

**THE ASSAM SHOPS AND ESTABLISHMENTS ACT,
1971**

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THE ASSAM SHOPS AND ESTABLISHMENTS ACT, 1971

(ASSAM ACT XXI OF 1974)

(Received the assent of the President on the 12th August, 1974)

(Published in the Assam Gazette, Extraordinary dated the 4th Sept, 1974)

An Act to consolidate and amend the law relating to the regulations of conditions of work and employment in shops and commercial establishments and establishments for public entertainment or amusement in the State of Assam.

1. Short title extent and commencement

1. This Act may be called the Assam Shops and Establishments Act, 1971.
2. It extends to the State of Assam.
3. It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
4. It shall apply, in the first instance, to the Municipalities as declared or constituted under the provisions of the Assam Municipal Act, 1956 (Assam Act XV of 1957) and to all such areas and to all shops, commercial establishments and establishments for public entertainment or amusement to which the Assam Shops and Establishments Act, 1948 (Assam Act XII of 1948) applied immediately before the commencement of this Act and thereafter it shall apply to such other areas, or to such shops, commercial establishments or establishments for public entertainment or amusement in such other areas on such date or dates as the State Government may, by notification specify.

CHAPTER I

PRELIMINARY

2. Definition

In this Act, unless there is anything repugnant the subject or context:

- (1) "apprentice" means a person aged not less than twelve years whom an employer employs in his service for training by himself or by any other person for any trade or calling;
- (2) "child" means a person who has not completed his fourteenth year;
- (3) "closed" means not open for the service of any customer or any business connected with the establishment;
- (4) "commercial establishment" means an establishment in which there is conducted the business of advertising, commission, forwarding or commercial agency, a department

of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the State Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for public entertainment or amusement;

- (5) "day" means the period of twenty-four hours beginning at mid-night;
- (6) "employee" means a person wholly or principally employed in and in connection with any establishment and an apprentice;
- (7) "employer" means a person owning or having ultimate control over the affairs of an establishment and includes the manager, agent or other person acting in the general management;
- (8) "establishment" means a shop or a commercial establishment or an establishment for public entertainment or amusement;
- (9) "establishment for public entertainment or amusement" means a restaurant, eating house, cafe, cinema, theatre and such other establishment or class thereof as the State Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;
- (10) "factory" means a factory as defined in or declared to be a factory under the Factories Act, 1948 (Central Act No. 63 of 1948);
- (11) "half day" means a period of six consecutive hours between the hours of half past seven O'clock ante-meridiam and seven O'clock post-meridiam;
- (12) "Inspector" means an inspector appointed under this Act;
- (13) "leave" means leave provided for in Chapter III of this Act;
- (14) "notification" means a notification published in the Official Gazette;
- (15) "opened" means opened for the service of any customer or to any business connected with the establishment;
- (16) "period of work" means the time during which an employee is at the disposal of the employer;
- (17) "prescribed" means prescribed by rules made under this Act;
- (18) "prescribed authority" means the authority prescribed by rules made under this Act;
- (19) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes office, store rooms, godown or warehouse whether in the same premises or otherwise used in connection with such trade or business workshops including automobile repairing garages, accountants

establishments, drawing and designing firms, solicitors' establishments, but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefit provided for workers under the Factories Act, 1948 (Central Act No. 63 of 1948) or an establishment for public entertainment or amusement;

- (20) "spread over" means the period between commencement and the termination of the work of an employee on any day;
- (21) "Wages" means pay at whatever intervals paid and includes dearness and such other allowances payable in terms of money and includes lodging and such other amenities whose value is, capable of being computed in terms of money;
- (22) "week" means the period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the prescribed authority;
- (23) "Year" means a year commencing on the first day of January.

3. Exemptions

- (1) The provisions of Sections 10 and 11 shall not apply to:
 - (a) Shops or classes of shops dealing mainly in dairy product, bread, pastries, sweetmeat and flowers;
 - (b) pharmacies or shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites;
 - (c) shops dealing mainly in articles required for funerals, burials or cremations as may be specified by the Inspectors within respective jurisdictions;
 - (d) shops dealing in tobacco, cigars, cheroots, bidis, pan, liquid refreshment sold in retail for consumption on the premises, ice, newspaper or periodicals;
 - (e) barbers' and hairdresser's shops.
- (2) Nothing contained in this Act shall apply to,
 - (a) persons employed in any establishment in a position of management;
 - (b) persons whose work mainly involves travelling and persons employed as canvassers and caretakers;
 - (c) establishments under the Central or any State Government, local authorities, the Reserve Bank of India or any other Bank, any Railway Administration and cantonment authorities;
 - (d) any water transport service or motor transport service, or any system of public conservancy or sanitation, any industry or business or undertaking which supply power, light or water to the public and such other public utility companies or associations or classes thereof as the State Government may, by notification, exempt from the operation of this Act;

- (e) stall and refreshment rooms at railway stations, docks, wharves and airports;
- (f) establishment for the treatment or care of the sick, infirm, destitute or mentally unfit.
- (g) shops or stalls in any public exhibition or show so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition or show;
- (h) shops or stalls in any public fair or bazaar held for charitable purposes;
- (i) shops or classes of shops dealing mainly in vegetables, meat and fish;
- (j) establishments in mine and oilfields;
- (k) any persons employed in a confidential and capacity, messenger, watchman or exclusively in connection with the collection, dispatch, delivery and conveyance or customs formalities of goods or such other persons or classes of persons as the State Government may, by notification, exempt from the operation of all or any of the provisions of this Act;
- (l) such seasonal commercial establishments engaged in the purchase of raw jute or cotton ginning or cotton or jute pressing and the clerical department of such seasonal factories and such other establishments as the State on, Government may, by notification, exempt from the operation of all or any of the provisions of this Act.

4. Power of Government to apply exempted persons or establishment

Notwithstanding anything contained in section 3, the State Government may, by notification in the Official Gazette a apply all or any of the provisions of this Act to any class of persons or establishment men Section other than those mentioned in clause (c) of sub-section (1) and modify or can any such notification.

5. Exemptions

The State Government may, if they are satisfied that public interest so requires or that the circumstances of the case are such that it would be just and proper to do so having regard to the nature and capacity of the establishment, by notification in the Official Gazette, exempt either permanently or for any specified period, any establishment or classes of establishments in any area or persons or classes of persons to which or to whom this Act applies, from all or any of its provisions subject to such restrictions and conditions as the State Government may deem fit.

CHAPTER II HOURS OF WORK

6. Daily and weekly hours

No employee in any establishment shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any 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 and that total number of hours of overtime shall not exceed fifty for any quarter.

7. Extra wages for overtime

Where an employee works in any establishment for more than eight hours in any day or for more than forty-eight hours in any week, he shall in respect of such. Over time work, be entitled to wages at the rate of twice the ordinary rate of wages.

Explanation: For the purpose of this Section "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the supply of meals and the concessional sale to employees of food grains and other articles as the employee is for the time being entitled to, but does not include bonus.

8. Interval for rest

The period of work of an establishment each day shall be so fixed that no period shall exceed four hours and no such person shall work for more than four hours before he has had an interval for rest of at least one hour.

9. Spread over

The periods of work of an employee in an establishment shall be so fixed that, inclusive of his interval for rest, they shall not spread over more than ten and half hours in any day.

10. Opening and closing hours

- (1) No establishment shall on any day be opened earlier than and closed later than such hour as may be fixed by a general or special order of the State Government made under sub-section (2).

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) The State Government may, by general or special order fix the time at which any establishment or class of establishments shall be opened or closed in any local area beyond the hour fixed for closing.

Section 10 makes it obligatory for every establishment not to open before and close after the time fixed by the State Government. This Section further provides that in case any customer was being served or was waiting to be served in an establishment at the hour fixed for its closing may be served during the quarter of an hour beyond the hour fixed for closing.

The opening and closing hours does not apply to certain categories of establishments specified in Section 3(1)(a) to 3(1)(e).

The Government of Assam vide Notification No. GLR 290/76/3, dated. 21-6-1976 had fixed the opening hour and closing hour of all shops to which the said Act applies as follows: Opening hour 8 A.M and closing hour 7.45 P.M.

11. Closing of shops and grants of weekly holidays for religious purposes

- (1) Every shop shall remain entirely closed for one day in each week.
- (2) The State Government may, by notification, require that in addition to one day referred to in sub-section (1), every shop or any specified class of shops shall remain closed between such hours in the afternoon of such days in each week, as may be specified in the notification:

Provided that, when there are conducted in a shop two or more trades or business, any of which is of such character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that shop, such shop shall so far as the conduct of the trade or business is concerned, be exempt from the operation of sub-section (1):

Provided further that when in any establishment for which the provisions of this Act applies two or more trades or business are conducted, one or more of which are usually conducted in a shop while the others are usually conducted in a commercial establishment, the provisions of this Section shall not apply to the establishments so far as the conduct of the trades or business usually conducted in a commercial establishment are concerned.

- (3) No deduction on account of any closer of a shop under the provisions sub-section (1) or sub-section (2) shall be made from the wages of such shop.
- (4) The day on which shop shall be closed in each week under the provisions of sub-section (1) shall be such day as may be specified by the employer in a notice, which shall be displayed in a conspicuous place in the shop.

Provided that no employer shall more often than once in every three months, alter the day so specified.

Provided further that the Inspector may by a written order, require the shops in particular area within their respective jurisdiction, to be kept closed on a particular day as specified in the order.

- (5) Every person employed in a commercial establishment shall be allowed as holidays at least one and a half day in each week:

Provided that, when there are conducted in a commercial establishment two or more trades or business, any of which is of such a character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that commercial establishment, such commercial to that establishment shall, so far as the conduct of the trade or business is concerned be exempt from the operation of this sub-section.

- (6) No deduction on account of any holiday allowed under the provisions of sub-section (5) shall be made from the wages of any person employed in such commercial establishment.
- (7) Notwithstanding anything contained in the Weekly Holidays Act, 1942 (Act XVIII of 1942) every person employed in an establishment for public entertainment or amusement shall be allowed as holidays at least one and a half day in each week:
- Provided that, when there are conducted in an establishment for public entertainment or amusement two or more trade or business any of which is of such a character that if it was the sole trade or business therein conducted the provisions of this Act would not apply to that establishment, such establishment shall so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section.
- (8) No deduction on account of any holiday allowed under the provisions of sub-section (7) shall be made from the wages of any person employed in such establishment for public entertainment or amusement.
- (9) Every person employed in a shop, commercial establishment for public entertainment or amusement shall be entitled to leave of absence for any days, he may select, not exceeding three in number in any one year for the purpose of attending ceremonies or performing functions or duties connected with or enjoined by his religion.
- (10) Every person employed in an establishment shall be granted a paid holiday on each of the following occasions and on such other day or days as may be notified by the State Government from time to time.
- (a) 26th January
 - (b) 1st May
 - (c) 15th Aug
 - (d) 2nd October

CHAPTER III

LEAVE

12. Application of chapter

The provisions of this Chapter shall not operate to the prejudice of any right to which an employee be entitled under any other law or under the term of any award, agreement or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages or weekly holidays than provided in this chapter, the employee shall be entitled to such longer leave or weekly holidays as the case may be.

Explanation-For the purpose of this chapter, leave shall not, except as provided in section 13, include weekly holidays or holidays for festivals or other similar Occasions.

13. Annual leave with wages

- (1) Every employee in an establishment shall be entitled after twelve months' continuous service in that establishment to privilege leave with wages for a period of 16 days in the subsequent period of twelve months, provided that such privilege leave with wages may be accumulated up to maximum period of 30 days.
- (2) Every employee in an establishment shall also be entitled during every twelve months of continuous service to medical leave with wages for a period not exceeding twelve days on the ground of any sickness incurred or accident sustained by him and to casual leave with wages for a period not exceeding twelve days on any reasonable ground.
- (3) If an employee entitled to any leave under sub-section (1) is discharged by his employer before he has been allowed the leave, or if having applied for and been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under this Act in respect of the leave.
- (4) If an employee entitled to any leave under sub-section (2) is discharged by his employer when he is sick or suffering from the result of an accident, the employer shall pay him the amount payable under this Act in respect of the period of the leave to which he is entitled at the time of his discharge, in addition to the amount, if any, payable to him under sub-section (3).
- (5) An employee shall be deemed have completed a period of twelve months' continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about
 - (a) by sickness, accident, or authorised leave (including authorised holidays and weekly holidays), not exceeding ninety days in the aggregate for all three; or
 - (b) by a lock-out; or
 - (c) by a strike which is not an illegal strike; or
 - (d) by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate, and authorised leave shall be deemed not to include any weekly holiday allowed under this Act which occurs at the beginning or end of an interruption brought about by the leave.

14. Wages during leave period

For the leave allowed to him under section 13, an employee shall be paid at the rate equal to the daily average of his total full time earning exclusive of any overtime earning and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the supply of meals and by the sale by the employer of food grains and other articles at concessional rates, for the days on which he worked during the month immediately preceding his leave.

15. Power of Inspectors to act for employees

Any inspector may institute proceedings on behalf of any employee to recover any sum required to be paid by an employer under this chapter which the employer has not paid.

16. Power to exempt establishment

Where the Government is satisfied that the leave rules applicable to employees in an establishment provide benefits which in its opinion are not less favorable than those for which this chapter makes provisions it may by written order, exempt the establishment from all or any of the provisions of this chapter, subject to such conditions as may be specified in the order.

CHAPTER IV

WAGES

17. Application and amendment of the Payment of Wages Act

- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act 4 of 1936) referred to as the said Act, the State Government may by notification in the Official Gazette; direct that, subject to the provisions of sub-section
- (2) of the said Act or any of the provisions thereof of the rules made thereunder shall apply to all or any class of employees in establishments to which this Act applies.
- (3) On the application of the provisions of the said Act to any establishment under sub-section (1), the Inspector appointed under this Act 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.

18. Notice of dismissal

- (1) No employer shall dispense with the service of an employee employed continuously for a period of not less than six months, except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided, however, that such notice shall not be necessary where the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose.
- (2) Any employee whose services are dispensed with may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer.
- (3) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it may deem fit in the circumstances of the case.
- (4) In directing the reinstatement of an employee the appellate authority shall also direct the payment of such amount of compensation as may be specified by him in case the employer fails to reinstate the employee in accordance with the directions.

- (5) The decisions of the appellate authority shall be final and binding on both the parties, not be liable to be questioned in any court of law, and be given effect to within such time as may be specified in the order of the appellate authority
- (6) Any compensation required to be paid by the employer under sub-section (3) and (4) but not paid by him shall be recoverable as arrears of land revenue under the provisions of the Revenue Recovery Act, 1890 (Act 1 of 1890) for the time being in force.

CHAPTER V

EMPLOYMENT OF CHILDREN AND WOMAN

19. Prohibition of employment of children

No child shall be required or allowed to work in any establishment except as an apprentice in such employment as may be specified by the State Government.

20. Prohibition of employment of women and persons below seventeen years during night

No women or any person who has not attained the age of seventeen shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 A.M. or after 7 P.M.

CHAPTER VI

HEALTH AND SAFETY

21. Cleanliness, ventilation and lighting

- (1) The premises of every establishment shall be kept clean and free from alluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime washing, colour washing painting, varnishing, disinfection and deodorizing.
- (2) The premises of every establishment shall be ventilated and sufficiently lighted during all working hours, with such standards and by such methods as may be prescribed.
- (3) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently kept clean or lighted or ventilated, he may serve on the employer an order in writing specifying the measures which in his opinion, should be adopted and requiring him to be carried out before a specified date.

22. Precaution against fire

Every employer shall take proper precaution against fire in such manner as may be prescribed.

23. Appeals

Against any order of the Inspector under this chapter, an appeal shall lie to such authority and within such time as may be prescribed.

24. Apportionment of expenses under preceding sections

If any person, being either the owner or the occupier of an establishment who has incurred or is about to incur any expenses for the purpose of securing that the requirements of section 21 or section 22 are complied with respect to the establishment, alleges that the whole or any part of the expense ought to be borne by any other person having an interest in the premises, he may apply to the Court of Munsiff having jurisdiction over the area in which the establishment is situated and that court shall make such order concerning the expenses or their apportionment as it appears to the Court, having regard to all circumstances of the case including the terms of any contract between the parties, to be just and equitable, and any order made under this section may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

CHAPTER VII

ENFORCEMENT AND INSPECTION

25. Appointment of Inspectors

- (1) The State Government may, by notification in the Official Gazette, appoint such officer or such persons or class of persons as they think fit to be Inspectors for the purposes of this Act within such local limits as they may assign to them respectively.
- (2) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the Chief Inspector for the purposes of this Act.

26. Powers and duties of Inspectors

Subject to any rules made by the State Government in this behalf, an Inspector may within the local limits for which he is appointed:

- (a) Enter, at all reasonable times and with such assistants, if any, being persons in the service of the Government or any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment.
- (b) make such inspection of the premises and of any prescribed registers, records and notice and take on the spot or otherwise evidence of any person as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purpose of this Act.

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

27. Inspector to be public servant

Every Inspector appointed under sub-section (1) of section 25 shall be deemed to be a public servant within the meaning of section 12 of the Indian Penal Code. (Act XLV of 1860).

28. Employer to produce registers, records, etc. for inspection

Every employer shall on demand produce for inspection of an Inspector all registers, records and notice required to be kept under and for the purposes of this Act.

CHAPTER VIII
OFFENCES PENALTIES AND PROCEDURE

29. Penalties

- (1) Whoever contravenes any of the provisions of this Act or any rules made thereunder shall, on conviction, punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees:

Provided that for any second or subsequent offence, the employer shall be punishable with imprisonment only for a term which shall not be less than two months but may extend to six months.

- (2) No court shall take cognizance of any offence punishable under this Act or any rule or order made thereunder unless the complaint is made.
- (a) by the employee of an establishment either by himself or through the Union of which he is a member within three months from the date on which the offence is alleged to have been committed; or
- (b) by the Inspector within six months from the date on which the alleged offence comes to his knowledge.
- (c) No Court inferior to that of judicial Magistrate of the first class shall try any offence punishable under this Act or any rules or orders made thereunder.

CHAPTER IX
MISCELLANEOUS

30. Maintenance of registers and records and display of notices

Subject to the general or special orders of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept in the premises of the establishment to which they relate.

31. Saving of certain rights and privileges

Nothing in this Act shall effect any right or privilege which an employee in any establishment is entitled to on the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment or any award, settlement binding on the employer and the employee in such more establishment, if such rights or privileges are more favorable to him than those to which he would be entitled under this Act.

32. Indemnity

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

33. Delegation of powers

- (1) The State Government may, by notification in the Official Gazette authorize any officer or authority subordinate to them to exercise all or any of the powers vested in them by or under this Act, except the powers mentioned in section 34, subject to such restriction and conditions, if any, as may be specified in the notification.
- (2) The exercise of the powers delegated under sub-section (1) shall be subject to control and revision by the State Government or by such persons, as may be empowered by them in that behalf. The State Government shall also have power to control and revise the acts or proceedings of any person so empowered.

34. Powers to make Rules

- (1) the State Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (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) health, safety, welfare of employees, holiday for occasions;
 - (b) the form and the date for application of registration or renewal of certificate and fees payable for such registration or renewal;
 - (c) the particulars with respect of certificate of registrations or renewal thereof;
 - (d) the manner of taking precaution against fire;
 - (e) the setting up an appellate authority, the limitation for filing appeal and manner of giving notice; and
 - (f) any other matter which has to be, or may be prescribed.
- (3) All rules under this section shall be laid as soon as may be, after they are made before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of that session in which it is so laid or the session immediately following, the Assam Legislative

Assembly agree in making any modification in the rules or the Assam Legislative Assembly agree that no rules should be made, the rules 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 the rules.

35. Power of Government to suspend provisions of the Act during fairs and festivals

The State Government may, by notifications on account of such holiday or other occasion as may be prescribed, suspend the operation of all or any of the provisions of this Act in respect of any shop or commercial establishment or establishments for public entertainment or amusement or for any class of shops or establishments as aforesaid for such period and subject to such conditions as it may think fit.

36. Registration of establishment

- (1) Every employer shall have his establishment registered under this Act. The registration shall be valid for a calendar year and thereafter shall be renewed for every calendar year.
- (2) The application for registration or for renewal of registration shall be made to the Chief Inspector or to such other officer as the Chief Inspector may authorize in this behalf in such forms and within such date and containing such particulars as may be prescribed.
- (3) The fees payable for registration or for renewal of registration shall be such as may be prescribed by the State Government.
- (4) Where an establishment is registered under this Act or when the registration of any establishment is renewed there shall be issued to the employer, a certificate of registration or a renewal certificate of registration, as the case may be containing such particulars as may be prescribed.
- (5) The certificate or the renewal certificate, as the case may be, shall be kept prominently displayed at some conspicuous place of the establishment.

37. Repeal and Saving

- (1) The Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) is hereby repealed.
- (2) Notwithstanding the repeal of the Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) any order made, any notification issued or any action taken under the Act so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act and shall continue to be in operation until cancelled or suspended by order made or notification issued under the corresponding provisions of this Act.

**THE ASSAM SHOPS AND ESTABLISHMENTS RULES,
1976**

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THE ASSAM SHOPS AND ESTABLISHMENTS RULES, 1976

CHAPTER I PRELIMINARY

1. Short title and commencement

- (1) These rules may be called the Assam Shops and Establishments Rules, 1976.
- (2) They shall come into force at once.

2. Definition

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

- (a) 'the Act' means the Assam Shops and Establishments Act, 1971.
- (b) 'Appellate authority' means the authority set up under these rules;
- (c) 'Family' in relation to an employer means:
 - (i) Spouse;
 - (ii) Children and step-children; and
 - (iii) Parents, sisters and brothers, nephews and nieces if residing with and wholly dependent upon him/them.
- (d) 'Form' means a form appended to these rules;
- (e) 'Government' means the Government of Assam;
- (f) 'Rule' means rules framed under the Act;
- (g) 'Schedule' means a Schedule appended to these rules;
- (h) 'Section' means a section of the Act;
- (i) 'Time' with reference to time of day in this rule means the Indian Standard Time which is five and a half hours ahead of Greenwich Time;
- (j) Words and expressions used in the Act and not defined in these Rules shall have same meaning assigned to them in the Act.

CHAPTER II OVERTIME WORK AND WEEKLY HOLIDAYS

3. Overtime Slip

In addition to recording the full particulars of the overtime work done by an employee on any day in the register prescribed for the purpose, over-time slips in Form. No. 'A' shall be issued to an employee immediately after overtime work is done by him on each occasion by the employer concerned under his own signature or under the signature of any other person authorised by him to do so on his behalf by general or special order:

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

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

- (1) The price of meals of the type and standard actually made available to an employee by his employer in terms of the contract of service, expressed or implied, charged in the nearest hotel or restaurant, as the case may be, immediately before the date on which overtime work is done or the leave commences shall be regarded as the money value of, such meals made available to that particular employee for the purpose of calculating either the leave wages or the overtime wages as the case may be.
- (2) For the purpose of computing the money value of food grains and other articles supplied or made available to a particular employee in a wage period, the difference between the prices of food grains and other articles prevailing on an average during that period in the nearest market in the area where the concerned employee ordinarily resides and the price at which food grains and other articles are supplied to him by his employer; shall be reckoned by it for calculating the overtime wages or the leave wages.
- (3) If any dispute arises in respect of computation of the money value of meals and food grains and other articles made available to an employee by his employer the matter may be referred to the local Inspector of Shops and Establishments by either of the parties to the dispute and his decision thereon shall be final and binding on both the employer and the employee concerned unless it is modified in any manner on appeal. If, however, the order of the Inspector is modified, the order so modified shall be final and binding on both the parties to the dispute and shall not be liable to be questioned in any court of law and be given effect to within such time as may be specified in the order of the appellate authority.

5. Notice of weekly closure of Shops

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

6. Notice of Weekly Holidays in Establishments

- (1) The employer in a commercial establishment or an establishment for public entertainment or amusement, as the case may be shall display in the establishment a Notice in Form 'C' specifying the one and a half days in each week during which every employee in the establishment shall be allowed holidays.
- (2) Every employer in a commercial establishment or an establishment for the public entertainment or amusement, before displaying the Notice in Form 'C', shall submit the said Notice with the required entries in duplicate to the Inspector within whose jurisdiction the establishment is situated and the Inspector shall, on

receipt of the Forms duly filled in and on being satisfied about the correctness of the entries made therein, countersign the Forms and shall, after retaining one copy thereof for his office record, return the other copy to the employer for display in the establishment.

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

7. Restriction on double employment

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

CHAPTER III

LEAVE

8. Privilege Leave

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

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

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

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

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

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

9. Casual leave

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

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

10. Medical leave

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

Provided that the employer may, if he so thinks fit and undertakes or defray the cost involved, require the employee by an order in writing to be examined by the nearest State Health Officer of Class I and if the employee refuses to submit to such examination or is certified on such examination he is certified to be fit for duty, the employer may refuse the leave or extension thereof as the case may be.

11. Combination of medical leave with privilege leave

Leave on medical certificate allowed under Rule 10 above may be combined with privilege leave if due under the Act. 12.

12. Prohibition of alteration of nature of leave

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

13. Intimation of employee's address on leave

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

14. Extension of leave

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

15. Unauthorised absence

- (1) If an employee remains absent without leave or beyond the period of leave originally granted or subsequently extended, the employer shall, before taking any disciplinary action against the absentee employee issue a notice requiring him to explain in writing the reasons of his absence within fifteen days of the receipt of the notice.
- (2) If on receipt of the notice referred to in sub rule (1) above, the absentee employee explains the reasons of his absence to the satisfaction of the employer, the later may regularise the period of unauthorised absence by grant of such leave as may be due to the employee and treat the remain period of absence, if any, as leave of absence without wages; and where the explanation given by the employee is considered not satisfactory, the employer may either treat the period of unauthorised absence of the employee as absence without wages even though leave with wages may be due to him or terminate his lien on service, depending on the seriousness and gravity of the case.
- (3) If the employee does not submit any explanation to the employer within the time limit given in the notice referred to sub-rule (1) above, the later may terminate the lien of the person employed on his service.
- (4) The notice referred to in sub-rule (1) above shall be served by registered post to the address given under Rule 13, or in its absence, to the address last given by the person employed.

CHAPTER IV

WAGES AND TERMINATION OF SERVICE

16. Continuous employment for six months

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

17. Appellate Authority

For the purpose of sub-section (2) of section 18 of the Act ¹[Assistant Commissioner of the area] shall be appellate authority.

²[Explanation: Assistant Labour Commissioner includes Senior Assistant Labour Commissioner.]

18. Time within which appeal can be submitted

- (1) An employee, whose service have been dispensed with an alleged contravention of the provisions of sub-section (1) of section 18 of the Act may within thirty days of the date of termination of service, make an appeal to the appellate authority.
- (2) The appellate authority may, however, entertain an appeal after the expiry of the aforesaid period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

19. Procedure for hearing of appeal

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

20. Recovery of sums of money under section 18

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

21. Issue of appointment letters to employees

Every employer in an establishment shall furnish every employee with a letter of appointment ³[with a copy to the Chief Inspector to his official address, by a registered post, with acknowledgment due and to the Inspector of the area in which the establishment is situated and it shall be] effective from the actual date of employment in Form 'G' in the case of every person who is,

- (i) already in the employ of the establishment within thirty days from the date on which these rules come into force, and
- (ii) employed in the establishment after these rules come into force and before the person so employed commences work:

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

22. Employee's liability to give prior notice

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

CHAPTER V

EMPLOYMENT OF CHILDREN AND WOMAN

23. Evidence as to age of an employee

- (1) In respect of an employee in an establishment the Chief Inspector or the inspector of the area within whose Jurisdiction the establishment is situated may, at any time, in writing require the employer to produce at his own cost within such time, not being less than ten days from the date of the requisition, one of the following documents showing the age of such person employed, namely a certified copy of an extract from:
 - (i) The records of any School;
 - (ii) The Birth Register of Local Authority:
- (2) In the case of the employer's failure to produce either of the documents required under sub-rule (1) above the Chief Inspector or the Inspector shall, at the cost of the Employer, arrange to determine the age of the person employed through medical examination by the District Health Officer of the area or by any other competent medical officer not below that rank.

CHAPTER VI

HEALTH AND SAFETY

24. Times and methods of cleansing establishments

- (1) Subject to the provisions of sub-rule (2) in every establishment,
 - (a) all the inside walls of the rooms and all ceilings and tops of such rooms (whether such walls, ceilings and tops be plastered or not) and all the

passages and stair cases shall be lime washed or colourwashes at least once a year, unless in the opinion of the local Inspector such walls, ceilings, passages or stair cases require to be lime washed or colourwashes earlier;

- (b) all the beams, rafters, doors, window frames and other wood work with the exception of floors shall be either painted or varnished once in two years.
- (2) Nothing in this rule shall apply to:
- (a) rooms (not being rooms in residential hotels, restaurants and eating houses) used only for storage of articles;
 - (b) walls or tops of rooms which are made of galvanised iron, tiles, asbestos sheets or similar material or glazed bricks;
 - (c) any other establishment or part thereof in which lime-washing or painting is in the opinion of the local Inspector unnecessary to satisfy the requirements of section 21 of the Act in respect of cleanliness.
- (3) All floors, passages and stairs shall be swept, washed and dried (wherever necessary with mixtures or detergents or deodorisers) at least once a day to keep them adequately clean and free from slippery agents or substances giving offensive smell.
- (4) Where the floor of the premises of an establishment is liable to become wet in the course of any process effective means of drainage shall be provided and maintained.
- (5) No rubbish, filth or debris shall be allowed to accumulate or to remain on or near any premises in an establishment in such position that effluvia can arise therefrom.
- (6) All drains carrying waste or sullage water or sewage shall be constructed of impermeable material and shall be flushed regularly twice daily.
- (7) The dates on which lime-washing, colour-washing, painting or varnishing is carried out under sub-rule (1) shall be duly entered in a register maintained in Form 'H'.
- (8) In every establishment in which articles are stored with a view to their transport or sale, adequate washing facilities shall be provided and maintained free for the use of employees such as soap, towel, nail brush, etc.
- (9) No stationary internal combustion engine shall be operated in any establishment unless the exhaust is conducted into the open air and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the health of employees working in the establishment.
- (10) In every establishment in which there is given off any dust or fume or other impurity of such nature and to such an extent as is likely to be injurious or offensive to the persons working therein effective measures shall be taken to prevent its inhalation and accumulation in the premises and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity and such point shall be enclosed as far as possible.

- (11) Every employer of an establishment where food, drink and beverage is prepared and are served shall ensure that all the persons employed in connection with the business of the establishment, including the employer, himself, are free from any communicable diseases.

A certificate in Form 'I' to the effect that the person so employed is free from communicable disease shall be obtained from a competent medical officer not below the rank of Health Officer of class I and produced before the Inspector on demand.

- (12) In every establishment, proper arrangement shall be made for providing sufficient supply of drinking water to the employees. The water so supplied shall be fit for human consumption and shall be stored in a hygienically sheltered place and kept cleanly and properly covered. As far as practicable only filtered water shall be supplied for the purpose.
- (13) Every employer in an establishment shall provide and maintain at convenient places sufficient number of spittoons in a clean and hygienic condition with disinfectants which may be liquid or sand covered with lime. The disinfectants shall be replaced daily.
- (14) Latrines and Urinals shall be so situated as to be conveniently accessible and shall be provided in every establishment in sufficient number for the use of the employees thereof. The walls, ceilings and partitions of every latrine and urinal shall be made of glazed tiles as far as practicable and wherever they are not made of glazed tiles, they shall be white washed or colour washed once in every month. All latrines and urinals shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

25. Ventilation

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

26. Precautions against fire

- (1) Every establishment shall be provided with adequate means of escape in case of fire.
- (2) In every establishment, the doors affording exit from any room shall not be locked or fastened in such a way that they cannot be easily and immediately opened from inside while any person is within the room.
- (3) In every establishment buckets and or chemical fire extinguishers preferably the latter shall be provided in suitable number and at suitable sites according to nature of work carried on and the size of the premises.
- (4) In every establishment dealing in or with inflammable substances there shall be a warning notice in writing conspicuously displayed that no person shall smoke or use a naked light or cause or permit any such light to be used in the immediate vicinity of any inflammable material.

27. Safety

- (1) Every dangerous part of a Machinery in an establishment shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery so fenced are in motion or in use.
- (2) In every establishment, where packing or any other process is carried on with the aid of electric power, suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained.
- (3) No employee with loose fitting clothes shall be allowed or made to work near the moving machinery or belt. Tight fitting clothes for the purpose shall be provided free by the employer.

28. Appeals under section 23

- (1) The authority for the purpose of hearing appeals under section 23 of the Act shall be the Chief Inspector of Shops and Establishments appointed under sub-section (2) section 25.
- (2) Any person aggrieved by any order passed by an Inspector under sub-section (3) of section 21 of the Act may prefer an appeal against that order within thirty days of the passing of it. Such appeal shall be in the form of a memorandum setting forth clearly the grounds on which the appeal is preferred against and shall be accompanied by a copy of the order and the original copy of the treasury challan showing payment of ten rupees as hearing fee for each of the order contested.
- (3) The appellate authority shall make such enquiries as he deems fit in the matter appealed against and issue fresh orders affirming, rescinding or modifying the original order.

CHAPTER VII

ENFORCEMENT AND INSPECTION

29. Powers and functions of Inspector

- (1) The duties of the Inspector appointed under section 25 shall generally be to make such examination of all, establishment as may be necessary for the purpose of satisfying himself that the provisions of the Act, the rules and any orders issued by the Government under the Act are duly observed and in particular, to ascertain whether within limits of his jurisdiction:
 - (i) the restrictions imposed on the daily and weekly hours of work and the intervals of rest and the spread over of the periods of work are duly observed according to the provisions of the Act and the Rules;
 - (ii) the overtime work done by the person employed are within the prescribed limits of the Act and the Rules and the overtime wages due are paid regularly;
 - (iii) the shops remain closed on the notified day of the week and the declared one and a half days of holiday are given;
 - (iv) the opening and closing hours fixed under the Act and the rules are observed in the shops and establishments;

- (v) any deduction from the wages of the person employed in establishments on account of the weekly closure day or the weekly holidays as the case may be, are made in contravention of the provisions of the Act;
 - (vi) leave with wages are afforded to the employees;
 - (vii) the provisions of the Act on payment of wages are duly observed;
 - (viii) the prohibitions of employment of children and women and person below the age of seventeen imposed under the Act are duly observed;
 - (ix) the provisions of the Act and the rules relating to cleanliness lighting, health, safety, welfare, measures and the precautions against fire properly observed;
 - (x) the registers, records and notices required to be maintained and displayed under the Act and the rules are properly maintained and exhibited;
 - (xi) the establishments have been duly registered;
 - (xii) the irregularities pointed out at previous inspections have been remedied and orders previously issued have been complied with.
- (2) For carrying out the purposes of the Act and these rules the Inspector may cause to be taken a photograph of any employee or the premises of any establishment.
 - (3) The Chief Inspector shall have all the powers of an Inspector and shall direct and supervise the works of the Inspectors who shall be his subordinates.
 - (4) The Chief Inspector or any Inspector may call for any information from any establishment or employer which he may deem relevant for the efficient administration of the provisions of the Act or these rules.
 - (5) Any person called to under sub-rule furnish any information, under sub-rule (4) shall, subject to the provisions of the proviso to clause (c) of Section 26 of the Act legally bound to do so within such time as may be fixed by the Chief Inspector as the case may be

30.

- (1) The Chief Inspector or an Inspector shall have powers to point out all such defects or irregularities as he may have observed in course of inspection and to give orders for their removal and to record and furnish to the employer a summary of the defects or irregularities and of his orders.
- (2) Every order passed under the Act and the rules shall be served on the employers:
 - (a) by delivering a copy of it to him personally or at his office through a messenger, or
 - (b) by registered post.
- (3) ⁴[The power under second proviso of sub-section (4) of section 11 shall be exercised by the Senior Assistant Labour Commissioner or the Assistant Labour Commissioner of the area who have been appointed Inspector under the Act.]

31. Method of Inspections

- (1) In conducting any inspection, the Inspector shall not, as far as possible, cause any suspension of business in any establishment.
- (2) No inspection shall be held during,
 - (i) any day in which the shop remains entirely closed in each week, or
 - (ii) any period or periods for which the establishment may be exempted by notification under section 5 of the Act.

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

- (a) ascertain if any shop is open on any day of weekly closure notified in respect thereof; or
- (b) check-up whether the provisions of the Act and the rules from which the establishment has not been exempted are duly observed.

32. Visit Book

- (1) Every employer shall maintain a Visit Book which shall be produced on demand by an Inspector.
- (2) The Visit Book shall be a bound Book of size 7" x 6" containing at least two hundred pages, every page whereof shall be so numbered that each consecutive number is in duplicate and the duplicate page between each two consecutively numbered pages shall have a vertically perforated straight line on the margin side at a margin of at least one inch. Every page shall contain the following headlines at the top:
 - (a) Name of the Establishment.
 - (b) Address in full.
 - (c) Registration Number of the Establishment.
 - (d) Date.
 - (e) Time of Visit.
- (3) If the Inspector in course of inspection of an establishment finds any deviations from the provisions of the Act and these Rules or any order or notification issued by the Government he may record the same in duplicate on the serially numbered pages of the Visit Book and take out the marginally perforated duplicate pages for his office record and thereafter, may separately a detailed copy of his Inspection Notes to the employer for necessary action with a copy thereof to the Chief Inspector Within seven days from the date of inspection. Where the Inspector has no remarks to offer he shall merely enter the date and time of his visit and sign on the Visit Book.
- (4) In the case of the Visit Book containing the remarks passed by an Inspector is lost, destroyed or defaced, the employer shall forthwith report in writing the loss of the Visit Book to the Inspector of the area and immediately replace it by a fresh one.
- (5) The Inspector within the limits of his jurisdiction shall inspect each establishment at least once in three months.

33. Submission of Diary by Inspector

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

34. Appeal from an Inspector's orders or recommendations

- (1) An employer may, within fifteen days of the date on which an Inspector endorses an order or recommendation in the Visit Book or of the receipt of the copy of the Inspection Notes or any order or recommendation made by an Inspector, appeal against such order or recommendation to the Chief Inspector and the Chief Inspector may, after necessary inquiries, confirm, or modify or reverse the Order of the recommendation appealed against.
- (2) The notice of appeal shall be in the form of a memorandum setting forth concisely the grounds of objection accompanied by a Copy of the order or recommendation against which the appeal is preferred, and shall bear a Court Fee Stamp of the value of two rupees. It shall be signed by the appellant or, on his behalf, by an authorised agent.
- (3) The Chief Inspector may, however, entertain, an appeal after the expiry of the aforesaid period of, fifteen days if he is satisfied that the appellant had reasonable cause for his inability to prefer the appeal in time.

CHAPTER VIII

OFFENCES AND PENALTIES

35. Penalties

- (1) Whoever contravenes any of the provisions of these Rules, except in the case of rules 7 and 22, shall, on conviction, be punished with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees, for every day, after the first during which the breach Continues.
- (2) If anyone contravenes the provisions of rule 7 he shall, on conviction, be punished with fine which may extend to five rupees.
- (3) If any employer:
 - (i) Makes or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provision of these rules any entry which to his knowledge, is false in any material Particular; or
 - (ii) Wilfully omits or causes or allows to be omitted from such register record or notice or an entry which is required to be made therein;
 - (iii) Maintains or causes or allows to be maintained more than one set or any register, record or notice except the office copy thereof; or

- (iv) Sends or causes or allows to be sent, to an Inspector, any statement, information or notice which to his knowledge, is false in any material particular;

shall, on conviction, be punished with fine which may extend to fifty rupees and where the breach is a continuing one with a further fine which may extend to ten rupees, for every day, after the first, during which the breach continues.

36. Determination of employer for the purposes of the Rules

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

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purposes of these rules and such individual shall, so long as he is so resident, be deemed to be the employer for the purposes of these rules, until further notice cancelling the nomination received by the Inspector or until he ceases to be a partner or member of the firm or association.

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

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

37. Exemption of employer for liability in certain cases

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

- (i) that he has used due diligence to enforce the execution of these rules; and
- (ii) that the said other person committed the offence in question against his orders and without his knowledge Consent or connivance; that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer.

38. Penalty for obstructing Inspector

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

CHAPTER IX

MISCELLANEOUS AND SUPPLEMENTAL

39. Register of hours of work and interval for rest

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

40. Register of overtime work and payment of overtime wages

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

41. Maintenance of register of employment

- (1) Every employer in an establishment shall maintain a register of employment in Form 'M'.
- (2) All information in the register of employment shall be kept and maintained up-to-date corrections, as and when necessary, shall be made within three days from the date any change takes place.
- (3) The register of employment kept and maintained in the prescribed Form 'M' shall bear the signature of the employee and the employer shall authenticate the entries under his signature.
- (4) If an application made by an employer in writing the Chief Inspector is satisfied that any muster roll, register or record already maintained by the employer substantially contains in respect of all or any of the employees in his establishment the particulars required to be shown in any register, record or notice referred to in these rules, the Chief Inspector may, by order in writing, direct that such muster roll, register or record shall, to the corresponding extent be maintained in place of such register, record or notice. A copy of the Chief Inspector's order to this effect shall be forwarded to the Inspector of the area within whose jurisdiction the establishment is situated.

42. Register of leave

The employer shall maintain a Register of Leave in Form 'N' and particulars of application for leave, whether granted or refused, shall be entered in the corresponding part of the register against the name of the employee immediately after receipt of the application.

43. Leave card

- (1) The employer shall provide each employee with a card called the 'Leave Card, in the same Form 'N' as the form of the Register of Leave but a separate card shall be made for each employee on a thick sheet which shall be the property of the employee and the employer shall not demand it except to make entries therein and shall not keep it for more than a week at a time.
- (2) If any employee loses the Leave Card, the employer shall provide him with another copy on payment of ten paise and shall complete it from the records in Leave Register.

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

- (1) Every employer shall on demand from an Inspector produce for inspection all registers, records and notices required to be kept, and maintained under and for the purpose of these rules on the premises of the establishment to which they relate.
- (2) The registers and records required to be kept and maintained under these rules shall be maintained regularly and legibly in English, Assamese, Bengali and the dates entered shall be in accordance with the English Calendar and shall be so preserved that the records and registers of every year continue to remain for at least a full period or three successive years.

⁵[Provided that office copies of all the appointment letters issued by the employers to the employees must be preserved for at least three successive year after superannuation/retirement/termination/dismissal/resignation of an employee.]

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

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

44A. ⁶[Suspension of the provision of the Act

Government may suspend the operation of the Act under section 35 on account of the following holiday's occasion, namely:

- (a) Bohag Bihu.
- (b) Durga Puja.
- (c) Dewali.
- (d) Christmas.
- (e) Id-UI-Fitr.
- (f) any other occasion as may be specified by the Government.]

45. Registration of establishment and application for registration

Within thirty days from the date of enforcement of these rules in the case of an establishment existing on that day and within thirty days from the date of commencement of the business in the case of a new establishment the employer of every establishment shall apply for registration under the Act to the Chief Inspector or the officer authorised by him in this behalf in Form 'O' prescribed for the purpose in duplicate and in print together with the original copy of the treasury challan depositing the requisite amount of fees specified in Schedule I:

⁷[Provided that the State Government may, in relaxation of the provision of this rule, allow the employer of a particular establishment, if satisfied with the reasons furnished by him, to get his establishment registered or the registration of his establishment renewed on or before a date specified in the order issued in this behalf.]

46. Register of shops and establishments

The Chief Inspector or the officer authorised by him in this behalf shall maintain a Register of Shops and Establishments in Form 'P' which shall consist of three Parts as follows:

Part I Shops.

Part II Commercial Establishments

Part III Establishment for Public Entertainment or Amusement

47. Issue of Certificate of Registration

On receipt of the application in the prescribed Form 'O' and the original copy of the treasury challan depositing the fees, the Chief Inspector or the Officer authorised by him in this behalf shall on being satisfied about the correctness of the statement made in the application, register the establishment in the appropriate part of the Register of Shops and Establishments and shall, in the prescribed Form 'Q' issue Certificate of Registration to the employer:

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

48. Display of notices and certificate of registration

- (1) Any notice or certificate required to be exhibited under the Act or the rules shall be exhibited in such a manner that it is readily seen and can be read by any person whom it concerns and shall be replaced by a fresh one whenever it becomes defaced or ceases to be legible at case.
- (2) Every employer in an establishment shall display the Certificate of Registration or the Renewed Certificate of Registration, as the case may be issued under rule 47 or 9 in a conspicuous place in the establishment.

49. Renewal of certificate of registration

An application for the renewal of a Certificate of Registration shall be submitted in the prescribed Form 'O' ⁸[within three months after the date of expiry] of the Certificate of Registration or the Renewed Certificate of Registration, as the case may be and shall be accompanied by the current Certificate of Registration together with the original copy

of the treasury challan depositing such fees as are prescribed in Schedule I and the Chief Inspector or the Officer authorised by him in this behalf shall on being satisfied about the correctness of the statement, issue the renewed Certificate of Registration in the prescribed Form 'O' after making relevant entries in the appropriate part of the Register of Shops and Establishment.

50. Notice of change in Establishments

- (1) It shall be the duty of every employer in an establishment to notify to the Chief inspector or the Officer authorised by him in this behalf, in the prescribed Form 'R' together with the original of the treasury challan depositing the requisite fees, for any change in respect of an particulars contained in the statement submitted under sub-rule (1) of rule 45 within ten days after the change has taken place.
- (2) The Chief Inspector or the Officer authorised by him in this behalf on receiving the prescribed notice of change together with the original copy of the treasury challan depositing the required fees shall, on being specified about the correctness of the change of particulars, make the required change in the Register of Shops and Establishments, in accordance with such notice and shall amend the current Certificate of Registration or issue a fresh Certificate of Registration, if necessary.

51. Notice of winding-up of establishments

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

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

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

52. Loss of Certificate of Registration

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

53. Non-transferability Registration Certificate of Registration

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

54. Certificate of Registration on transfer of ownership of Establishment

- (1) In case the ownership of an establishment is transferred the employer shall, within fifteen days of such transfer notify the fact of transfer and surrender the Certificate of Registration or the renewed Certificate Registration, as the case may be, to the Chief Inspector or the Officer authorised by him in this behalf along, with a signed statement specifying the name and address of the transferee.
- (2) The Chief Inspector or the Officer authorised by him in this behalf, on being satisfied about the correctness of the statement relating to transfer, shall cancel the Certificate of Registration or the Renewed Certificate of Registration as the case may be, by making necessary alterations in the Register of Shops and Establishments.
- (3) The employer of the establishment so transferred shall apply for a new Certificate of Registration as provided in the Act and these rules.

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

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

56. Mode of payment of fees

All fees to be paid by the employer of an establishment under the provisions of these rules shall be credited to the Government Treasury under the 'head of Account'¹["0230 Labour and Employment- 101-Fees for registration under the Assam Shops and Establishments Rules, 1976"] and the original copy of the challan depositing the requisite amount of fees shall be forwarded by the employer to the Chief inspector or the officer authorised by him in this behalf accompanied by the prescribed application form duly filled in and signed.

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

In the event of any doubt or difference of opinion as to the manner of registration and renewal of Certificate or payment of fees or the category to which an establishment should belong take officer authorised by the Chief Inspector to do the registration etc. shall refer the matter to the Chief Inspector who shall, after such inquiry as he thinks proper, decide the issue and the decision of the Chief Inspector shall be final for the purpose of this Act and these rules.

¹The words 'the Chief Inspector of Shops and establishment' appointed by the Government under sub-section (2) of Section 25 of the Act were substituted by the words 'Assistant Commissioner of the Area' vide Notification No. GLR 472/78, dt. 16-2-1979

²Inserted vide Notification No. GLR (RC) 17/84/14, dt. 16.7.1982

3 The word 'with a copy to the Chief Inspector to his official address, by a registered post, with acknowledgement due and to the Inspector of the area in which the establishment is situated and it shall be' were inserted in between the words 'appointment' and 'effective' vide notification No. GLR (RC) 105/89/47, dt. 5-9-1990.

4 Sub-rule (3) was inserted vide Notification No. GLR (RC) 105/ 89/Pt IV/22, dt. 20-7-1995 and published in the Assam Gazette Extraordinary No. 216, dt. 10-10-1995

5 Proviso to sub-rule (2) of rule 44 was inserted vide Notification No. GLR (RC) 105/89/Pt. IV/22, dt. 20-7-1995 published in the Assam Gazette Extraordinary No. 216, dt. 10-10-1995

6 Rule 44-A was inserted vide Notification No. GLR/399/ 77/29, dt. 29-7-1982

7 Proviso to rule 45 was inserted vide Notification No. GLR 472/78/7, dt. 16-2-79 and the words 'or the registration of his establishments renewed were inserted vide Notification No. GLR (RC) 17/82/14

8 The words 'not less than fifteen days before the date of expiry,' were substituted by the words 'within three months after the date of expiry' vide Notification No. GLR 472/78/7, dt. 16-2-79

9 The words and figures '087--Labour and Employment R Fees under the Assam Shops and Establishments Rules, 1976,' were substituted by the words and figures '0230—Labour and 101 - Fees for Registration under the Assam Shops and Establishments, Rules, 1976' vide Notification No. GLR (RC) 105/89/47, dt. 5-9-90