

SINDH ACT NO.VI OF 2017

THE SINDH PAYMENT OF WAGES ACT, 2015.

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[22nd March, 2017]

to regulate the payment of wages to certain classes of persons employed in **factories, Industrial and commercial establishments** in the Province of Sindh;

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in **factories, Industrial and commercial establishments** in the Province of Sindh and to provide for matters ancillary thereto;

Preamble.

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Payment of Wages Act, 2015.

Short title, extent commencement and application.

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

(3) It shall come into force at once.

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

Definitions.

(a) **“Authority” means Authority appointed under sub-section (1) section 15 of this Act.**

(b) "commercial establishment" means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs worker, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker's office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theater, **departmental store**, schools, collages, private educational institutions, hospitals, private health centres, private clinical laboratories, private security agencies, other establishment or class thereof which run on commercial and profit basis, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act;

(c) **“Employer” means any person who employs either directly or through another person, whether on behalf of himself or any other person, and includes-**

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- (i) **in relation to a factory, a manager or other person who has overall control over the affairs of the factory; and**
 - (ii) **in other case any person responsible to the owner for supervision and control of such workers or for payment of his wages.**
- (d) **“Employed person” means any person employed in any factory or industrial establishment or commercial establishment or a mine or Railway to do any skilled or unskilled, manual or clerical work for hire or reward and includes permanent, probationers, badly (), temporary, apprentice and contract workers, but does not include Occupier and Managing having the hiring and firing authority.**
- (e) **“factory” means a factory as defined in clause (j) of section 2 of the Sindh Factories Act, 2015 (VIII of 2016);**
- (f) **“Government” means the Government of Sindh;**
- (g) **“industrial establishment” means any–**
- (i) dock, wharf or jetty;
 - (ii) mine, coal, quarry or oil and gas field;
 - (iii) plantation;
 - (iv) livestock and fisheries;
 - (v) road transport;
 - (vi) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;
 - (vii) establishment of a contractor who, directly or indirectly, employs persons to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with the execution of a contract to which, he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on;

Explanation. “ Contractor” includes a sub-contractor, headman or agent;

- (h) **“Inspector” means Inspector appointed under section of this Act;**
- (i) **“manager” means a person who has over all control of the factory, industrial establishment or commercial establishment on behalf of the employer;**

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- (j) "plantation" means any estate which is maintained for the purpose of agriculture produce and on which twenty-five or more persons are employed for that purpose;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Railways Act, 1890 (IX of 1890); and
- (m) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied were fulfilled, be payable whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed or otherwise, to a person employed in respect of his employment or of work done in such employment and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include -
 - (a) the value of any house accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of Government;
 - (b) any contribution paid by the employer to any pension fund or provident fund;
 - (c) any travelling allowance or the value of travelling concession;
 - (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
 - (e) any gratuity payable on discharge.

3. Every employer including a contractor shall be responsible for the payment to persons employed by him, all wages required to be paid under this Act:

Responsibility for payment of wages.

Provided that in the case of persons employed (otherwise than by a contractor) –

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934);

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- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment;
- (c) **in** railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned, the person so named, the person so responsible to the employer or the person so nominated, as the case may be, shall be responsible for such, payment:

Provided further that where a person is employed by or through a contractor, the responsibility for the payment of wages shall be fixed in terms of Order 20 of **the Sindh Terms of Employment (Standing Orders) Act, 2015.**

4. (1) Every person responsible for the payment of wages under section 3 shall fix periods, hereinafter referred to as wage-periods, in respect of which such wages shall be payable.

Fixation of wage periods.

(2) No wage-period shall exceed one month.

5. (1) The wages of every person employed upon or in –

Time of payment of wages.

(a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of seventh day; and;

(b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) Government may, by general or special order, exempt to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such person or class of such persons.

(4) All payments of wages shall be made on a working day.

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6. All wages shall be paid to the employed persons in current currency through **cross cheque or through bank transfer** of any Scheduled Banks or commercial Banks along with pay slip showing the details.

Wages to be paid by cheque of any scheduled bank or commercial banks.

7. (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under this Act.

Deductions which may be made from wages.

Explanation:-Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) The deduction from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:-

- (a) fines;
- (b) deductions for absence from duty;
- (c) deductions for damages to or loss of goods expressly entrusted to the employed person for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- (d) deductions for such amenities and services supplied by the employer as Government may, by general or special order authorize;

Explanation:-The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (e) deductions for recovery of advances or for adjustment of overpayments of wages;
- (f) deductions of income tax payable by the employed person;
- (g) deductions required to be made by order of a court or other authority competent to make such order;
- (h) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925, applies or any recognized provident fund as defined in clause (37) of section 2 of the Income Tax Ordinance, 1979, or any provident fund approved in this behalf by Government during the continuance of such approval;

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- (i) deductions for payments to co-operative societies approved by Government or to a scheme of insurance maintained by the Pakistan Post Office; and
- (j) deductions, made with the written authorisation of the employed person, in furtherance of any war Savings scheme, approved by Government, for the purchase of securities of the Government of Pakistan.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of Government or of the prescribed authority, may have specified by notice under sub-section (2).

Fines.

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine within thirty days, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-periods on any employed person shall not exceed an amount equal to three percent of the wages payable to him in respect of that wage-periods.

(5) No Fine imposed on an employed person shall be recovered from him by installments or after the expiry of sixty days from the day on which it was imposed.

(6) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(7) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed, and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation:-When the persons employed upon of in any railway, factory or industrial establishment, are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are provided by the prescribed authority.

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9. (1) The deductions may be made under clause (b) of sub-section (2) of section 7, only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

**Deductions for
absence from duty.**

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation:-For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of a stay-in-strike or any other cause which is not reasonable in the circumstances, to carry out his work.

10. (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deduction.

**Deductions for
damage or loss.**

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the house-accommodation, amenity or service supplied, and in the case of a deduction under the said clause (e), the same shall be subject to such conditions as Government may impose.

**Deductions for
services rendered.**

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12. The deductions under clause (f) of sub-section (2) of section 7 shall be subject to such conditions, namely:-

Deductions for recovery of advances.

- (a) recovery of an advance of money given before employment began, shall be made from the first payment of wages in respect of complete wage-period, but no recovery shall be made of such advances given for travelling expenses;
- (b) recovery of advances of wages not already earned, shall be subject to any rules made by Government regulating the extent to which such advances may be given and the installments by which they may be recovered.

13. The deductions under clause (i) and clause (j) of sub-section (2) of section 7 shall be subject to such conditions as Government may impose.

Deductions for payment to co-operative societies and insurance scheme.

14. (1) An Inspector of Factories appointed under sub-section (1) of section of the Factories Act, 1934, shall be an Inspector for the purposes of this Act.

Inspectors.

(2) Government may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) Government may, by notification in the official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection including seizure of records, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code, 1860.

15. (1) Government may, by notification in the official Gazette appoint any Commissioner for Workmen's Compensation or any **Officer of Directorate of Labour not below the rank of Grade-18** to hear and decide for any specified area all claims arising out of deductions from the wages, or non-payment of dues relating to provident fund or gratuity payable under any law or delay in the payment of wages, of persons employed or paid in that area.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

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(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages or of any dues relating to provident fund or gratuity payable under any law has been delayed, such person himself, or any legal practitioner, or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or of any heirs of an employed person who has died or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for direction under sub-section (3):

Provided that every such application shall be presented within three years from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of three years when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant is one of the heirs of an employed person, the payment to such applicant, of the amount deducted or the payment of the delayed wages together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to –

- (a) bond fide error or bona fide dispute as to the amount payable to the employed person; or
- (b) **the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of wages was unable, though exercising reasonable diligence, to make prompt payment; or the failure of the employed person to apply for payment of wages;**
- (c) the failure of the employed person to apply for or accept payment.

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(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding five thousand rupees shall be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered –

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate; and

(b) if the authority is not a Magistrate, by the authority as an arrear of land-revenue, or, in the prescribed manner, by the authority by distress and sale of the moveable property belonging to the person by whom the amount is to be paid, or by attachment and sale of the immoveable property belonging to such person to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate.

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

Single application in respect of claims from unpaid group.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The Authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

17. (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred within thirty days of the date on which the direction was made before the Labour Court constituted under the Industrial Relations Act, 2013 (Act XXIX of 2013), within whose jurisdiction the cause of action to which the appeal relates arose –

Appeal.

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees:

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Provided that no appeal under this clause shall lie unless the memorandum of appeal is accompanied by a certificate of the authority to the effect that the appellant has deposited with the authority the amount payable under the direction appealed against; or

(b) by an employed person or, if he has died, by any of his heirs, if the total amount of wages claimed to have been withheld from the employed person or from the unpaid group to which he belonged exceeds fifty rupees; or

(c) by any person directed to pay a penalty under sub-section (4) of section 15;

(2) All appeals pending before any Court under this section immediately before the commencement of this Act, shall on such commencement, stand transferred to, and be disposed of by, the Labour Court within whose jurisdiction the cause of action to which the appeal relates arose.

(3) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (4) of section 15 shall be final.

18. (1) Government may, by notification in the Official Gazette, appoint an authority to be an officer not below the rank of BPS-18 from the Directorate of Labour for the purpose of this Act.

Powers of authorities appointed under section 14.

(2) Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXX of the Code of Criminal Procedure, 1898.

(3) Every Authority shall have the powers of Collector Grade-I and may exercise such powers for the purposes of this Act. For the purpose of execution, the Deputy Commissioner shall **facilitate the Authority** if so requested.

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

Power to recover from employer in certain cases.

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20. (1) Whoever being responsible for the payment of wages is an employed person contravenes any of the provisions of any of the following sections, namely sections 7 to 13, both inclusive, shall be punishable with fine which may extend to ten thousand rupees and not less than five thousand rupees.

Penalty for offences under the Act.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to ten thousand rupees but not less than five thousand rupees.

(3) Whosoever discriminate in payment of wages between male and female shall be punished with fine which may extend to fifty thousand rupees but shall not be less than twenty thousand rupees, and in case of subsequent offence, after having been convicted previously, shall be punishable with fine which may extend to seventy five thousand rupees but shall not be less than fifty thousand rupees.

21. (1) No Court other than the Labour Court established under the Sindh Industrial Relations Act, 2013 shall try offences under this Act on complaint made by an Inspector or any officer authorized by Government in this behalf.

Cognizance of offence.

(2) No court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20 unless prior sanction of the Authority or the appellate court.

(3) Before sanctioning the making of complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to-

- (a) a bona fide error or bona fide dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment; or
- (c) the failure of the employed person to apply for or accept payment.

(4) No Court shall take cognizance of contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

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(5) In imposing any fine for an offence under sub-section (1) of section 20, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed –

Bar of suits.

- (i) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or
- (ii) has formed the subject of a direction under section 15 in favour of the plaintiff; or
- (iii) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or
- (iv) could have been recovered by an application under section 14.

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

Contracting out.

24. Notwithstanding anything contained in this Act or any other law for the time being in force, the dues of workers in case of closure, insolvency, winding up and liquidation, shall be recovered from the amount of proceedings of such insolvency, winding up and liquidation.

Liability in case of closure, insolvency, winding up and liquidation.

Explanation.- “Dues of workers” for the purpose of this section, includes wages, gratuity and provident fund.

25. **No discrimination shall be made on the basis of sex, religion, descent, tribe, political affiliation, sect, colour, caste, creed, ethnic background in considering and disposing of issues relating to the enforcement of this Act.**

Protection against discrimination

26. The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in **Urdu and Sindhi** and in the language of the majority of the persons employed in the factory, as may be prescribed.

Display by notice of abstracts of the Act.

27. (1) Government may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

Rule-making power.

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(2) Government may, by notification in the official Gazette, make rules for carrying out the purpose of the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may –

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the forms thereof;
- (b) require the display in a conspicuous place on premises where employment is carried on, of notices specifying rates of wages payable to persons employed on such premises;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;
- (d) prescribe the manner of giving notice of the days on which wages **shall** be paid;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed;
- (f) prescribe the procedure for the imposition of **fines** under section 8 and for the making of the deductions referred to in section 10;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of **fines** shall be expended;
- (i) regulate the scales of costs which may be allowed in proceedings under this Act;
- (j) prescribe the amount of court fee payable in respect of any proceedings under this Act; and
- (k) prescribe the abstracts to be contained in the notices required by section 23.

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(4) In making any rule under this section, Government may provide that the contravention of any rule shall be punishable with fine which may extend to twenty thousand rupees.

(5) All rules made under this section shall be subject to the condition of previous publication and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published.

28. If any difficulty arises, in giving effect to any provisions of this Act, Government may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

Removal of difficulties.

29. (1) The provisions of the Payment of Wages Act, 1936, hereinafter referred to as the repealed Act, in its application to the Province of Sindh, are hereby repealed.

Repeal and saving.

(2) Notwithstanding the repeal under sub-section (1), everything done, orders passed, action taken, penalty or punishment incurred, enquiry or proceedings commenced, officer appointed or person authorized, jurisdiction or power conferred, rules made or notification issued under any of the provisions of the repealed Act shall continue to remain in force and be deemed to have been done, passed, taken, incurred, commenced, appointed authorized, conferred, made or issued under the provision of this Act.