

ANDAMAN AND NICOBAR ISLANDS PAYMENT OF WAGES ACT, 1955



OFFICE OF THE CHIEF COMMISSIONER,
ANDAMAN AND NICOBAR ISLANDS.

NOTIFICATION

Port Blair, the 19th January 1955.

No. 15/55.—In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26 of the Payment of Wages Act, 1936 (IV of 1936) read with the notification of the Government of India in the late Home Department No. 126/37-Public dated the 1st April 1937, the Chief Commissioner of the Andaman and Nicobar Islands hereby makes the following rules, the same having been previously published as required by sub-section (5) of the said section of the said Act, namely:—

THE ANDAMAN AND NICOBAR ISLANDS
PAYMENT OF WAGES RULES, 1955.

1. *Title*.—These rules may be called the Andaman and Nicobar Islands Payment of Wages Rules, 1955.

2. *Definitions*.—In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Payment of Wages Act, 1936 (IV of 1936);

(b) "the Authority" means the authority appointed under sub-section (1) of section 15 of the Act;

(c) "the Chief Inspector of Factories" means the Chief Inspector of Factories appointed under sub-section (2) of section 8 of the Factories Act, 1948 (LXIII of 1948);

(d) "the Court" means the court mentioned in sub-section (1) of section 17 of the Act;

(e) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

(f) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (e) of sub-section (2) of section 7;

(g) "Form" means a form appended to these Rules;

(h) "Inspector" means the inspector authorized by or under section 11 of the Act;

(i) "person employed" excludes all persons to the payment of whose wages the Act does not apply;

(j) "section" means a section of the Act; and

(k) "paymaster" means an employer or other person responsible under section 3 of the Act for the payment of wages.

SECTION 26 (3) (a).

3. *Register of Fines*.—(1) In any factory in respect of which the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved, the entry of the disbursement shall also indicate the purpose for which it is made.

4. *Register of deductions for damage or loss.*—In every factory in which deductions for damage or loss are made, the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II.

5. *Register of Wages.*—A Register of Wages shall be maintained in every factory and may be kept in such form as the paymaster finds convenient but shall include the following particulars, namely:—

- (a) the gross wages earned by each person employed for each wage period;
- (b) all deductions made from those wages, with an indication in each case of the clause of sub-section (2) of section 7 under which the deduction is made; and
- (c) the wages actually paid to each person employed for each wage period.

6. *Maintenance of Registers.*—The registers required by Rules 8, 4, 5 and 17 shall be preserved for twelve months after the date of the last entry made in them.

SECTION 20 (3) (c).

7. *Weights and Measures.*—(1) All weights, measures, or weighing machines which are used in checking, or ascertaining the wages of persons employed in any factory shall be examined at least biennially by an Inspector who may prohibit the use of any weight, measure, or weighing machine which he finds to register incorrectly.

(2) If the Inspector considers that any action should be taken under the Indian Weights and Measures of Capacity Act (XXXI of 1871), or the Indian Penal Code (XLV of 1860), he may seize the article in question and shall record his opinion and send it to the District Magistrate for such action as he may think fit.

SECTION 20 (3) (d).

8. *Notice of dates of payment.*—The paymaster shall display, in a conspicuous place at or near the main entrance of the factory, a notice in English and Hind and also in the language of the majority of the persons employed therein, giving for not less than two months in advance, the days on which wages are to be paid.

SECTION 20 (3) (e), (f) AND (h).

9. *Prescribed authority.*—The Chief Inspector of Factories shall be the authority competent to approve under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes on which the proceeds of fines shall be expended.

10. *Application in respect of fines.*—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories—

- (a) a list, in English, in duplicate, clearly defining such acts and omissions; and
- (b) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list, in duplicate, showing those appointments in his factory of which the incumbents may pass orders.

imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

11. *Approval of list of acts and omissions.*—The Chief Inspector of Factories, on receipt of the list prescribed in sub-rule (a) of Rule 10 may, after such enquiry as he considers necessary, pass orders either—

- (a) disapproving the list, or
- (b) approving the list either in its original form or as amended by him, in which case such list shall be considered to be an approved list.

Provided that no order disapproving or amending any list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing why the list as submitted by him should be approved.

12. *Posting of list.*—The employer shall display at or near the main entrance of the factory a copy in English, together with a literal translation thereof, in the language of the majority of the persons employed therein and in Hindi of the list approved under Rule 11.

13. *Persons authorized to impose fines.*—No fine may be imposed by any person other than an employer, or a person holding an appointment named in a list submitted under Rule 10.

14. *Procedure in imposing fines and deductions.*—Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss, shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation in the presence of at least one other person.

15. *Information to paymaster.*—The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars so that the register prescribed in Rule 3 or Rule 4 may be duly completed.

SECTION 20 (3) (g)

16. *Deductions for breach of contract.*—(1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless—

(a) there is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment, and—

(i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this Rule has been displayed in English and Hindi and also in the language of the majority of the employed persons at or near the main entrance of the factory and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made; and

(c) a notice has been displayed at or near the main entrance of the factory giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory, it shall be sufficient, in lieu of giving the names of the persons in such department or sections, to specify the departments or sections affected.

(3) No deduction for breach of contract shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no deduction for breach of contract shall be made from any person who has complied with these conditions.

SECTION 26 (3) (i)

17. *Advances.*—(1) An advance of wages not already earned shall not, without the previous permission of an Inspector, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period, twice the wages he is likely to earn during the two subsequent calendar months.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than twelve months. No instalment shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth of the wages for the wage-period, in respect of which the deduction is made.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

SECTION 26 (3) (a)

18. *Annual Return.*—In respect of every factory in which during the calendar year any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, a return shall be sent in Form IV so as to reach the Chief Inspector of Factories not later than the 15th of February following the end of the calendar year to which it relates.

SECTION 26 (3) (j)

19. *Costs.*—(1) Where the Authority or the Court, as the case may be, directs that any costs shall not follow the event, it shall state its reasons for so doing in writing.

(2) The costs which may be awarded shall include—

(a) the charges necessarily incurred on account of court-fees;

(b) the charges necessarily incurred on subsistence money to witnesses;

and
(c) pleader's fees which shall ordinarily be Rs. 10, if any pleader has been engaged;

Provided that the Authority or the Court, as the case may be, in any proceedings, may reduce such fee to a sum not less than Rs. 5 or increase it to a sum not exceeding Rs. 30.

(3) When a party engages more pleaders than one to defend a case, he shall be allowed one set of costs only.

20. *Copies of documents.*—The Authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be.

Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, grant copies free of cost.

SECTION 26 (3) (k)

21. *Fees.*—The fee payable in respect of proceedings under the Act shall be as follows, namely:—

(i) For every application to summon a witness—Four annas in respect of each witness.

(ii) For every other application made by or on behalf of an individual person before the Authority—Eight annas.

Payment of wages

(iii) For every other application made by or on behalf of an unpaid group before the Authority—four annas for each member of the group, subject to a maximum of five rupees.
 (iv) For every appeal lodged with the Court—five rupees.
 Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, reduce or remit this fee.
 Provided further that no fee shall be chargeable in respect of an application presented by an Inspector.

SECTION 26 (3) (1).

22. Abstracts.—The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form V, translations whereof in Hindi and in the language of the majority of the employed persons, shall also be displayed.

SECTION 26 (4).

23. Penalties.—Any breach of Rule 3, 4, 5, 6, 8, 12, 15 or 18 of these Rules shall be punishable with fine which may extend to two hundred rupees.

FORM I.

(RULE 3 OF THE ANDAMAN AND NICOBAR ISLANDS PAYMENT OF WAGES RULES, 1955).

REGISTER OF FINES.

..... Factory,.....

Serial No.	Name.	Father's Name.	Department.	Act or omission for which fine imposed.	Whether workman showed cause against fine. If so, enter date.	Rate of wages.	Date and amount of fine imposed.	Date on which fine realized.	Remarks.
	2	3							

FORM IV.

(RULE 18 OF THE ANDAMAN AND NICOBAR ISLANDS PAYMENT OF WAGES RULES, 1955).

Return for the year ending the 31st December 19.....

WAGES AND DEDUCTIONS FROM WAGES.

1. (a) Name of the Factory or establishment and postal address.
(b) Industry.
2. Number of days worked during the year.
3. (a) * Average daily number of persons employed during the year.
Adults.....Children.....
(b) Gross amount paid as remuneration to these persons including deductions under section 7 (2).....of which the amount due to bonus is....., and that due to money value of concessions is.....
4. Total wages paid including deductions under section 7 (2) on the following accounts.
(a) Basic Wages including overtime.
(b) Dearness and other allowance in cash.
(c) Arrears of pay in respect of the previous years paid during the year.
5. No. of cases and amount realized as—
(a) Fines
(b) Deductions for damage or loss
(c) Deductions for breach of contract
6. Disbursement from the fine fund.
(a)
(b)
(c)
(d)
7. Balance of fines fund in hand at the end of the year.....

NO. OF CASES. AMOUNT.

PURPOSE. AMOUNT.

Signature

Designation.

* The average daily number of persons is obtained by dividing the aggregate number of attendances during the year by the number of working days.

FORM V.

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE RULES MADE THEREUNDER.

Whom the Act affects.

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs. 200 a month.
2. No employed person can give up by contract, or agreement, his rights under the Act.

Definition of wages.

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

discharge.

It excludes—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government or the Chief Commissioner of the Andaman and Nicobar Islands;
- (b) the employer's contribution to a Pension or Provident Fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment; and
- (d) any gratuity payable on discharge.

Responsibility for and method of payment.

4. The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and, any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The Wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

Fines and deductions.

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Chief Inspector of Factories, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

- (a) shall not exceed half-an-anna in the rupee;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition;
- (c) shall be recorded in a register, and applied to such purposes beneficial to the employed persons as are approved by the Chief Inspector of Factories; and
- (d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but—

(1) no deduction for breaking a contract can be made from a person under 15 years of age or a woman;

(2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention

to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer, and that wages may be deducted in lieu of such notice;

(3) the above provision must be displayed at or near the main entrance of the factory;

(4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory;

(b) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorized by order of Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advance made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment but must not exceed the amount of two months' wages without the permission of an Inspector.

These advances can be recovered by instalments, spread over not more than 12 months and the instalments must not exceed 1/3rd, or if the wages are not more than Rs. 20, 1/4th of the wages for any wage-period.

14. Deductions can be made for subscription to and for repayment of advances from any recognised Provident Fund.

15. Deductions can be made for payments to Co-operative Societies approved by the Chief Commissioner of the Andaman and Nicobar Islands or to the Postal Insurance, subject to any conditions imposed by the said Chief Commissioner.

Inspections.

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of deductions or delays.

17. (1) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the Chief Commissioner of the Andaman and Nicobar Islands for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority, can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of, any number of persons belonging to the same factory; the payment of whose wages has been delayed.

Action by the Authority.

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority.

19. An appeal in the prescribed form against a direction made by the Authority may be preferred, within 30 days to the District Court—

- (a) by the paymaster, if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50; and
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act.

20. Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The paymaster who—

- (1) does not fix a wage-period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and Hindi and also in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act,

is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

S. N. MAITRA,

Chief Commissioner, A. & N. Islands.