

# **THE ANDAMAN AND NICOBAR ISLANDS SHOPS AND ESTABLISHMENTS REGULATION, 2004**

No. 1 of 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

A Regulation to regulate the hours of work, payment of wages, leave, holidays, terms of service and other conditions of work of persons employed in shops and establishments in the Union territory of the Andaman and Nicobar Islands and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:

## **CHAPTER I**

### **PRELIMINARY**

#### **1. Short title, extent and commencement**

- (1) This Regulation may be called the Andaman and Nicobar Islands Shops and Establishments Regulation, 2004.
- (2) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.
- (3) It shall come into force on such date as the Administrator may, by notification, appoint; and different dates may be appointed for different provisions of this Regulation and for different areas and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

#### **2. Definitions**

In this Regulation, unless the context otherwise requires,

- (1) "Administrator" means the Administrator of the Union territory of the Andaman and Nicobar Islands, appointed by the President under article 239 of the Constitution;
- (2) "adult" means a person who has completed his eighteenth year of age;
- (3) "apprentice" means a person who is employed on payment of wages or otherwise for the purpose of being trained in any trade, craft or employment in any establishment;
- (4) "child" means a person who has not completed his fourteenth year of age;
- (5) "closed" means not open, for the service of any customer, or for any other purpose whatsoever, relating to a business;

- (6) "commercial establishment" means any establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes,
- (a) a society registered under the Societies Registration Act, 1860 and a charitable or other trust, whether registered or not, which carries on any business, trade

or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession;

- (b) an establishment which carries on the business of advertising commission agency or forwarding and commercial agency, or which is a clerical department of a factory or of any industrial or commercial undertaking;
- (c) an insurance company, a joint stock company or bank or broker's office and an exchange; and
- (d) any other establishment which the Administrator may, after taking into consideration the nature of its work, by notification, declare to be a commercial establishment.

but does not include a shop or a factory registered under the Factories Act, 1948 or a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment in respect of which the Factories Act, 1948 or the Plantations Labour Act, 1951 or the Mines Act, 1952 or the Cinematograph Act, 1952 is applicable:

- (7) "day" means a period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, "day" means the period of twenty-four hours beginning from the time when such employment commences irrespective of midnight:

- (8) "employee" means a person wholly or periodically employed. whether directly or otherwise, in or in connection with, any establishment and whether for wages (payable on permanent, periodical, contract, piece-rate or commission basis) or other consideration or for no reward for his labour and includes an apprentice, any clerical or other member of the staff of a factory or industrial establishment which falls outside the scope of the Factories Act, 1948, but does not include a member of the employer's family, and "employed" shall be construed accordingly;
- (9) "employer" means a person owning or having charge of, or ultimate control over, the affairs of an establishment and includes members of the family of an employer, a manager, agent or other person acting on behalf of such person, manager or agent in the general management, supervision or control of such establishment;
- (10) "establishment" means a shop, commercial establishment, residential hotel, lodging house, restaurant, eating house, theatre or other place of public amusement or entertainment to which this Regulation applies and includes such other establishment as the Administrator may, by notification, declare to be an establishment for the purpose of this Regulation;
- (11) "family" in relation to an employer, means the husband or wife, son, daughter, father, mother, brother or sister or grandson or grand-daughter of the employer who lives with, and is wholly dependent on, such employer;

- (12) "holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Regulation;
- (13) "Inspector" means an Inspector appointed under section 22;
- (14) "leave" means leave as provided for in Chapter IV;
- (15) "night" means a period of at least twelve consecutive hours which shall include the interval between 8 O'clock in the evening and 6 O'clock in the morning of the next succeeding day;
- (16) "notification" means a notification published in the Andaman and Nicobar Gazette;
- (17) "opened" means opened for the service of a customer or for any business connected with the establishment;
- (18) "period of work" means the time during which an employee is at the disposal of the employer;
- (19) "prescribed" means prescribed by rules made under this Regulation;
- (20) "prescribed authority" means the officer appointed, by the Administrator, as a prescribed authority to exercise the powers and perform the functions or the prescribed authority under this Regulation under sub-section (1) of section 17;
- (21) "register of establishment" means a register maintained for the registration of establishments under the rules made under this Regulation;
- (22) "registration certificate" means a registration certificate issued under sub-section (4) of section 4;
- (23) "residential hotel" means any premises in which business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money by a traveller of any other person or class of persons and includes a club;
- (24) "restaurant" or "eating house" means any premises in which the business is carried on wholly or periodically of the supply of meals or refreshments to the public or class of public for consumption on the premises of the restaurants and includes a halwai's shop; but does not include a restaurant attached to a theatre or a restaurant or a canteen attached to a factory if the persons employed therein are allowed the benefits provided to workers under the Factories Act, 1948;
- (25) "shop" means any premises, used wholly or in part for the sale of goods, either for cash or on credit by retail or wholesale, or both, or, where services are rendered to customers, and includes an office, store room, godown, warehouse, workhouse, sale depot and workplace, whether in the same premises or elsewhere, used in connection with such sale or services, but does not include a factory, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the provisions of the Factories Act, 1948;

- (26) "spread over" means the period between the commencement and the termination of the work of an employee on any day;
- (27) "theatre" includes any premises intended wholly or partly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performance, or for any other public amusement or 'entertainment';
- (28) "wages" shall have the meaning assigned to it in the Payment of Wages Act, 1936;
- (29) "week" means a period of consecutive seven days beginning at midnight of Saturday or on such other day as may be approved in writing for a particular area by the prescribed authority;
- (30) "year" means a period of twelve consecutive months commencing on and from the 1<sup>st</sup> day of January;
- (31) "young person" means a person who has completed his fourteenth year, but has not completed his eighteenth year, of age.

### **3. Exemptions**

- (1) Nothing in this Regulation shall apply to,
  - (a) offices of, or under, the Central Government or the State Government or the Union territory or any local authority, except a commercial undertaking;
  - (b) any Government owned postal, telegraph or telephone services, any system of public conservancy or sanitation or any industry, business or undertaking which supplies power, light or water to the public;
  - (c) establishments for the treatment or care of old, sick, infirm, destitute or mentally unfit;
  - (d) offices of legal practitioners and medical practitioners in which not more than three persons are employed;
  - (e) any person employed in the office of, or in the business of, any establishment mentioned in clauses (a) to (d);
  - (f) persons holding any office of management in any establishment;
  - (g) persons whose work is inherently intermittent such as temporarily engaged drivers, caretakers, watch and ward staff or canvassers; and
  - (h) persons directly engaged in preparatory or supplementary work, such as clearing and forwarding clerks responsible for the dispatch of goods.
- (2) Nothing contained in section 11 or sub-section (1) of section 12 shall apply to,
  - (a) shops dealing with medicines or medical or surgical requisites or appliances;
  - (b) residential hotels, boarding houses or hostels, attached to schools, colleges or other educational or technical institutions and establishments maintained in connection with the boarding and lodging of pupils and resident masters;

- (c) tea stalls and refreshment rooms at bus stands, ports or aerodromes;
  - (d) shops of barbers and hairdressers;
  - (e) shops dealing in meat, fish, poultry, eggs, dairy produce (except ghee), bread, confectionery, sweets, chocolates, ice, ice-cream, cooked food, fruits, flowers, vegetables or green fodder;
  - (f) shops dealing in articles required for funeral, burial or cremation;
  - (g) shops dealing in pan (betel leaf), beedis or cigarettes or liquid preparations sold in retail for consumption on the premises;
  - (h) shops dealing in newspapers or periodicals, editing sections of newspapers' offices and offices of news agencies;
  - (i) theatres and other places of public entertainments and stalls and refreshment rooms attached to such theatres and places of public entertainment;
  - (j) establishments for the retail sale of petrol;
  - (k) shops in regimental institutes, garrison shops and military canteens in cantonments;
  - (l) tanneries;
  - (m) retail trade carried on at an exhibition or show, if such retail trade is subsidiary or ancillary only to main purpose of the exhibition or show;
  - (n) oil mills and flour mills not registered under the Factories Act, 1948;
  - (o) brick and lime kilns; and
  - (p) commercial establishments engaged in the manufacture of bronze and brass utensils so far as it is confined to the process of melting in furnaces.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Administrator may, by notification, declare that any establishment or person specified in such notification shall not be exempted from the operation of such provisions of this Regulation as may be specified therein.
- (4) Notwithstanding anything contained in this Regulation, the Administrator may, by notification, exempt any shop or commercial establishment or hotel or restaurant or place of public amusement from all or any of the provisions of this Regulation as he deems expedient or necessary to do so in the interest of the workers.
- (5) On an application made in this behalf by the employer of an establishment, the Administrator may, by notification, exempt, the establishment where the nature of work is,
- (a) intermittent; or
  - (b) seasonal; or

- (c) for a short duration, not exceeding two months and where the Inspector certifies that it may be difficult to enforce the provisions of this Regulation, from all or any of the provisions of this Regulation, subject to such conditions as may be specified in the notification.

## **CHAPTER II**

### **REGISTRATION OF ESTABLISHMENTS**

#### **4. Registration of establishments**

- (1) The Administrator shall, by notification, appoint one or more Assistant Labour Commissioners to be the Registering Officers (hereafter in this Regulation referred to as the Registering Officers) for the purposes of registering the establishments and define their local limits of jurisdiction in that notification.
- (2) The employer of an establishment shall, within the period specified in sub-section (6), apply in the prescribed form to the Registering Officer for registration of the establishment together with such fees not exceeding the amount specified in column (3) of the Schedule which the Administrator may, from time to time, by order, determine.
- (3) Every application for registration under sub-section (2) shall contain,
  - (a) the name of the establishment;
  - (b) the name of the employer of the establishment and the manager thereof, if any;
  - (c) the postal address of the establishment;
  - (d) the category of the establishment, that is to say, whether it is a shop or a commercial establishment or any other category of establishment;
  - (e) the number of employees working in the establishment; and
  - (f) such other particulars as may be prescribed.
- (4) On receipt of the application and the requisite fees under sub-section (1), the Registering Officer shall, on being satisfied about correctness of the particulars contained therein, register the establishment and make the entries in the register of establishments in such manner as may be prescribed, and shall issue, in a prescribed form, a registration certificate to the employer.
- (5) Every employer shall display the registration certificate issued under sub-section (4) in a conspicuous place in the establishment.
- (6) Within thirty days from the date,
  - (a) in the case of an establishment existing at the commencement of this Regulation, on which this Regulation comes into force;
  - (b) in the case of an establishment established on or after the commencement of this Regulation, on which the establishment is established,

the employer of the establishment shall apply under sub-section (2).

- (7) The registration certificate issued under sub-section (4) shall be valid for a period of one year from the date on which it is issued or renewed and the employer to whom such certificate is issued may, within thirty days immediately before the expiry of the validity of such certificate, apply to the Registering Officer in the prescribed form together with such fees not exceeding the amount specified in column (4) of the Schedule which the Administrator may, from time to time, by order, determine and the Registering Officer shall, on receipt of the application and the requisite fees, renew the registration certificate for a further period of one year at a time and for such purpose he shall record such renewal on the back of the certificate under his hand and seal.

**5. Changes to be intimated to the Registering Officer**

- (1) It shall be the duty of an employer to intimate the Registering Officer, on a prescribed form, any change in respect of any particulars furnished under sub-section '(3) of section 4, within fifteen days after the change has taken place.
- (2) The Registering Officer shall, on receipt of such intimation and on being satisfied regarding its correctness, make necessary changes in the register of establishment and shall amend the registration certificate or issue a fresh registration certificate instead thereof, if necessary.

**6. Closing of establishment to be intimated to the Registering Officer**

- (1) An employer of an establishment shall, within fifteen days of the closing of the establishment, intimate the Registering Officer in writing about the date of such closing with reasons thereof, and return the registration certificate issued under sub-section (4) of section 4, regarding the establishment [0 the Registering Officer.
- (2) The Registering Officer shall, on receiving the intimation under sub-section (1) and on being satisfied about the correctness thereof, remove such establishment from the register of establishment and cancel the registration certificate issued regarding such establishment.
- (3) Where the Registering Officer does not receive intimation under sub-section (1) of section 5 or under sub-section (1), but is otherwise satisfied that there is change in respect of any particulars furnished under sub-section (3) of section 4 regarding an establishment, or the establishment has been closed, he may, after giving a reasonable opportunity of making a representation by the employer of the establishment, remove the establishment from the register of establishment and cancel the registration certificate issued in respect of the establishment.



**CHAPTER III**  
**HOURS OF WORK**

**7. Daily work and weekly hours**

- (1) No adult employee in any establishment shall be required or permitted to work for more than nine hours in any day or forty-eight hours in anyone week:

Provided that the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stock-taking and preparation of accounts:

Provided further that the total number of hours worked overtime by an employee shall not exceed fifty hours in a period of three continuous months.

- (2) No young person shall be required or permitted to work in any establishment for more than five hours in any day.

**8. Extra wages for overtime worker**

- (1) Where an adult employee works in any establishment for more than nine hours in any day or more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to wages at twice the rate of normal wages.

Explanation- For the purposes of this sub-section, "normal wages" means the basic wages and such allowances including the cash equivalent of the advantage accruing through concessional sale to a worker of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

- (2) The cash equivalent of the advantage accruing through the concessional sale of foodgrains and other articles to an employee shall be computed in the prescribed condition and manner on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation- For the purposes of this sub-section,

- (a) "standard family" means a family consisting of an employee, his spouse and his two children below the age of fourteen years requiring in all three adult consumption units;
- (b) "adult consumption unit" means the consumption unit of a male or a female above the age of fourteen years and the consumption unit of a person below the age of fourteen years shall be calculated at the rate of one-half of an adult consumption unit.
- (3) The Administrator may by order, specify,
- (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed; and
- (b) the registers which shall be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

## **9. Interval for rest**

The period of work in an establishment during each day shall be so fixed that,

- (a) no adult employee shall be required or permitted to work continuously for more than five hours; and
- (b) no young person shall be required or permitted to work continuously for more than three hours, before he has had an interval for rest of at least one hour.

## **10. Spread over**

The periods of work and intervals for rest in an establishment shall be so arranged by the employer that it should not spread over for more than twelve hours in the case of an adult employee, and eight hours in the case of a young person, on any day.

## **11. Opening and closing hours**

- (1) No establishment shall, on any day, be opened earlier than such hour or be closed later than such hour as may be fixed, by notification issued in that behalf, by the Administrator:

Provided that any customer who was being served or was waiting to be served in any establishment at the hour fixed for its closing, may be served during the quarter of an hour immediately following such hour.

- (2) Before issuing a notification under sub-section (1), the Administrator may get an inquiry conducted in such manner as he may deem necessary for the purpose of issuing such notification.
- (3) The Administrator may, for the purpose of this section, fix, by order, different opening hours and different closing hours for different establishments or different classes of establishments or for different areas or for different times of the year, as he may deem necessary.

## **12. Weekly holiday**

- (1) Every establishment shall remain closed on, and every person employed in such establishment shall be allowed as holiday for rest on, one day of a week:

Provided that in an establishment in which rest for more than one day in a week is allowed immediately before the commencement of this Regulation, such period of rest shall be continued so on the commencement of this Regulation.

- (2) Such holiday of the week shall be fixed by the employer at the beginning of the year and shall be intimated to the Registering Officer and shall be displayed on a notice board prominently at a conspicuous place in the establishment.
- (3) The employer shall not alter such day more often than once in three months and shall intimate the alteration to the Registering Officer and shall make the necessary change in the notice board referred to in sub-section (1) whenever such alteration is made.

- (4) It shall not be lawful for an employer to call an employee at, or for an employee to go to, the establishment or any other place for any work in connection with business of the establishment on a weekly holiday.
- (5) No deduction shall be made from the wages of an employee in an establishment on account of the holiday given to him under this section.
- (6) If any employee is employed on daily wages, he shall nonetheless be paid his wages for the weekly holiday.

**13. Selling outside establishments prohibited after closing hours**

Save as otherwise provided by any other law for the time being in force, no person shall carry on, in or adjacent to a street or public place, the sale of any goods at any time before the opening and after the closing hours fixed under section II and on holidays in respect of an establishment dealing in the same class of goods in the locality in which such street or public place is situated:

Provided that nothing in this section shall apply to the sale of newspapers and such other articles as may be exempted, by notification, by the Administrator.

**CHAPTER IV**

**OTHER CONDITIONS OF EMPLOYMENT**

**14. Leave**

- (1) An employee, who has served for a period of two hundred and forty days or more during a continuous period of twelve months in any establishment, shall be entitled during the subsequent period of twelve months, to leave with wages for a period of fifteen days:

Provided that such leave with wages may be accumulated up to a maximum period of forty-five days:

Provided further that any continuous period of service not exceeding twelve months in an establishment preceding the date on which this Regulation applies to that establishment shall also count for entitlement to leave with wages:

Provided also that any leave accumulated by an employee in an establishment under the law' applicable to that establishment preceding the date on which this Regulation applies to such establishment, shall not be affected.

- (2) An employee of an establishment may apply in writing to the employer of that establishment, not less than seven full working days before the date of availing of leave with wages for the grant of the full period of leave or any portion thereof, to which he is entitled under sub-section (1):

Provided that an employee shall not be granted leave on more than three occasions during the period of twelve months.

- (3) An employee of an establishment who has been allowed leave for not less than five days under sub-section (2) shall, on request, prior to the beginning of his leave, be paid by the employer of that establishment the wages due for the period of the leave.
- (4) An employee shall be entitled, after the first twelve months of his continuous service and during every subsequent twelve months of such service,
  - (a) to sick leave with wages for a period not exceeding twelve days, on the grounds of sickness or accident; and
  - (b) to casual leave with wages for a period not exceeding twelve days on any reasonable ground.
- (5) If an employee entitled to leave under sub-section (1) is discharged by his employer before the employee has been allowed such leave, or if the leave applied for by such employee has been refused, the employer shall pay to such employee the full wages in respect of the period of leave to which he was entitled at the time of such discharge.
- (6) If an employee is discharged by his employer when the employee is sick or suffering from an accident, the employer shall pay such employee the amount payable under this section in respect of the period of leave to which such employee was entitled at the time of such discharge.
- (7) An employee in a hostel attached to a school or college or in an establishment maintained in connection with the boarding and lodging of pupils and resident masters, shall be allowed the privileges referred to in sub-sections (1) to (6), which shall be determined proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year, as the case may be, and all references to the periods of leave in sub-sections (1) and (4) shall be construed accordingly and fractions of less than half a day shall be disregarded.

## **15. Other Holidays**

- (1) Every employee in an establishment shall be entitled to the following holidays with wages, in a year, and on every such holiday the establishment shall remain closed, namely:
  - (a) three national holidays, namely, the 26th day of January (Republic Day), the 15th day of August (Independence Day) and the 2nd day of October (Gandhi Jayanti); and
  - (b) five festival holidays on such days as the Administrator may, by notification, from time to time, specify:

Provided that an employee in any residential hotel, restaurant, eating house, theatre or any place of public amusement or entertainment may be required to work in such establishment on any such holiday, subject to the condition that in lieu thereof, a compensatory holiday with wages shall be allowed to such person within thirty days from the date of such holiday:

Provided further that where any such employee in any establishment is required to work on any such compensatory holiday, he shall be paid additional wages to the ordinary rate of wages in lieu of such holiday.

- (2) The provisions of sub-section (1), insofar as they relate to festival holidays referred to in clause (b) of that sub-section, shall not apply to an establishment where the number of such holidays with wages allowed by the employer is more than the holidays specified under the said clause by the Administrator.

#### **16. Pay during leave and holidays**

An employee shall, for the period of the leave admissible under sub-sections (1) and (4) of section 14 or the holidays allowed under section 15, be paid at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding month exclusive of any earnings in respect of overtime.

#### **17. Appointment of prescribed authority and notice of dismissal**

- (1) The Administrator may, by notification, appoint an officer of the Department of Labour of the Union territory of the Andaman and Nicobar Islands, not below the rank of the Labour Commissioner, to be the prescribed authority to exercise the powers and perform the functions of the prescribed authority under this Regulation.
- (2) No employer shall remove or dismiss an employee who has put in continuous service for a period of not less than six months, except for a reasonable cause and unless the employee has been given one month's prior notice in writing or has been paid one month's wages in lieu thereof:

Provided that where misconduct of an employee is brought on record with proof in an inquiry held for the purpose, he shall not be entitled to one month's prior notice or one month's pay in lieu of such notice.

- (3) An employee removed or dismissed under sub-section (2) shall have a right of appeal to the prescribed authority on the ground that there was no reasonable cause for the removal or dismissal or that the employee has not been guilty of misconduct as held by the employer.
- (4) Where an employee has been removed or dismissed without reasonable cause or without proof of misconduct, the employee shall, where the employer does not agree to reinstate him, be entitled to such compensation as the prescribed authority may determine:

Provided that such compensation shall not exceed an amount calculated at one month's pay for every completed year of service subject, in any case, to the maximum of six months pay.

- (5) Any person aggrieved by an order of the prescribed authority may apply to the District Judge for a revision of such order and subject to the result of such revision, the decision of the prescribed authority shall be final and binding on both the employer and the employee.

- (6) The amount payable as compensation under this section shall be in addition to any fine payable under section 26 and be recoverable as arrears of land revenue.
- (7) No employee who has been awarded compensation under this section shall be entitled to bring a civil suit in respect of the same claim.
- (8) Nothing contained in sub-section (2) or sub-section (4) shall affect the provisions of any other law or terms of an award, agreement or contract of service, under which an employee is entitled to a longer period of notice or to more favourable benefits.

**18. Application of Act 4 of 1936**

- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936, the Administrator may, by notification, direct that, subject to the provisions of sub-section (2), the said Act or any of the provisions thereof as in force on the date of commencement of this Regulation shall apply to all or any class of employees and their employers in establishments to which this Regulation applies and the said Act or the provisions thereof, as the case may be, shall be applicable as if the same had been enacted in this Regulation.
- (2) On the application of the provisions of the Payment of Wages Act, 1936 to the employees and employer of any establishment under sub-section (1), the Inspector appointed under this Regulation shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

**19. Application of Acts 8 of 1923 and 53 of 1961**

The provisions of the Workmen's Compensation Act, 1923 and the Maternity Benefit Act, 1961 and the rules made thereunder shall apply mutatis mutandis to the employers and the employees of establishments to which this Regulation applies.

**20. Prohibition of employment of children**

No child shall be employed in any establishment except as provided in the Child Labour (Prohibition and Regulation) Act, 1986.

**21. Prohibition of employment of women and young persons during night**

No woman or a young person shall be required or permitted to work whether as an employee or otherwise in any establishment during night.

**CHAPTER V**  
**ENFORCEMENT AND INSPECTION**

**22. Inspectors**

The Administrator may, by notification, appoint such number of Inspectors as may be necessary for the purposes of carrying out the provisions of this Regulation and define the local limits of jurisdiction within which they shall exercise their functions.

**23. Powers and duties of Inspectors**

Subject to the rules made under this Regulation, an Inspector may, within the local limits of his jurisdiction,

- (a) enter, at working hours, with such assistants, if any, being persons in the service of the administration of the Union territory of the Andaman and Nicobar Islands, as he may consider necessary, any place which is, or which he has reason to believe to be, an establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise, evidence of any person as he may deem necessary, for carrying out the purposes of this Regulation; and
- (c) exercise such other powers as may be prescribed for carrying out the purposes of this Regulation:

Provided that no person shall be required under this section to answer any question or to give any: evidence tending to incriminate himself.

**24. Inspectors to be public servants**

Every person appointed under section 22 to be an Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**25. Employer to produce registers, records, etc., for inspection**

Every employer shall, on demand by an Inspector, produce for inspection, all registers, records and notices required to be kept under this Regulation.

**CHAPTER VI**  
**OFFENCES, PENALTIES AND PROCEDURE**

**26. Penalties**

- (1) If any person contravenes any of the provisions of this Regulation, he shall be punishable with fine which may extend to five hundred rupees.
- (2) If any person, who has been convicted of the commission of an offence under sub-section (1), is subsequently convicted of the commission of the offence under the said sub-section, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

- (3) If any person makes or causes or allows to be made in any register, record, document or notice required to be maintained or kept or displayed under this Regulation or the rules made thereunder any entry which is, to his knowledge, false in any material particular, or wilfully omits or causes or allows to be omitted from any such register, record, document or notice an entry required to be made therein, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.
- (4) If any person contravenes any provision of any rule made under this Regulation, he shall be punishable with fine which may extend to fifty rupees.
- (5) No court shall take cognizance of any offence under this section, except on the complaint made by the Inspector:

Provided that no such complaint shall be made by the Inspector after the expiry of two years from the date on which the commission of the offence comes to the knowledge of the Inspector.

#### **27. Procedure**

No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under this Regulation.

#### **28. Penalty for obstructing Inspectors, etc.**

If a person,

- (a) wilfully obstructs an Inspector in the discharge of his duties; or
  - (b) wilfully obstructs any person lawfully assisting an Inspector in the discharge of his duties; or
  - (c) fails to comply with any lawful direction given by an Inspector,
- he shall be punishable with fine which may extend to two hundred and fifty rupees.

### **CHAPTER VII**

#### **MISCELLANEOUS**

#### **29. Maintenance of registers and records and display of notices**

- (1) Subject to the general or special orders of the Administrator, an employer of an establishment shall maintain such registers and records, and display on the premises of the establishment such notices, as may be prescribed.
- (2) All such registers and records shall be kept on the premises of the establishment to which they relate.

#### **30. Saving of certain rights and privileges**

Nothing in this Regulation shall affect any rights or privileges to which an employee in any establishment is entitled under any other law, contract, custom or usage for the time being applicable to such establishment, or any rights or privileges under any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights



or privileges are more favourable to him than those to which he would be entitled under this Regulation.

**31. Protection of action taken in good faith**

No suit, prosecution or other legal proceeding shall be against the Administrator, the prescribed authority or any other officer employed in connection with the affairs of the Union territory of the Andaman and Nicobar Islands in respect of anything done or intended to be done in good faith under this Regulation or for any damage caused by any action taken in good faith in carrying out the provisions of this Regulation.

**32. Delegation of powers**

- (1) The Administrator may, by notification, delegate to any officer of the Department powers. dealing with Labour in the administration of the Union territory of the Andaman and Nicobar Islands, all or any of the powers conferred on the Administrator by this Regulation, except the powers under sub-section (3) of section 1, sub-sections (3) and (4) of section 3, sections 18, 22 and 34 and any powers so delegated shall be exercised by such officer subject to such restrictions and conditions as may be specified in the notification.
- (2) The exercise of the powers delegated under sub-section (1) shall be subject to the control and direction of and be revised from time to time by, the Administrator.

**33. Power of the Administrator to suspend provisions of Regulation during fairs and festivals**

On any special occasion in connection with a fair or festival or a public holiday, the Administrator may, by notification, suspend for a specified period the operation of all or any of the provisions of this Regulation or of any rules and orders made thereunder subject to such conditions, if any, as may be specified in the notification.

**34. Power to make rules**

- (1) The Administrator may, after previous publication by notification, make rules for carrying out the purposes of this Regulation.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
  - (a) the register of establishment to be maintained in pursuance of clause (21) of section 2;
  - (b) the form for applying to the Registering Officer for registration under subsection (2) of section 4;
  - (c) the other particulars under clause (f) of sub-section (3) of section 4;
  - (d) the manner of making entries in the register of establishment and the form of issuing a registration certificate under sub-section (4) of section 4;
  - (e) the form for applying to the Registering Officer under sub-section (7) of section 4;

- (f) the form in which any change in respect' of any particulars be intimated under sub-section (1) of section 5;
  - (g) the condition and manner for computing the cash equivalent of advantage 'under sub-section (2) of section 8;
  - (h) the registers, records and notices to be examined under clause (b) of section 23;
  - (i) other powers of an Inspector under clause (c) of section 23;
  - (j) the registers and records to be maintained and notices to be displayed under sub-section (1) of section 29;
  - (k) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Administrator under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### **35. Power to remove difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order, published in the Andaman and Nicobar Gazette, make such provisions not inconsistent with the provisions of this Regulation, as appear to him to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Regulation.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

### **36. Repeal and saving**

On and from the date on which this Regulation comes into force, the Weekly Holidays Act, 1942 shall, insofar as it is applicable to the shops and establishments situated 18 of 1942. in the Union territory of the Andaman and Nicobar Islands is hereby repealed:

Provided that such repeal shall not affect,

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

#### **THE SCHEDULE**

**[See section 4(2) and (7)]**

#### **REGISTRATION FEES**

Serial No.	Category of establishment	Fees for registration in rupees	Fees for renewal of registration in rupees
1	2	3	4
1.	Establishment having no employee	10	10
2.	Establishment having ten or less than ten employees.	100	100
3.	Establishment having more than ten but not less than twenty-five employees	150	150
4.	Establishment having twenty-five employees or above.	200	200

अण्डमान तथा  
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EXTRAORDINARY

प्राधिकार से प्रकाशित

Published by Authority

निकोबार राजपत्र  
Nicobar Gazette

सं. 5, पोर्ट ब्लेयर, सोमवार, 9 जनवरी, 2006  
No. 5, Port Blair, Monday, January 9, 2006

अण्डमान तथा निकोबार प्रशासन  
**ANDAMAN AND NICOBAR ADMINISTRATION**  
सचिवालय/SECRETARIAT

**NOTIFICATION**

Port Blair, dated the 9<sup>th</sup> January, 2006

No. 5/2006/F.No. 79-10/96-Labour.—Whereas draft of Andaman & Nicobar Islands Shops and Establishments Rules, 2005 was published as required by Section 34 (1) of the Andaman and Nicobar Islands Shops and Establishments Regulations, 2004 with the Andaman and Nicobar Administration's Notification in the Andaman and Nicobar Gazette Extraordinary issue No. 117 dated 7<sup>th</sup> July, 2005, inviting objections or suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date of publication of the said Notification in the Official Gazette;

And whereas copies of the said Official Gazette were made available to the public on 7<sup>th</sup> July, 2005;

And whereas no objections or suggestions were received from the public on the said draft by the Administration;

Now, therefore, in exercise of the powers conferred by Section 34 of the Andaman and Nicobar Islands Shops and Establishments Regulations, 2004, the Lt. Governor (Administrator), A & N Islands hereby makes the following rules, namely:-

**Andaman and Nicobar Islands Shops And  
Establishments Rules, 2005**

1. **Short title and extent:-** (1) These rules may be called the Andaman and Nicobar Islands Shops and Establishments Rules, 2005.

Short title, extent  
and  
commencement.

(2) They extend to the whole of the Union Territory of the Andaman and Nicobar Islands.

(3) They shall come into force on the date of their publication in the Official Gazette.

**.Definitions:-**In these rules, unless there is anything repugnant in the subject or context –

(a) All other words and expressions used and not defined here in shall have the meaning respectively assigned to them under the Regulation;

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

(c) ‘ Lt. Governor (Administrator)’ means the Lt. Governor (Administrator) of the Union Territory of the Andaman and Nicobar Islands, appointed by the President of India under Article 239 of the Indian Constitution;

(d) ‘Regulation’ means the Andaman and Nicobar Islands Shops and Establishments Regulation 2004;

(e) “Section” means section of Regulation.

**3. Form of submitting a statement, the fees and other particulars under Section 4 for Registration of Establishments:-** Within 30 days from the date on which the rules comes into force, the occupier of establishment shall send to Registering Officer, a statement in Form A together with prescribed fees as prescribed in Schedule of the Regulation.

**4.Manner of registering shops and establishments and form of registration certificate:** On receipt of the statement and the fees prescribed in Rule 3, the Registering Officer shall on being satisfied about the correctness of the statement in **Form A** shall issue a registration certificate in **Form B** to the occupier of establishment or shop. The registering officer may issue a duplicate registration certificate on the request of the employer in the event of loss of original certificate

**5.Renewal of Registration Certificate:**

(1) A Registration Certificate shall be renewed on completion of one year from the date of registration on payment of fee prescribed in column 4 of Schedule of the Regulation.

(2) Every application for renewal shall be made within 30 days of the expiry of the Registration Certificate originally granted or subsequently renewed.

**6.Exhibition of Name Board of Establishment:** The name board of every establishment shall be in either English or Hindi and whenever other languages are also used, the version in such other languages shall be below the English/Hindi version, as the case may be.

**7. Notice of Changes:** The employer shall intimate in **Form-C** any change in respect of any particulars furnished under sub-section(3) of section 4, within fifteen days after the change has taken place to the Registering Officer.

## **8. Weekly Holiday:**

(1) Every establishment except as exempted under section 3(2) of the Regulation shall remain closed on, and every person employed in such establishment shall be allowed as holiday for rest on one day of a week. Accordingly the employer shall exhibit notice of holiday in **Form-D** in the conspicuous place of the establishment and a copy of notice mentioned in this rule shall be sent to the Registering Officer. Intimation

of all changes in the notice made therein shall be sent immediately to the registering officer.

(2) The employers of the establishments as stated under section 3(2) of the Regulation shall allow a holiday for rest to the employees on any day of a week. Accordingly the employer shall exhibit notice of holiday in **Form-E** in the conspicuous place of the establishment and a copy of notice mentioned in this rule shall be sent to the Registering Officer . Intimation of all changes in the notice made therein shall be sent immediately to the registering officer.

(3) The employee in any residential hotel, restaurant, eating house, theatre or any place of public amusement or entertainment may be required to work in such establishment on such holiday, subject to the condition that in lieu thereof, a compensatory holiday with wages shall be allowed to such person within thirty days from the date of such holiday. Accordingly, the employer shall maintain register of compensatory holiday in **Form-F**

#### 9. Leave with wages, Sickness or Casual:-

(1) Leave with wages



Every employee who has become entitled to leave with wages under section 14 may apply in writing to the employer indicating in advance the date from and the period for which he would like to avail of this leave during the ensuing twelve months and no such leave would ordinarily be refused by the employer except for valid cause. In all other cases, the employee shall apply in writing ordinarily 15 days in advance and the employer shall pass his orders thereon not later than 7 days in advance on receipt of the application:

## **(2) Casual and Sick Leave:**

**(a)(i)** Ordinarily, the previous permission of the employer for casual leave shall be obtained by the employee, but when this is not possible, the employer shall be informed in writing as soon as practicable for the grant of such leave. The Employer shall record his orders on all such applications and shall retain them till the 31<sup>st</sup> March of the following year.

**(ii)** An Employer, however, may refuse an application for the casual leave from an employee on grounds of exceptional pressure of work requiring his attendance on the day or days in respect of which casual leave has been asked for:

Provided that leave shall not be refused where it has been asked for on account of an accident causing physical injury to the employee, death in the family or sickness of the employee, his wife or child.

**(iii)** Where an application for casual leave is refused by the employer under clause(ii) above, the employer shall record his reason for refusal on the application, and shall grant equivalent leave on demand by the employee in the same calendar year.

**(b)(i)** No application from an employee for sickness leave shall be refused, but in any case, employer is not satisfied about the correctness of the assertion set out therein, the employer may either(i) require the employee to submit a medical certificate in respect thereof from a registered medical practitioner (ii) get the employee or the wife or the child of the employee as the case may be, examined at his (employer's) own expense by the registered medical practitioner( lady

doctor in case of females ) for the purpose of verifying the facts mentioned in the leave application

and may grant or reject the application on the basis of the certificate of such medical practitioner

.

(ii) Every such medical certificate shall be retained by the employer till 31<sup>st</sup> March of the following year.

**10. Acts and omissions constituting misconduct:** For the purpose of section 17, misconduct shall include the following acts and omissions on the part of an employee-

- (a) willful insubordination or disobedience, whether or not in combination with another, of any lawful or reasonable order of a superior;
- (b) going on an illegal strike or inciting, abetting or instigating or acting in furtherance thereof;
- (c) willful slowing down in performance of work, or abetment, or instigation thereof;
- (d) theft, fraud, misappropriation or dishonesty in connection with the employer's business or property;
- (e) habitual absence without leave, over-staying the sanctioned leave without sufficient grounds, or proper and satisfactory explanation or habitual late attendance;
- (f) commission of any act subversive of discipline or good behavior on the premises of establishment, such as drunkenness, riotous, disorderly, or

indecent behavior, gambling or holding meeting without previous permission of the employer or taking or giving bribes or any illegal gratification whatsoever;

- (g) habitual neglect of work or gross or habitual negligence;
- (h) willful damage to work in process or to any property of the establishment;
- (i) Sexual Harassment : Unwelcome sexually determined behavior, whether directly or by implication, such as (1) Physical contact and advances (2) Demand or request for sexual favours (3) Sexually coloured remarks. (4) Showing pornography and (5) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

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## **11. Maintenance of registers and records:**

(1) A Register of wages shall be maintained by every employer at the work spot in Form- I

(2) A wage-slip in Form-II Shall be issued by every employer to every persons employed by him at least a day prior to the disbursement of wages.

(3) A muster roll shall be maintained by every employer at the work sport in Form-III and the attendance of each person employed in the establishment shall be recorded daily in that form within three hours of the commencement of the work.

(4) Every employer shall maintain a register of Overtime in Form IV .

(5) Every employer shall maintain register of leave in Form- V

(6) Every employer shall maintain register of employees in Form -VI

(7) Every employer shall maintain register regarding computation of cash value of the concessional sale of food grains in Form-VII

The register, records and notices relating to any calendar year shall be preserved for 3 years from the date of last entry made in the concerned register.

**12. Mode of payment of fees:.** All fees payable under these Rules shall be paid through challan in favour of ‘ Registering Officer of Shops and Establishments, Andaman and Nicobar Islands’“ along with prescribed application and other particulars if any.

## **FORM A**

(See Rule 3)

### **Statement under section 4**

#### **PART 1**

1. Name of the establishment, if any
2. Postal address of the establishment
3. Full name of the occupier or  
the employer [including his father's name]
4. Full name of manager,  
If any [including his fathers name]
5. Category of the establishment, i.e.,  
whether a shop, commercial  
establishment, residential  
hotel, restaurant, eating house, theatre
6. Nature of business

#### **PART II**

7. Names of members of employer's

family working in the establishment,

(state separately the name of young person, if any)

8. Names of other persons

occupying position of management

or employees engaged in

confidential capacity

9. Total number of employees

(state separately the number

of men/women and/or

young person, if any)

Men, Women, Young person

10. Date on which the

establishment commenced its work

11. I hereby declare that the details given

above are correct to the best of my knowledge

Date.....

Signature of occupier/employer

**Note:-**This statement shall be sent to the Registering Officer with such fees as are prescribed in Schedule of the Regulation .

## FORM B

(see rules 4 & 5)

### Registration Certificate of establishment

Name of the Establishment, if any

Name of the occupier/Employer

Postal Address of the establishment

Registration No.

It is hereby certified that the establishment as mentioned herein has been registered in  
a \*\* ..... under A&N Islands Shops and  
Establishments Regulations, 2004 on this ..... day of .. ..

Seal

Registering Officer,

Shops and establishment, A&N Islands

### Renewals

Date of Renewal	From	To	Signature of the Registering Officer Of Shops and Establishments with seal
1. 2.			

3.			
----	--	--	--

\*\* Here insert the category of establishment.

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# **FORM C**

(See rule 7)

## **Notice of Change**

1. Name of the establishment and/or name of occupier/employer
2. Full Address
3. Registration Certificate No..... Dated.....

To

The Registering Officer under the A&N Shops and Establishment Regulations, 2004.



Notice is hereby given that the following change has taken place in respect of information relating to Part I of Form A which please note.

(a)

(b)

(c)

Signature of the occupier/employer

**FORM-D**

**( Rule 8(1) )**

Notice of holiday under Section 12 of the Andaman and Nicobar Islands Regulations 2004

Until further notice this shop/Estt remain entirely closed for full day on

\* ..... during each week

Signature of the employer

Date

\* Sunday, Monday or any other day of the week to be mentioned.

FORM- E

(See Rule 8(2))

Name of the Establishment :

Address:

The persons employed in the establishment shall be given a holiday on the day mentioned below in the week following the date of this notice and until further notice:-

Sl. No (1)	Name of employee (2)	*Day on which Holiday allowed. (3)

\* Sunday, Monday or any other day of the week to be mentioned in the column.

Date:

Signature of Employer or Occupier

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**FORM-F**

(Rule 8(3) )

# **REGISTER OF COMPENSATORY HOLIDAYS**

1.SI.No.

2.Name of the employee/workmen

3.Designation.

4.weekly rest days lost during the month( mention date & month)

5. Date of Compensatory Holiday given ( mention date & month)

6.Remarks.

FORM-I

(Rule 11(1) )

# REGISTER OF WAGES

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

1.SI. No:

2.Name of the Employee:

3.Father's/Husband's Name

4.Designation.

5.Minimum Rate of wages payable( if applicable):

6.Rates of wages actually paid.

7.Total attendance/units of work done.

8.Over time worked

9. Gross wages payable.
10. Employee's Contribution to P.F
11. H.R
12. Other deductions.
13. Total deduction.
14. wages paid.
15. Date of payment.
16. Signature or thumb impression of the employee.

## FORM-II

(Rule 11(2))

## WAGE SLIPS

Name of Establishment:

Place:

- 1..Name of the Employee with Father's/Husband's Name
- 2.Designation.
- 3.Wage period.
- 4.Rate of wages payable and paid.
- 5.Total attendance/unit of work done.
- 6.Overtime Wages.
- 7.Gross wages payable.
- 8.Total deductions.
- 9.Net wages paid.

Signature or thumb impression of the employee.

Pay-in-charge.

**FORM-III**  
**(Rule 11(3) )**  
**Muster Roll**

Name of Establishment

Place

For the period ending.

1.SI.No

2.Name of employee

3.Fathers'Husband's name

4.Sex

5.Nature of Work

6.1,2,3,4,5,6,7.....Days in a month

7.Remarks.

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# FORM--IV

(Rule 11(4) )

## Register of Overtime

Name of Establishment

Place

For the period ending.

1.SI.No

2.Name of employee

3.Fathers'Husband's name

4.Sex

5.Designation

6.Date on which overtime worked

7.Extent of overtime on each occasion

8.Total overtime worked or production incase of piece-workers.

9.Normal Hours.

10.Normal Rate

11.Overtime Rate

12.Normal earning.

13.Overtime earning.

14.Total earning.

15.Date on which overtime payment made.

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# FORM--VI

(Rule 11(6) )

Register of Employees



Name of the Establishment:

Place:

1. Sl. No.

2.Name of Employee.

3.Father's/Husband's Name.

4. Age and Sex.

5.Nature of Employment.

6.Home Address of employee(village Thana & District )

7.Date of Commencement of Employment.

8Date of termination or leaving of employment

9.Singature or thumb impression of employee

10.Remarks.

# FORM--VII

(Rule 11(7) )

Register for computation of cash value of the concessional sale of food grains

- a. Sl.No.
- b. Name of the Employee
- c. Designation
- d. Total Quantity of food grains supplied.

- e. Retail price at the nearest market of the food grains supplies.
- f. Wages paid in cash.
- g. Total amount ( SI No:.5 + SI No.6)
- h. Date of payment.
- i. Signature or thumb impression of the employee

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