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### **Towards a better labour law – Recent amendments to Bangladesh Labour Act 2006**

The Bangladesh Labour Act 2006 (the “**Act**”) has recently been amended by the Government of Bangladesh. Overall, it is notable that the rights of workers have been expanded, but the amendments do not focus solely on workers’ rights. Employers, also, have been benefited by certain changes and their duties reduced in specific situations. This short article shall deal with the key changes focusing first on workers’ rights, then employers, and concluding with an overall assessment of the amendments.

It can certainly be said that the main beneficiary of these amendments has been the workers. The Act now covers a greater proportion of workers – as previously, the Act did not apply to workers in ocean-going vessels. This having now been repealed, such workers can now fully enjoy their rights under this Act. Other categories of workers have gained additional benefits – for example, workers in the tea industry upon retirement gain not only monetary benefits but other benefits such as their existing leisure facilities.

One of the most impactful changes brought about by the Act guarantees financial benefits to new mothers after they give birth. Previously, if a woman had not given notice prior to the birth of her child, if she did so after the birth, she could still avail maternity leave for a period of up to 8 weeks afterwards. In this situation, however, it was not specified that the post-birth leave period would be paid. The amended Act gives additional clarification that the post-birth leave period must be paid along with other benefits. This provision is kept within its proper bounds, however, by another new provision which provides that such benefits shall not be given if a miscarriage occurs, although the worker may take leave for any health issues that may arise.

A “quality of life” improvement for workers was brought by a change regarding lunch rooms. Previously, lunch rooms with adequate facilities were required to be provided only if more than 50 workers were employed there, thus only impacting larger workplaces. Now, however, the Act allows for medium-sized workplaces to also benefit from this facility, as a lunch room is now required to be provided for workplaces employing more than 25 workers. However, it is pertinent to mention that this additional facility comes at the cost of removing the mandatory facility of separate rooms where workers may rest, but arguably canteens are the more necessary amenity between the two. This change is significant because it is part of a trend of providing additional benefits and facilities for workers, both financial as well as general changes impacting their day-to-day life in the workplace.

Workers’ families have been greatly benefited by a change regarding payment when a worker dies. Previously, upon a worker’s death, the employer would give the sums payable to a Labour Court, and thereafter be no longer liable. Now upon death or by reason of the worker’s whereabouts not being known however, the money must be given directly to a nominee of the deceased worker or their legal heir. If that is not possible, then it must be given to a workers’ benefit foundation, where if the worker is not found within 10 years, the money shall be utilized for the benefit of the foundation’s beneficiaries. This new regime,

therefore, benefits workers' families because it ensures that the money directly reaches them as soon as possible, or if not, at least goes to the welfare of other workers and their families through the foundation.

It has also become easier and less expensive for workers to register Trade Unions, thus helping to safeguard the rights and interests of workers. Whereas under the previous regime, in order to register a Trade Union, 30% of the total workers of an establishment needed to be members, this requirement was lowered to a much more lenient 20%. Apart from this, the previous requirement when registering Trade Unions for a group of establishments of having to sponsor the issuance of a public notice has now been repealed, thus lowering the cost of and thus encouraging the creation of joint-establishment Trade Unions.

The amendments, however, show that a balance is often struck between the rights of workers and employers. For example, previously, workers could be required to work on any festival holiday, but a total of 3 (three) holidays would need to be provided. Now, what has changed is that a worker may still be asked to work on a holiday, but if so, it reduces the duties of employers, from being required to provide 3 (three) extra holidays, to 1 (one) substitute holiday along with 2 (two) days' worth of compensation. This shows a balanced approach being taken because so far the major changes have been regarding the rights of workers, whereas this particular change is likely to benefit employers as well.

Another new amendment that surely benefits all parties involved is regarding the shortening of the time frame within which the Labour Court is expected to render its judgement or decision. Anyone familiar with our country's legal system knows that one of the persistent problems plaguing it is "delays". The previous Act could be regarded as a 'toothless tiger' because although it stipulated that the Labour Court judgments would be delivered within 60 (sixty) days, it went on to state that even if it is not, it shall not be declared invalid for that reason. This has been replaced, and now on top of the requirement of 60 (sixty) days' delivery, upon failure to do so, the Labour Court must record its reason, and then take a maximum of another 90 (ninety) days to deliver the judgement/decision. Therefore, although no strict sanction has been imposed, it can be argued that there should be some additional pressure on the Court to deliver its judgement on time, as well as a directory additional period which should encourage the Court to dispose of cases more expeditiously.

Thus far, all the positive changes made by the amendments have been highlighted. However, there are some sections which one may argue would seem to hinder the purpose of the Act itself. A large number of amendments focus on reducing the imprisonment terms, for both workers and for employers in cases of contravention. For example, if workers act in an illegal strike, the imprisonment term has been lowered from 1 (one) year to 6 (six) months. This goes both ways, so if meanwhile, an employer acts in an illegal lock-out, their imprisonment has similarly been reduced from 1 (one) year to 6 (six) months. Although this may appear to go against the strict implementation of the Act, what is needed is a tightening of the legal provisions along with a better administered implementation in order to secure higher compliance with the Act.

In conclusion, this has been an important step in the journey towards a better labour law. Recent social changes and higher expectations of workers have been reflected. For example, the recent changes in Bangladesh of women entering the workforce in larger numbers than ever before have been reflected in the provisions for better maternity terms, and higher expectations of a better workplace manifested itself in the provisions for lunchrooms for medium-sized workplaces. The issue of delays has also been addressed and handled as much as is possible within the legislative framework.