

RECENTLY ENACTED LEGISLATION

• The Apprenticeship Act 2018

With the approaching globalization, skill development is becoming a concern of vital importance for every national economy. Global growth is concentrated in knowledge and technology based products. A well-educated and highly skilled manpower is a sine qua non for graduating from labor-intensive to higher value-added, skill-intensive, technologically advanced sectors. The Act is an attempt at Federal level to meet this global challenge.

The Act repeals the Apprenticeship Ordinance 1962 to the extent of areas comprised in the Federation that are not included in any Province. The provisions of the Act are over-riding.

Main provisions of the Act may be summarized as follows:

1. The Contract of Apprenticeship (the Contract) now may be entered and terminated only in pursuance of and in the manner prescribed by section 3 and 4 of the Act. The Contract shall be registered with the Competent Authority under the Act who may refuse to register the same if any provision of the Act or Rules prescribed regarding qualifications for entering into the Contract are not fulfilled by a prospective Apprentice. Violation of this provision by the Employer (by employing an Apprentice lacking in the prescribed qualifications) is penalized under section 13 of the Act. Where the Contract is terminated by either party in violation of the terms of the Contract, the aggrieved party may approach for redress to the Authority established under National Vocational and Technical Training Commission Act, 2011.
2. Under section 11 of the Act, the Competent Authority is authorized to enter any establishment and examine and inspect any person or part of establishment in order to ascertain whether the establishment is being

run in compliance with the provisions of the Act or Rules thereunder.

3. The Authority is mandated through section 9 and 10 of the Act to
 - i. establish facilities for career counseling and placement of apprentices;
 - ii. publish periodical newsletters, information bulletins in print and electronic media including authority's website on career counseling and placement services including information on but not limited to new and emerging trades, market skills trends and employment opportunities
 - iii. Publish an annual report on progress of apprenticeship training Programme.
 - iv. Offer to the Employers all possible technical advice and guidance in all matters relating to the apprenticeship program run by the employers in their establishments
4. Section 7 and 8 of the Act describe the Obligations of the Employers and the Apprentices. Through section 6, the Authority is mandated to establish a Fund for the purposes of carrying out its functions under the Act. It is provided that the Federal Government shall provide funds and annual grants, for the purposes of the Act to the Authority which shall be deposited in the Fund. The Fund may also be used for the following purposes
 - (a) Promotion of apprenticeship training;
 - (b) Reimbursement of partial cost of training not exceeding fifty percent to employers as may be prescribed;
 - (c) Welfare: schemes for apprentices
5. Section 9 provides that in case of contravention by the Employer of any provisions of the Act and the Rules thereunder, the Authority may determine and

decide the penalty and the amount of any penalty recovered shall be deposited in the Fund.

6. Section 5 provides that the Authority may, by notification in official Gazette, constitute such Apprenticeship Committees under the chairmanship of an Employer with forty percent representation from Employers, forty percent from the Federal Government and twenty percent from elected workers to monitor and advise the Competent Authority on matters relating to apprenticeship as may be prescribed.

COURT CASES

2014 CLD 337

- Phrase, "**subject to all just expressions, meaning and connotation**"---Meaning of the phrase "subject to all just exceptions" was that the order which contains said expression, would be effective unless and until the other party who would be effected by such an order took exception to it and raised objections which were ultimately upheld to be just and valid. **Ghulam Muhammad v. Irshad Ahmad PLD 1982 SC 282 rel.**

2014 CLD 337

Convention on The Settlement Of Investment Disputes Between States and Nationals of other States ("**ICSID Convention**"), Investor-State disputes---**Standard Practice for dispute resolution, stated.** Settled international practice appears to be that if a State is a member of the ICSID Convention and is party to a BIT that provides for arbitration in terms thereof (i.e. ICSID Convention), that constitutes an open or standing "offer" by the State, and consent to ICSID arbitration. In such circumstances, an investor from another member State can "accept" such "offer" and take any dispute to arbitration under the ICSID Convention by making an appropriate request in terms of Article 36 of the ICSID Convention. This fulfills the requirement of "consent in writing" by the investor in terms of Article 25, and sets the ICSID arbitration in motion. **El Paso v. Argentina rel**

2017 CLD 1442

- **Presumption of consistent usage as a canon of statutory interpretation---Scope--Words or phrases were presumed to bear the same meaning throughout a text and a material variation in terms suggested a variation in meaning** --- the presumption of consistent usage made intuitive sense and preparation of a legal instrument had traditionally been seen as a solemn and deliberative act that required verbal exactitude---Where a word had a clear and definite meaning when used in one part, when used in another, presumption was that said word was intended to have the same meaning in the latter as in the former part---Where a document had used one term in one place, and a materially different term in another, presumption was that the different term denoted a different idea---Presumption of consistent usage applied also when different sections of an Act or Code were at issue. **Interpretation of Legal Texts by Antonin Scalia and Bryan A. Garner; Atlantic Cleaners and Dyers, Inc. v. United States, 286 U.S 427 (1932); Keene Corp. v. United States, 508 U.S 200, 208 (1993) and King v. St. Viscounts' Hospital, 502 U.S 215, 220-21 (1991) rel.**

2017 CLD 1442

Appellants who were 'contingent creditors' sought to file an application for mismanagement under s. 290 of the Companies Ordinance 1984. The issue to be decided was whether for the purposes of section 290, the term "creditor" included a "contingent creditor" and resultantly the Petition was competent. The Court noted that

A reader is at once struck by the difference in the treatment given to the term 'creditor' in section 290 and section 309. By a deliberate act, it has been specified that any creditor or creditors including any contingent or prospective creditor or creditors may bring an application for the winding up of a company under section 305 of the Ordinance, 1984. This is conspicuously absent in the case of an application under Section 290 where simply the term 'creditor' or 'creditors' has been used and the legislature does not include the contingent

or prospective creditor within the term as used in section 290.

The contention of the Appellants was dismissed in view of the observations above in the light of the canon of construction that is mentioned in the preceding para above.

IMPORTANT NEWS

- According to a news report published by the Dawn, Justice Asif Saeed Khosa of the Supreme Court of Pakistan during the hearing of a case have made an observation that the number of pending cases in the country is around 1.9 million but there are only 4000 judges to hear and decide those cases. This makes the ratio of pending cases to per judge 475:1. Justice Khosa also observed that the number could not be increased due to paucity of funds.
- The. National Judicial (Policy Making) Committee in a meeting presided over by the Chief Justice of Pakistan (CJP) reviewed the agenda of Judicial Reforms for better management and quick disposal of cases. According to the daily Dawn, *"The CJP noted that only one judge was available for a population of 62,000 in Punjab and Khyber Pakhtunkhwa. Similarly in the Lahore High Court, only one judge is available for 2.2 million people. The chief justice emphasized that judicial officers should use all their expertise with full dedication to address the problem of backlog and delay in disposal of cases in accordance with the law. The chief justice also asked the chief justices of high courts to grasp reasons for the delay in the subordinate courts and advised that such reasons should be resolved by using all available resources. CJP emphasized that disputes of the general public could also be resolved in a timely and cost efficient manner through recourse to Alternative Dispute Resolution (ADR) methodologies. The chief justice also said that current laws were not compatible with today's needs and required amendments,"*
- The Federal Cabinet in a meeting presided over by the Prime Minister of Pakistan has resolved to raise the quantum of penalties under the Ehtram e Ramzan Ordinance (the Ordinance). The Ordinance was promulgated in 1981. It sought to curb public eating during the holy month of Ramzan and regulate provisions of victuals in hotels and other places providing food and beverages. The

violation of the provisions of the Ordinance was made an offence punishable by imprisonment and penalties.

- Dawn reports that the Lahore High Court (LHC) in a landmark case has banned the usage of *andha* (blind), *goonga* (mute), *behra* (deaf) and *langra* (lame) to describe differently-disabled persons in official matters and directed the government to make the necessary changes in this regard in the Disabled Persons (Employment and Rehabilitation) Ordinance of 1981. The outgoing Chief Justice, Mansoor Ali Shah, who authored the Judgment directed that disabled persons must now be referred to as "special persons". , It is further reported that the ruling said that while referring to persons who are unable to see, the term "visually impaired" must be used. The Social Welfare Department's lawyer who represented the State, assured the court that in light of the verdict, *the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981* will be amended accordingly.

Author



Shehzad Haider
Senior Associate

T: +92 423 7324148
E: info@absco.pk

This publication is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to. Similarly, it has not been designed to provide legal or other advice.

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Ahmer Bilal Soofi & Co. is a partnership concern registered in Pakistan under the Partnership Act 1932 having its registered office at 9-Fane Road, Lahore, Pakistan.

T: +92 42 37356554
T: +92 42 37324148
F: +92 42 37246393

E: info@absco.pk