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THE EMPLOYMENT (RECORD OF SERVICES) ACT, 1951 (XIX of 1952)

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TEXT

'THE EMPLOYMENT (RECORD OF SERVICES) ACT, 1951 (XIX of 1952)

[18th April, 1952]

An Act

to make provision for the compulsory maintenance of the record of service of persons in certain classes of employment in certain areas.

WHEREAS it is expedient to make provision for the compulsory maintenance of the record of service of persons in certain classes of employment in certain areas; it is hereby enacted as follows:—

1. Short title, extent, application and commencement.— (1) This Act may be called the Employment (Record of Services) Act, 1951.

²[(2) It extends to the whole of ³[the Punjab].

(3) It applies to all persons concerned as employers or employees in such classes of employment and in such areas as the ⁴[⁵[***] Government] may specify by notification in this behalf⁶.

(4) It shall come into force on such date as the ⁷[⁸[***] Government] may, by notification in the official Gazette, appoint⁹.

¹For Statement of Objects and Reasons see Gazette of Pakistan, Part V, dated 23.11.51, For Report of Selection Committee see Gazette of Pakistan (Extraordinary), March 29, 1952, pp 335-339. Received the assent of the Governor-General on 18.4.52 and first published in the Gazette of Pakistan (Extraordinary), dated 18.4.52, pp. 573-576

²Substituted for the original sub-section (2) by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1961); and published in the Gazette of Pakistan (Extraordinary), dated 9.6.1960, pages 725-845, s.3 and 2nd Schedule, (with effect from the 14th October 1955).

³The word "Pakistan" substituted for word "Punjab" by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.2.

⁴Substitute for the words "appropriate Government" by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-C to 251-aa0, Article 2 and Schedule.

⁵The word "Provincial" omitted by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.2.

⁶(a) Act applied to the following classes of employment throughout the province of West Pakistan:- (i) All commercial establishments as defined in clause (c) of section 2 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960 (III of 1960), employing 50 workers or above; and (ii) All industrial establishments as defined in clause (e) of section 2 of the Industrial and Commercial employment (Standing Orders) Ordinance, 1960 (III of 1960), employing 250 workers or above. [Health, Welfare & Local Govt. Dept. Noti. IX-14-1(L-II)/59(2) of 1st Aug. 1961 Gazette of West Pakistan. Extraordinary, Aug 3, 1961, p.1855] (b) Act applied to all persons concerned as employers or employees in textile (Cotton and Wool) industries in Federal Capital. Gazette of Pak. Pt. 1, 30 Oct, 1959, p.500 Min of Health and Social Welfare Notification S.R.O. 510, dated Oct. 26, 1959.

⁷Substitute for the words "appropriate Government" by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-C to 251-aa0, Article 2 and Schedule.

⁸The word "Provincial" omitted by The Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.2.

⁹(a) Act applied to the following classes of employment throughout the province of West Pakistan:- (i) All commercial establishments as defined in clause (c) of section 2 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960 (III of 1960), employing 50 workers or above; and (ii) All industrial establishments as defined in clause (e) of section 2 of the Industrial and Commercial employment (Standing Orders) Ordinance, 1960 (III of 1960), employing

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

- (a) ¹⁰[* * * * *]
- (b) "employee" means a person to whom this Act applies engaged for hire or for any other pecuniary consideration by an employer, or an apprentice;
- (c) "employer" means any person to whom this Act applies engaging the services—manual or clerical, skilled or unskilled—of another for hire or for any other pecuniary consideration or an apprentice for the purpose of carrying on his calling, trade business, undertaking or manufacture or for personal or domestic service and includes any body of persons whether incorporated or not and any managing agent of any employer;
- ¹¹[(cc) "Government" means Government of the Punjab;]
- (d) "Labour Commissioner" means the officer so designated and appointed by the ¹²¹³[**] Government];
- (e) "prescribed" means prescribed by rules made under this Act; and
- (f) "wages" has the same meaning as in the Payment of Wages Act, 1936¹⁴.

3. Exemptions.— The ¹⁵¹⁶[**] Government] may exempt, from the provisions of this Act any establishment or undertaking where records of service are maintained to the satisfaction of the Government.

4. Service book to be produced by employee.— (1) Before engaging an employee the employer shall require from him his service book, if he asserts that he has been previously in employment under any other employer and the employee shall produce the service book if he has one.

¹⁷[(2) If the employee has no service book, the employer shall, at his own

250 workers or above. [Health, Welfare & Local Govt. Dept. Notification IX-14-1(L-II)/59(2) of 1st Aug. 1961 Gazette of West Pakistan. Extraordinary, Aug 3, 1961, p.1855] (b) Act applied to all persons concerned as employers or employees in textile (Cotton and Wool) industries in Federal Capital. Gazette of Pakistan Pt. 1, 30 Oct, 1959, p.500 Min of Health and Social Welfare Notification S.R.O. 510, dated Oct. 26, 1959.

¹⁰Clause (a) omitted by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-c to 251-aa0, Article 2 and Schedule.

¹¹Claus "cc" inserted by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.3.

¹²Substitute for the words "appropriate Government" by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-C to 251-aa0, Article 2 and Schedule.

¹³The word "Provincial" omitted by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.3.

¹⁴IV of 1936

¹⁵Substitute for the words "appropriate Government" by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-C to 251-aa0, Article 2 and Schedule.

¹⁶The word "Provincial" omitted by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.4.

¹⁷Substituted for the original sub-section by the Employment (Record of Services) (Amendment) Ordinance, 1960 (XVIII of 1960); and published in the Gazette of Pakistan (Extraordinary), dated 26.5.1960, S.2.

cost, provide one and keep it with himself.]

(3) The service book ¹⁸[if any produced by the employee under sub-section (1)] shall be kept by the employer, who shall give the employee a receipt therefore in the prescribed form.

(4) Nothing in this section shall prevent an agreement between the employee and the employer whereby it is provided that the employee shall keep and maintain a duplicate of his service book.

(5) The employer shall hand over the service book to the employee on the termination of the employee's service with the employer, except where the ¹⁹[employee] has kept and maintained a duplicate of his service book.

²⁰[(6) If the service book handed over to the employee under sub-section (5), or the duplicate thereof maintained by him, is lost by him, the employer shall provide him with a duplicate service book and may charge him the prescribed price.]

5. Form of the service book.— The service book shall be of the size and in the form as may be prescribed and a passport size photo of the employee if a male shall be affixed to it. The service book shall contain particulars of identification of the employee, the name and other particulars of the persons under whom employed from time to time, period of employment, occupation, rate of wages including allowances, if any, leave taken and records of conduct and efficiency by employers.

6. Entries in the service book.— The employer shall at the commencement of the employment and during the continuance of the same make such entries therein from time to time as are required by this Act and the rules made thereunder and he and the employee shall sign the entries as they are made.

7. Power of inspection.— The Labour Commissioner or an officer authorised by him in writing may by written notice require an employer or an employee to produce the service book or the duplicate service book or any other paper or document which he may have reason to believe contains the particulars noted in the service book and thereupon the employer or the employee, as the case may be, shall comply if he is in possession of the said book, paper or document.

8. Penalty.— Any breach of the provisions of this Act or the rules made thereunder shall be punishable in the case of an employer with fine which may extend to ²¹[five thousand] rupees, and in the case of an employee with a fine which may extend to ²²[five hundred] rupees and for the purposes of this section any failure or refusal to comply with a requirement duly made by a person empowered under this Act or under the rules made thereunder to make it shall be deemed to be a breach of the said provisions.

¹⁸Words added, *ibid*.

¹⁹Substituted for the word "employer" by the Employment (Record of Services) (Amendment) Ordinance, 1960 (XVIII of 1960); and published in the Gazette of Pakistan (Extraordinary), dated 26.5.1960, S.2.

²⁰Sub-section(6) added, *ibid*.

²¹The word "fifty" subs. for "five thousand" by the Employment (Record of Services) (Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.5.

²²The word "five" subs. for "five hundred" by the Employment (Record of Services)(Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.5.

9. Cognizance of offences.— No court shall take cognizance of an offence punishable under this Act unless previous sanction for prosecution has been accorded on the prescribed form by the Labour Commissioner and except upon complaint by any public servant or by a person authorised in this behalf by the Labour Commissioner in writing on the said form.

10. Prosecution.— Any infringement of or refusal or omission to carry out the provisions of this Act or the rules made thereunder by any person may be reported to the Labour Commissioner or to any other officer appointed in this behalf by him by an order in writing for such local limits as may be assigned in the order, for sanction of prosecution or for such other action as he may deem proper to take.

11. Protection of action taken under the Act.— No suit, prosecution or legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

12. Power to make rules.— (1) The ²³²⁴[***]Government] may, after previous publication, make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the form of the service book and the particulars to be entered therein;
- (b) the quality of paper and covering page of the service book;
- (c) the number of pages of the book;
- (d) the time within which any entry in the service book shall be made and the occasions on which a fresh entry shall be made;
- (e) the authorisation of persons to manufacture and sell service books and prescribed forms;
- (f) the procedure at any investigation and for proceedings before the grant of sanction for prosecution by the Labour Commissioner;
- (g) the persons and class of public servants who may be authorised by the Labour Commissioner to make complaints under this Act ; and
- (h) the manner of calculation of monthly wages.

²³Substitute for the words “appropriate Government” by the Central Adaptation of Laws Order, 1964 (P.O 1 of 1964); and published in the Gazette of West Pakistan (Extraordinary), dated 28.5.1964, pages 251-C to 251-aa0, Article 2 and Schedule.

²⁴The word “Provincial” omitted by the Employment (Record of Services)(Amendment) Act, 2011 (Act XI of 2011); and published in the Punjab Gazette (Extraordinary), dated 2.5.2011, pages 38639-38640, s.6.