

ASSAM SHOP AND ESTABLISHMENTS RULES, 1976

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ASSAM SHOP AND ESTABLISHMENTS RULES, 1976

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CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) These rules may be called the Assam Shops and Establishments Rules, 1976.

(2) They shall come into force at once.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context

(a) 'the Act' means the Assam Shops and Establishments Act, 1971 ;

(b) 'Appellate authority' means the authority set up under these rules ;

(c) 'Family' in relation to an employer means

(i) spouse;

(ii) children and step-children ; and

(iii) parents, sisters and brothers, nephews and nieces, if residing with and wholly dependent upon him/them.

(d) 'Form' means a form appended to these rules ;

(e) 'Government' means the Government of Assam ;

(f) 'Rule' means rules framed under the Act;

(g) 'Schedule' means a Schedule appended to these rules ;

(h) 'Section' means a section of the Act;

(i) 'Time' with reference to time of day in this rule means the Indian Standard Time which is five and a half hours ahead of Greenwich Time ;

(j) Words and expressions used in the Act and not defined in these rules shall have the same meaning as assigned to them in the Act.

CHAPTER 2

Overtime work and weekly holidays

3. Overtime slip :-

In addition to recording the full particulars of the overtime work done by an employee on any day in the register prescribed for the purpose, overtime slips in Form No. 'A' shall be issued to an

employee immediately after overtime work is done by him on each occasion by the employer concerned under his own signature or under the signature of any other person authorised by him to do so on his behalf by general or special order :

Provided that copies of such general or special orders shall be pasted on the Notice Board of the establishment for information of the employees concerned.

4. Manner of computing the money value of meals and concessional supply of food grains and other articles :-

(1) The price of meals of the type and standard actually made available to an employee by his employer in terms of the contract of service, expressed or implied, charged in the nearest hotel or restaurant, as the case may be, immediately before the date on which overtime work is done or the leave commences shall be regarded as the money value of such meals made available to that particular employee for the purpose of calculating either the leave wages or the overtime wages, as the case may be.

(2) For the purpose of computing the money value of food grains and other articles supplied or made available to a particular employee in a wage period, the difference between the prices of food grains and other articles prevailing on an average during that period in the nearest market in the area where the concerned employee ordinarily resides and the price at which food grains and other articles are supplied to him by his employer, shall be reckoned by it for calculating the overtime wages or the leave wages.

(3) If any dispute arises in respect of computation of the money value of meals and food grains and other articles made available to an employee by his employer, the matter may be referred to the local Inspector of Shops and Establishments by either of the parties to the dispute and his decision thereon shall be final and binding on both the employer and the employee concerned unless it is modified in any manner on appeal. If, however, the order of the Inspector is modified, the order so modified shall be final and binding on both the parties to the dispute and shall not be liable to be questioned in any court of law and be given effect to within such time as may be specified in the order of the appellate authority.

5. Notice of weekly closure of shops :-

(1) Every employer of a shop shall display a weekly closure notice in Form 'B' specifying the day of the week on which the shop shall remain entirely closed.

(2) Every employer of a shop, before displaying the weekly closure notice in Form 'B' shall submit the said notice with the required entries in duplicate to the Inspector of shops and establishments within whose jurisdiction the shop is situated and the inspector shall, on receipt of the Forms duly filled in and on being satisfied about the correctness of the entries made therein, countersign them and shall, after retaining one copy thereof for his office record, return the other copy to the employer for display in the shop as required under the Act.

6. Notice of Weekly Holidays in establishments :-

(1) The employer, in a commercial establishment or an establishment for public entertainment or amusement, as the case may be, shall display in the establishment a Notice in Form 'C' specifying the one and a half days in each week during which every employee in the establishment shall be allowed holidays.

(2) Every employer in a commercial establishment or an establishment for public entertainment or amusement, before displaying the Notice in Form 'C', shall submit the said Notice with the required entries in duplicate to the Inspector within whose jurisdiction the establishment is situated and the Inspector shall, on receipt of the Forms duly filled in and on being satisfied about the correctness of the entries made therein, countersign the Forms and shall, after retaining one copy thereof for his office record, return the other copy to the employer for display in the establishment.

(3) The one and a half Weekly Holidays so determined by the employer of an establishment shall be continuous and shall not be altered more than once in any year.

7. Restrictions on double employment :-

No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of the Act and these rules.

CHAPTER 3

Leave

8. Privilege leave :-

(1) Every employee in an establishment desiring to avail of any privilege leave which is due to his credit under the Act, shall make an application in writing at least seven days prior to the intended commencement of such leave and the employer shall issue orders on the application within three days of its submission :

Provided that the employer may, if satisfied that the leave is required for urgent matters, waive the period of seven days' notice and pass orders accordingly :

(2) Leave due and prayed for shall not be refused and no part of the privilege leave earned by an employee in an establishment shall be allowed to lapse by the refusal of the employer to grant such leave :

Provided that the employer may regulate the grant of privilege leave according to convenience of work in the establishment;

Provided further that all refused privilege leave shall accumulate without any limit.

(3) Every employee who has been allowed leave sub-R. (1) above shall, on demand, before his leave begins, be paid by the employer half the total amount of wages due to him for the period of such leave.

9. Casual leave :-

Ordinarily casual leave of absence shall not be admissible for more than seven days at a time and previous permission in writing of the employer shall be obtained before such leave is availed of:

Provided that when it is not possible to obtain such previous permission the employer shall, as soon as may be practicable, be informed in writing of the absence from duty and the probable duration of such absence with reasons thereof.

10. Medical leave :-

Grant or extension of medical leave on grounds of sickness incurred or accident sustained, if due, shall not be refused when prayed for in writing by or on behalf of an employee supported by a certificate from a registered medical practitioner:

Provided that the employer may, if he so think fit and undertakes to defray the cost involved, require the employee by an order in

writing to be examined by the nearest State Health Officer of Class I and if the employee refuses to submit to such examination or is certified on such examination to be fit for duty, the employer may refuse the leave or extension thereof, as the case may be.

11. Combination of medical leave with privilege leave :-

Leave on medical certificate allowed under R. 10 above may be combined with privilege leave if due under the Act.

12. Prohibition of alteration of nature of leave :-

The employer shall not alter the nature of leave applied for by the employee.

13. Intimation of employees address on leave :-

Every employee praying for privilege or medical leave shall intimate to the employer his address during the period of leave and if there is any change of the address so communicated, that shall be intimated within three days of such change.

14. Extension of leave :-

If an employee after proceeding on leave desires an extension thereof, he shall apply in writing to the employer, and the latter shall send a written reply either granting or refusing the extension of leave to the applicant at the address last given by him.

15. Unauthorised absence :-

(1) If an employee remains absent without leave or beyond the period of leave originally granted or subsequently extended, the employer shall, before taking any disciplinary action against the absentee employee, issue a notice requiring him to explain in writing the reasons of his absence within fifteen days of the receipt of the notice.

(2) If on receipt of the notice referred to in sub-R. (1) above, the absentee employee explains the reasons of his absence to the satisfaction of the employer, the latter may regularise the period of unauthorised absence by grant of such leave as may be due to the employee and treat the remaining period of absence, if any, as leave of absence without wages; and where the explanation given by the employee is considered not satisfactory, the employer may either treat the period of unauthorised absence of the employee as absence without wages even though leave with wages may be due to him or terminate his lien on service, depending on the seriousness and gravity of the case.

(3) If the employee does not submit any explanation of the employer within the time limit given in the notice referred to in sub-R. (1) above, the latter may terminate the lien of the person employed on his service.

(4) The notice referred to in sub-R. (1) above shall be served by registered post to the address given under R. 13, or in its absence, to the address last given by the persons employed.

CHAPTER 4

Wages and termination of service

16. Continuous employment for six months :-

An employee shall be deemed to have completed a period of six months continuous service within the meaning of sub-S. (1) of S. 18 of the Act, notwithstanding any interruption in service during those six months brought about (a) by sickness, accident or authorised leave (including authorised holidays and weekly holidays) not exceeding forty-five days in the aggregate, or (b) by a lock-out, or (c) by a strike which is not an illegal strike or (d) by intermittent periods of involuntary unemployment not exceeding fifteen days in the aggregate, an authorised leave shall be deemed not to include any weekly holiday allowed under this Act, which occurs at the beginning or end of an interruption brought about by the leave.

17. Appellate Authority :-

For the purpose of sub-S. (2) of S. 18 of the Act, Assistant Commissioner of the area shall be the Appellate Authority. Explanation. Assistant Labour Commissioner includes Senior Assistant Labour Commissioner.

18. Time within which appeal can be submitted :-

(1) An employee, whose service have been dispensed with on alleged contravention of the provision of sub-S. (1) of S. 18 of the Act may within thirty days of the date of termination of service, make an appeal to the appellate authority.

(2) The appellate authority may, however, entertain an appeal after the expiry of the aforesaid period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

19. Procedure for hearing of appeal :-

(1) The appellate authority, on receipt of the memorandum of appeal and on being satisfied that there is a prima facie case showing alleged contravention, shall fix a date for the hearing of the appeal by giving due notice in Form 'D' to the appellant and in Form 'E' to the employer, whose order is appealed against to appear in person or by a duly authorised agent and shall, after giving both the parties fair and full opportunity of being heard and making such further enquiry as he may deem fit, dispose of the appeal in the manner required under the provisions of the Act as expeditiously as possible.

(2) The decision or the order of the Appellate Authority shall be recorded in Form 'F' and it shall be carried out by the employer concerned within the period specified by the appellate authority.

20. Recovery of sums of money under S.18 :-

When any sum of money is due from an employer under sub-S. (3) or (4) of S. 18, and the amount has not been paid by the employer within such period as may be fixed by the appellate authority in his order, the latter shall issue a certificate to the Collector who shall recover it as arrears of land revenue with utmost expedition.

21. Issue of appointment letters to employees :-

Every employer in an establishment shall furnish every employee with a letter of appointment effective from the actual date of employment in Form 'G' in the case of every person who is

(i) already in the employ of the establishment within thirty days from the date on which these rules come into force ; and

(ii) employed in the establishment after these rules come into force, and before the person so employed commences work :

Provided that it shall not be necessary for an employer to issue such letter of appointment to an employee who is already in the employ and has already been furnished with a letter of appointment in any other form substantially containing the particulars specified in Form 'G'.

22. Employees liability to give prior notice :-

An employee in an establishment who has put in three months' service shall have to give fifteen days' notice in writing before quitting his job and in default the employee may forfeit to the maximum of his seven days' unpaid wages.

23. Evidence as to age of an employee :-

(1) In respect of an employee in an establishment the Chief Inspector or the Inspector of the area within whose jurisdiction the establishment is situated may, at any time, in writing require the employer to produce at his own cost within such time, not being less than ten days from the date of the requisition, one of the following documents showing the age of such person employed, namely a certified copy of an extract from

(i) the records of any schools ;

(ii) the Birth Register of Local Authority.

(2) In the case of the employer's failure to produce either of the documents required under sub-R.(1) above the Chief Inspector or the Inspector shall, at the cost of the employer, arrange to determine the age of the person employed through medical examination by the District Health Officer of the area or by any other competent medical officer not below that rank.

CHAPTER 6

Health and safety

24. Times and methods of cleansing establishments :-

(1) Subject to the provisions of sub-R.(2), in every establishment

(a) all the inside walls of the rooms and all the ceilings and tops of such rooms (whether such walls, ceilings and tops be plastered or not) and all the passages and staircases shall be lime-washed or colour-washed at least once a year, unless in the opinion of the local Inspector such walls, ceilings, passages or staircases require to be lime-washed or colour-washed earlier;

(b) all the beams, rafters, doors, window frames and other wood work with the exception of floors shall be either painted or varnished once in two years.

(2) Nothing in this rule shall apply to

(a) rooms (not being rooms in residential hotels, restaurants and eating houses) used only for storage of articles ;

(b) walls or tops of rooms which are made of galvanised iron, tiles, asbestos sheets or similar material or glazed bricks ;

(c) any other establishment or part thereof in which lime-washing or painting is in the opinion of the local Inspector unnecessary to satisfy the requirements of S. 21 of the Act in respect of cleanliness.

(3) All floors, passages and stairs shall be swept, washed and dried (wherever necessary with mixtures of detergents or deodorisers) at least once a day to keep them adequately clean and free from slippery agents or substances giving offensive smell.

(4) Where the floor of the premises of an establishment is liable to become wet in the course of any process effective means of drainage shall be provided and maintained.

(5) No rubbish, filth or debris shall be allowed to accumulate or to remain on or near any premises in an establishment in such position the effluvia can arise therefrom.

(6) All drains carrying waste or sullage water or sewage shall be constructed of impermeable material and shall be flushed regularly twice daily.

(7) The dates on which lime-washing, colour-washing, painting or varnishing is carried out under sub-R. (1) shall be duly entered in a register maintained in Form 'H'.

(8) In every establishment in which articles are stored with a view to their transport or sale, adequate washing facilities shall be provided and maintained free for the use of employees such as soap, towel, nail brush, etc.

(9) No stationary internal combustion engine shall be operated in any establishment unless the exhaust is conducted into the open air and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the health of employees working in the establishment.

(10) In every establishment, in which there is given off any dust or fume or other impurity of such nature and to such an extent as is likely to be injurious or offensive to the persons working therein, effective measures shall be taken to prevent its inhalation and accumulation in the premises and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity and such

point shall be enclosed as far as possible.

(11) Every employer of an establishment where food, drink and beverage is prepared and served shall ensure that all the persons employed in connection with the business of the establishment, including the employer himself, are free from any communicable diseases. A certificate in Form T to the effect that the person so employed is free from communicable disease shall be obtained from a competent medical officer not below the rank of Health Officer of Class 1 and produced before the Inspector on demand.

(12) In every establishment proper arrangements shall be made for providing sufficient supply of drinking water to the employees. The water so supplied shall be fit for human consumption and shall be stored in a hygienically sheltered place and kept cleanly and properly covered. As far as practicable only filtered water shall be supplied for the purpose.

(13) Every employer in an establishment shall provide and maintain at convenient places sufficient number of spittoons in a clean and hygienic condition with disinfectants which may be liquid or sand covered with lime. The disinfectants shall be replaced daily.

(14) Latrines and urinals shall be so situated as be conveniently accessible and shall be provided in every establishment in sufficient number for the use of the employees thereof. The walls, ceilings and partitions of every latrine and urinal shall be made of glazed tiles as far as practicable and wherever they are not made of glazed tiles, they shall be white-washed or colour-washed once in every month. All latrines and urinals shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

25. Ventilation :-

In every work room or hall of an establishment windows and other forms of openings for ventilation shall be provided in sufficient numbers to admit a continued supply of fresh air so as to keep the atmosphere inside such room or hall comfortable and free from dust, fumes and other impurities.

26. Precautions against fire :-

(1) Every establishment shall be provided with adequate means of escape in case of fire.

(2) In every establishment the doors affording exit from any room shall not be locked or fastened in such a way that they cannot be easily and immediately opened from inside while any person is within the room.

(3) In every establishment buckets and/or chemical fire extinguishers preferably the latter shall be provided in suitable number and at suitable sites according to nature of work carried on and the size of the premises.

(4) In every establishment dealing in or with inflammable substances there shall be a warning notice in writing conspicuously displayed that no person shall smoke or use a naked light or cause or permit any such light to be used in the immediate vicinity of any inflammable material.

27. Safety :-

(1) Every dangerous part of a machinery in an establishment shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery so fenced are in motion or in use.

(2) In every establishment, where packing or any other process is carried on with the aid of electric power, suitable devices for cutting of power in emergencies from running machinery shall be provided and maintained.

(3) No employee with loose fitting clothes shall be allowed or made to work near the moving machinery or belt. Tight fitting clothes for the purpose shall be provided free by the employer.

28. Appeals under S.23 :-

(1) The authority for the purpose of hearing appeals under S. 23 of the Act shall be the Chief Inspector of Shops and Establishments appointed under sub-S. (2) of S. 45.

(2) Any person aggrieved by any order passed by an Inspector under sub-S. (3) of S. 21 of the Act may prefer an appeal against that order within thirty days of the passing of it. Such appeal shall be in the form of a memorandum setting forth clearly the grounds on which the appeal is preferred against, shall be accompanied by a copy of the order and the original copy of the treasury challan showing payment of ten rupees as hearing fee for each of the order contested.

(3) The appellate authority shall make such enquiries as he deems fit in the matter appealed against and issue fresh orders affirming, rescinding or modifying the original order.

CHAPTER 7

Enforcement and inspection

29. Powers and functions of Inspector :-

(1) The duties of the Inspector appointed under S. 25 shall generally be to make such examination of an establishment as may be necessary for the purpose of satisfying himself that the provisions of the Act, the rules and any orders issued by the Government under the Act are duly observed and in particular, to ascertain whether within limits of his jurisdiction

(i) the restrictions imposed on the daily and weekly hours of work and the intervals of rest and the spreadover of the periods of work are duly observed according to the provisions of the Act and the Rules ;

(ii) the overtime work done by the person employed are within the prescribed limits of the Act and the rules and overtime wages due are paid regularly ;

(iii) the shops remain closed on the notified day of the week and the declared one and a half days of holidays are given ;

(iv) the opening and closing hours fixed under the Act and the rules are observed in the shops and establishments ;

(v) any deduction from the wages of the person employed in establishments on account of the weekly closure day or the weekly holidays, as the case may be, are made in contravention of the provisions of the Act;

(vi) leave with wages are afforded to the employees ;

(vii) the provisions of the Act on payment of wages are duly observed ;

(viii) the prohibitions of employment of children and women and persons below the age of seventeen imposed under the Act are duly observed ;

(ix) the provisions of the Act and the rules relating to clean lines, lighting, health, safety, welfare measures and the precautions against fire are properly observed;

(x) the registers, records and notices required to be maintained and displayed under the Act and the rules are properly maintained and exhibited ;

(xi) the establishments have been duly registered ;

(xii) the irregularities pointed out at previous inspections have been remedied and orders previously issued have been complied with.

(2) For carrying out the purposes of the Act and these rules the Inspector may cause to be taken a photograph of any employee or the premises of any establishment.

(3) The Chief Inspector shall have all the powers of an Inspector and shall direct and supervise the works of the Inspectors who shall be his subordinates.

(4) The Chief Inspector or any Inspector may call for any informations from any establishment or employer which he may deem relevant for the efficient administration of the provisions of the Act or these rules.

(5) Any person called upon to furnish any information under sub-R. (5) shall, subject to the provisions of the proviso to Cl. (c) of S. 26 of the Act, be legally bound to do so within such time as may be fixed by the Chief Inspector or the Inspector, as the case may be.

30. . :-

(1) The Chief Inspector or an Inspector shall have powers to point out all such defects or irregularities as he may have observed in course of inspection and to give orders for their removal and to record and furnish to the employer a summary of the defects or irregularities and of his orders.

(2) Every order passed under the Act and the rules shall be served on the employers,

(a) by delivering a copy of it to him personally or at his office through a messenger, or

(b) by registered post.

31. Method of inspections :-

(1) In conducting any inspection, the Inspector shall not, as far as possible, cause any suspension of business in any establishment.

(2) No inspection shall be held during

(i) any day in which the shop remains entirely closed in each week ; or

(ii) any period or periods for which the establishment may be exempted by notification under S. 5 of the Act;

Provided that notwithstanding anything hereinbefore mentioned an inspection may be held to

(a) ascertain if any shop is open on any day of weekly closure notified in respect thereof ; or

(b) check up whether the provisions of the Act and the rules from which the establishment has not been exempted are duly observed.

32. Visit Book :-

(1) Every employer shall maintain a Visit Book which shall be produced on demand, by an Inspector.

(2) The Visit Book shall be a bound book of size 7"x6" containing at least two hundred pages, every page whereof shall be so numbered that each consecutive number is in duplicate and the duplicate page between each two consecutively numbered pages shall have a vertically perforated straight line on the margin side at a margin of at least one inch. Every page shall contain the following headlines at the top :

(a) Name of the Establishment

(b) Address in full

(c) Registration No. of the establishment

(d) Date

(e) Time of Visit.

(3) If the Inspector in course of inspection of an establishment finds any deviations from the provisions of the Act and these rules or any orders or notifications issued by the Government, he may record the same in duplicate on the serially numbered pages of the Visit Book and take out the marginally perforated duplicate pages for his office record and, thereafter, may send separately a detailed copy of his Inspection Notes to the employer for necessary action with a copy thereof to the Chief Inspector within seven days from

the date of inspection. Where the Inspector has no remarks to offer he shall merely enter the date and time of his visit and sign on the Visit Book.

(4) In case the Visit Book containing the remarks passed by an Inspector is lost, destroyed or defaced, the employer shall forthwith report in writing the loss of the Visit Book to the Inspector of the area and immediately replace it by a fresh one.

(5) The Inspector within the limits of his jurisdiction shall inspect each establishment at least once in three months.

33. Submission of Diary by Inspector :-

Subject to the provisions of R. 28 the Inspector shall keep a file of the records of his inspection, arranged suitably, and shall submit to his immediate superior officer and to the Chief Inspector of Shops and Establishments by the tenth day of every month a diary in Form 'J' showing the work done in the preceding month. A copy of the said diary shall be retained by the Inspector for reference.

34. Appeal from an Inspectors orders or recommendations :-

(1) An employer may, within fifteen days of the date on which an Inspector endorses an order or recommendation in the Visit Book or of the receipt of the copy of the Inspection Notes or any order or recommendation made by an Inspector, appeal against such order or recommendation to the Chief Inspector and the Chief Inspector may, after necessary inquiries, confirm, or modify or reverse the order or the recommendation appealed against.

(2) The notice of appeal shall be in the form of a memorandum setting forth concisely the grounds of objection, accompanied by a copy of the order or recommendation against which the appeal is preferred, and shall bear a Court-fee Stamp of the value of two rupees. It shall be signed by the appellant or, on his behalf, by an authorised agent.

(3) The Chief Inspector may, however, entertain an appeal after the expiry of the aforesaid period of fifteen days if he is satisfied that the appellant had reasonable cause for his inability to prefer the appeal in time.

CHAPTER 8

Offences and penalties

35. Penalties :-

(1) Whoever contravenes any of the provisions of these rules, except in the case of Rr. 7 and 22 shall, on conviction, be punished with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees for every day after the first, during which the breach continues.

(2) If anyone contravenes the provisions of R. 7 he shall, on conviction, be punished with fine which may extend to five rupees.

(3) If any employer

(i) makes or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provision of these rules any entry which to his knowledge, is false in any material particular; or

(ii) wilfully omits or causes or allows to be omitted from such register, record or notice an entry which is required to be made therein ; or

(iii) maintains or causes or allows to be maintained more than one set of any register, record or notice except the office copy thereof; or

(iv) sends or causes or allows to be sent, to an Inspector, any statement, information or notice which, to his knowledge, is false in any material particular; he shall, on conviction, be punished with fine which may extend to fifty rupees and where the breach is a continuing one with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

36. Determination of employer for the purposes of the rules :-

(1) Where the owner of an establishment is a firm or any other association of individuals, any one of the individual partners or members thereof, may be prosecuted and punished under these rules for any offences for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purposes of these rules and

such individual shall, so long as he is so resident, be deemed to be the employer for the purposes of these rules, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the establishment is a public limited company, any one of the directors thereof, or in the case of a private company, limited or otherwise, any one of the shareholders thereof, may be prosecuted and punished under these rules for an offence for which the employer in an establishment is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a share-holder who is resident in the State, to be the employer in the establishment for the purposes of these rules, and such director, or share-holder shall, so long as he is so resident, be deemed to be the employer in the establishment for the purposes of these rules, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

37. Exemption of employer for liability in certain cases :-

Where the employer of an establishment is charged with an offence for violation of these rules or orders made thereunder, he shall be entitled, upon complaint duly made by him, to have any other person, whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court

(i) that he has used due diligence to enforce the execution of these rules ; and

(ii) that the said other person committed the offence in question against his orders and without his knowledge, consent or connivance ; that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer.

38. Penalty for obstructing Inspector :-

Whoever wilfully obstructs an Inspector in the exercise of any power under these rules or any person lawfully assisting an Inspector in the exercise of such power or refuses without reasonable cause to comply with any lawful direction made by an Inspector or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which may extend to fifty rupees.

CHAPTER 9

Miscellaneous and supplemental

39. Register of Hours of Work and Interval for Rest :-

Every employer in an establishment shall maintain a register in Form 'K' showing the daily and weekly hours of work and hours of interval for rest against the name of each employee and also the hours of opening and closing of an establishment.

40. Register of Overtime Work and Payment of Overtime Wages :-

Every employer in an establishment shall maintain a register in Form 'L' showing the overtime work done in every month by each employee and the amount of overtime wages the employee is entitled to and paid under the Act.

41. Maintenance of Register of Employment :-

(1) Every employer in an establishment shall maintain a Register of Employment in Form 'M'.

(2) All information in the Register of Employment shall be kept and maintained up-to-date and corrections, as and when necessary, shall be made within three days from the date any change takes place.

(3) The Register of Employment kept and maintained in the prescribed Form 'M' shall bear the signature of the employee and the employer shall authenticate the entries under his signature.

(4) If, by an application made by an employer in writing to the Chief Inspector, he is satisfied that any muster roll, register or record already maintained by the employer substantially contains in respect of all or any of the employees in his establishment the particulars required to be shown in any register, record, or notice referred to in these rules, the Chief Inspector may, by order in writing, direct that such muster roll, register or record shall, to the corresponding extent be maintained in place of such register, record or notice. A copy of the Chief Inspector's order to this effect shall be forwarded to the Inspector of the area within whose jurisdiction the establishment is situated.

42. Register of Leave :-

The employer shall maintain a Register of Leave in Form 'N' and particulars of application for leave, whether granted or refused,

shall be entered in the corresponding part of the register against the name of the employee immediately after receipt of the application.

43. Leave Card :-

(1) The employer shall provide each employee with a card called the 'Leave Card' in the same Form 'N' as the form of the Register of Leave but a separate card shall be made for each employee on a thick sheet which shall be the property of the employee and the employer shall not demand it except to make entries therein and shall not keep it for more than a week at a time.

(2) If any employee loses the Leave Card, the employer shall provide him with another copy on payment of ten paise and shall complete it from the records in the Leave Register.

44. Liability of employer for maintenance and preservation of records and display of notices :-

(1) Every employer shall, on demand from an Inspector, produce for inspection all registers, records and notices required to be kept and maintained under and for the purpose of these rules on the premises of the establishment to which they relate.

(2) The registers and records required to be kept and maintained under these rules shall be maintained regularly and legibly in ink and in English, Assamese, Bengali and the dates entered shall be in accordance with the English calendar and shall be so preserved that the records and registers of every year continue to remain for at least a full period of three successive years.

(3) Every such register shall be serially page-marked and well-bound.

(4) In any register or record which an employer is required to maintain under these rules, the entries relating to any day shall be made on that very day and shall be authenticated by the employer or the manager, as the case may be, by putting his signature against them:

Provided that in case the employer or the manager is absent on any day the entries shall be authenticated by such person as may be authorised to do so by the employer.

44A. Suspension of the provision of the Act :-

On receipt of the application in the prescribed Form 'C' and the original copy of the treasury challan depositing the fees, the Chief Inspector or the officer authorised by him in this behalf shall, on

being satisfied about the correctness of the statement made in the application, register the establishment in the appropriate part of the Register of Shops and Establishments and shall, in the prescribed Form 'Q', issue a Certificate of Registration to the employer :

Provided that a Certificate of Registration shall be valid up to a period of twelve months only from the date of issue unless renewed thereafter.

48. Display of Notices and Certificate of Registration :-

(1) Any notice or certificate required to be exhibited under the Act or the rules shall be exhibited in such a manner that it is readily seen and can be read by any person whom it concerns and shall be replaced by a fresh one whenever it becomes defaced or ceases to be legible at ease.

(2) Every employer in an establishment shall display the Certificate of Registration or the Renewed Certificate of Registration, as the case may be, issued under R. 47 or 9 in a conspicuous place in the establishment.

49. Renewal of Certificate of Registration :-

An application for the renewal of a Certificate of Registration shall be submitted in the prescribed Form 'O' within three months after the date of expiry of the Certificate of Registration or the Renewed Certificate of Registration, as the case may be, and shall be accompanied by the current Certificate of Registration together with the original copy of the treasury challan depositing such fees as are prescribed in Schedule I and the Chief Inspector or the officer authorised by him in this behalf shall, on being satisfied about the correctness of the statement, issue the renewed Certificate of Registration in the prescribed Form 'Q' after making relevant entries in the appropriate part of the Register of Shops and Establishments.

50. Notice of change in establishments :-

(1) It shall be the duty of every employer in an establishment to notify to the Chief Inspector or the Officer authorised by him in this behalf, in the prescribed Form 'R' together with the original copy of the treasury challan depositing the requisite fees, for any change in respect of any of the particulars contained in the statement submitted under sub-R. (1) of R. 45 within ten days after the

change has taken place.

(2) The Chief Inspector or the officer authorised by him in this behalf on receiving the prescribed notice of change together with the original copy of the treasury challan depositing the required fees shall, on being satisfied about the correctness of the change of particulars, make the required change in the Register of Shops and Establishments in accordance with such notice and shall amend the current Certificate of Registration or issue a fresh Certificate of Registration, if necessary.

51. Notice of winding up of establishments :-

The employer shall, within ten days of the winding up of the business of his establishment, notify to the Chief Inspector or the officer authorised by him in this behalf in the prescribed Form 'S' accompanied by the Certificate of Registration. The Chief Inspector or the officer authorised by him in this behalf shall, on receiving the information of the closure of the establishment and on being satisfied about its correctness, remove the name of such establishment from the Register of Shops and Establishments and cancel the Certificate of Registration :

Provided that if the Chief Inspector or the officer authorised by him in this behalf does not receive any written information about the winding up of the business of an establishment, but he is otherwise satisfied that the establishment has been wound up, he may remove the name of such establishment from the Register of Shops and Establishments and cancel the Certificate of Registration.

Explanation. Every case where an establishment is closed for a continuous period of three months or more shall be treated for the purpose of these rules as a case of winding up of the business of that establishment.

52. Loss of Certificate of Registration :-

If any Certificate of Registration issued under R. 47 or a renewed Certificate of Registration issued under R. 49 is lost, destroyed or defaced the employer shall forthwith report the matter and make an application in the prescribed Form T accompanied by the original copy of the treasury challan depositing the required fees specified in Schedule I and the Chief Inspector or the officer authorised by him in this behalf shall issue a duplicate copy of the Certificate of Registration duly stamped with the words 'DUPLICATE' in red ink.

53. Non-transferability of Certificate of Registration :-

A Certificate of Registration or a renewed Certificate of Registration issued under these rules shall not be transferable.

54. Certificate on Registration on transfer of ownership of establishment :-

(1) In case the ownership of an establishment is transferred, the employer shall, within fifteen days of such transfer, notify the fact of transfer and surrender the Certificate of Registration or the renewed Certificate of Registration, as the case may be, to the Chief Inspector or the officer authorised by him in this behalf along with a signed statement specifying the name and address of the transferee.

(2) The Chief Inspector or the Officer authorised by him in this behalf, on being satisfied about the correctness of the statement relating to transfer, shall cancel the Certificate of Registration or the renewed Certificate of Registration, as the case may be, by making necessary alterations in the Register of Shops and Establishments.

(3) The employer of the establishment so transferred shall apply for a new Certificate of Registration as provided in the Act and these rules.

55. Enquiry in connection with registration, renewal, etc :-

The Chief Inspector or the officer authorised by him in this behalf may, for the purpose of satisfying himself about the correctness of any particulars contained in any statement made under these rules in any application or notice, hold such inquiry as he deems necessary and in such manner as he considers fit.

56. Mode of payment of fees :-

All fees to be paid by the employer of an establishment under the provisions of these rules shall be credited to the Government Treasury under the 'Head of Account' "087 Labour and Employment Fees under the Assam Shops and Establishment Rules, 1976" and the original copy of the challan depositing the requisite amount of fees shall be forwarded by the employer to the Chief Inspector or the Officer authorised by him in this behalf accompanied by the prescribed application form duly filled in and signed.

57. Finality of decision in matters of doubt, etc :-

In the event of any doubt or difference of opinion as to the manner of registration and renewal of Certificate or payment of fees or the

category to which an establishment should belong, the officer authorised by the Chief Inspector to do the registration etc. shall refer the matter to the Chief Inspector who shall, after such inquiry as he thinks proper, decide the issue and the decision of the Chief Inspector shall be final for the purpose of this Act and these rules.