



National Occupational Health and Safety Act – 2018

**Ministry of Planning, Development & Reforms
Government of Pakistan**

National Occupational Health and Safety Act - 2018

The Act:

To ensure safe and healthy work conditions for the people at work place; by authorizing enforcement of the rules and regulations developed under the Act; by assisting and encouraging the organizations, institutions and geographic areas governed by the federal government in their efforts to ensure healthy and safe work conditions; by providing for research, information, education, and training in the field of occupational health and safety.

Preamble

Health and safety at work is included in basic human rights of the people as reflected in ILO Conventions, UN Sustainable Development Goals, GSP Plus status, World Bank Guidelines on OHS and Health Regulations of World Health Organization demand for consolidated OHS legislation.

Quide e Azam Muhammad Ali Jinnah in his speech in 1947 said that “State is responsible for the wellbeing of the people and especially of the masses and the poor”. Workers of poor class mostly get injured, disabled and killed in absence safe and healthy atmosphere at work. Matter of Occupational Health & Safety (OHS) legislation remained on agenda under National Labor Policies till year 2010. OHS legislation was devolved to the provinces after the 18th constitutional amendment which resulted in lack of interest by the Federal Government. Existing OHS legislation found fragmented and mostly outdated with many sectors of economy not addressed at all. People had to approach the Supreme Court of Pakistan for justice in two cases related to OHS. This necessitated need of National OHS legislation applied on areas and organizations directly under the Federal Government and also serve as model for the provinces.

In the context of Pakistan, the constitution requires the state to ensure safety at work and healthy work conditions. The Qur’an and the Prophetic Sunnah emphasizes on protection of life and promotion of safety. “Who so save a life shall be as if he had given life to all mankind. Al-Ma’idah 5:32.” It is therefore an Islamic and constitutional imperative to implement an act to ensure safe and healthy work conditions for the people at work place.

National Occupational Health and Safety Act 2018 is the first ever effort after the creation of the Islamic Republic of Pakistan. This shall indeed be a great contribution in right direction to cater need at national level and to meet expectations of international community/organizations.

1. Short title, extent and commencement. ---

- (1) This Act shall be called the “National Occupational Health and Safety Act 2018”
- (2) It shall be applicable to all workplaces including Ministries, Divisions, Departments, Institutions, Organizations and geographical areas governed by the Federal Government
- (3) It shall come into force at once.

2. Objectives — The main objective of this Act is to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces by:

- (1) protecting workers and other persons against harm to their health and safety through the elimination or minimization of risks arising from work or from specified types of substances or plant; and
- (2) providing for fair and effective workplace representation, consultation, Co-operation and issue resolution in relation to work health and safety; and
- (3) encouraging unions and employer organizations to take a constructive role in promoting improvements in health and safety practices at work and assisting persons conducting businesses or undertakings and workers to achieve a healthier and safer working environment; and
- (4) promoting the provision of advice, information, education and training in relation to work health and safety; and
- (5) securing compliance with this Act through appropriate and effective implementation and enforcement measures; and
- (6) ensuring appropriate scrutiny and review of actions taken by persons exercising powers and performing functions under this Act; and
- (7) providing a framework for continuous improvement and progressively higher standards of health and safety at work and
- (8) Maintaining and strengthening the national harmonization of laws relating to work health and safety and to facilitate a consistent national approach to work health and safety in this jurisdiction.
- (9) Establishing National Institute of OHS or Center of excellence

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

- (i) “Accident” an unplanned event that results in personal injury or property damage at work;
- (ii) “bodily injury” includes physical or mental injury to a person at workplace. ;
- (iii) “code of practice” means a set of rules relating to the methods to be applied or the procedure to be adopted in connection with the construction, installation, testing, operating, or use of any article, apparatus, instrument, device or process at workplace;
- (iv) “competent” means as person who by virtue of education, training and experiences has the necessary ability and skills to undertake the job;
- (v) “contractor” means any person or a body, whether incorporated or not, who contracts with a principal to carry out the whole or any 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 and sub-contractor for labor;
- (vi) “Council” means the National OHS Council established under this Act.
- (vii) “contravention” includes, in relation to any provision, a failure to comply with that provision, and the expression “contravene” shall be construed accordingly;
- (viii) “construct” includes assemble, erect, reconstruct, reassemble and re-erect;

- (ix) “due diligence” means doing all acts that are reasonably practicable;
- (x) “duty holder” means a person with duty in relation to health and safety as provided under this Act;
- (xi) “department” means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;
- (xii) “dangerous incident” means an incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to—
 - (a) an uncontrolled escape, spillage or leakage of a substance; or
 - (b) an uncontrolled implosion, explosion or fire; or
 - (c) an uncontrolled escape of gas or steam; or
 - (d) an uncontrolled escape of a pressurized substance; or
 - (e) electric shock; or
 - (f) the fall or release from a height of any plant, substance or thing; or
 - (g) the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorized for use in accordance with the regulations; or
 - (h) the collapse or partial collapse of a structure; or supporting structure
 - (i) the collapse or failure of an excavation or of any shoring supporting an excavation; or
 - (j) the inrush of water, mud or gas in workings, in an underground excavation or tunnel; or
 - (k) the interruption of the main system of ventilation in an underground excavation or tunnel; or
 - (l) other event prescribed by the regulations, but does not include an incident of a prescribed kind
- (xiii) “demolition” includes deconstruction
- (xiv) “design” in relation to plant, a substance or a structure includes—
 - (a) design of part of the plant, substance or structure; and
 - (b) redesign or modify a design;
- (xv) “establishment” means any business, trade, profession, service, office, firm, factory, society, undertaking, company, educational institution, hospital, shop, premises, enterprise or organization of what so ever nature or a mine which employs workmen directly or through a contractor for the purpose of carrying out any business, industry or excavation and includes all its departments and branches, whether situated at the same place or at different places;
- (xvi) “Ergonomics” the study of people's efficiency in their working environment
- (xvii) “Employer” means a person, agent that employs, contracts or engages in any manner whatsoever one or more person for wages or salary. but does not include the Federal or any Province.

- (xviii) “factory” means any premises, including the precincts thereof, where five or more workers are working on any day of the proceeding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily carried on with or without the aid of power;
- (xix) “fail” includes refuse; and “failure” includes refusal;
- (xx) "Federal Agency" means the National Occupational Health and Safety Directorate established under section 6, or any Government Agency, local council or local authority exercising the powers and functions of the Federal Agency;
- (xxi) "Government Agency" includes;
 - (a) a division, department, attached department, bureau, section, commission, board, office or unit of the Federal Government
 - (b) a developmental or a local authority, company or corporation established or controlled by the Federal Government
 - (c) any other body defined and listed in the Rules of Business of the Federal Government
- (xxii) “Harm’ means: -
 - (a) Illness, Injury, or both; and
 - (b) Includes physical or mental harm caused by work-related stress.
- (xxiii) “Hazard” means any activity, arrangements, circumstances, events, occurrences, phenomenon, processes, situations, or substances (Whether arising or used within or outside a place of work) that is an actual or potential cause or source of harm; and includes:
 - (a) A situation where a person’s act along with behavior may be an actual or potential cause or source of harm to the person or other persons and;
 - (b) a situation described in sub paragraph- (i) resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person’s behavior.
- (xxiiii) “health” means free from physical, mental, and social illness, disease or injury attributes to occupational causes;
- (xxiv) “imminent danger” means any hazard or condition that could reasonably be expected to cause injury or illness to a person exposed before the hazard or condition can be corrected;

- (xxv) “machinery” means an engine, motor or other appliances that provides mechanical energy derived from compressed air, the combustion of fuel, electricity, gas, gaseous products, steam, water, wind, solar, or any other source; and includes:
- (a) Any plant by/to which the motion of any machinery is transmitted; and
 - (b) A lifting machine, a lifting vehicle, a machine whose motive power is wholly or partly generated by the human body, and a tractor,
- (xxvi) “maintained” means maintained in an efficient state, in efficient working order, in good repair, and in an up- to-date manner;
- (xxvii) “mine” means any workplace where any operations for the purpose of searching for obtaining minerals from earth crust (sea and land) has been or is being carried on, and includes all works, machinery, plants, compressing units and drilling rigs, weather above or below ground, in or adjacent to or belonging a mine
- (xxviii) “near miss” means might have caused harm to any person in slightly different circumstances
- (xxix) “notifiable incident” means— the death of a person; or a serious injury or illness of a person; or a dangerous incident.
- (xxx) “occupational disease” is a health problem caused by exposure to a workplace health hazard as prescribed under the Workmen Compensation Act 1923.
- (xxxi) “Occupational safety” is to work in conditions that are free of known hazards and imminent dangers.
- (xxxii) “occupational health” means not merely the absence of disease or infirmity but also includes the physical, mental, and social elements affecting health which are directly related to safety, hygiene and welfare at work and includes occupational medicine and biological monitoring;
- (xxxiii) “order” means an order made by the Government under this Act for specific purpose, for a specific period of time and published in the Government Gazette;
- (xxxiv) “owner” means the person for the time being receiving the rent of the premises of the tools, machinery, equipment or substance for use at work in connection with which the word is used, whether on the account of that person or as agent or trustee for any other person, or who would so receive the rent if the premises where let to a tenant, or tools, machinery, equipment or substance hired to another person;
- (xxxv) “person in control of a workplace” means the person who has ultimate control over the workplace, it may or may not include the employer, contractor, lessor, tenant, or managing agent;

- (xxxvi) “possible practices” or “possible practicable measures” mean all risk prevention measures unless the cost of those prevention measures is disproportionate to the risk;
- (xxxvii) “plant” includes:
- (a). any machinery, equipment, appliance, container, implement and tool;
 - (b). anything fitted or connected to any of those things;
 - (c). any component of any of those things; and
- (xxxviii) “premises” means any place, and in particular, includes:
- (a). Any land, building or part of any building;
 - (b). Any vehicle, watercraft or aircraft;
 - (c). Any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil therefore or resting on other land covered with water or the subsoil therefore); and
 - (d). Any tent or moveable structure; temporary structure
- (xxxix) “prescribed” means prescribed by rules, regulations or bye-laws;
- (xl) “rules & regulations” means Rules and regulations made under this Act;
- (xli) “risk” means the probability of occurrence of injury or damage;
- (xlii) "safe" means free from any hazard, imminent danger & risk
- (xliii) "self-employed person" mean an individual who works for gain or reward otherwise than under a contract of employment, whether or not that person employs others;
- (xliv) "supplier means person who provides for fee or reward, whether on hire or otherwise;
- (xlv) “substance” means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapor;
- (xlvi) “serious injury or illness” of a person means an injury or illness requiring the person to have—
- (a). immediate treatment as an in-patient in a hospital; or
 - (b). immediate treatment for—
 - (i) the amputation of any part of his or her body; or
 - (ii) a serious head injury; or
 - (iii) a serious eye injury; or

- (iv) a serious burn; or
 - (v) the separation of his or her skin from an underlying tissue (such as scalping); or
 - (vi) a spinal injury; or
 - (vii) the loss of a bodily function; or
 - (viii) serious lacerations; or
- (c). medical treatment within 48 hours of exposure to a substance and may include any other injury or illness prescribed by the regulations.
- (xlvii) "worker" means any person employed, whether directly or through any other person, for wages, to do any skilled or unskilled, professional, technical, clerical, manual or other work, or 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, for the purpose of recovery of dues under this Act, and includes any person or class of persons which the government may specify by notification in official gazette, but does not include,-
- (a) a person employed in the federal government, District Government or Armed forces;
 - (b) a member of the employer's family; that is to say the husband or wife and dependent children of the employer
- (xlviii) "workplace" or "place of work" mean any premises where work is carried out, by one or more persons and includes premises used for the storage of tools, machinery, equipment or substance;
- A person is in a place of work whenever and wherever the person perform work, including a place that:
- (a) the person moves through; or
 - (b) itself moves.
- (xlix) "Welfare" is the provision of facilities to maintain the health & well being of Individuals at the workplace.
- (l) "Volunteer"-
- (a) means a person who-
 - (i) does not expect to be rewarded for work to be performed as a volunteer; and
 - (ii) receives no reward for work performed as a volunteer; and

- (b) 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; Internee & trainee Engineer

4. Establishment of National OHS Council –

(1) The Federal Government shall, by notification in the official Gazette, establish a Council to be known as the National OHS Council consisting of—

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| i. Prime Minister or such other person as the Prime Minister may nominate in this behalf. | Chairperson |
| ii. Minister in charge of the Ministry or Division dealing with the OHS (Ministry of OP&HR) | Vice
Chairperson |
| iii. Chief Ministers of the Provinces or such other person as the Chief Minister may nominate in this behalf. | Members |
| iv. Prime Minister of Azad Jammu & Kashmir or such other person as the Prime Minister may nominate in this behalf | Member |
| v. Chief Minister of Gilgit & Baltistan or such other person as the Chief Minister may nominate in this behalf | Member |
| vi. Representatives of Professional organizations including Pakistan Engineering Council (PEC), Engineering Development Board, NESPAK, NAVTTC, Engineer in Chief, Surgeon General. | Members |
| vii. Such other persons not exceeding thirty as the federal Government may appoint, of which at least twenty shall be non-officials including representatives of the Chambers of Commerce and Industry, employer and employee associations, Health/Medical professionals, Legal professions, Trade unions, non-governmental professional organizations in OHS, Engineers, Scientists, Technical experts, Educationists | Members |

(2) The Members of the Council, other than ex-officio members, shall be appointed in accordance with the prescribed procedure and shall hold office for a term of three years.

(3) The Council shall frame its own rules of procedure.

(4) The Council shall hold meetings, as and when necessary, but not less than two meetings, shall be held in a year.

(5) The Council may constitute committees of its members and entrust them with such functions as it may deem fit, and the recommendations of the committees shall be

submitted to the Council for approval.

- (6) The Council, or any of its committees, may invite any technical expert or representative of any Government Agency or non-governmental organization or other person possessing specialized knowledge of any subject for assistance in performance of its functions.

5. Functions and powers of the Council: —

(1) The Council shall: —

- (a) co-ordinate and supervise enforcement of the provisions of this Act; and
- (b) approve comprehensive OHS policies and ensure their implementation within the framework as may be approved by the Federal Government from time to time;
- (c) approve the rules, regulations, codes, standards and policies relevant to occupational health and safety;
- (d) to promote occupational health and safety within the broader community and to build the capacity and engagement of the community with respect to occupational health and safety; and
- (e) to promote education and training with respect to occupational health and safety to develop, support, accredit, approve or promote courses or programs relating to occupational health and safety, and to accredit, approve or recognize education providers in the field of occupational health and safety; and
- (f) co-ordinate integration of the principles and concerns of sustainable development with regard to national development plans and policies;
- (g) consider the annual OHS report and give appropriate directions thereon;

6. Establishment of the National OHS Directorate: —

- (1) The Federal Government shall, by notification in the official Gazette, establish the National OHS Directorate to exercise the powers and perform the functions assigned to it under this Act and the rules and regulations made thereunder.
- (2) The National OHS Directorate shall be headed by a Director-General who shall be appointed by the Federal Government on such terms and conditions as it may determine.
- (3) The National OHS Directorate shall have such administrative, technical and legal staff, as the Federal Government may specify, to be appointed in accordance with such procedure as may be prescribed.
- (4) The powers and functions of the National OHS Directorate shall be exercised and performed by the Director-General.
- (5) The Director-General may, by general or special order, delegate any of the powers and functions to staff appointed under sub-section (3).

(6) For assisting the National OHS Directorate in the discharge of its functions the Federal Government shall establish Advisory Committees for various sectors and appoint as members thereof eminent representatives of the relevant sector, educational institutions, research institutes and non-governmental organizations.

7. Functions of the National OHS Directorate:

(1) The National OHS Directorate shall—

(a) administer and implement this Act and the rules and regulations made;

(b) prepare, in co-ordination with the appropriate Government Agency and in consultation with the concerned sectoral Advisory Committees, national OHS policies for approval by the Council;

(c) take all necessary measures for the implementation of the national OHS policies approved by the Council;

(d) prepare and publish an annual National OHS Report;

(e) prepare, establish and revise the National OHS Standards with approval of the Council:

Provided that before seeking approval of the Council, the Federal Agency shall publish the proposed National OHS Standards for public opinion in accordance with the prescribed procedure; and

(f) ensure enforcement of the National OHS Standards;

(g) co-ordinate OHS policies and program nationally and internationally;

(h) establish systems and procedures for prior risk assessment, monitoring, inspection and audit, investigation and research to prevent and control accidental losses.

(i) take measures to promote research and the development of Engineering and Sciences which may contribute to the prevention industrial accidents for sustainable development;

(j) certify OHS training providers and consultants for ensuring quality services delivered for the purpose of this Act.

(j) identify the needs for and initiate OHS legislation in various sectors;

(k) render advice and assistance in OHS matters including such information and data available with it as may be required for carrying out the purposes of this Act:

(l) provide information and guidance to the public on OHS matters;

(m) recommend OHS courses, topics, literature and books for incorporation in the curricula and syllabi of educational institutions;

(n) promote public education and awareness of OHS issues through mass media and other means including seminars and workshops;

(o) specify safeguards for the prevention of accidents and disasters which may cause deaths, injuries, disabilities and property damages.

(p) collaborate with the concerned person in the preparation of contingency plans for control of such accidents and disasters, and co-ordinate implementation of such plans;

(q) encourage the formation and working of non-governmental organizations to prevent accidents and promote developing sustainable safety solutions

(r) perform any function which the Council may assign to it pertaining to OHS.

(2) The National OHS Directorate may—

(a) undertake inquiries or investigation into OHS issues, either of its own accord or upon complaint from any person or organization;

(b) request any person to furnish any information or data relevant to its functions;

(c) initiate with the approval of the Federal Government, requests for foreign assistance in support of the purposes of this Act and enter into arrangements with foreign agencies or organizations for the exchange of material or information and participate in international seminars or meetings;

(d) recommend to the Federal Government the adoption of financial and fiscal program, schemes or measures for achieving OHS objectives and goals and the purposes of this Act, including incentives, prizes awards, subsidies, tax exemptions, rebates and depreciation allowances;

8. Powers of the National OHS Directorate—Subject to the provisions of this Act, the National OHS Directorate may—

(a) lease, purchase, acquire, own, hold, improve, use or otherwise deal in and with any property both moveable and immovable;

(b) sell, convey, mortgage, pledge, exchange or otherwise dispose of its property and assets;

(c) fix and realize fees, rates and charges for rendering any service or providing any facility, information or data under this Act or the rules and regulations;

(d) enter into contracts, execute instruments, incur liabilities and do all acts or things necessary for proper management and conduct of its business;

(e) appoint with the approval of the Federal Government and in accordance with such

procedures as may be prescribed, such advisers, experts and consultants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit;

(f) summon and enforce the attendance of any person and require him to supply any information or document needed for the conduct of any enquiry or investigation

(g) enter and inspect and under the authority of a search warrant issued by the OHS Tribunal or Magistrate, search at any reasonable time, any land, building, premises, vehicle or vessel or other place where or in which, there are reasonable grounds to believe that an offence under this Act has been, or is being, committed;

(h) confiscate any article used in the commission of the offence where the offender is not known or cannot be found within a reasonable time:

Provided that the power under clauses (f), (g) and (h) shall be exercised in accordance with the provisions of the Code of Criminal Procedure(Amendment) 2011 or the rules made under this Act and under the direction of the OHS Tribunal or Magistrate; and

(i) establish a National OHS Co-ordination Committee comprising the Director-General as its chairman and the Director Generals of the Provincial OHS directorates and such other persons as the Federal Government may appoint as its members to exercise such powers and perform such functions as may be delegated or assigned to it by the Federal Government for carrying out the purposes of this Act and for ensuring inter provincial co-ordination in OHS policies.

9. Duties

(a) Each employer –

(1) shall furnish to each of his employee, employment and a place of employment which are free from recognized hazards, that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational health and safety policies, rules, regulations and standards promulgated under this Act.

(b) Each employee / worker –

(1) shall comply with occupational safety and health policies, rules, regulations and standards and orders issued pursuant to this Act which are applicable to his own actions and conduct.

(c) Contractors

(1) shall furnish to each of his employee, employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational health and safety policies, rules, regulations and standards promulgated under this Act.

(d) Manufacturers & Suppliers

that such tools, machinery, equipment or substance is safe and without risk of injury to health when correctly used. To 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

10. **Penalties.** — (1) Whoever contravenes or fails to comply with the provisions of sections 10 or any order issued thereunder shall be punishable with fine which may extend to five million rupees for the organization and five hundred thousand rupees for an individual person,

(2) Where an accused has been convicted of an offence under sub-sections (1), the OHS Tribunals or Magistrate, as the case may be, shall, in passing sentence, take into account the extent and duration of the contravention or failure constituting the offence and the attendant circumstances.

(3) Where an accused has been convicted of an offence under sub-section (1) and the OHS Tribunals or Magistrate is satisfied that as a result of the commission of the offence, monetary benefits have accrued to the offender, the OHS Tribunals or Magistrate may order the offender to pay, in addition to the fines under sub-section (1)

(4) Where a person convicted under sub-sections (1) had been previously convicted for any contravention under this Act, the OHS Tribunals or Magistrate or, as the case may be, OHS Tribunals or Magistrate may, in addition to the punishment awarded thereunder—

(a) endorse a copy of the order of conviction to the concerned trade or industrial association, if any, or the Federation of Pakistan Chambers of Commerce and Industry;

(b) sentence him to imprisonment for a term which may extend to two years;

(c) order the closure of the factory/business/activity;

(d) order confiscation of the factory, machinery, equipment, vehicle, material or substance, record or document or other object used or involved in contravention of the provisions of the Act:

Provided that for a period of three years from the date of commencement of this Act the sentence of imprisonment shall be passed only in respect of persons who have been previously convicted for more than once for any contravention of section 10.

(e) order that such sum be paid to any person as compensation for any loss, bodily injury, damage to his health or property suffered by such contravention.

(5) The Director-General of the Federal Agency or an officer generally or specially authorized by him in this behalf may, on the application of the accused compound an offence under this Act with the permission of the OHS Tribunals or Magistrate in accordance with such procedure as may be prescribed.

(6) Where the Director-General of the Federal Agency is of the opinion that a person has contravened any provision of Act he may, subject to the rules, by notice in writing to that person require him to pay to the Federal Agency or, as the case may be, an administrative penalty in the amount set out in the notice; and a person who pays an administrative penalty for a contravention shall not be charged under this Act with an offence in respect of such contravention.

(7) The provisions of sub-sections (5) and (6) shall not apply to a person who has been previously convicted of offence or who has compounded an offence under this Act who has paid an administrative penalty for a contravention of any provision of this Act.

11. Offences by corporate bodies.— (1) Where any contravention of this Act has been committed by a corporate body, and it is proved that such offence has been committed with the consent or connivance of, or is attributed to any negligence on the part of, any director, partner, manager, secretary or other Officer of the corporate body, such director, partner, manager, secretary or other officer of the corporate body, shall be deemed guilty of such contravention along with the body corporate and shall be punished accordingly:

Provided that in the case of a company as defined under the Companies Act, 2017, only the Chief Executive as defined in the said Act shall be liable under this section.

Explanation. — For the purposes of this section, " corporate body " includes a firm, association of persons and a society registered under the Societies Registration Act, 1860 (XXI of 1860), or under the Co-operative Societies Act, 1925 (VII of 1925).

12. Offences by Government Agencies, Where any contravention of this Act has been committed by any Government Agency, and it is proved that such contravention has been committed with the consent or connivance of, or is attributable to any negligence on the part of, the Head or any other officer of the Government Agency, such Head or other officer shall also be deemed guilty of such contravention along with the Government Agency, and shall be liable to be proceeded against and punished accordingly.

13. OHS Tribunals — (1) The Government may, by notification in the official gazette, establish as many OHS Tribunals as it considers necessary and, where it establishes more than one OHS Tribunals, it shall specify territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) An OHS Tribunal shall consist of a Chairperson who is, or has been, or is qualified for appointment as, a judge of the High Court to be appointed after consultation with the Chief Justice of the High Court and two members to be appointed by the Federal Government of which at least one shall be a technical member with suitable professional qualifications and experience in the OHS field; as may be prescribed.

(3) For every sitting of the OHS Tribunal, the presence of the Chairperson and not less than one Member shall be necessary.

(4) A decision of an OHS Tribunal shall be expressed in terms of the opinion of the majority of its members, including the Chairperson, or if the case has been decided by the Chairperson and only one of the members and a there is a difference of opinion between them, the decision of the OHS Tribunal shall be expressed in terms of the opinion of the Chairperson.

(5) An OHS Tribunal shall not, merely be reason of a change in its composition, or the absence of any member from any sitting, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by, or produced,

before it.

(6) An OHS Tribunal may hold its sittings at such places within its territorial jurisdiction as the Chairperson may decide.

(7) No act or proceeding of an OHS Tribunal shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution, of the OHS Tribunal.

(8) The terms and conditions of service of the Chairperson and members of the OHS Tribunal shall be such as may be prescribed.

14. Jurisdiction and powers of OHS Tribunals— (1) An OHS Tribunal shall exercise such powers and perform such functions as are, or may be, conferred upon or assigned to it by or under this Act or the rules and regulations made thereunder.

(2) All contravention punishable shall exclusively be triable by an OHS Tribunal.

(3) An OHS Tribunal shall not take cognizance of any offence triable under sub-section (2) except on a complaint in writing by:-

(a) the Federal Agency or any Government Agency; and

(b) any aggrieved person, who has given notice of not less than thirty days to the Federal Agency, of the alleged contravention and of his intention to make a complaint to the OHS Tribunal.

(4) In exercise of its criminal jurisdiction, the OHS Tribunals shall have the same powers as are vested in Court of Session under the Code of Criminal Procedure (amendment), Act 2011.

(5) In exercise of the appellate jurisdiction under section 15, the OHS Tribunals shall have the same powers and shall follow the same procedure as an appellate court in the Code of Civil Procedure, 1908 (Act V of 1908).

(6) In all matters with respect to which no procedure has been provided for in this Act, the OHS Tribunal shall follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908).

(7) An OHS Tribunal may, on application filed by any officer duly authorized in this behalf by the Director-General of the Federal Agency, issue bailable warrant for the arrest of any person against whom reasonable suspicion exist, of his having been involved in contravention punishable under Section 10

(8) Provided that such warrant shall be applied for, issued, and executed in accordance with the provisions of the Code of Criminal Procedure (amendment), Act 2011.

Provided further that if the person arrested executes a bond with sufficient sureties in accordance with the endorsement on the warrant he shall be released from custody, failing

which he shall be taken or sent without delay to the officer in-charge of the nearest police station.

(9) All proceedings before the OHS Tribunal shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and the OHS Tribunal shall be deemed to be a court for the purpose of section 480 and 482 of the Code of Criminal Procedure (amendment), Act 2011.

(10) No court other than an OHS Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of an OHS Tribunal extends under this Act, the rules and regulations made thereunder.

(11) Where the OHS Tribunal is satisfied that a complaint made to it under sub-section (3) is false and vexatious to the knowledge of the complainant, it may, by an order, direct the complainant to pay to the person complained against such compensatory costs which may extend to five hundred thousand rupees.

15. Appeals to the OHS Tribunal.—(1) Any person aggrieved by any order or direction of the Federal Agency under any provision of this Act, and rules or regulations may prefer an appeal with the OHS Tribunal within thirty days of the date of communication of the impugned order or direction to such person.

(2) An appeal to the OHS Tribunal shall be in such form, contain such particulars and be accompanied by such fees as may be prescribed.

16. Appeals from orders of the OHS Tribunal. ---(1) Any person aggrieved by any final order or by any sentence of the OHS Tribunal passed under this Act may, within thirty days of communication of such order or sentence, prefer an appeal to the High Court.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges.

17. Jurisdiction of OHS Magistrates —(1) Notwithstanding anything contained in the Code of Criminal Procedure (amendment), Act 2011, or any other law for the time being in force, but subject to the provisions of this Act, all contravention punishable under sub-section (2) of section 10 shall exclusively be triable by a judicial Magistrate of the first class as OHS Magistrate especially empowered in this behalf by the High Court.

(2) An OHS Magistrate shall be competent to impose any punishment specified in sub-sections (2) of section 10.

(3) An OHS Magistrate shall not take cognizance of an offence triable under sub-section (1) except on a complaint in writing by—

- (a) the Federal Agency, or Government Agency;
- (b) any aggrieved person.

18. **Appeals from orders of OHS Magistrates.** —Any person convicted of any contravention of this Act or the rules or regulations by an OHS Magistrate may, within thirty days from the date of his conviction, appeal to the Court of Sessions whose decision thereon shall be final.

19. **Power to delegate.** — The Federal Government may, by notification in the official Gazette, delegate any of its or of the Federal Agency's powers and functions under this Act and the rules and regulations to any Government Agency, council or authority.

20. **Power to give directions.** —In the performance of their functions under this Act-

(a) the Federal Agency shall be bound by the directions given to them in writing by the Federal Government.

21. **Indemnity.** —No suit, prosecution or other legal proceedings shall lie against the Federal, the Council, the Federal Agency, the Director-Generals of the Federal Agency, members, officers, employees, experts, advisers, committees or consultants of the Federal or the OHS Tribunal or Magistrates or any other person for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

22. **Dues recoverable as arrears of land revenue.** —Any dues recoverable by the Federal Agency under this Act, or the rules or regulations shall be recoverable as arrears of land revenue.

23. **Act to override other laws.** —The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

24. **Power to make rules.** —The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act including implementing the provisions of the international OHS Agreements, specified in the Schedule to this Act.

25. **Power to amend the Schedule.** The Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

26. **Power to make regulations and standards** ---(1) For carrying out the purposes of this Act, the Federal Agency may, by notification in the official Gazette and with the approval of the Government, make regulations and standards consistent with the provisions of this Act or the rules made thereunder.

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

(a) submission of periodical reports, data or information by any Government agency, authority or council in respect of OHS matters;

(b) preparation of emergency contingency plans for coping with hazards and impacts caused by accidents, Industrial disasters and calamities;

(c) appointment of officers, advisers, experts, consultants and employees;

- (d) levy of fees, rates and charges in respect of services rendered, actions taken and schemes implemented;
- (e) monitoring and measurement;
- (f) laying down of guidelines for preparation of risk assessment and development of procedures for their filing, review and approval;
- (g) providing procedures for handling hazardous substances; and
- (h) mechanized procedure for NOC or Issuance and Recognition of licenses with reference to a high-risk workplace

27. Repeal, savings and succession— OHS part of the following acts may be deleted to avoid duplication that might create misunderstanding.

- (a) the Mines Act 1923
- (b) the Factories Act 1934
- (c) the Boilers Act 1923
- (d) the Explosives Act 1884
- (e) the Petroleum Act 1934
- (f) the Dock Laborers Act 1934
- (g) the Workmen Compensation Act 1923
- (h) the Boilers and Pressure Vessels Ordinance 2002
- (i) the Employers' Liability Act, 1938
- (j) National Highways Safety Ordinance, 2000
- (k) any other Act brought within the ambit of this Act

(2) Notwithstanding the repeal of any acts, rules or regulations or appointments made, orders passed, notifications issued, powers delegated, contracts entered into, proceedings commenced, rights acquired liabilities incurred, penalties, rates, fees or charges levied, things done or action taken under any provisions of that Ordinance shall, so far as they are not inconsistent with the provisions of this Act be deemed to have been made, passed, issued, delegated, entered into, commenced, acquired, incurred, levied, done or taken under this Act.

(3) On the establishment of the Federal Agency under this Act, all properties, assets and liabilities pertaining to the Federal Agency established under repealed acts shall vest in and be the properties, assets and liabilities, as the case may be, of the Federal Agency established under this Act.

SCHEDULE

The Labor Policy 2010 – Government of Pakistan

The Labor Policy 2010 addresses the importance of OHS legislation in Pakistan in following clauses:

1. Labor Laws relating to occupational safety and health will be consolidated and rationalized to avoid overlapping and inconsistencies. See clause 7
2. Government shall enact suitable legislation to ensure health and safety of construction workers. See clause 25
3. A Tripartite Council on Health and Safety be set-up to identify health and safety hazards for workers of all economic sectors and to make recommendations for safety measures on a continuous basis. See clause 31

The Government of Pakistan is obliged for the ratification, implementation and enforcement of all relevant Conventions and Recommendations of International Labor Organization (ILO). OHS is an integral part of ILO's Decent Work Initiative.

ILO conventions:

1. Occupational Safety and Health **Convention, 1981** (No. 155)
Addresses Tri-Partism, Prevention, Continuous improvement, Systems approach, Responsibilities, duties and rights to ensure protection
2. Promotional Framework for Occupational Safety and Health **Convention, 2006** (No. 187)
Addresses OSH Policy, Management System and Program to promote a preventative safety and health culture and take active steps towards achieving progressively a safe and healthy working environment by taking into account the principles set out in relevant ILO instruments.

ILO Instruments:

1. Global Strategy on Occupational Safety and Health, ILO, 2003 and C187, 2006
2. Safety and Health in Construction **Convention, 1988** (No. 167)
3. Safety and Health in Mines **Convention, 1995** (No. 176)
4. Prevention of Major Industrial Accidents **Convention, 1993** (No. 174)
5. Labor Inspection **Convention, 1947** (No 81)
Addresses Objective and scope of Labor Inspection, principal functions, structure, collaboration, recruitment criteria, duties and accompanying powers, rights;
6. Labor Inspection (Agriculture) **Convention, 1969** (No 129)

United Nations:

17 Sustainable Development Goals with specific target on OSH
8 Millennium Development Goals (MDGs)
International Health Regulations 2005 (IHR) by World Health Organization

Group 20 Countries:

G 20 Summit 2014 has placed OSH on the agenda

Pakistan:

Pakistan Vision 2025 (Sustainability)

Supreme Court Decisions

Judgement on two OHS related cases on March 30th and April 9th 2018