be chosen from the list of names submitted by the representative bodies of the employers and workers.

(5) Subject to sub-section (2) and (3), every member shall hold office for a period of three years from the date of nomination and shall be eligible for re-nomination for two consecutive terms:

Provided the Council may discharge its functions notwithstanding any vacancy among its members.

(6) The Council shall meet at least once in every six months in a calendar year.

(7) Nine members of the Council shall form quorum for a meeting of the Council of whom at least:

- (a) five shall be official members including the Chairperson and the Secretary of the Council;
- (b) one shall be representative of workers;
- (c) one shall be representative of employers; and
- (d) one shall be a professional.

(8) Subject to the provisions of this Act, the Council may regulate its own procedure with regard to its meetings.

(9) The Council may constitute sub-committees as it may deem fit, to exercise such powers and perform such duties, subject to such conditions, as may be prescribed.

17. Powers and functions of the Council.—(1) Without prejudice to the responsibility of each employer for the safety and health of workers in his work place and with due regard to the necessity for workers to participate in matters of occupational safety and health under this Act, the Council shall-

- (a) advice Government on all matters relating to the objects of this Act which Government may refer to the Council; and
- (b) review legislation relating to occupational safety and health, once in the period of five years including rules and regulations framed under this Act, and to recommend to Government appropriate amendments.

(2) Without prejudice to the generality of the preceding provisions, the Council may make recommendations with regard to-

- (a) the formulation and implementation of Provincial policies and strategies relating to occupational safety and health;
- (b) the action that should be taken by and to facilitate co-operation between Government, employers, workers and any other persons engaged in occupational activities;
- (c) establishment of an effective complaint and reporting procedure which allows for the compilation of data regarding violations of the provisions of this Act and the rules;
- (d) establishment of an effective complaint and reporting procedure which ensures that individual grievances of workers suffering from occupational safety and health related injuries or illnesses are effectively and efficiently addressed;
- (e) the action, if any, that needs to be taken by Government in order to comply with the provisions of any International instrument relating to safety, health and welfare at work;
- (f) any matter arising in the course of the performance of its functions, either of its own motion, or when requested by Government to do so;

- (g) the compilation and publication of annual statistics on occupational accidents, dangerous occurrences and occupational diseases as well as measures taken in pursuance of Provincial occupational safety and health policy;
- (h) periodically conduct training programs in occupational safety and health and related subjects to Inspectors, employers, employees, occupiers or any other person in need of knowledge and training, whether in collaboration with any other institution in Pakistan or abroad and award certifications upon successful completion of such training;
- (i) run awareness and promotional campaigns to foster and create awareness about occupational safety and health;
- (j) conducting studies, and research in the field of occupational safety and health for adoption of affective enforcement procedure;
- (k) any matters relating to gender issues and young persons at work;
- (l) the development or content of codes of practice, standards and guidelines; and
- (m) advice on any other matter relevant to the occupational safety and health as may be referred to the Council by Government.

CHAPTER-IV

18. Appointment of Chief Inspector and Inspectors.---(1) The Chief Inspector and Inspectors appointed under the Khyber Pakhtunkhwa Factories Act, 2013 shall be deemed to be the Chief Inspector and Inspectors for the purposes of this Act:

Provided that Government may designate any other officer of the Government to exercise the powers of Chief Inspector and Inspector for the purposes of this Act.

(2) In any area where there are more than one Inspector, Department may by notification declare the powers and area of jurisdiction of such Inspectors respectively in local limits as specified in the notification.

(3) The Chief Inspector and Inspectors shall be deemed to be public servant within the meaning of Pakistan Penal Code, 1860 (XLV of 1860).

(4) The Chief Inspector and Inspectors shall exercise such powers as provided in this Act or the rules made there-under.

(5) The Chief Inspector and Inspectors with the approval of Director Labour may close any workplace or a part thereof, where occupational safety and health standards are found in violation of this Act:

Provided that such order shall be confirmed from the labour court within a week, failing which the order shall be deemed revoked.

19. **Assistance by other agencies.**---For the enforcement of the provisions of this Act, the Department may seek assistance from any other body, authority or agency responsible for the performance of statutory functions or obligations subject to such procedures as may be prescribed.

20. **Discloser of information.**---(1) Except for an inquiry under this Act or any court proceedings relating to the commission of an offence under this Act or any rules made there-under or persons disclosing information for the purpose of their functions under this Act, no person shall disclose any matter including any manufacturing of commercial secrets or working process which has come to the knowledge of that person or which that person has acquired while performing duties under this Act.

(2) Any person making inquiries or investigation under this Act on any complaint or complaints made, shall not divulge the name of persons making the complaints except in case of any judicial proceedings before a Court where he is required to make such disclosure.

CHAPTER-V

21. **Penalties for offences.**---Any person who-

- (a) wilfully obstructs an Inspector in the exercise of any of his lawful powers, or fails to produce on demand by and Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by an Inspector; or
- (b) unless duly authorized, or in case of necessity, removes any fencing, gangway, ladder, lifesaving means or appliance, light, mark, stage or other things required to be provided by or under the regulations made under this Act; or
- (c) having in case of necessity removed any such fencing, gangway, gear, ladder, lifesaving means or appliance, light, mark, stage or other thing, Omits to restore it at the end of the period for which its removal was necessary; or
- (d) fails to comply with or contravenes any provision of this Act or the rules made there-under, for which penalty has not been prescribed.-

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees one million but not less than rupees twenty thousand or with both.

22. **Penalties for contravention of Act.**---(1) The following acts and omissions shall constitute violations under this Act:

- (a) refusal to a lawful order of an Inspector to produce records under this Act;
- (b) failure to maintain records and falsification of records mandatory under this Act;
- (c) failure to display the abstracts of this Act in workplaces;
- (d) failure to give notice of accidents;
- (e) failure to furnish returns under this Act; and

- (f) smoking in the presence of inflammable material or using a naked light in the presence of inflammable materials without following the regulations prescribed in this behalf.

(2) Whoever is guilty of a violation provided for in sub-section (1) shall be liable to a fine which may extend to rupees one million but not less than rupees twenty thousands and in case of repeated violation a fine which may extend to rupees two million but not less than rupees fifty thousands and imprisonment which may extend for a term of one year.

23. Forgery of certificate false entries and false declaration.---If any person-

- (a) forges or counterfeits any certificate required by, under, or for the purpose of, this Act or any regulation or order;
- (b) gives or signs any such certificate knowledge it to be false in material particular;
- (c) knowingly alters or makes use of any such certificate so forged counterfeited, or false as aforesaid;
- (d) knowingly alters or makes use of as applying to any persons such certificate which does not so apply;
- (e) personates any person named in any such certificate;
- (f) falsely pretends to be a person appointed under any provision this Act or any regulation or order;
- (g) wilfully connives at any such forging, counterfeiting, giving, signing, altering, making use, personating or pretending;
- (h) wilfully makes a false entry in any register, notice, certificate, or document required by, under for the purposes of, this Act any regulation or order, to be kept or served sent;
- (i) will makes or signs a false declaration required by, under, or for the purpose of, this Act or any regulation or order; and
- (j) knowingly make use of any such false entry or declaration,-

shall be liable to same punishment as provided in section 465 of the Pakistan Penal Code (Act No. XLV of 1860).

24. Cognizance of offences.--- An offence under this Act shall be cognizable by the police on a complaint in writing made by the Chief Inspector, Inspector or any aggrieved person.

25. Limitation of prosecution.---(1) No Court other than Labour Court established under the Khyber Pakhtunkhwa Industrial Relation Act, 2010 (Khyber Pakhtunkhwa Act No. XVI of 2010) shall take cognizance of any offence under this Act unless complaint thereof has been made-

- (a) within six month of the date on which the offence is alleged to have been committed; or
- (b) within six month of the date on which the alleged commission of the offence came to the knowledge of the Inspector; and

- (c) in any case where a person has been appointed by Department under section 15 of this Act, to hold an inquiry, within six month of the date of the making of the report referred to in sub-section (5) of that section.

(2) No suit, prosecution or other legal proceeding under this Act shall be initiated or conducted against the employer where it is a government agency.

26. Reference to formal investigation in lieu of prosecution in certain cases.---(1) If the Labour Court trying any case instituted at the instance of the Chief Inspector or of the an Inspector under this Act is of opinion that the case is one which should in lieu of a prosecution, be referred to a formal investigation under section 15, it may stay the Criminal proceedings and report the matter to the Department with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Department may refer the case for formal investigation under section 15, or may direct the Court to proceed with the trial.

(3) For trial of all offences under this Act, the provisions of Code of Criminal Procedure, 1898 (*V of 1898*), shall apply.

27. Appeal.---An appeal against the decision of the Labour Court shall lie to the Labour Appellate Tribunal.

28. Indemnity.---No suit, prosecution or other proceedings shall lie against any person employed in the public service authorized under this Act, for anything done or purported to be done in good faith under this Act.

29. Display at establishment.---(1) The entrance to a workplace or any other place where the employees legitimately gather shall bear essential information including notice of the postal addresses and the telephone numbers of the health and safety representative and the Committee and such information shall be communicated to the Chief Inspector.

(2) In addition to the notice required to be displayed in every establishment, a notice containing abstracts of this Act and the rules made there-under shall also be displayed in English and Urdu or regional languages.

30. Contracting out.---Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

31. Collection of statistics.---The authorities and officers entrusted with powers and duties under this Act and the rules made there-under, for the proper and effective exercise of their powers and discharge of their duties, call for statistics and information and ensure their correctness and the information so collected shall not be disclosed in respect of individual undertaking or establishments.

32. Recovery.--- Any penalty imposed under this Act shall be recovered as arrears of Land Revenue under the Revenue Recovery Act, 1890 (Act No.1 of 1890).

33. Amendment in penalties.--Government may, by notification in the official Gazette, amend the penalties described in sections 21, 22, 23, of this Act.

34. Transition.---(1) Within two months from the commencement of this Act, all employers and employees shall take such actions as are necessary to comply with the provisions of this Act and till such time no prosecution under this Act shall be conducted without the approval of Government.

(2) All associations of employers and trade unions shall alter their constitutions, working and procedure to bring them in conformity with the provisions of this Act.

35. Power to make rules.---Government may, by notification in the official Gazette, make rules for the purposes of this Act.

36. Provisions of this Act to be addition to and not in derogation of certain laws.---Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of this Act shall be in addition to and not in derogation of such laws.

37. Limitation.---The provisions of section 5 of the Limitation Act, 1908 (*IX of 1908*), shall be applicable to any proceedings under this Act.

38. Removal of difficulties.---If any difficulty arises in giving effect to any provisions of this Act, the Government may, by notification in the official Gazette, make orders not inconsistent with the provisions of this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(KIFAYAT ULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

