

# **Road Transport Workers Ordinance 1961**

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## **Road Transport Workers Ordinance 1961**

**ROAD TRANSPORT WORKERS ORDINANCE, 1961**  
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## **ORDINANCE No XXVIII of 1961**

### **AN ORDINANCE to regulate the hours of work and other conditions of employment of road transport workers in Pakistan**

Whereas, it is expedient to regulate the hours of work and other Conditions of employment of road transport workers in Pakistan ;

Now; therefore, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in drat behalf, the President is pleased to make and promulgate the following Ordinance :-

**1. Short title and commencement.**--- (1) This Ordinance may be called the Road Transport Workers Ordinance, 1961.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(1) "day" means a period of 24 hours beginning at midnight ;

(2) "employer" means the owner of any road transport service in which workers are employed, and where the business of such service is not directly managed by the owner, means, the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire purchase agreement, the person in possession of the vehicle under that agreement ;

(3) "Government" means the Provincial Government ;

(4) "hours of work" means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals ;

(5) "prescribed" means prescribed by and made under this Ordinance ;

(6) "public place" means road, street, way or other place, whether a thoroughfare or not to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a vehicle.

(7) "road transport service" ,means a service carrying passengers or goods or both by road in vehicles for hire or reward ;

(8) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport and includes a tramcar, a trolley vehicle and a trailer.

(9) "week" means a period of seven days

(10) "worker" means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or is a road transport service ;

(11) "year" means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in following calendar year.

[Notes "Road Transport Service" A road transport service must be for hire for reward. If passengers or goods are carried without hire or reward i.e., honorary as is often the case with friends, relatives or acquaintances, then it is not a road transport service to attract the provisions of this Ordinance.

"Worker" Not only drivers, cleaners, conductors and checkers employed in a road transport.

Service are "worker" but any other person engaged on mobile duty is also a "worker" governed by the provisions of the Ordinance.]

**3. Age limit.-** (I) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of eighteen years.

(2) No person shall be employed in any road transport service for the purpose of driving a vehicle unless he has attained the age of twenty-\*one years.

**[3A. Order of appointment, etc-** An employer-(Sec. 3-A added by Act XII of 1975 s.2)

(a) who has employed a worker before the (Commencement date January 25, 1975) commencement of the Road Transport Workers (Amendment) Act, 1975; shall within the month of such commencement, and

(b) who employs; transfers or promotes a worker after such Commencement shall on the day of such employment, transfer or promotion, furnish such worker with an order in writing in such form as may be prescribed specifying the terms and conditions of his employment, transfer or promotion, as the case may be.]

(Notes.—This section was inserted by the Road Transport Workers (Amendment) Ordinance, 1974 promulgated in September 27, 1974. It is now obligatory on an employer to give a written, order to his workers on the day of employment, transfer or promotion specifying the terms and conditions of such employment, transfer or promotion. All those workers already in employment before 27th September, 1974 are also to be given written letters of employment within one month of that date i.e., up to 27th October, 1974 as per clause (a). There seems to be a misprint in clause (a), the words printed in the amending ordinance "within the month of such commencement" do not convey proper meaning; only when read as "within one month of such commencement" these become intelligible]

**4. Hours of work and rest.-**(1) No worker shall be employed on a vehicle-

(a) for more than five hours at a time before he has had an interval for rest of at least half an hour nor for more than (Subs. for "eight" by Act XII of 1975, s. 3 (a).)[seven] hours before he has had at least two such intervals ;

(b) for more than (Subs. for "nine", ibid, sec. 3 (b).)[Eight] hours in a day; and

(c) for more than (Subs. for "fifty fours, ibid, s. 3 (c).)[Forty-eight] hours in a week

[Explanation.- ( Explanation added, ibid, s. 3 (d))A worker who is required to wait for not less than 30 minutes to be employed on a vehicle shall be deemed to be employed on a vehicle during the time he is so required to wait.]

(2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in a week.

(3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstances which could not be foreseen:

Provided that-

(a) no worker shall be employed overtime in any year in excess of one hundred and fifty working hours ; and

(b) the worker employed overtime shall be paid remuneration at twice the rate of his normal wages calculated by the hour.

(4) Where as a result of the making of a rule exempting any worker from the provisions of sub-section (2), a worker is deprived of any of the weekly hours of rest for which provision is made in that sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost ;

Provided that no worker shall be caused or allowed to work for more than ten consecutive days without a compensating rest for at least twenty. four hours at one time.

(5) The Government or, if authorized in this behalf by the Government by rules made under section 10 the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

(6) No worker shall work or cause or allow any other worker to work outside the hours fixed or recorded for the work of the said worker in compliance with any rule made under sub-section (5).

[Notes The maximum daily working hours are now fixed at eight and weekly working hours at forty-eight.

If a worker has to wait for half an hour or more to be employed on a vehicle, that waiting period is to be counted as duty on a vehicle. But if he is to wait as such for less than half an hour, then that period will not count as duty on a vehicle.

At least twenty-four hours of consecutive rest in a week is to be provided to all workers, subject to exemptions allowed .by Government under sub-section (3) & (4) in respect of working hours and weekly rest. However, even when exemptions are granted, overtime work is limited to one hundred and fifty hours in a year payable at twice the rate of normal wages calculated by the hour. Compensatory hours of rest of equal number lost as a result of exemption granted are also to be allowed but in no case a worker is to be allowed to

work for more than ten consecutive days without compensating rest for at least twenty-four hours at one time.]

**5. Restriction on cumulative hours of work.**-----No worker shall work or be allowed to work on a vehicle or two or more vehicles in excess of the period during which he may be Lawfully employed under this Ordinance.

[Notes. If a worker works on a vehicle or on two or more vehicles in excess of the hours prescribed in this Ordinance or he is so allowed to so work by an employer, then both commit an offence which is punishable under section 11 with fine as well as imprisonment.]

**6. Leave.**----- (1) In addition to the period of daily and weekly rest, every worker, who has been in continuous employment for a period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven days' leave with full pay.

(2) For the purpose of computing the period during which a worker has been in continuous employment within the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

**[6A. Festival holidays.**----- Sections 6A & 6B added by Act XII of 1975, s. 4. (I) Every worker shall be entitled to festival holidays with full wages for twelve days in a year and the employer shall notify the days and dates for such holidays to workers within a week,-

(a) in the case of a road transport service operating immediately before the <sup>Commencement date :</sup> January 25, 1975, commencement of the Road Transport Workers (Amendment) Act, 1975,-

(i) for the year 1975, of the commencement of the said Act ; and

(ii) for subsequent years, of the beginning of each calendar year ; and

(b) in the case of a road transport service which starts operating after the commencement of the said Act,-

(i) For the year in which it starts operating, of the starting of its operation ; and

(ii) for subsequent years, of the beginning of each calendar year. (2) A worker may be required to work on any festival holiday but a substitute holiday shall be allowed to him within ten days of the festival holiday, or, at his option, he shall be paid wages in respect of such work at double the ordinary rate of wages payable to him.]

**6-B. Casual Leave.**---Every worker shall be entitled in a year to toll days casual leave on full wages;

Provided that casual leave admissible under this section shall not be accumulated and carried forward to the succeeding year.]

[Notes Fourteen days leave with pay after one year of continuous employment or seven days leave with pay on completion of six months continuous employment is to be allowed. Twelve festival holidays and ten days casual leave with pay in a year are also provided. The emphasis is on the word "continuous" in section 6 but it has not been defined in this Ordinance. No leave is due if the period of employment is not continuous for at least six months. Leave granted under this section or festival holidays and casual leave granted under section 6A and 6B will not affect continuity of employment. But all other cases of absence from duty due to any reason such as sickness, accident, strike, other emergencies, lay-offs, lock-outs, etc. will mean a break in continuity that will disentitle a worker to leave under the section. The phrase "continuous service" has not been defined in this Ordinance but is defined in the Factories Act, 1934 and provides for liberal allowance in case of absence due to sickness, accident, authorized leave, strikes, lock-outs, and involuntary employment. In this present Ordinance no such definition is given and hence there is no further scope for absence due to such contingencies which will cause a break in employment resulting in disentitlement to leave. Only leave allowed under this section will count as period of employment as provided in sub-section (2). Festival holidays and casual leave provided under sections 6-A and 6-B have also not been specifically stated to count as period of employment and due to this fact it can be argued that these cause a break in employment disentitling a worker to leave. This appears to be drafting omission in the Ordinance. It can never be the intention of the law that the grant of benefit of festival holidays and casual leave should penalize the workers by depriving them of their entitlement to annual leave. As such, in view of the main purposes of the Ordinance festival holidays and casual leave availed by a worker will not affect continuity of employment.]

**7. W. P Ordinance No VI of 1968 to apply to road transport service** -- Section 7 subs. for the original section, by Act XII of 1975, s 5. The provisions of Standing Orders 10B, 10C, 12, other than those contained in clause (2) thereof, 13, 14, other than the provisos thereto, and 15 of the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (West Pakistan Ordinance No. VI of 1968), as in force for the time being, shall apply to every road transport service as if such road transport service were an industrial establishment to which the aforesaid Ordinance had been applied by a notification under clause (c) of sub-section (4) of section 1 thereof, and as if a worker was a workman of permanent workman, as the case may be, within the meaning of that Ordinance:

Provided that for the purpose of calculating the period for which gratuity is due under Standing Order 12, no period of service preceding the <sup>Viz. January 25, 1975.</sup> commencement of the Road Transport Workers (Amendment) Act 1975, shall be taken into account:

Provided further that Standing Order 10B or 10C, or Standing Order 12 in so far as it relates to gratuity, shall apply only to a road transport service wherein the workers and the other persons employed on any day within the twelve months immediately preceding the

'commencement of the said Act were, or on the day of commencement of the said Act or on any day thereafter are,-

(a) in the case of Standing Order 10B, more than forty-nine ; or

(b) in the case of Standing Orders 10C and 12, more than nineteen.]

[Notes this section was inserted by the Road Transport Workers (Amendment) Ordinance, 1974 (Ordinance XI of 1974) promulgated on 27th September, 1974. It needs careful study. Provisions of Standing Orders 10-B (Group Insurance), 10-C (Payment of bonus), Standing Order 12 (Termination of employment except clause 2) Standing Order 13 (Procedure for retrenchment), Standing Order 14 (Re-employment of retrenched workmen except the proviso) and Standing Order 15 (Punishments) of the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 have been made applicable to road transport workers but the following points should be noted :-

(i) Group insurance for death and injuries to permanent workmen is to be arranged by the employer in those road transport services only employing more than forty-nine workers.

(ii) Bonus in terms of Standing Order 10-C is payable by those road transport services only employing more than nineteen workers.

(iii) Gratuity in terms of clauses (6) to (9) of Standing Order 12 is payable by those road transport services only employing more than nineteen workers. But gratuity is not payable for the period of service before 27th September 1974 i.e., gratuity will accrue only for service after 27th September, 1974.

(iv) The remaining portion of Standing Order 12, except clauses (6) to (9) and clause (2) concerning one month notice of termination, remedy for a workman aggrieved by termination, retrenchment, discharge or dismissal and payment of dues of workers terminated have been made applicable to all road transport services regardless of the number of workers employed.

(v) Procedure for retrenchment in terms of Standing Order 13 has been made applicable to all road transport services regardless of the number of workers employed.

(vi) Re-employment of retrenched workman is to be done in the manner provided in Standing Order 14 (except the proviso concerning seasonal factories) by all road transport services regardless of the number of workers employed.

(vii) Punishments are to be regulated in accordance with the provisions of Standing Order 15 in all road transport services regardless of the number of workers employed.

**8. Maintenance of registers, etc.**----- (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provisions of this Ordinance and particulars of all employment overtime shall be separately entered in the record.

(2) Every employer shall for the purposes of this Ordinance maintain such other records and registers and display such notices or other documents as may be prescribed.

**9. Inspection of registers and calling for information.**-----It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all accounts or other records required to be kept for the purposes of this Ordinance and to give such officer any other information in connection therewith as may be required.

**10. Power to make rules.**-----The Government may make rules for the purpose of carrying into effect the provisions of this Ordinance.

**11. Penalties.**---Whoever contravenes any of the provisions of this Ordinance, or any of the rules made there under, shall be <sup>Subs for original words by Act XII of 1975, s.6</sup> [punishable-

(a) for the first offence, with fine not exceeding one thousand rupees ; and

(b) for every subsequent offence, with imprisonment for a term which may extend to six months, and fine not exceeding one thousand rupees].

Provided that-

(a) in the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction, to a fine not exceeding ten rupees for every day on which the contravention occurs or continues, and

(b) if any employer, with intent to deceive, makes or causes or allows to be made in any record, register, notice or other documents as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omits or causes or allows to be omitted from any such record, register, notice or document an entry, required to be made therein, shall be liable on conviction 10, simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.

**12. Protection of action taken under the Ordinance.**-----No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or rules made there under