

Madhya Pradesh Shops And Establishment Rules, 1959

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Madhya Pradesh Shops And Establishment Rules, 1959

1. Short title :-

These rules may be called the Madhya Pradesh Shops and Establishment Rules, 1959.

2. Definitions :-

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

(a) "Act" means the Madhya Pradesh Shops and Establishment Act, 1958 (Act No. 25 of 1958).

(b) "Form" means a form appended to these rules;

(c) "Section" means a section of the Act.

3. Registration of establishments :-

¹[(1) A statement to be sent to the Inspector of the area concerned under sub-section (2) of section 6 shall be in Form A and shall be accompanied by a fee of ²[amounts as per class of establishment as mentioned in Rule 5].

(2) An establishment shall be registered in the register of Establishments under sub-section (3) of section 6 under the appropriate category to which it belongs. The register of establishment shall be in Form B.

(3) The registration certificate to be issued under sub-section (3) of section 6 shall be in Form C.

(4) In the event of loss or destruction of the registration certificate an application shall be made to the Inspector concerned within seven days of such loss or destruction for a duplicate copy thereof which may be granted on payment of a fee of ³[twenty rupees].

⁴[(5) Amendment in Registration Certificate.- The Inspector shall amend the registration certificate on application and payment of fees made to him as per specified below for that class of establishment.

	Class of establishment	Amendment Fees
1.	All establishment having no employee	Rs. Ten
2.	All establishment employing not more than 3 employees	Rs. Twenty five
3.	All establishments employing more than 3 but less than 10 employees	Rs. Forty
4.	All establishments employing more than 10 employees	Rs. Fifty

1. Substituted vide Notification No.6395-9162-XVI, dated 11th November, 1970. Published in M.P Rajpatra (Asadharan) dated 12.11.1970 page 2128.

2. Substituted for the words "rupees five" by Notification No. 4(b)-I-XVIA dated 21.11.1995.

3. Substituted for the words "two rupees" by Notification No. 4(b)-I-XVIA dated 21.11.1995.

4. Inserted by Notification No. 4(b)-I-XVIA dated 01.12.1995.

4. Period of validity of registration certificate :-

The registration certificate granted under sub-section (3) of section 6 shall be valid upto the end of the calendar year in which it is granted, and every renewal thereof shall be valid for the calendar year specified in part B of the certificate.

5. Renewal of registration certificate :-

¹[(1) Every registration certificate issued under sub-rule (2) of rule 6 shall be renewed, after the expiry of a period of five calendar years, on payment of a fee specified below for that class of establishments.

	Class of establishment	Amendment Fees
1.	All establishment having no employee	Hundred
2.	All establishment employing not more than 3 employees	One hundred fifty
3.	All establishments employing more than 3 but less than 10 employees.	Two Hundred
4.	All establishments employing more than 10 employees	Two Hundred Fifty

Provided that application for renewal shall be accompanied by the Registration Certificate and shall be so made as to reach the office of the Inspector not less than 30 days before the date on which the registration certificate is due to expire.] (2) If the application for renewal is not received within the time specified in sub-rule (1) the registration certificate shall be renewed only on payment of a fee of ²[Ten rupees] in excess of the fee ordinarily payable for the purpose unless the Labour Commissioner by general or special order extends the time for application for renewal.

1. Substituted by Notification No. 4(b)-I -XVIA dated 21.11.1995.

2. Substituted by Notification No. 4(b)-I -XVIA dated 21.11.1995 for words "Rupee one".

6. Payment of fee :-

Any fee prescribed in these rules shall be credited into a Government Treasury in the State under the head ³[XXXII- Miscellaneous Social and Development Organisations- A(1) fees for Registration of Shops and Establishments.]

^{3A}[Provided that if the registration or renewal of the registration certificate is issued by the Municipal Corporation or by Municipality the fees prescribed in these rules shall be deposited in the office of the concerned Municipal Corporation or Municipality, as the case may be, and such local authority shall issue a receipt thereof]

3. Subs. by Notification No. 82124-1403-XVI, Part IV(Ga)dt. 12.04.1963 Page 371.

3A. Ins. by Notfn. No. 4 (E) 10-95-XVI-A, dated 13-05-1998.

7. Notice of change :-

A notice of change to be notified to the Inspector under section 7 shall be in Form D.

8. Notice of closure :-

(1) A notice regarding closing of an establishment to be notified to the Inspector under section 8 shall be in Form E and it shall be accompanied by the Registration certificate of such establishment.

(2) If any employer transfers his establishment to any other person he shall, within ten days of such transfer notify the fact to the Inspector.

9. Fixing days in a year for additional overtime :-

(1) The following days and not more than three days preceding any of such days, shall be the days for additional overtime for purposes of making of accounts, stock-taking or settlement under sub-section (3) of section 11,-

The 31 day of March;

The 30th day of June;

The 30 day of September:

The day of Dewali;

The 31st day of December; and

The last day of Vikram Samvat;

Provided that in lieu of any day or days mentioned above the employer may substitute any other day or days, as the case may be, which shall be intimated to the Inspector at least three months before the day on which he intends to take excess work.

(2) On any of the days mentioned in sub-rule (1) for the purposes thereof the operation of the provisions relating to closing hours in Section 9 shall be deemed to be suspended.

10. Notice to be given to Inspector when additional overtime is to be worked :-

Notice of the intention to require employees in a shop or commercial establishment to work under sub-section (3) of section

11 in excess of the period fixed under sub-section (1) of the said section on any day prescribed under rule 9 shall be given either in English or in Hindi so as to reach the Inspector within whose jurisdiction such establishment is situated at least two days before each day.

11. Receipt of security money :-

(1) The Inspector with whom money is deposited by way of security for the return of seized goods under sub-section (2) of section 10 shall pass a serially numbered cash receipts in Form F in respect of the amount so deposited. The amount shall be refunded to the depositor if he is not prosecuted within the period prescribed in section 52, on the expiry of such period, and if he is prosecuted, after the case is finally disposed of.

(2) The Inspector shall, for the goods seized by him under subsection (2) of section 10, issue a seizure memo in Form G to the person from whom such goods have been seized and when such goods are returned to the person concerned shall detain a delivery memo from the said person with his acknowledgment in Part B of Form G.

12. Employment of children and young persons :-

An Inspector may require an employer to produce in respect of any person employed by him whom the Inspector suspects to be a child or a young person as proof of his age (1) an authentic extract from the school record, or (2) a certified copy from the Birth Register, or (3) certificate of age from the registered medical practitioners in Form H.

13. Leave :-

(1) Every employer of an establishment shall maintain a register of leave in Form I in respect of each employee in the establishment.

(2) The employer shall provide each employee with a book called "Leave Book" in Form J. As soon as any leave is granted or refused an entry shall be made by the employer in the Leave Book and the book returned to the employee. The book shall be the property of the employee and the employer or his manager or other agent shall not demand it except to make entries therein:

Provided that with the consent in writing to be recorded on the Leave Book itself, of an employee whose wages are Rs. 300/-per

month or, more the Leave Book may be kept in the custody of the employer. If any employee loses his Leave-Book the employer shall provide him with another copy on payment of annas two and shall complete the entries therein from his record.

(3) The register for entering refusal of leave to be maintained under subsection (3) of section 26 shall be in Form K.

14. Misconduct :-

For the purposes of the proviso to sub-section (1) of section 58, the following acts and omissions shall be treated as misconduct on the part of the employees,-

(a) wilful insubordination to, or disobedience, whether alone or in combination with orders, any lawful and reasonable order of a superior;

(b) theft, fraud or dishonesty in connection with the employers business or property;

(c) wilful damage to or loss of employers goods or property;

(d) taking or giving bribes or any illegal gratification in connection with the employers business;

(e) habitual absence without leave or absence without leave for more than 10 days;

(f) habitual late attendance;

(g) habitual breach of any law applicable to the establishment; (h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline; (i) habitual negligence or neglect of work;

(j) striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law.

14A. Appellate Authority and limitation for appeal :-

¹[14A. Appellate Authority and limitation for appeal.-

(1) The Divisional Assistant Commissioner of Labour shall be the Appellate Authority for the purposes of sub-section (2) of Section 58.

(2) The employee discharged, dismissed or retrenched may prefer an appeal to the Appellate Authority within a period of one year from the date of the communication of the order of discharge, dismissal or retrenchment, as the case may be:

Provided that the appeal may be entertained even after the expiry of the said period of one year if the employee satisfies the Appellate Authority that he has sufficient reason for not preferring

an appeal within the said period.

(3) On receiving the appeal, the Appellate Authority shall give a notice in Form K-1 to the non-appellant (employer) and in Form K-2 to the appellant (employee) concerned by registered post acknowledgment due.

(4) After perusing the record and after giving an opportunity to the parties of being heard, the Appellate Authority shall decide the appeal. Reasons in brief for the decision shall be recorded in the appellate order.

(5) The appellate authority shall supply a copy of order passed by it in the appeal to the non-appellant (employer) as well as to the appellant (employee) concerned free of cost.]

1. Inserted by Notification No. 2167-728-84-XVI-A dated 11.04.1984.

15. Fixing times and methods for cleaning the establishments :-

(1) In every establishment all the inside walls of the rooms and all the ceilings and tops of such rooms (whether such walls, ceiling and tops be plastered or not) and all the passages and staircases shall be lime-washed or colour washed at least once in two years dating from the period when last lime-washed or colour-washed:

Provided that an Inspector may require them to be lime-washed or colour-washed earlier than two years if in his opinion they have become so unclean as to require immediate lime-washing or colour washing. All the beams, rafters, doors, window-frames and other wood work with the exception of floors shall be either painted or varnished once in seven years dating from the period when last painted or varnished and shall be kept in a cleanly state. The dates on which lime-washing, colour washing, painting or varnishing is carried out shall be duly entered in a register maintained in Form I, which shall be shown to, the Inspector when required:

Provided that the provisions of this rule shall not apply to,-

(i) rooms used only for the storage of articles:

(ii) walls or tops of rooms which are made of galvanized iron; tiles asbestos sheets or similar material of glazed bricks;

(iii) any other establishment or parts thereof in which lime-washing or painting is in the opinion of the Inspector unnecessary to satisfy the requirements of section 31 as to cleanliness.

(2) No rubbish, filth or debris shall be allowed to accumulate or to

remain on any premises in an establishment in such position that effluvia there from can arise within the establishments.

¹[(2-A) In every establishment or any premises in which the process of cleaning/washing ornaments with the aid of acid is carried on, adequate drainage shall be provided and shall lead to special treatment tanks where deleterious material shall be neutralized or otherwise rendered safe before it is discharged into ordinary drains or sewers.

(2-B) On any premises in an establishment, adequate ventilation shall be provided and maintained at all times in rooms or buildings where dangerous gas, vapors, fumes or dust may be evolved.

(2-C) In every establishment or any premises in which person employed in processes where dangerous gas, vapour, fumes or dust may be evolved, suitable protective appliances such as hand gloves footwear, breathing mask, goggles shall be maintained for the use of the employed persons/employees.

(2-D) In every establishment or any premises in which the process of cleaning/ washing ornaments with the aid of acid is carried on every person employed shall be medically examined by a qualified medical practitioner within 15 days of his first employment and thereafter at intervals of not more than 6 months and record of such medical examination shall be maintained in respect of each employee in Form K-3.]

1. Inserted by Notification No. 4B2-94-XVI-B dated 16.11.1994, Published in M.P. Rajpatra, Part I, dated 02.12.1994 pages 2145-2146.

16. Precautions against fire :-

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 in any establishment.

17. Qualifications and provisions regarding Inspector :-

(1) No person shall be appointed to be an Inspector under the Act unless he is able to speak, read and write Hindi and is either a graduate of a recognised University or a matriculate with at least seven years experience of service under Government or a local authority:

Provided that this qualification shall not be necessary in the case of persons who may be employed as Inspector of Establishment under the Government or with the local bodies in the State on the first of

July, 1958.

(2) No person shall be appointed to be an Inspector under the Act, or having been so appointed, shall continue to hold if he has or acquires, directly or indirectly, by himself or by any partner, any share or interest in any establishment to which the Act applies in the area for which he is to be or has been appointed.

18. Duties of an Inspector :-

An Inspector, while making an examination under section 41 of the Act, shall for the purpose of satisfying himself that the provisions of the Act and of these rules and any orders passed by the Government or the local authority under the Act are duly observed, ascertain the following facts:-

- (i) that the establishments are duly registered under the Act;
- (ii) that the establishment have duly renewed their registration under the Act;
- (iii) that the registers, records and notice required to be maintained or displayed under the Act or these rules are properly maintained or displayed;
- (iv) that holidays required to be granted or observed under the Act are granted and observed and that the limits of work and spread over laid down under the Act are not exceeded;
- (v) that the provisions of the Act and any orders issued by Government or the local authority regarding the opening and closing hours are duly observed;
- (vi) that the provisions of the Act and these rules regarding leave are properly observed;
- (vii) that the provisions of the Act relating to the payment for overtime work are duly observed;
- (viii) that the provisions of the Act and these rules relating to cleanliness, sanitation and precautions against fire are properly observed;
- (ix) that no child is allowed to work in any establishment; and
- (x) that no young person works in excess of 5 hours on any day and that he is not required to work before 7.00 A.M. and after 9.00 P.M.

19. Recording of inspection note by Inspector :-

The Inspector shall record an inspection note in duplicate in Form M, the original of which shall be handed over to the establishment inspected and the duplicate copy retained on the inspection note

book in the running serial order. The employer shall paste the original copy of the inspection note so recorded on a bound visit book which shall be maintained for the purpose on the form of a blank register. The inspection book shall be produced to the Inspector on demand for ascertaining compliance of instructions given on any previous inspection. The Inspector shall record necessary entries in respect of each inspection in the inspection register to be maintained at the Inspectorate and submit such diaries, reports and returns as may be prescribed by departmental instructions.

19A. Powers of Inspector :-

¹[19A. Powers of Inspector

An Inspector shall, for the purposes of the enforcement of the Act, have powers, subject to the provisions of the Act, to conduct before a Court any complaint or other proceeding arising under the Act or in the discharge of his duties as an Inspector and secure such attendance as may be necessary for the purpose.]

1. Inserted by Notification No.3342-364-XVI dated 09.06.1971, published in M.P. Rajpatra, Part IV (Ga), dated 09.07.1971 page 295.

20. Maintenance of registers and records and display of notices :-

²[(1) Every employer shall maintain a register of employees showing attendance, wages, overtime work fines and other deductions and account of wages in respect of each employee under him in Form N]

(2) Every employer shall exhibit in his establishment a notice in Form O, specifying the day or days on which his employees shall be given a holiday. The notice shall be exhibited before the persons to whom it relates cease work on the Saturday immediately preceding the first week during which it is to have effect.

(3) Every employer shall exhibit in his establishment a notice specifying the daily hours to be worked and intervals for rest and meals to be allowed to the employees, if any. Such notice shall be in Form P and shall be exhibited not later than the closing hour on the Saturday immediately preceding the first week in which the hours of work shall be as specified in such notice. It shall continue to be exhibited so long as the hours of work specified in it are observed.

- (4) Every employer shall maintain a register of leave in respect of each of his employees on a separate page of the register in Form I.
- (5) Every establishment shall prominently display in a conspicuous place a notice showing the day of the week on which the establishment shall remain closed. If there is an alteration in such a day the employer shall give notice to the Inspector in Form Q and exhibit a copy of such notice.
- (6) If any day notified as holiday under sub-section (1) of section 13 has been substituted being a day of public festival under provisions of sub-section (2) of the said section, the employer shall give notice of the change to the Inspector in Form R and exhibit a copy of such notice.
- (7) Every employer shall exhibit in his establishment a notice containing such extracts of the Act and these rules in English or in the language of the majority of the persons employed by him as the local authority or Government may direct.
- (8) Every employer shall exhibit in his establishment in English or in the language of the majority of persons employed by him a copy of leave rules applicable to his employees.
- (9) Any notice required to be exhibited under these rules shall be exhibited in such manner that it can be readily seen and read by any person whom it affects and shall be renewed whenever it becomes defaced or otherwise ceases to be clearly legible;
- (10) 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 such day.
- (11) The registers, records and notices relating to any calendar year shall be preserved till the end of the next calendar year.
- (12) Save as otherwise provided in sub-rule (7) all registers, records, muster rolls and notices required to be maintained, exhibited or given under this rule shall be either in English or in a Language spoken by the majority of employees.
- (13) Every employer shall maintain a register in which the original copies of inspection notes handed over by the Inspector to the employer under rule 19 shall be incorporated serially in order of dates and he shall produce it whenever required to do so by an Inspector.
- (14) If on an application made by an employer the State Government is satisfied that any muster roll, register or record maintained by such employer gives in respect of all or any of the employees in his establishment the particulars required to be shown in any registers, record or notice prescribed under this rule,

the State Government may, by order in writing direct that such muster roll, register or record may to the corresponding extent be maintained in place of such register, record or notice, as the case may be.

2. Substituted by Notification No. 305-1954-XVI dated 02.05.1972, published in MP. Rajpatra, Part IV (Ga), dated 21.07.1972 at page 336.

21. Overtime :-

(1) For purpose of clause (c) of the Explanation to section 55 of the Act, the expression "limit of hours of work" in the case of employees in any other establishment shall mean nine hours on any day and 48 hours in any week.

(2) The employer shall maintain an account of overtime work taken from the employees from day to day and payments for such overtime in the register in Form N.

22. Administration of the Act :-

(1) The working of the Act shall be administered by the State through the Labour Commissioner, Madhya Pradesh.

(2) An annual report on the working of the Act shall, within three months of the close of any calendar year, be submitted by the Labour Commissioner to the State Government.

(3) The State Government may from time to time call for such reports and information from the Labour Commissioner and may give such directions to him as it may deem necessary for the purpose of enforcement of the Act.

23. Repeal and saving :-

The Central Provinces and Berar Shops and Establishment Rules 1947 and the Madhya Bharat Shops and Establishment Rules, 1953 are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules