A&N ISLANDS MINIMUM WAGES RULES, 1972

ANDAMAN AND NICOBAR GAZETTE
EXTRAORDINARY
Published by Authority
No. 55. Port Blair, Saturday, May 6 1972 Vaisaka 16, 1894

ANDAMAN AND NICOBAR ADMINISTRATION

Chief Commissioner's Secretariat

NOTIFICATION

Port Blair, dated the 6th May, 1972/Vaisakha 16 1894

No. 16/1/71-LC In exercise of the powers conferred by subsection [1] of section 30 of the Minimum Wages Act, 1948 [XI of 1948] read with the Notification No. LP 24 [1] dated 16—3—49 of the date Ministry of Labour of the Government of India, I, Har Mander Singh Chief Commissioner, Andaman and Nicobar Islands hereby make the following rules, the same having been previously published as required by section 30 of the said Act.

Andaman and Nicobar Islands Minimum Wages Rules, 1972

CHAPTER—1

Preliminary.

1. Short title and extent :— These rules may be called the Andaman and Nicobar Islands Minimum Wages Rules, 1972

2. Interpretation :— In these rules, unless the context otherwise requires,

[a] ''Act'' menas the Minimum Wages Act, 1948;

[b] ''Authority'' means the authority appointed under sub section [1] of section 20;

[c] ''Board'' means the Advisory Board appointed under section 7

[d] ''Chairman'' means the Chairman of the Advisory Board or the Committee, as the case may be appointed under section 9

[e] ''Committee'' means a Committee appointed under clause [a] of sub-section (1) of section 5 and includes a sub-committee appointed under that section ;

[f] ''Chief Commissioner'' means the Chief Commissioner of the Andaman and Nicobar Islands,

[g] ''Day'' meens a period of twenty four hours beginning at midnight ;

[h] "Form" means a form appended to these rules :

[i] "Inspector" means a person appointed as Inspector under section 19 :

[j] "Registered Trade Union" means a Trade Union registered under the Trade Unions Act 1926

[k] "Section" means a section of the Act and

[l] All other words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

CHAPTER — II

MEMBERS AND STAFF AND MEETINGS OF THE BOARD COMMITTEE AND ADVISORY COMMITTEE

3. Terms of Office of the Members of the Committee :— The terms of office of the members of the Committee shall be such as in the opinion of the Chief Commissioner is necessary for completing the enquiry into the scheduled employment concerned and the Chief Commissioner may, at the time of the constitution of the Committee, fix such term and may, from time to time, extend it as circumstances may require.

4. Term of Office of members of the Board :— (1) Save as otherwise expressly provided in these rules, the term of office of a non official member of the Board shall be two years commencing from the date of his nomination :

[1] Provided that such member shall, not with standing the expiry of the said period of two years continue to hold office until his successor is nominated

(2). A non-official member of the Board nominated to fill a casual vacancy shall hold office for the remainig period of the term of office of the member in whose place he is nominated.

(3) The official member of the Board shall hold office during the pleasure of the Chief Commissioner.

5. Nomination of substitute members :— If a member is unable to attend a meeting of the Committee or the Board the Chief Commissioner, or the body which such members represents may be notice in writing signed on his / its behalf and by such members and addressed to the Chairman of the said Committee or the Board, nominate a substitute in his place to attend that meeting such a substitute member shall have all the rights of a member in respect of that meeting.

6. Travelling Allowance :— A non-official member of the Committee, or the Board shall be entitled to draw travelling and halting allowance for any journey performed by him in connection with his duties as such member at the rates and subject to the conditions applicable to a government servant of the first class under the appropriate rules.

7. Staff :— (1) The Chief Commissioner may appoint a Secretary to the committee or the Board, and such other staff as it may think necessary, and may fix the salaries and allowances payable to them and specify their conditions of service.

(2) (i) The Secretary shall be the Chief Executive Officer of the Committee, or the Board as the case may be. He may attend the meetings of such Committee or Board but shall not be entitled to vote at such meeting

(ii) The Secretary shall assist the Chairman in convening meetings and shall keep a record of the minutes of such meetings and shall take neessary measures to carryout the decisions of the Committee, or the Board, as the case may be.

8. Eligibility for renomination of the members of the Committee Advisory Committee and the Board :— An out-going member shall be eligible for renomination for the membership of the Committee, or the Board of which he was a member.

9. Resignation of the Chairman and Members of the Committee and the Board & filling of the casual vacancies :— (1) A member of the Committee, or the Board, other than the Chairman, may by giving notice in writing to the Chairman, resignation his membership. The Chairman may resign by a letter addressed to the Chief Commissioner.

(2) A resignation shall take effect from the date of communication of its acceptance or on the expiry of thirty days from the date of resignation, which is earlier.

(3) When a vacancy occursior is likely to occur in the membership of the Committee, or the Board, the Chairman shall submit a report to the Chief Commissioner immediately. The Chief Commissioner shall take steps to fill the vacancy

10. Cessation and restoration of membership :— (1) If a member of the Committee or the Board fails to attend three consecutive meetings he shall subject to the provisions of sub-rule (2) cease to be

a member thereof

(2) A person, who ceases to be a member uuder sub-rule [1] shall be given intimation of such ceasation by a letter sent to him by registered post within fifteen days from the date to such ceasation. The letter shall indicate that if he desires restoration of his membership, he may apply therefor within thirty days from the receipt of such letter. The application for restoration of membership, if received within the said period, shall be placed before the Committee of the Board, as the case may be and if a majority of members present at the next meeting is satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restore to membership immediately after a resolution to that effect is adopted.

11. Disqualification :— [1] A person shall be disqualified for being nominated as, and for being a member of the Committee, or the Board as case may be :—

[i] If he is declared to be of unsound mind by a competent court or

[ii] If he is an undischarged insolvent ; or

[iii] If before or after the Commencement of the Act, he has been Convicted of an offence involving moral turpitude.

(2) If any question arise whether a disqualification has been incurred under sub-rule [1] the decision of the Chief Commissioner thereon shall be final.

12. Meetings :— The Chairman may subject to the provisions of rule 13, call a meeting of the Committee or the Board as case may be, at any time he thinks fit.

Provided that on a requisition in writing from not less than one half of the members, the Chairman shall call a meeting within fifteen days from the date of the receipt of such requisition.

13. Notice of meetings :— The Chairman shall fix the date, time and place of every meeting and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post at least fifteen days before the date fixed for such meeting,

Provided that in the case of an emergent meeting, notice of seven days only may be given to every member.

14. Chairman :— (1) The Chairman shall preside at the meeting of the Committee, or the Board, as the case may be.

(2) In the absence of the Chairman at any meeting the members shall elect from amongst themselves by a majority of votes, a member, whose shall preside at such meeting.

15. Quorum :— No business shall be transacted at any meeting unless at least one third of the members and at least one representative each of both the employers and the employees are present

Provided that, if at any meeting, less than one third of the members are present or not even one representative each of both the employers and employees are present the Chairman may adjourn the meeting to date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of class of members present.

16. Disposal of Business :— (1) All business shall be considered at a meeting of the Committee, or the Board, as the case may be, and shall be decided by a majority of the votes of the members present and voting. In the event or an equality of votes, the Chairman shall have a casting vote.

Provided that the Chairman may, if he thinks fit direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members;

Provided further that no decision on any matter under the proceeding provison shall be taken, unless supported by not less than a two-third majority of the members.

17. Method of voting :— Voting shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may decide.

18. Proceeding of the meetings :— (1) The proceeding of each meeting showing interalia the names of the members present there at shall be forwarded to each members and to the Chief Commissioner as soon after the meeting as possible, and in any case, not less than seven days before the next meeting.

(2) The proceeding of each meeting shall be confirmed with such modifications, if any, as may be considered necessary at the next meeting.

CHAPTER — III

SUMMONING OF WITNESSES BY THE COMMITTEE AND THE BOARD AND PRODUCTION OF DOCUMENTS.

19. Summoning witnesses and production of documents :—

[1] A Commitee, or the Board may summon any person to appear as a witness in the course of an enquiry. Such summons may enquire a witness to appear before it on a date specified therein and to produce any books, papers or other documents and thinks in his possession or under his control relating if any manner to the enquiry.

[2] A summons under sub-rule (1) may be addressed to an individual or an organisation of employers or a registered trade union of workers.

[3] A summons under this rule may be served :—

[i] In the case of an individual, by being delivered or sent to him by registered post.

[ii] In the case of an employer's organisation or a registeted trade union of workers by being delivered, or sent by registered post to the Secretary, or other principal officers of the organisation or union as the case may be.

[4] The provisions of the Code of Civil Procedure, 1908 relating to the summoing and enforcement of the appearance of witnesses and the production of documents shall so for as may be apply to proceedings before a Committee or the Board.

[5] All books, papers and the doucments or things produced before a Committee, or the Board in pursuance of a summon issued under sub-rule (1) may be inspected by the Chairman and independent members and also by snch parties as the Chairman may allow with the consent of the other party, but the information so obstained shall be treated as confidential and the sume shall be made public only with the consent in writing of the party concerned.

Provided that nothing contained in this rule shall apply to the disclosure of any such information for the purpose of prosecution under section 193 of the Indian Penal Code [45 of 1860].

20. Expenses of Witnesses :— Every person who is summoned and appears as a witness before the Committee, or the Board shall be entitled to an allowance for expenses by him in accordance with the scale for the time being in force for payment of such allowances to witnesses appearing in civil courts in the Union Territory of Andaman and Nicobar Islands.

CHAPTER — IV

COMPUTATION AND PAYMENT OF WAGES, HOURS OF WORK AND HOLIDAYS

21. More of computation of the cash value of wages:- The retail

price at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concession rates. The computation shall be made in accordance with such directions as may be issued by the Chief Commissioner from time to time.

22. Time and conditions of payment of wages and the deduction permissible from wages.— [1] [i] The wages of a worker in any scheduled employment shall be said on a working day

[a] in the case of establishments situated within the Municipal limits of Port Blair before the tenth day and

[b] in the case of all other establishment before the expiry of the twentieth day, after the last day of the wages period in respect of which wages are payable.

[ii] Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.

[iii] The wages of an employed person shall be paid to him without deduction of any kind except those authorised by or under these rules.

Explanation :— Every payment made by the employed person to the employer or his agent shall, for the purposes of these rules, be deemed to be a deduction from wages.

[2] Deduction from the wages a person employed in a scheduled employed shall be of one or more of the following kinds, namely-

[i] Fines in respect of such acts and omissions on the part of the employed persons as may be specified by the Chief Commissioner by general of special order in this behalf,

[ii] Deduction for absence from duty.

[iii] deductions for damge to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default ;

[iv] deductions for house accommodation supplied by the employer or any authority constituted by the Chief Commissioner for providing housing accommodation ;

[v] Deduction for such amenities and services supplied by the employer as the Chief Commissioner may be general or special order authorise.

Explanation:— The words amenities and service this clause do not include the supply of tools and protectives required for the purposes of employment.

[vi] deductions for recovery of advances or for adjustment of over payment of wages ;

Provided that such advances do not exceed an amount equal to wages for two calender months of the employed person and in no case shall the monthly instalment of deduction exceed one fourth of the wages earned in that month ;

[vii] deductions of income tax payable by the employed person;

[viii] deductions required to be made by order of a court or other competent authority ;

[ix] deductions for subscriptions to and for repayment of advances from any provident fund to which the provident funds Act, 9 1925 applies or any recognised provident fund as defined in clause (38) of section 2 of the Income Tax Act, 1961 or any provident fund approved in his behalf by the Chief Commissioner during the continuance of such approval.

[x] deductions for payment of Co-operative Societies or deductions for recovery of loans advanced by an employer from out of a fund maintained for the purpose by the employer and approved in this behalf by the Chief Commissioner or deductions made with the written authorisation of the person employed, for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956) ;

[xi] deductions for recovery or adjustment amounts other than wages paid to the employed Person in error in excess of what is due to him :

Provided that the prior approval of the Inspector or any other officer authorised by the Chief Commissioner in this behalf is obtained in writting before making the deductions, unless employee gives his consent in writting to such deductions :—

[xii] deduction made with the written authorisation of the employed persons which may be given once generally and not necessarily every time a deduction is made, for the purchase of securities of the Government of India or of any state Government or for being deposited in any Post Office Saving Bank in furtherance of any savings scheme of any such Government ;

[xiii] Deductions made with the Written authotisation of

[a] the employed person or

[b] the President or Secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed

for contributions or the National Defence Fund or to any Defence Savings Scheme approved by the Central Government

(3) Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission on the damage or loss, in respect of which the fine or deduction is proposed to be imposed or made and given him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

(4) The amount of fine or deduction for damage or loss mentioned in sub-rule [3] shall be subject to such limits as may be specified in this behalf by the Chief Commissioner. All such fines imposed and deductions made shall be recorded in the registers maintained in Forms I and II respectively these registers shall be kept at the work-spot and maintained up-to-date. Where no fine or deduction has been imposed or made on or from any employee in a wage period, a 'nil' entry shall be made across the body of the relevant register at the end of the wage period, indicating also in precise terms the wage period to which the 'nil' entry relates.

(5) Every employer shall send annually a return in Form III so as to reach Inspector not later than the 1st February following the end of the year to which it relates.

(6) The amount of fine imposed under sub-rule [3] shall be utilised only for such purposes beneficial to the employees as are approved by the Chief commissioner.

(7) Nothing in this rule shall be deemed to affect the provisions of the Payment of wages Act, 1936.

23. Publicity to the minium wages fixed under the Act. Notices in Form XI containing the minimum rates of wages fixed together with abstract of the Act, the rules made thereunder and the name and address of the Inspector shall displayed in English and in a language understood by the majority of the workers in the employment of the main entrance to the establishment and its office and shall be maintained in a clean and legible condition. Such notices shall be displayed so

the notice boards of all Sub-Divisional and District Officer

24. Weekly day of rest :— [1] Subject to the provision of this rule an employee in a scheduled employment in respect of which minimum rates of wages have been fixed under the Act, shall be allowed a day of rest every Week [hereinafter referred to as the rest day] which shall ordinarily be sunday, but the employer may fix any other day for an employee, or else of employees in that scheduled employment ;

Provided that the employee has worked in the Scheduled employment under the same employer, for a continuous period of not less than six days ;

Provided further that the employee shall be informed of the day fixed as the rest day and of any subsequent change in the rest day before the change is effected by display of a notice to that effect in the place of employment at the place specified by the Inspector in this behalf.

Explanation :— for the purpose of computation of the continuous period of not less than six days specified in the first provison to this sub-rule

[a] any day on which an employee is required to attend for work but is given only an allowance for attendance and is not provided with work ;

[b] any day on which an employee is laid off on payment of compensation under the Industrial Disputes Act, 1947 and

[c] any leave or holiday, with or without pay granted by the employer to an employee in the period of six days immediately proceeding the rest day ;

shall be deemed to be days on which the employee has worked

[2] Any such employee shall not be required or allowed to work in a scheduled employment on the rest day unless he has or will have a substituted rest for a whole day on one of the five days immediately before or after the rest day ;

Provided that no substitution shall be made which will result the employee working for more than 10 days consecutively with a rest day for whole day.

[3] Where in accordance with the foregoing provisions of rule any employee works on a rest day and has been given a substituted rest day on any one of the five days before or after the day shall for the purpose of calculating the weekly hours of work included in the week in which the substituted rest day occurs,

[4] An employee shall be granted for the rest day wages calculated at the rate applicable to the next proceeding day and in case he works on the rest day and has been given a substituted rest day he shall be paid wages for the rest day on which he worked at the overtime rate and wages for the substituted rest day at the rate applicable to the next proceeding day ;

Provided that where the minimum daily rate of wages of the employee as notified under the Act has been worked out by dividing the minimum monthly rate of wages by twenty six, or where the actual daily rate of wages of the employee has been worked out by dividing the monthly rate of wages by twenty six and such actual daily rate of wages is not less than the notified minimum daily rate of wages of the employee, no wages for the rest day shall be payable and in case the employee works on the rest day and has been given a substituted rest day, he shall be paid only for the rest day on which he worked; an amount equal to the wages, payable to him at the overtime rate; and if any dispute arises whether the daily rate of wages has been worked out as aforesaid, the Labour Commissioner may, on application made to him in this behalf, decide the same after giving an opportunity to the parties concerned to make written representations.

Provided further that in the case of an employee governed by a piece rate scheme the wages for the rest day or as the case may be the rest day and the substituted rest day shall be such as the Chief Commissioner may, by notification in Andaman and Nicobar Gazette prescribe, having regard to the minimum rate of wage fixed under the Act in respect of the scheduled employment.

Explanation :— In the sub-rule, next proceeding day means the last day on which the employee has worked which proceeds the rest day or the substituted rest day as the case may be and where the substituted rest day falls on a day immediately after the rest day, the next proceeding day means the last day on which employee has worked which proceeds the rest day

[5] The provisions of this rule shall apply to the employee in scheduled employments other than agricultural employment.

[6] The provisions of this rule shall not operate to the prejudice of more favourable terms if any to which an employee may be entitled under any other law or under the terms of any award agreement or contract of service and in such a case, the employee shall be entitled only to the more favourable terms aforesaid

Explanation :— For the purposes of this rule week shall mean a period of seven days begining at midnight on saturday night.

25. Number of hours of work which shall constitute a normal working day :— (1) The number of hours which shall constitute a normal working day shall be;

[a] in the case of an adult 9 hours ;

[b] in the case of a child 4-30 hours.

[2] The working day of an adult workers shall be so arranger that inclusive of the intervals for rest, if any it shall not spread ove more than twelve hours on any day.

[3] The number of hours of work in the case of an adolescent shall be the same as that of an adult or child according as he is certified to work as an adult or a child, by a completent medica practitioner approved by the Chief Commissioner.

[4] The provision of sub-rule [1] to [3] shall, in the case of workers in agricultural employment be subject to such modifications as may from time to time, be notified by the Chief Commissioner.

[5] No child shall be employed or permitted to work more tha 4-30 hours on any day.

[6] Nothing in this rule shall be deemed to effect the provisi ons of the Factories Act, 1948.

26. Night shift :— Where a worker in a scheduled employme works on a shift which extends beyond midnight

[a] a holiday for the whole day for the purpose of rule 24 sh in his case means a period of twenty four consecutive hours begini from the time when his shift ends, and ;

[b] the following day in such a case shall be deemed to be period of twenty four hours begining from the time when such shift e and the hours after midnight during which such workers was enga in work shall be counted towards the previous day.

27. Extra wages for overtime :— (1) When a worker, work an employment for more than nine hours on any day or for more forty-eight hours in any week, he shall in respect of overtime w he entitled to wages :

[a] in the case of employment in agriculture, at one and a time the ordinary rate of wages ;

[b] in the case of any other scheduled Employment, at doubl ordinary rate of wages.

Explanation :— The expression ordinaty rate of wages, mean

basic wages plus such allowances including the cash equivalent of the advantages accuring through the concessional sale to the person employed of food grains and other articles as the person employed is for the time being entitled to but does not include a bonus.

[2] A register of overtime shall maintained by every employer in Form IV in which entries under the columns specified therein shall be made as and when overtime is worked in any establishment. The register shall be kept at the workspot and maintained up to date. Where no overtime has been worked in any wage period a 'nil' entry shall be made across the body of the register at the end of the wage period indicating also in precise terms the wage period to which the 'nil' entry relates.

[4] Nothing in this rule shall be deemed to affect the provision of the Factories Act, 1948.

28. Form of Register and records :— [1] A register of wages shall be maintained by every employer at the workspot in Form XII.

[2] A wage slip in Form XIII shall be issued by every employer to every person employed by him at least a day prior to the disbursement of wages.

[3] Every employer shall get the signature or the thumb impression of every person employed on the register of wages and wage slip.

[4] Entries in the registers of wages and wage slips shall be authenticated by the employer or any person authorised by him in this behalf.

[5] A Muster Roll shall be maintained by every employer at the workspot and kept in Form V.

[6] Every employer shall maintain a register in Form XIV in which the permanent address age other particulars of the employed person shall be recorded.

29. Preservation of Registers :— A register required to be maintained under rules 22 [4], 27 [2] and 28 [1] and the muster roll required to be maintained under rule 28 [5] shall be preserved for a period of three years after the date of last entry made therein.

30. Production of Registers and other Records :— [1] All registers and records required to be maintained by an employer under these rules shall be produced on demand before the Inspector during the course of inspection of the establishment.

Provided that the Inspector may, if it is necessary, demand th production of the registers and records in his office or such oth public place as may be nearer to the employer :

[2] any infringement of the provisions of the Act, or the rules noticed by the Inspector and communicated to the employ during the course of an inspection or otherwise shall be rectifi by the employer and compliance report in respect thereof shall submitted to the Inspector on or before the date specified by in this behalf.

3. Notwithstanding anything contained in these Ru where a combined [alternative form is sought to be used by employer to avoid duplication of work for compliance with provisions of any other Act or the rules framed thereunder; alternative suitable form in lieu of any of the forms presc under these rules may be used with the previous approval of Labour Commissioner, Andaman and Nicobar islands.

CHAPTER — V

CLAIMS UNDER THE ACT

32. Applications :— [1] An application under sub—se (2) of section 20 or sub-section (1) of section 21, by or on of an employed or group of employed persons shall be ma duplicate in Form VI VII or VIII as the case may be one co which shall bear the prescribed court fee.

[2] A single application under section 20 read with su tion (1) of section 21 may be presented on behalf or in resp group of employed persons, if they are borne on the same shment and their claim relates to the same wage period or

33. Authorisation :— The authorisation to act on beh employed person or persons under sub-section (2) of section sub-section [1] of section 21 shall be given in Form IX by an ment which shall be presented to the Authority hearing th cation and shall form part of record.

34. Appearance of parties :— [1] If an application un section [2] of section 20 or section 21 is entertained, the shall serve upon the employer by registered post a notice in appear before him on a specified date with all relevant d and witnesses, if any and shall inform the applicant of the specified.

2. If the employer or his representative fails to app

specified date the Authority may here and determine the application ex-parte.

[3] If the applicant or his representative fails to appear on the specified date, the Authority may dismiss the application.

[4] An order passed under sub-rule [2] or sub-rule [3] may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order and the application shall then be re-heard after service of notice on the opposite party of the date fixed for re-hearing, in the matter specified in sub-rule [1]

CHAPTER — VI

SCALE OF COSTS IN PROCEEDING UNDER THE ACT

35. Costs: — [1] The authority, for reasons to be recorded in writting may direct that the cost of any proceedings pending before it shall not follow the event.

[2] The cost which may be awarded shall include :

[i] expenses incurred on account of court fees,

[ii] expenses incurred on subsistance money to witnesses and

[iii] pleaders fees to the extent of ten rupees provided that the Authority in any proceedings may reduce the fees to a sum of not less than five rupees or for reasons to be recorded in writting increase it to a sum not exceeding twenty-five rupees.

Applicant or opponent the Authority may, subject as aforesaid, award to the successful party or parties such costs as it may deem proper.

36. Court Fees :— The Court Fee payable in respect of proceedings under section 20 shall be :—

[i] for every application to summon a witness One Rupee in respect of each witness :

[ii] for every application made by or on behalf of an individual one rupee, exempt him wholly or partly from the provisions to the Authority may, if in its Opinion the applicant is a person exempt him wholly or partly from the payment of such fees :

Provided further that no fee shall bechar gable

[a] from persons employed in agriculture; or

[b] in respect of an application made by an Inspector

[iii] for every application made on behalf of an employee of a

number of employees One rupee per employee subject to a maxim of twenty rupees.

CHAPTER — VII
MISCELLANEOUS

37. Saving :— These rules shall not apply in relation to a scheduled employment in so for as there are inforce rules applical to such employment which in the opinion of the Chief Commission make equally satisfactory provisions for the matters dealt with those rules and such opinion shall be final.

FORM I
REGISTER OF FINES
(Rule 22 (4))

Employer .....

Serial No.	Father's Name / Husbands Name	Sex	Department	Nature and date of the offence for which fine imposed	Whether workman showed cause against fine or not if so enter date	Rate of wages	Date and amount of fine	Date on which fine realised	Remarks
1	2	3	4	5	6	7	8	9	10

FORM II
REGISTER OF DEDUCTION FORM DAMAGES OR LOSS CAUSES TO EMPLOYER
BY THE NEGLECT OR DEFAULT OF THE EMPLOYED PERSO

(Rule 22 (4))

Employer.....

Serial No.	Name	Father's Name / Husband's Name	Sex	Department	Damage or loss caused with date	Where worker showed causes against deduction if so enter date	Date and amount of deduction imposed	Number of instalments, if any	Date on which total amount realised	Remarks
1	2	3	4	5	6	7	8	9	10	11

FORM III

Annual Return

(Rule 22 (5))

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

1. [a] Name of the establishment and postal address .....

   [b] Name and residential / address of the owner / contractor.....

   [c] Name and residential address of the Managing Agent / Director / Partner in charge of the day-to-day affairs of the establishment owned by a company, body corporate or Association.....

   [d] Name and residential address of the manager / Agent if any.....

2. Number of days worked during the year.....

3. Number of mondays worked during the year.....

4. Average daily number of persons employed during the year.....

[i] Adults..... [ii] Children.....

5. Total Wages paid in cash.....

6. Total cash value of the wages paid in kind.....

7. Deductions :

	No. of case	Amount Rs.	Rs.
[a] Fine			
[b] Deductions for damages or loss			
[c] Deductions for breach of contract			

	Purpose	Amount Rs	Ps.
(a)		(b)	
(c)		(d)	

8. Balance of fine fund in hand at the end of the year

Dated.....

Signature

Designation.....

FORM IV

OVERTIME REGISTER FOR WORKERS

(Rule 27 (2)

Month ending.....19.....

Serial No.	Name	Father's/Husband's Name	Sex	Designation and Department	Date of which overtime worked	Extend of overtime on each occassion	Total overtime worked on production in case of piece workers	Normal hours	Normal rate	Overtime rate	Normal earning	Overtime earning	Total earning	Dates on which overtime payments made
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

FORM V

MUSTER ROLL

(Rule 28 (5)

Name of establishment ..... Place

Serial Number	Name	Father's/Husband's Name	Sex	Nature of work	For the period ending									Remarks
					1	2	3	4	5	6				

FORM VI

(Rule 32)

Form of Application by an Employee under Section 20 (2)

In the Court of the Authority appointed under the Minimum
ges Act, 1948 for area Application No. 19
(1) Applicant
rough a Legal Practitioner/official
Union which is a registered Trade Union)
Address
(1)
(2) Versus
(3) Opponent(s)
Address

The applicant above named states as follows :—

(1) The applicant was / has been employed from 19 as
gory] in [Establishment] of Shri/Messers
ged in [nature of wrok] which is scheduled employ
within the meaning of section 2 (g) of the Minimum Wages Act.

2] The opponent[s] is/are the employer(s) within the meaning
tion 2 [e] the Minimum Wages Act.

[3] (a) The applicant has been paid wages at less than the minimum rate of wages fixed for his category of employment under the Act by Rs ..... per day for the period from to

(b) The applicant has not been paid wages at Rs..... per day for weekly days of rest from to

(c) The applicant has not been paid wages at the overtime rate for the period from

(4) The applicant estimates the value of relief sought by him each account as under :—

(a) Rs. (b) Rs. (c) Rs.
Total Rs.

(5) The applicant, therefore, prays that a direction may be issued under section 20[3] of the Act for;

(a) Payment of the difference between the wages payable under the Minimum Wages Act & the Wages actually paid

[b] Payment of remuneration for the days of rest.

[c] Payment of Wages at the overtime rate

(6) The application begs leave to amend or add to or make alterations in the application if and when necessary, with the permission of the Authority.

[7] The applicant does solemnly declare that the facts stated in this application are true to the best of his knowledge, belief and information.

Dated Signature of thumb impression of the employed person or legal practioner, or official of a registered Trade Union duly authorised.

FORM VII
(Rule 32)

(Form of Group Application under section 21 (1)

In the Court of Authority appointed under the Minimum Wages Act, 1948 for ..... area ..... Application No ..... 19...

Between A,B.C and (State the number) ..... others ..... (through ..... a legal practitioner/an offical of ..... which is Registered Trade Union) .....

Address ..... and XYZ ..... Opposite party
Address .....

The Applicants state as follows :—

(1) The applicants whose names appear in the attached schedule were/have been employed from.....to..... as..... (categories) in ..... [establishment] of Shri/Messrs..... on ..... [nature of work] which is/are scheduled employment[s] within the meaning of section 2[g] of the Minimum Wages Act.

[2] The opponent[s] is/are the employer[s] within the meaning of section 2[e] of the Minimum Wages Act.

[3] [a] The applicants have been paid wages at less than the minimum rates of wages fixed to their category [categories] of employment[s] under the Act by Rs..... from..... for day for the periods]

[b] The applicants have not been paid wages at ..... for the week days of rest from..... to..... the period from.....to.....

[4] The applicant estimate the value of relief sought by them on each account as under :—

[a] Rs..... [b] Rs..... [c] .....
Total Rs.....

[5] The applicants, therefore, pray that a direction may be issued under section 20 [3] of the Act for;

[a] Payment of the difference between the wages payable under Minimum Wages Act and the wages actually paid;
[b] Payment of remuneration for the day of rest ;
[c] Payment of the Wages at the overtime rate[s]

[6] The applicants beg leave to amend or add to or make alterations in the application, if and when necessary with the permission of the Authority.

[7] The applicants do solemnly declare that the facts stated in the applications are true to the best of their knowledge belief and information

.....

Signature or thumb impression of the employed persons or legal practition or official of a Registered Trade Union duly authorised

FORM VIII
(Rule 32)

Form of application by an Inspector or Person acting with the permission of the Authority under section 20 [2]

In the Court of Authority appointed under the Minimum Wages Act, 1948 for.....area.....Application No.....of 19.....

[1] .....Applicant Address.....

Versus

[2] .....Opponent[s] Address.....

The applicant above named state as follows :—

[1] The opponent[s] has / have

[a] Paid wages at less than the minimum rates of wages fixed for their category [categories] of employment[s] under the Act by Rs.....per day for the period[s] from.....to.....

[b] not paid wages at Rs.....per day for the weekly days of rest from.....to.....

(c) not paid wages at the overtime rate(s) for the period from.....to.....to the following employees :

(2) The applicants estimates the value of relief sought for the employees on each accounts under :—

(a) Rs..... (b) Rs..... (c) Rs.....

(3) The applicant, therefore prays that a direction may be issued under section 20(3) of the Act for :

(a) Payment of the difference between the wages payable under the minimum Wages Act and the wages actually paid :—

(b) Payment of remuneration for the days of rest

(c) Payment of wages at the overtime rate(s).

(4) The applicant begs leave to amend or add to or make alterations in this applications if and when necessary with the permission of the authority.

(5) The Applicant does solemnly declare that the facts stated in this application are true to the best of his knowledge, belief and information

Date.....

Signature.....

FORM IX

(Rule 33)

(Form of Authority in favour of a Legal practitioner or any Official or a registered trade union referred to in section 20(2)

In the court of the Authority appointed under the Minimum Wages Act, 1948 for.....area.....Application No.....of19.....

(1)
(2)
(3) | Applicant[s]

Versus

(1)
(2)
(3) | Opponent[s]

I hereby authorise Mr.....a legal practitioner, an official of the registered Trade Union of.....to appear and act on my behalf in the above described receding and to do all things / incidential to such appearing and acting

Date..... Signature or thumb impression of the employee

FORM X
(Rule 34)

(FORM OF SUMMONS TO THE OPPONENT TO APPEAR BEFORE THE AUTHORITY WHEN AN APPLICATION UNDER SUB-SECTION (2) OF SECTION 20 OR UNDER SECTION 21 IS ENTERTAINED)

[Title of the Application]

To

[Name, description and place of residence]

Whereas.....has made above said application to me under the Minimum Wages Act, 1948 you are hereby summoned to appear before me in person or by a duly authorised agent able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such question.

on the.....day of.....19 at.....O'Clock in the.....noon, to answer the claim; and as day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence & all the documents upon which you intend to reply in support of your defence

Take notice that in default of your appearance on the day before mentioned, the application will be heard and determined in your absence

Date.....

FORM XI
Notice [Rule 23]

EXTRACT FROM THE MINIMUM WAGES ACT, 1948 AND THE RULES MADE THERE UNDER

I, WHOM THE ACT AFFECTS

1 (a) The act applies to persons engaged on scheduled

employment on specified class of work in respect of which minimum wages have been fixed,

[b] No employee can given up by contract or agreement his rights in so far as it purports to reduce the minimum rates of wages fixed under the Act.

II. DEFINITION OF WAGES

1. 'Wages' means all remuneration payable to an employed person on the fulfilment of his contract of employment [and includes house rent allowance]. It excludes :—

[i] the value of any house-accommodation, supply of light water medical attendance or any other amenity or any service extended by general or special order of the appropriate Government;

[ii] Contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of Social Insurance;

[iii] the travelling allowance or the value of any travelling concession [illegible]

[iv] the sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;

[v] gratuity payable on discharge,

2. The Minimum rate of wages may consist of :—

[i] a basic rate of wages and a special allowance called the cost of living allowance;

[ii] a basic rate of wages with or without a cost of living allowance and the Cash value of any concession like supplies of essential Commodities of concessional rates,

[iii] an all inclusive rate comprising of basic rate; cost of living allowance and cash value of concession, if any.

3. The minimum wages payable to employees of scheduled employment notified under section 5 read with section 3 or as revised from time to time under section 10 read with section 3 may be :—

[a] a minimum time rate, [b] a minimum piece rate,
[c] guaranteed time rate, [d] an overtime rate,

differing with (1) different schedule employment; (2) different classes of work. (3) different localities (4) different wage periods and (5) different age groups.

III. COMPUTATION AND CONDITION OF PAYMENT

The employer shall pay to every employee engaged in scheduled employment under him wages at a rate not less than the minimum rate of wages fixed for that class of emdloyee.

The minimum wages payable under this Act shall be paid in cash unless the Government authorises payment therof either wholly or partly in kind.

Wage period shall be fixed for payment of wages at intervals not exceednig one month (or such other larger period as may be prescribed).

Wages shall be paid on a working day within seven days of the end of the wage period or within ten days if 1000 or persons are employed.

The wages of persons discharged shall be paid not later than the second working day after his discharge.

If an employee is employed on any day for a period less than the normal working day, he shall be entitled to received wages for a full normal working day provided his failure to work is not caused by his unwillingness to work but by the ommisson of the employer to provide him for work for that period.

Where an employee does two or more classes of work in each of which a different minimum rate of wagea is applicable the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each class.

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed the employer shall pay to such employee wages at not less than the minimum time rate.

IV HOURS OF WORK AND HOLIDAYS

The number of hours which shall constitute a normal working day shall be :—

[a] In the case of an adult, 9 hours

[b] in the case or a child 4-30 hours.

The working day for an adult worker inclusive of the intervals of rest shall not exceed twelve hours on any day.

The employer shall allow a day of rest with wages to the employees every week ordinarily sunday will be the Weekly day of rest, but any other day of the week may be fixed as such rest day. No employee

shall be required to work on a day fixed as rest day, unless he is paid wages for that day at the overtime rate is also allowed a substituted rest day with wages (see rule 23)

When a worker works in an employment for more than nine hours on any day or for more than forty eight hours in any week, he shall in respect of overtime worked be entitled to wages in scheduled employment other than agriculture, at double the ordinary rate of wages.

V FINES AND DEDUCTIONS

No deduction shall be made, from wages except those authorised by or under the rules,

Deduction from the wages shall be one or more of the following kinds namely:—

(i) FINES :— An employed person shall be explained personally and also in writing the act or omission of which the fine is proposed to be imposed and given an opportunity to offer any explanation in the presence of another person;

The amount of the said fine shall also be intimated to him. It shall be subject to such limits as may be specified in this behalf by the Central Government. It shall be utilised in accordance with the directions of the State Government;

[ii] Deductions for absence from duty;

[iii] deductions for damage to or loss of goods, entrusted to the employee for custody, or for loss of money for which he is required to account, where such damage, or loss is directly attributable to his neglect or default The employed person shall be explained personally and also in writing the damage or loss, in respect of which the deduction is proposed to be made and given an opportunity to offer any explanation in the presence of another person. The amount of the said deduction shall also be intimated to him. It shall be subject to such limits as may be specified in this behalf by the State Government;

[v] deductions for such amenities and services supplied by the the employer as the Central Government may by general or special order authorise. These will not include the supply of tools and protectives required for the purpose of employment;

[vi] deductions for recovery of advances or for adjustment of over-payment of wages, such advances shall not exceed an amount equal to wages for two calender months of the employer person and the

monthly instalment of deduction shall not exceed one fourth of the wages earned in that month;

[vii] deductions of income tax payable by the employed person;

[viii] deductions required to be made by order of a court or other competent authority.

[ix] deductions for subscriptions to and for payment of advances from and any provident fund,

[x] deductions for payment to co-operative societies or deductions for recovery of loans advances by an employer from out of a fund maintained for the purpose by the employer and approved in this behalf by the State Government or deductions made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Act, 1956. (31 of 1956)

[xi] deduction for recovery or adujstment of amount other than wages paid to the employed person in error or in excess of what is due to him. Provided the prior approval of the Inspector or any officer authorised by the Central Government in this behalf is obtained in writing before making the deductions, unless the employee gives his consent in writing to such deductions

[xii] deductions made with the written authorisation of the employed person which may be given once generally and not necessarily every time and deduction is made for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Saving Bank in furtherance of any savings Scheme of any such Government,

Every Employer shall send annually a return in Form III showing the deductions from wages so as to reach the inspector not later than the 1st February, following the end of the year to which it relates.

VI. MAINTENANCE OF REGISTERS AND RECORDS

Every employer shall maintain, at the work-spot a register of wages in the form prescribed specifying the following particulars for each period in respect of each employed person,

(a) The minimum rates of wages payable
(b) The number of days in which overtime was worked
(c) The gross wages.
(d) All deductions made from wages,
(e) The wages actually paid and the date of payment.

Every employer shall issue wage slips in the form prescribed containing prescribed particulars to every person employed.

Every employer shall get the signature or the thumb impression of every person employed on the wage books and wage slips.

Entries in the wage-book and wage slips shall be properly authenticated by the employer or his agent.

A muster roll register of fines, register of deductions for damages or loss and register of overtime shall be maintained by every employer at the work spot in the form prescribed.

Every employer shall keep exhibited at the main entrance to the establishment and its office notice in English and in a language understood by majority of the workers of the following particulars in a clean and legible form.

(a) Minimum rate of wages,
(b) Abstract of the Acts and the Rules made thereunder,
(c) Name and address of the Inspector

Register of wages, Muster Roll, register of fines, register of deductions of damage ot loss and register of overtime shall be preserved for a period of three years after the date of last entry made therein.

All registers and records required to be maintained by an employer under the Rules shall be produced on demand before the Inspector provided that where an establishment has been closed, the Inspector may demand the production of the register and records in his office or such other public place as may be nearer to the employers

VII. INSPECTORS

An Inspector can enter in any premises and can exercise powers of inspection including examination of document and taking of evidence as he may deem necessary for carrying out the purposes of the Act

VIII CLAIMS AND COMPLAINTS

Where an employee is paid less than the minimum rates of wages fixed for his class of work or less than the amount due to him under the provisions of this Act, he can make an application in the prescribed form within six months to the authority appointed for the purpose. An application delayed beyond this period may be admitted if the authority is satisfied that the applicant had sufficient cause for not making the application within such period.

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.

A single application may be presented on behalf of or in respect of a group of employed persons whose wages have been delayed, if they are borne on the same establishment and their claim relates to the same wage period of periods;

A complaint under section 22 (a) relating to payment of less than the minimum rates of wages or less than the amount due to an employee under the provisions of the Act can be made to the Court only after an application inrespect of the facts constituting the offence has been presented under section20and has been granted wholly or in part and the appropriate Government or an officer authorised by it in this behalf has sanctioned the making of the complaint.

A complaint under section 22 (b) or 22 A regarding contravention of the provisions relating to hours of work and weekly day of rest or other miscellaneous offences relating to maintenance of registers, submission of return etc can be made to the Court by or with the sanction of a Inspector. The time limit for making such complaints is one month from the date of grant of sanction by the Inspector in the case of offences falling under section 22 (b) and six months from the date on which the offence is alleged to have been committed in the case of offences falling under section 22 A

IX. ACTION BY AUTHORITY

The authority may direct the payment of the amount by which the minimum wages payable exceed the amount actually paid together with the payment of compensation not exceeding ten times the amount of such excess. The Authority may direct payment of compensation in cases where the excess is paid before the disposal of the application,

If a malicions 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.

Every direction of the authority shall be final.

X. PENALTIES FOR OFFENCES UNDER THE ACT

Any employer who pays to any employee less than the amount due to him under the provisions of this Act or infringes any order or rules in respect of normal working day, weekly holiday, shall be punishable with imprisonment of either description for a terms which may extend to six months or with fine which may to extend to five hundred rupees or with both,

Any employer who contravenes any provision of the Act or any rule or order made thereunder shall, if no other penalty is provided for such contravention by the Act be punishable with fine which may extend to five hundred rupees, If the person committing any offence under the Act is a Company, every person who at the time offence was committed was incharge of and any responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly No such person will be liable to punishment if he proves that the offence was committed without his knowledge or that the exercised all due diligence to prevent the commission of such offence.

Any director manager, secretary or other officer of the company with whose consent or connivance an offence has been committed is liable to be proceeded against and punished under the Act.

Note [a] "Company" means any body corporate and including a firm or other association of individuals

[b] "Director" in relation to a firm means a partner in the firm

XI. MINIMUM RATES OF WAGES FIXED

Name of undertaking .....

Serial No	Category of employees	Minimum Wages

FORM XII
REGISTER OF WAGES
[RULE 28 (1)]

Wage period from .....to..... Name of Establishment .....
Place.....

Sl. No	Name of the employee	Father's/ Husband's Name	Designation	Minimum rate of wages payable	
				Basic	D. A.
1	2	3	4	5	6

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XI. MINIMUM RATES OF WAGES FIXED

Name of undertaking .....

Serial No	Category of employees	Minimum Wages

FORM XII

REGISTER OF WAGES

[R U L E 28 (1)]

Wage period from .....to ..... Name of Establishment .....

Place .....

Sl. No.	Name of the employee	Father's/ Husband's Name	Desig-nation	Minimum rate of wages payable	
				Basic	D. A.
1	2	3	4	5	6

Rate of wages actually paid		Total attendance units of work done	Overtime worked	Gross wages payable
Basic 7	D. A. 8	9	10	11

Employees contribution to P. F.	H. R.	Other deduction	Total deduction	Wages paid
12	13	14	15	16

Dates of payment	Signature or thumb impression of employee
17	18