

## **GUJARAT MINIMUM WAGES RULES, 1961**

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# **GUJARAT MINIMUM WAGES RULES, 1961**

Notfn. No. 146/48.-In exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948) the Government of Bombay is pleased to make the following rules, namely :-

## **CHAPTER 1 Preliminary**

### **1. Short title and extent :-**

(1) These rules may be called the Gujarat Minimum Wages, Rules, 1961.]

(2) They extend to the whole of the State of Gujarat.

### **2. Interpretation :-**

In these rules, unless the context otherwise requires-

(a) "Act" means the Minimum Wages Act, 1948;

(b) "Advisory Committee" means an advisory committee appointed under section 6 and includes an advisory sub-committee appointed under that section:

(c) "Apprentice" means a person who is employed for the purpose of being trained in any scheduled employment: <sup>1</sup>[Provided that such person shall not be deemed to be an apprentice if the period of training in such scheduled employment or such process or branch to work forming part of such employment exceeds, such period not exceeding three years, as the State Government may, by notification in the Official Gazette, specify in this behalf;]

(d) "Authority" means the authority appointed under sub-section (1) of section 20 :

(e) " Board" means the Advisory Board appointed under section 7 ;

(f) "Chairman" means the Chairman of the Advisory Board, the Committee or the Advisory Committee, as the case may be appointed under section 9 ;

(g) "Committee" means a Committee appointed under clause (a) of sub-section (1) of section 5 and includes a sub-committee appointed under that section;

<sup>2</sup> [(gg) "day" means 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 Indian Trade Union Act, 1926;

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

(1) All other words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

**CHAPTER 2** Members and Staff and Meetings of the Board, Committee and Advisory Committee

**3. Term of office of the members of the Committee and the Advisory Committee :-**

The term of office of the members of the Committee or an Advisory Committee shall be such as in the opinion of the State Government is necessary for completing the enquiry into the scheduled employment concerned and the State Government may, at the time of the constitution of the Committee or an Advisory Committee as the case may be, fix such terms 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 :

Provided that such member shall, notwithstanding 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 remaining period of the term of office of the member in whose place he is nominated.

(3) The official members of the Board shall hold office during the pleasure of the State Government.

## **5. Travelling allowances :-**

A non-official member of the Committee, an Advisory Committee or the Board shall be entitled to draw travelling allowance and daily allowance for any journey performed by him in connection with his duties as such member according to clause (b) of sub-rule (1) of Appendix XLII-A of Bombay Civil Service Rules Manual, Vol. II, as amended from time to time.

## **6. Staff :-**

(1) The State Government may appoint a Secretary to the Committee, an Advisory 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, the Advisory Committee or the Board, as the case may be. He may attend the meetings of such Committee, Advisory Committee or Board but shall not be entitled to vote at such meetings.

(ii) The Secretary shall assist the Chairman in convening meetings and shall keep a record of the minute of such meetings and shall

take necessary measures to carry out the decisions of the Committee, the Advisory Committee or the Board, as the case may be.

**7. 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, Advisory Committee the Board of which he was a member.

**8. Resignation of the Chairman and Members of the Committee, Advisory Committee and the Board and filing of casual vacancies :-**

(1) A member of the Committee, Advisory Committee or the Board other than the Chairman may by giving notice in writing to the Chairman, resign his membership.

(2) The Chairman may resign by letter addressed to the State Government.

(3) When a vacancy occurs or is likely to occur in the membership of the Committee, Advisory Committee or the Board, the Chairman shall submit a report to Government immediately. Government shall then take steps to fill the vacancy.

**9. Cessation and restoration of membership :-**

(1) If a member of the Committee, Advisory 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 under sub-rule (1), shall

be given intimation of such cessation by a letter sent to him by registered post within fifteen days from the date of such cessation. The letter shall indicate that if he desires restoration of his membership, he may apply there for 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, the Advisory Committee or 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 restored to membership immediately after a resolution to that effect is adopted.

#### **10. Disqualification :-**

(1) A person shall be disqualified for being nominated as, and for being a member of the Committee, Advisory Committee or the Board, as the 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 arises whether a disqualification has been incurred under sub-rule (1) the decision of the State Government thereon shall be final.

#### **11. Meetings :-**

The Chairman may, subject to the provisions of rule 12, call a meeting of the Committee, Advisory Committee or the Board as the

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.

## **12. 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 atleast seven days before the date fixed for such meeting :

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

## **13. Chairman :-**

(1) The Chairman shall preside at the meetings of the Committee, Advisory 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 one member, by a majority of votes, who shall preside at such meeting.

## **14. Quorum :-**

No business shall be transacted at any meeting unless at least one-third of the members are present: Provided that if at any meeting less than one-third of the members are present, the Chairman may adjourn the meeting to a 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 members present.

## **15. Disposal of business :-**

All business shall be considered at a meetino of the Committee,

Advisory 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 of 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 securing written opinion of the members :

Provided further that no decision on any question which is referred under the first proviso shall be taken, unless supported by not less than a two thirds majority of the members.

#### **16. 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.

#### **17. Proceedings of the meeting :-**

(1) The proceedings of each meeting showing inter alia the names of the members present thereat shall be forwarded to each member and to the State Government as soon after the meeting as possible and in any case, not less than seven days before the next meeting.

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

**CHAPTER3** Summoning of Witnesses by the Committee, Advisory Committee and the Board and Production of Documents

#### **18. Summoning of witness and production of documents :-**

(1) A Committee, Advisory Committee or the Board may summon any person to appear as a witness in the course of an enquiry. Such summons may require a witness to appear before it on a date specified therein and to produce any book, papers or other documents and things in his possession or under his control relating in 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 employers organisation or a registered trade union of workers, by being delivered or sent by registered post to the secretary or other principal officer of the organisation or union, as the case may be.

#### **19. Expenses of witnesses :-**

Every person who is summoned and appears as a witness before the Committee, the Advisory Committee or the Board shall be entitled to an allowance for expenses incurred 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 State.

#### **CHAPTER 4 Computation and Payment of Wages, Hours of Works and Holidays**

#### **20. Mode of computation of the cash value of 1[wages] in kind and of concessions :-**

(I) The retail prices 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. This computation shall be made in accordance with such directions as may be issued by the Government from time to time.

<sup>1</sup> (2) The cash value of concessions in respect of supplies of essential commodities at concession rates to employees working in employments in respect of which minimum rates of wages have been fixed under the Act shall be equal to the difference between the retail price of such commodities at the nearest market and the price charged by the employer to the employees.]

Ins. by No. 26[2-1-1962].

**21. Time and conditions of payment of wages and the deductions permissible from wages :-**

(1)

(i) The wage period with respect to any scheduled employment for which wages are liable to be fixed shall not exceed one month, and the wages of a worker employed

(a) in any such employment in which an employer has employed less than one thousand persons, shall be paid before the expiry of the seventh day, and

(b) in any other case shall be paid before the expiry of the tenth day after the last day of the wage period in respect of which the wages are payable :

Provided that in the case of employment in agriculture the wage period may be fixed by the year.

(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 of a person employed in a scheduled employment shall be of one or more of the following kinds, namely :-

(i) fines in respect of such acts and omissions on the part of an employed person as may be specified by the State Government by general or special order in this behalf;

(ii) deductions for absence from duty;

(iii) deductions for damage to or loss of goods expressed, 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 this neglect or default:

(iv) deductions for house accommodation supplied by the employer or the State Government or the Gujarat Housing Board constituted under Gujarat Housing Board Act, 1961, or such other agency as the State Government may, by notification in the Official Gazette direct.

(v) deductions for such amenities and services supplied by the employer as the Government may by general or special

Explanation.-The words "amenities and services" in this clause does 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 payments of wages :

Provided that such advances do not without the previous permission of the Inspector exceed an amount equal to wages for two calendar months of the employed person and, in no case, shall the monthly installment 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 Fund Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922, or any provident fund approved in this behalf by the Government during the continuance of such approval;

<sup>1</sup>( x ) deductions for payment to co-operative societies <sup>3</sup>[or deduction 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 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) Deductions not exceeding half the wages for a period not exceeding four months during which an employee is suspended

from work in accordance with any rule of service or standing orders framed under any law, or under a settlement or award which is legally binding on him governing such suspension : [Provided that where under the conditions of service of an employee under a local authority provisions in respect of subsistence allowance during suspension are made and such provisions are similar to those contained in the Bom-

Provided further that if an employee is suspended from work as a punishment in accordance with any rule of service or standing order framed under any law or under a settlement or award, governing such suspension, deductions during the period for which he is suspended may be equal to the amount of the full wages payable to such employee:]

<sup>1</sup>[(xii) deductions for recovery of adjustment of amounts, other than wages paid by the employer to the employed person in error or in excess of what is due to him :

Provided that the prior approval of the Inspector or any other officer authorised by the State Government in this behalf is obtained in writing before making the deductions, unless the employee give his consent in writing to such deductions;]

<sup>2</sup>(xiii) deductions for investment in any Defence Savings Scheme or any small Savings Schemes approved by the State Government, made with the written authorisation of the person employed, or of the president or secretary of the registered trade union of which the employed person is a member :

Provided that the deductions to be made in pursuance of the written authorisation of the president or secretary of the registered trade union shall be made subject to the following conditions, namely :

(a) The president, or, in his absence, the secretary of such trade

union shall forward :

(i) in duplicate to the employers a copy of the list of the employed persons who are members of the trade union indicating therein the amount or extent of deductions which are to be made from the wages of each employed person, and also, where the deductions are to be continued for more than one wage period, the total period during which such deductions are to be made, and a copy of the resolution adopted at a meeting of such trade union authorising such deductions; and

(ii) a copy of the said list and resolution to the person who acts as an Inspector for the purposes of the Act.

(b) The employer shall display in some conspicuous place of the establishment one of the two copies of the said list and resolution received from the president or secretary, as the case may be, of the trade union, for at least a period of three consecutive days immediately preceding the day on which the deductions are to be made from the wages of the employed persons;

(c) If an employed person objects in writing to deductions being made from his wages up to the amount or extent of deduction indicated in the list displayed by the employer, no deductions shall be made from his wages except in accordance with the written authorisation of such employed person;

(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 or the damage or loss, in respect of which the fine or deductions is proposed to be imposed or made and give 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)

(1) The amount of fine or deduction mentioned in sub-rule (3) or deduction for absence from duty <sup>5</sup>shall be such as may be specified by the Government. <sup>6</sup>All such deductions, and all realisations thereof shall be recorded in a register maintained in Forms I, 11 and III, as the case may be. A return in Form III shall be submitted annually by the employer, to such authority as maybe appointed by the <sup>7</sup> Commissioner of Labour, Ahmedabad, in this behalf by a notification in the Official Gazette, so as to reach the authority not later than the 1st February following the end of the year to which the return relates

2. In the Gujarat Minimum Wages Rules, 1961 (hereinafter referred to as "the said rules") in rule 21 in the proviso to sub-rule (4), for the words and figures "Forms I and II" the words and figures "Forms 1, II and III" shall be substituted ;

[Provided that the maintenance of Forms I and II shall not be necessary in respect of employment in agriculture.]

(5) 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 State Government.

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

Subs. by No. 11[6-7-1955].

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

## **22. Publicity to the minimum wage fixed under the Act :-**

Notices containing the minimum rates of wages fixed together with <sup>1</sup>abstracts from the Act, the rules made thereunder and the name and address of the Inspector shall be <sup>2</sup>displayed in English and In Gujarati at some conspicuous and convenient place in the factory,

workshop or other place of the employment concerned<sup>3</sup> and shall be maintained in a clean and legible condition . The abstracts of the Act and the rules thereunder shall be in Form III-A. Such notices shall also be displayed on the notice boards of all Sub-Divisional and District Offices and at such other places, if any, as may be selected by the Inspectors

Provided that in the case of the employment in agriculture it shall not be necessary to display such notice in Form III-A at the place of employment :

Provided further that Commissioner of Labour may arrange to be displayed the notice in Form III-A in Gujarati language in the Panchayat Office of that local area at a conspicuous and convenient place in the village concerned and on the notice boards of the Offices of all the Taluka and Jilla Panchayats and the Offices of Government Labour Officers for the information of the agricultural workers.

Subs. by No. 11[6-7-1955].

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

### **23. Weekly day of rest :-**

(1) Subject to the provisions 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 of the week as the rest day for any employee or class 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 a 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 proviso 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 holiday, with or without pay, granted by the employer to an employee in the period of six days immediately preceding 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 day 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 in the employee working for more than ten days consecutively without a rest day for a whole day.

(3) Where in accordance with the foregoing provisions of this rule, any employee works in a rest day and has been given a substituted rest day on any one of the five days before or after the rest day, the rest day shall, for the purpose of calculating the weekly hours of work, be 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 preceding 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 preceding 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 worked out as aforesaid, the Commissioner of Labour, Ahmedabad 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 State Government by notification in Official Gazette, prescribe, having regard to the minimum rate of wages fixed under the Act in respect of the scheduled employment.

(5) The provisions of this rule shall apply to the employees in scheduled employments other than employment in agriculture.

(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 purpose of this rule "week" shall mean a period of seven days beginning at midnight on Saturday night.

**24. Number of hours of work which shall constitute a normal working day :-**

(I) 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, 4-1/2 hours : <sup>1</sup>

[Provided that in respect of employment in public motor transport no adult worker shall be required or allowed to work for more than fifty-four hours in any week.]

(2) The period of work of an adult worker each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he had an interval for rest of at least half an hour :

<sup>2</sup>[Provided that the State Government or, subject to the control of the State Government, the Commissioner of Labour may by written order and for the reasons specified therein, allow any worker in a scheduled employment to work for more than five hours without an interval for rest so however that the total number of hours worked by the worker without an interval does not exceed six.]

(3) The periods for work of an adult worker shall be arranged that inclusive of his intervals for rest under sub-rule (2), they shall not spreadover more than twelve hours in any day in respect of

employ- <sup>1</sup>not being employment under a local authority as lamp lighter :

Provided that the Inspector may for reasons to be specified in writing increase the spreadover to twelve hours, in the case of such other scheduled employment<sup>4</sup>.

<sup>5</sup>(3A) The periods of work in the case of a child worker shall be so arranged that it shall not spreadover more than five hours in any day.

(4)The provisions of sub-rules (2) and (3) shall not apply to

(i) any employee whose employment is essentially intermitent subject to the condition-

(a) that the spread over of the hours of the employee shall not exceed 16 hours in any day; and

(b) that the actual hours of work excluding the intervals of rest and the period of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attendance shall not exceed 9 hours in any day.]

(ii) any employee engaged on urgent repairs and which is declared by the Commissioner of Labour to be such;

(iii) any employee engaged in any work which is declared by the Commissioner of Labour to be worked which must, for technical reasons be carried on continuously.

(5) The number of hours of work in the case of an adolescent shall be the same as that of an adult or a child according as he is certified to work as an adult or a child by a competent medical

practitioner approved by the State Government.

(6) The provisions of sub-rule (1), (2), (3) and (5) shall, in the case workers in agricultural employment, be subject to such modifications as may from time to time, be notified by the State Government.

(7) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948, [and the Bombay Shops and Establishment Act, 1948,] [or any corresponding law in force in any area of the State.]

**6** [Explanation.-In computing the hours of work for the purpose of sub-rule (1) the time during which an employee is at the disposal of the employer shall be included; but the period of rest provided in sub-rule (2) shall be excluded] : Provided further that in the case of employment in public motor transport the following, and no other, periods shall be included in computing the hours of work :

(i) the time spent in work during the running time of the vehicle:

(ii) the time spent in any subsidiary work; and

(iii) the periods of mere attendance at of less than 15 minutes.

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

Subs. by No. 11[6-7-1955].

#### **24A. Night shift :-**

Where a worker in a scheduled employment works on a shift which extends beyond midnight :

(a) a holiday for the whole day for the purpose of rule 23 shall in

his case mean a period of twenty-four consecutive hours beginning from the time when his shift ends; and

(b) the following day in such a case shall be deemed to be the period of twenty four hours beginning from the time when such shift ends, and the hours after midnight during which such worker was engaged in work shall be counted towards the previous day.

## **25. Extra wages for overtime :-**

(1) When a worker works in an employment for more than nine hours on any day or in any employment other than an employment in public motor transport for more than forty-eight hours in any week or for more than the hours of work notified under sub-rule (6) of rule 24, as the case may be, he shall, in respect of overtime work, be entitled to wages

(i) in the case of employment in agriculture at one and half times the ordinary rate of wages;

(ii) in the case of any other scheduled employment at double the ordinary rates of wages<sup>1</sup>.

Explanation.-The expression "ordinary rate of wages" means the basic wages plus such allowances including the cash equivalent of the advantages accruing 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 showing overtime payments shall be kept in Form IV: [Provided that the maintenance of register in Form IV shall not be necessary in respect of employment in agriculture.]

<sup>2</sup> [(3) Nothing in this rule shall be deemed to after the provisions of the Factories Act, 1948.]

Added by No. 27[4-3-1963].

Subs. by No. 11[6-7-1955].

## **26. Form of registers and records :-**

### **1**

(1) A register of wages shall be maintained by every employer at the workshop in Form IV-A : Provided that no such register need be maintained by an employer who maintains a like register-under the Payment of Wages Act, 1936.

(2) A wage slip in Form VI-B 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 wages book and wageslip.

(4) Entries in the wage books 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 and kept in Form V :

<sup>2</sup>[Provided that the Muster Roll may not be maintained by an employer who maintains a like roll under the Factories Act, 1948.]

(6)

(a) Notwithstanding anything contained in this rule, the employer shall in the case of employment in Agriculture

(i) issue wage slip in Form V-C for daily or non-yearly-rated workers in lieu of wage slip referred to in sub-rule (2),

(ii) maintain a combined register of wages and wage slip in form V-B for yearly-rated workers in lieu of the combined Register of wages and Muster Roll and wage slip referred to in sub-rules (1) and (5) and sub-rule (2) respectively.

(b) The wage slip for daily or non-yearly-rated workers and the combined Register of wages and wage slip for yearly rated workers shall be maintained by the employer in Gujarati language in duplicate and one copy shall be given to the employee. The employer shall preserve this record for three years.

(c) The entries in the combined register of wage slip for yearly-rated workers shall be made on each occasion in presence of the employed person by the employer or any person authorised by him in that behalf and the employer shall produce it whenever required for this purpose.

(d) If the employed person loses his copy of combined register of wages and wage slip, the employer shall, on payment of twenty five paise, provide him within a week, with another copy duly completed from his record; <sup>3</sup> [Provided that in the employment in agriculture, the employer shall not be required to maintain the inspection book, but the Inspector shall maintain such inspection book, and shall give a copy of his inspection note to the employer at the time of inspection.]

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

Subs. by No. 11[6-7-1955].

## **26A. Maintenance of Inspection Book :-**

Every employer shall maintain a bound Inspection Book and shall produce it when so required by the Inspector.

**26B. Employers to provide cards to employees :-**

**1**

(1) <sup>2</sup> [Every employee employed in public motor transport, shall, at the beginning of every month be provided with a card in Form V-A, [and every employee engaged in any other scheduled employment except employment in agriculture be provided with a card in Form V-D], which may be in English or in the language understood by such employee.

(2) The card shall be in the custody of such employee during the month and thereafter shall be returned to the employer who shall preserve it for a period of three years.

(3) The entries on such card shall be made each day in presence of the employee by the employer or any person authorised by him in that behalf, and the employee shall produce the card whenever required for this purpose.

(4) If the employee loses his card, the employer shall, on payment of one anna, provide him within a week, with another card duly completed from his records.

(5) If the State Government or any officer authorised by it in this behalf, is satisfied that the [employees] employed by any employer are provided with cards or other documents which give in respect of such employees the particulars required for the purposes of this rule, the State Government or such officer may, by order in writing, direct that any such card or document may be provided and maintained in place of the card prescribed under this rule and the provisions of this rule shall then apply mutatis mutandis to such card or document.]

Ins. by No. 26[2-1-1962].

Added by No. 27[4-3-1963].

**26C. Powers of revenue officers appointed as Inspectors :-**

<sup>1</sup>[All officers] appointed as Inspectors <sup>2</sup> [X X X] under section 19 shall, within the limits of their respective jurisdiction, exercise all the powers under the said section 19 in respect of scheduled employment other than employment in public motor transport.

Subs. by No. 11[6-7-1955].

Ins. by No. 26[2-1-1962].

**26D. Powers of revenue officers appointed as Inspectors :-**

<sup>1</sup> The registers and records prescribed under sub-rule (2) of rule 25 and sub-rule (1) and (5) of rule 26 shall be preserved for a period of three years after the last entry is made therein and shall be produced when so required by Inspector.

Added by No. 27[4-3-1963].

**26E. Recognition of certain records by Commissioner of Labour :-**

If the Commissioner of Labour is of the opinion that any Muster Roll or register maintained or wage slip issued as a part of routine of schedule employment gives in respect of any or all of the employees in the scheduled employment, the particulars required for the enforcement of the Act and these rules, he may, by order in writing, direct that such muster roll or register or wage slip shall to the corresponding extent and subject to such conditions as he may specify, be maintained in place of and be treated as muster roll or register or wage slip required under these rules in respect of such employee or employees in that scheduled employment.]

**CHAPTER 5 Claims under the Act**

**27. Application :-**

An application under sub-section (2) of section 20 or sub-section (1) of section 21 , by or on behalf of an employed person or group of employed persons, shall be made in duplicate in forms VI and VII, as the case may be.

## **28. Authorisation :-**

The authorisation to act on behalf of an employed person or persons, under sub-section (2) of section 20 or of sub section (1) of section 21 shall, be given in form VIII by an instrument which shall be presented to the Authority hearing the application and shall form part of the record.

## **29. Appearance of parties :-**

(1) If an application under sub- section (2) of section 20 or section 21 is entertained, the Authority shall serve upon the employer, by registered post, a notice in Form IX to appear before him on a specified date with all relevant documents and witnesses, if any, and shall inform the applicant, of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may hear 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 manner specified in sub-clause (1).

## **CHAPTER 6 Scale of Costs in Proceedings under the Act**

### **30. Costs :-**

(1) The Authority, for reasons to be recorded in writing may direct

that the costs of any proceedings pending before it shall not follow the event.

(2) The costs which may be awarded shall include

(i) expenses incurred on account of court-fees;

(ii) expenses incurred on subsistence money to witness; and

(iii) pleaders fees to the extent of ten rupees provided that the Authority in any proceeding may reduce the fees to a sum not less than five rupees or for reasons to be recorded in writing, increase it to a sum not exceeding twenty five rupees.

(3) Where there are more than one pleader or more than one applicant or opponent the Authority may, subject as aforesaid, award to the successful party or parties such costs as it may deem proper.

### **31. Court-fees :-**

**<sup>1</sup>** The court-fee payable for every application to summon a witness in respect of proceedings under section 20 shall be one rupee in respect of each witness :

Provided that the Authority may, if in its opinion, the applicant is a pauper exempt him wholly or partly from the payment of such fees :

Provided further that no fee shall be chargeable

(a) from persons employed in Agriculture; or

(b) in respect of an application made by an Inspector.

Subs. by No. 11[6-7-1955].

## **CHAPTER 7** Miscellaneous

### **32. Saving :-**

These rules shall not apply in relation to any employer in a scheduled employment in so far as there are in force rules applicable to the employment under such an employer, which in the opinion of the State Government make equally satisfactory provisions for the matters dealt with by these Rules and such opinion shall be final.<sup>1</sup>

Subs. by No. 11[6-7-1955].

### **33. Repeal and saving :-**

**1**

(I) The Saurashtra Minimum Wages Rules, 1951 and the Kutch Minimum Wages Rules, 1956 are hereby repealed :

Provided that anything done or any action taken under the provision of the rules so repealed shall, in so far as it is not inconsistent with the provisions of these rules, be deemed to have been done or taken under the corresponding provisions of these rules and shall continue in force until superseded by anything done or any action taken under these rules.

Ins. by No. 26[2-1-1962].

### **34. Prescribed limit of wages under section 26(2A). :-**

**1** The limit of wages for the purpose of sub-section 26 shall

(a) in respect of employees in establishment where the wages are fixed in accordance with an award or otherwise be the wages so fixed provided the wages so fixed are not less than nine-eighth of the minimum rates of wages fixed, and

(b) in all other cases nine-eighth of the minimum rates of wages fixed in respect of employees referred to in the said sub-section (2 A).

Added by No. 27[4-3-1963].