

THE MANIPUR SHOPS AND ESTABLISHMENTS ACT, 1972

(AS PASSED BY THE LEGISLATIVE ASSEMBLY MANIPUR ON 23-1-1973)

An Act to provide for better regulation of conditions of service in shops and establishments and for purposes pertaining thereto.

Be it enacted by the Legislative Assembly of Manipur in the Twenty-third year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. Short title extent and commencement

- (1) This Act may be called the Manipur Shops and Establishments Act, 1972.
- (2) It extends to the whole of the State of Manipur.
- (3) It shall come into force at on such date as the State Government may, by notification in the Official Gazette appoint and different areas or for different classes of shops or establishments.

2. Definitions

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

- (1) "apprentice" means a person who is employed. Whether on payment of wages or not, for the purpose of being trained in any trade craft. Business or employment in a shop or an establishment;
- (2) "child" means a person who has not completed his twelfth year of age;
- (3) "closed" means not open for the service of any customer or for any business connected with a shop or an establishment involving work by an employee;
- (4) "Commercial establishment" means an establishment which carries on the business, trade or profession of advertising commission agency. Forwarding or commercial agency or which is a clerical department of a factory or of any industrial or commercial undertaking, includes;
 - (a) An establishment undertaking the business, trade or profession of public transport;
 - (b) An insurance company, joint stock company, broker's office or exchange; and
 - (c) Such other establishment or class thereof as the State Government may, by notification in the Official Gazette, declare to be a commercial establishment for the purposes 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 midnight:
- (6) "employees" means a person wholly or principally employed in, and in connection with, a shop or an establishment and includes an apprentice but does not include a member of the employer's family;

- (7) "employer" means a person having charge of, or owning or having ultimate control over the affairs of a shop or an establishment and includes the manager, agent or other person acting in the general management or control of a shop or an establishment;
- (8) "employer's family" means the husband or wife, children, father or mother, of the employer and includes the brother or sister, brother's son, Sister son, daughter's son, son's son, of such employer living with, and dependent on him;
- (9) "establishment" means a commercial establishment or an establishment for public entertainment or amusement;
- (10) "establishment for public entertainment or amusement" means a restaurant, eating house, café, residential bond cinema, theatre and such other establishment or class thereof as the State Government may, by notification in the Official Gazette, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but not in clued a shop or a commercial establishment;
- (11) "factory" means a factory as defined in the Factories Act, 1948 (63 of 1948);
- (12) "holiday" means a day on which a shop or an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;
- (13) "Inspector" means an Inspector appointed under Act;
- (14) "Official Gazette" means the Manipur Gazette;
- (15) "Opened" means opened for the service of any customer or for any business connected with a shop or an 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) "shop" means any premises used wholly or in part for whole-sale or retail sale of commodities or articles, either for cash or an credit, and such other premises as the State Government may, by notification in the Official Gazette, declare to be a shop for the purposes of this Act. But does not include a commercial establishment for public entertainment or amusement;
- (19) "Spread-over" means the period between the commencement and the termination of work in an establishment on any day;
- (20) "State Government" means the State Government of Manipur;
- (21) "Wage period" in relation to the payment of wages of an employee, means a wage period fixed by an employer under section 16 in respect of such employee;
- (22) "Wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936) and includes any allowance to which an employee is for the time being entitled;
- (23) "week" means a period of seven, days beginning at midnight of Saturday night;
- (24) "Year" means a period of twelve months of the Gregorian Calendar commencing on the first day of January.

3. Declaration by the State Government

- (1) Notwithstanding anything contained in this Act, the State Government may, by notification in the Official Gazette, declare any shop or any establishment or any class thereof to be a shop or an establishment, as the case may be, for the purposes of this Act.
- (2) On such declaration under sub-section (1) the shop or the establishment specified in the notification shall be deemed to be a shop or an establishment, as the case may be, to which this Act applies, and the provisions of this Act shall apply to such a shop or such an establishment.

4. Act not applicable to certain shops establishments and persons

- (1) Nothing in this Act shall apply to;
 - (a) Offices of the Union or the State Government or of local authorities and of the Reserve Bank of India, the State Bank of India and other nationalised banks and corporations;
 - (b) Any transport service, motor service, any industry, business or undertaking which supplies power, light or water or the public and such other public utility corporate bodies and associations or classes thereof as the State government may, by notification in the Official Gazette, exempt from the operation of this Act;
 - (c) Establishment run by the Union or the State Government
 - (d) Establishment for the treatment or care of the sick the infirm or the mentally deranged, and for the benefit of the destitute;
 - (e) Pharmacies or shops dealing mainly in medicines; surgical or medical; surgical or medical appliances, so far as the sale of these articles is concerned;
 - (f) Surgical or clinical homes;
 - (g) Shops dealing in articles required for funerals, burials or cremations so far as the sale of these articles is concerned;
 - (h) Shops or stalls dealing mainly in vegetables meat, fish, dairy produce, bread, pastries, sweetmeats, flowers so far as the retail sale of these articles is concerned;
 - (i) Stalls or refreshment rooms run by, or with the permission of, the Union or the State Government, and situate within the premises or precincts of institutions belonging to, or run by, such Government;
 - (j) Shop, stalls or refreshment rooms in any public exhibition or show, or so far as such shops, stalls or refreshment rooms in any public exhibition or show, or so far as such shops, stalls or refreshment rooms deal in retail trade with is solely subsidiary or ancillary to the main purposes of such exhibition or show;
 - (k) Shops or stalls in any public fair;
 - (l) Shops or establishments dealing in petroleum products;

- (m) Excise shops;
 - (n) Persons whose work is inherently intermittent, such as a traveller, a canvasser, a watchman, a messenger or a caretaker;
 - (o) Persons exclusively employed in connection with the collection, despatch, delivery or conveyance of goods or the customs formalities thereof; and
 - (p) Such other shops, establishment or persons or such classes of any of them as the State Government may, by notification in the Official Gazette exempt from the operation of all or any of the provisions of this Act.
- (2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette declare that any shop, establishment or person specified in that sub-section shall not be exempt from the operation of such provisions of this Act as may be specified in the notification and that, this provisions of this Act specified in such notification shall apply to such shop, establishment or person.

5. Suspension of provisions of the Act

Prior to or during a festival or other special occasions the State Government may suspend, by order notified in the Official Gazette, the operation of all or any of the provisions of this Act for such period and subject to such conditions as it may deem fit.

CHAPTER – II

EMPLOYMENT OF WOMAN AND YOUNG-MAN

6. Exemption of child

No child shall be employed in any shop or establishment.

7. Woman and young man to work only between 7 a.m. and 7 p.m.

Notwithstanding anything contained in this Act. No man who has not attained majority under the Indian Majority Act, 1875 (IX of 1875) and no woman shall be required or allowed to work whether as an employee or otherwise in a shop or an establishment before 7 ante meridiem and after 7 post meridiem.

8. Daily and weekly hours of work for woman and young man

Notwithstanding anything contained in this Act;

- (a) No man who has not attained majority under the Indian Majority Act, 1875 (IX of 1875) and no woman shall be required or allowed to work as an employee in a shop or an establishment for more than seven hours in a day or forty-two hours in a week; and
- (b) No such man and no woman shall be required or allowed to work in a shop or an establishment for more than four hours continuously in a day unless such an employee has had an interval for rest of at least one hour.

Explanation: The period of “seven hours” or “forty-two hours” referred to in clause (a) does not include the intervals for rest.

CHAPTER – III

SHOPS

9. Opening and closing hours of shops

- (1) No shop shall on any day be opened before the hour of seven O'clock ante meridiem during the months of September, October, November, December, January and February. And before the hour of six O'clock ante meridiem during the months of March, April, May, June, July and August.
- (2) No shop shall on any day remain open after the hour of seven O'clock post meridiem during the months of September, October, November, December, January and February, and after the hour of eight O'clock post meridiem during the months of March, April, May, June, July and August.

10. Closing day shops

- (1) Every shop shall be closed on one day in each week.
- (2) The State government may, by notification in the Official Gazette, require in respect of every shop, or of any specific class of shops that it shall be closed at such hour as may be specified in the afternoon of one specified day in each week, in addition to the day referred to in sub-section (1)
- (3) The day on which a shop shall be closed in each week under sub-section (1) shall be specified and displayed by the employer in a conspicuous place in the shop.
Provided that no employer shall, more often than once in a period of three months, after the day so specified
- (4) No deduction shall be made from the wages of any employee in a shop on account of any day on which it has remained closed under this section.

11. Hours of work and intervals for rest in shops

- (1) No employee in a shop shall be required or allowed to work in such shop for more than nine hours in a day and for more than forty-eight hours in a week or after the hours prescribed under sub-section (2) of section 9.
- (2) An employee in a shop shall be allowed an interval for rest of at least half an hour after every three hours of continuous work.
- (3) The periods of work and intervals for rest of each employee in a shop shall be so arranged by the employer that together they do not extend over more than twelve hours in a day.

Explanation: The Period of "nine hours" or fifty hours" referred to in sub-section (1) does not include the intervals for rest.

CHAPTER – IV

ESTABLISHMENTS

12. Holidays in establishment

- (1) Every employee in a commercial establishment or an establishment for public entertainment or amusement shall be allowed as holiday at least one day in a week.

- (2) No deduction shall be made from the wages of any employee in such an establishment on account of any holiday under this section.

13. Hours of work and intervals for rest in commercial establishment

- (1) No employee in a commercial establishment shall be required or permitted to work in such establishment for more than seven hours in a day.
- (2) An employee in a commercial establishment shall be allowed an interval for rest of at least half an hour after the first three or four hours as may be specified by the employer, of continuous work.

Provided that the interval for rest in the case of each employee shall not exceed one hour.

Explanation: The period of "seven hours" referred to in sub-section (1) does not include the interval for rest.

14. Hours of work and intervals for rest in establishments for public entertainment or amusement

- (1) No employee in an establishment for public entertainment or amusement shall be required or allowed to work in such establishment for more than ten hours in a day.
- (2) An employee in an establishment for public entertainment or amusement shall be allowed an interval for rest of at least half an hour after every three or four hours. As may be specified by the employer, of continuous work.
- (3) The periods of work and intervals for rest of each employee in an establishment for public entertainment or amusement shall be so arranged by the employer that together they do not extend over more than twelve hours in a day.

Explanation: The period of "ten hours" mentioned in sub-section (1) does not include the intervals for rest.

15. Maximum point of time for spread over in an establishment for public entertainment or amusement

Notwithstanding anything contained in section 14, the spread-over of an establishment for public entertainment or amusement shall not extend beyond 12 midnight.

CHAPTER – V

WAGES AND LEAVES

16. Wage period

Every employer shall fix a period in respect of which wages shall payable to the employee;

Provided that the employer may fix different wage periods for different employee or different classes of employee;

Provided further that no wage period shall exceed one month.

17. Payment of wages

- (1) All wages payable to an employee in a shop or an establishment shall be paid by his employer before the expiry of the seventh day after the last day of the wage period in respect of which the wages are payable;

Provided that in case an employee is absent until such expiry the wages shall be paid within a period of three working days from the day on which he attends, for work again.

- (2) Where an employee in a shop or an establishment is required to work in excess of the limits of hours of work specified in section 11 or section 13 or section 14, as the case may be, shall be entitled in respect of the overtime work, to proportionate wages at the rate of twice the ordinary rate of wages received by him for the time being.
- (3) Where the service of an employee is terminated by or on behalf of his employer. Or where it is terminated on account of the closure of the shop or the establishment for any reason other than a weekly or other recognised holiday. The wages earned by him shall be paid before the expiry of the second working day from the day on which his service is terminated.
- (4) All payments of wages shall be made on a working day at or near the place of work and during the working hours.

Explanation: The provisions contained in sub-section (1) shall not be construed as a bar to the payment of wages, on account of a festival or otherwise, before the expiry of the wage period in respect of which the wages are payable.

18. Deduction from wages

No deduction other than those which may be prescribed shall be made by the employer from the wages of his employee.

19. Leave

An employee in a shop or an establishment shall be entitled:

- (a) After every 'twelve months' continuous service, to privilege leave on full wages for a total period of one month;
- (b) In every year, to casual leave on full wages for a total Period not exceeding twelve day; and
- (c) After every 'twelve months' continuous service, to sick leave on half wages for a period not exceeding one month on the certification of registered medical practioner whose name is in the Indian Medical Council Act, 1956 (11 of 1956)

Provided that no leave admissible under this section be accumulated.

Explanation: For the purposes of this section, an employee shall be deemed to have completed a period of 'twelve months' continuous service in a shop or an establishment notwithstanding interruptions in the service during those twelve months caused by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lock-out or by intermittent Period of

involuntary unemployment not exceeding thirty days in the aggregate and authorised leave shall be deemed in the weekly holiday allowed under this Act which occurs at the beginning or end of an interruption caused by such leave.

20. Limited application of the payment of Wages Act, 1936

- (1) Notwithstanding anything contained in the payment of Wages Act, 1936 (IV of 1936). Herein referred to as "the said Act" the Government may, by notification in the Official Gazette, direct that subject to the provisions of sub-section (2) the said Act shall apply to such shops or establishments as may be mentioned in that notification
- (2) On the application of the provisions of the said Act to any shop or establishment under sub-section (1) the Inspector appointed under this Act, shall be deemed to be the Inspector for the purpose of enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER-VI INSPECTION

AND PENALTIES

21. Appointment of Inspectors

- (1) The State Government may, by notification in the Official Gazette, appoint such persons or such classes of persons as it may think fit to be Inspectors for the Purposes of this Act within such local limits as it may assign to them respectively.
- (2) The State Government may, by notification as aforesaid, appoint any person to be the Chief Inspecting Officer who shall, in addition to such powers as may be prescribed, exercise the powers of an Inspector throughout the State.

22. Inspectors to the public servant

Every Inspector appointed under section 21 of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian penal Code (Act XLV of 1860).

23. Powers and jurisdiction of an Inspector

- (1) Subject to any rules made under this Act by the State Government, an Inspector may within the limits of his jurisdiction;
 - (a) Enter, during such hours as may be prescribed and with such assistance, if any, as may be necessary, any premises which is, or which he has reason to believe as, a shop or an establishment;
 - (b) Inspect any registers, other documents and notices maintained under this Act or the rules made thereunder;
 - (c) Record on the spot or otherwise the statement of any person which he may consider necessary for carrying out the purposes of this Act;
Provided that no person shall be compelled to answer any question or give any evidence tending to incriminate himself; and
 - (d) Exercise such other powers as may be prescribed for carrying out the purposes of this Act,

- (2) The Inspector shall for the purposes of any inquiry under this Act have the same powers regarding the summoning and attendance of witnesses and production of documents as a Civil Court has under the Code of Civil procedure, 1908(V of 1908).

24. Penalty for obstructing Inspector

Any person who voluntarily obstructs an Inspectors in the exercise of any power conferred on him by or under this Act or any person lawfully assisting an Inspector in the exercise of such power or who fails without sufficient cause to comply with any lawful direction made by an Inspector shall be punishable with imprisonment which may extend to six months or with fine which may extend to two hundred and fifty rupees or with both.

25. General penalties

Any person who contravenes any provision of this Act or any rule or order made thereunder shall, if no other penalty is provided for the offence, be punishable with a fine which may extend to two hundred and fifty rupees for the first offence and to five hundred rupees for every subsequent offence after the first conviction.

Provided that in case such a person is a company or a registered partnership firm, every director, partner, manager or secretary thereof or every officer thereof who functions as such by whatever designation shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to have committed such contravention.

26. Cognizance of offences

- (1) No Court inferior to a Magistrate of the First Class shall try an offence punishable under this Act or rules or order made thereunder.
- (2) No Court shall take cognizance of such offence except on a complaint made by an Inspector or by an aggrieved employee in a shop or an establishment or by a relative of such an employee, including his legal representative in the case of a minor;

Provided that a complaint under this sub-section shall be made within ninety days from the date on which the offence is alleged to have been committed

Explanation: For the purposes of this section, "relative" means any lineal descendant or ascendant, brother or sister, or father-in-law, or mother in-law of the employee.

CHAPTER – VII

REMOVAL AND RE-EMPLOYMENT

27. Discharge of employees

- (1) No. employee in a shop or an establishment, who has been in continuous service for no less than six months in that shop or establishment, shall be discharged from his service except for a reasonable cause until.

- (a) He has been given 'one months' notice in writing indicating the reasons for discharge and the period of notice has expired or he has been paid in lieu of notice, one month's wages in advance; and
- (b) He has been paid, at the time of discharge, compensation which shall be equivalent to fifteen days 'wages:

Provided that no notice under clause (a) shall be necessary of the discharge is under an agreement which specified a date for the termination of service; and

Provided further that such notice shall not be necessary if the discharge is on a charge of such misconduct as may be prescribed or on his conviction on a criminal charge involving moral turpitude.

- (2) A discharge done against the provisions of sub-section (1) shall be an offence under this Act, and the court shall, without prejudice to any other provisions of this Act, have power to give relief to the aggrieved person by way of reinstatement or money compensation or both.

Explanation: For the purposes of this section, an employee shall be deemed to be in continuous service in a shop or an establishment notwithstanding any interruption in the service caused by sickness, accident authorised leave or lock-out, or by intermittent periods of involuntary unemployment, 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 caused by such leave.

28. Termination of service by or on behalf of employees

- (1) No employee in a shop or an establishment shall terminate his service unless he has given to the employer a notice in writing of at least one month
- (2) Where an employee in a shop or an establishment contravenes the provision of sub-section (1), the employer may forfeit any unpaid wages for a period not exceeding fifteen days

29. Re-employment of discharged employee

Where an employee in a shop or an establishment has been discharged under section 27, and the employer proposes subsequently to take into the shop or the establishment, as the case may be, prescribed, give an opportunity to the discharged employee to offer himself for re-employment, and such discharged employee, as offers himself for re-employment, shall have preference over other persons:

Provided that in case the discharged employee is not a citizen of India or has left Manipur without giving his address to the employer, the employer shall not give him such opportunity.

CHAPTER VIII
MISCELLANEOUS

30. Annual statement of the employer

- (1) The employer of a shop or an establishment shall, in such manner as may be prescribed, submit to the Chief Inspecting Officer an annual statement showing the number of employees in his shop or establishment, the rates of wages and other benefits given to the employees, before the end of the month of January following the year to which the statement relates.
- (2) In case an employer fails, without reasonable cause to the satisfaction of the Chief Inspecting Officer to submit the statement as provided in sub-section (1) and the rules made thereunder, he shall be liable to pay a fine not exceeding fifty rupees.
- (3) Non-payment of such fine shall be an offence punishable under this Act.

31. Maintenance of registers etc.

- (1) The employer of a shop or an establishment shall maintain such registers and other documents, and display such notices as may be prescribed.
- (2) Such employer shall on demand produce for inspection of an inspector, all registers, documents and notices required to be kept under or for the purposes of this Act.

32. Composition of offences

An offence under this Act may be compounded by the complainant or by his legal representative in the case of a minor, and the composition shall have the effect of acquittal of the accused with whom the offence has been compounded:

Provided that the complainant is an Inspector, he shall not compound the offence without the concurrence of the employee, if any, for whose benefit the complaint was made.

33. Bail

All offence under this Act shall be bailable.

34. Indemnity

No suit or any other legal proceeding shall lie against any person in respect of anything done in good faith under this Act or rules or orders made thereunder.

35. General holiday

Notwithstanding anything contained in this Act, every employee in a shop or an establishment shall be entitled to leave of absence for three national holidays and for any days he may select, not more than three in a number in a year, for the purpose of attending ceremonies or performing functions or duties connected with or enjoined by his religious faith.

36. Provident fund of Employees

The employer shall, in accordance, with rules made by the State Government, provident fund for the benefit of every employee in his shop or establishment and shall contribute to this fund an amount of 6 1/4 percent of the total wages of every such employee:

Provided that this section shall apply only to such places or such classes of shops or establishment as may by notification in the Official Gazette, be specified in that behalf by the State Government; and

Provided further that such employers as fail to provide provident fund in spite of such a notification shall be punishable with imprisonment with may extend to six months or with a fine not exceeding five hundred rupees, or with both.

37. Powers to make rules

- (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication therein, make rules to carry out the purposes of this Act,
- (2) In Particular and without prejudice to the generality of the foregoing power, such rules may provide for:
 - (a) The special circumstances wherein deductions from the wages of employees may be made by the employer;
 - (b) The powers of the Chief Inspecting Officer under sub-section (2) of section 21;
 - (c) The powers of Inspectors, and the hours during which the Inspector can enter certain premises, under section 23;
 - (d) The manner of giving opportunity to a discharged employee for offering himself for re-employment under section 29;
 - (e) The manner of submission of annual statement under section 30;
 - (f) The registers and other documents to be maintained by an employer of a shop or an establishment, and the notices to be displayed, under section 31, and the mode of display of such notices;
 - (g) Measures of sanitation, proper upkeep and ventilation of shops and establishments, and
 - (h) The provident fund of employees in a shop or an establishment under section 36.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Manipur while it 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 the session in which it is so laid or in the session immediately following. The Assembly resolves that any modification be made in the rule or that the rule should not be made, the rule shall thereafter have

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RULES, 1973**

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The Manipur Shops and Establishments Rules, 1973

(As amended upto date)

1. Short title

These rules may be called the Manipur Shops and Establishments Rules, 1973.

2. Definition

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

- (a) 'Act' means the Manipur Shops and Establishments Act, 1972 (Act 4 of 1973);
- (b) 'form' means a form appended to these Rules;
- (c) 'Government' means the Government of Manipur;
- (d) 'Section' means a section of the Act; and
- (e) ['Schedule' means schedule appended to these Rules]¹

2-A. [Registration of Shops and Establishments

- (1) Within thirty days from the date of enforcement (March 17, 1997) of these Rules in the case of shop and establishment existing on that date and within thirty days of the commencement of the business in the case of a new shop or establishment, the employer of every shop or establishment, shall apply for registration under the Act to the Registering Officer or the Officer authorised by him in this behalf in Form IX in duplicate with the original copy of the Treasury challan depositing the requisite amount specified in Schedule-I to these Rules.
- (2) On receipt of an application accompanied by the requisite fee under sub-rule (1), the Registering Officer shall, on being satisfied about the correctness of the particulars furnished in the application, register the shop or the establishment, as the case may be and issue a certificate of registration in Part-II of Form IX.

2-B. Registers of Shops and Establishments

The registering Officer shall maintain a register of Shops and Establishments as maintained shall consist of four pans as follows:

Part-I	Shops
Part-II	Commercial Establishments
Part-III	Theatres, Cinemas and other places of public entertainment or amusement.

2-C. Notice of change

A notice of change under sub-section (5) of Section 5-B of the Act shall be in Form XI and every such notice shall be accompanied by the current registration certificate together with a treasury receipt showing the payment of fees as specified in Schedule-II.

2-D. Renewal of Registration certificate

- (1) An application for renewal of a registration certificate under sub-section (2) of section 5-B of the Act shall be in Form-Xli and shall be accompanied by such fees as are required for an application for registration under rule 2-A.

- (2) On receipt of an application for renewal of registration certificate and necessary fee under sub-rule (1), the Registering Officer shall, on being satisfied about the correctness of the information furnished, make necessary entries in the appropriate place of the Register of Shops and Establishments and the Registration Certificate and return the registration certificate to the applicant.

Provided that, if the Registering Officer so thinks it fit, he may issue a new registration certificate, instead of renewing the existing certificate by making alterations therein.

2-E. Notice of winding up

Notice of winding up of a shop or an establishment under sub-section (6) of section 5-B of the Act shall be in Form XIII and shall be accompanied by the registration certificate.

Explanation: Every case where a shop in an establishment is closed for a continuous period of 6 (six) months or more shall be treated for the purpose of this rule as a case of winding up.

2-F. Loss of Registration Certificate

If any registration certificate issued under sub-rule (2) of rule 2 A is lost or destroyed or defaced, the employer concerned shall forthwith report the matter to the Registering Officer who issued the certificate and make an application in Form - XIV accompanied by a treasury Receipt showing payment of fees as specified in Schedule 1 for the issue of a duplicate duly stamped "Duplicate" in red ink.

2-G. Transfer of Registration Certificate

- (1) A registration certificate issued under these rules shall not be transferable or if ownership of any shop in establishment is transferred the employer shall within 15 days of such transfer surrender the certificate of registration of the shop or establishment and shall submit to the Registering officer a statement signed by himself specifying the name and address of the transferee.
- (2) The Registering Officer on being satisfied about the correctness of the information relating to the transfer amend the register of shops and establishments accordingly.
- (3) The Transferee shall apply for a new registration certificate as provided in rule 2- within thirty days from the date of transfer.

2-H. Payment of fee and Enquiry

- (1) All fees payable under these rules shall be paid in the local Treasury under Receipt Head of the Account of the Labour and Employment.
- (2) The Registering Officer may, for the purposes of satisfying himself about the correctness of any information furnished in any application or notice, hold such enquiry as he deems necessary for his satisfaction in such manner as he considers fit]

3. Register of Wages

Every shop-keeper or employer shall maintain a register of wages in Form-I.

4. Deduction from Wages

(1) No deduction except as provided herein-after shall be made by an employer from the wages of any employee:

- (a) fines,
- (b) deduction for absence from duty,
- (c) deduction for damage to or loss of goods expressly entrusted to the employee for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default
- (d) deduction for house accommodation supplied by the employer,
- (e) deductions for such amenities and services as Government may by general or special order authorise

Explanation: The word 'services' does not include the supply of tools and raw materials required for the purposes of employment

- (f) deductions for recovery of advances or for overpayment of wages
- (g) deductions of income tax payable by the employee
- (h) deductions required to be made by order of a Court or other authority competent to make such order
- (i) deductions of subscription to and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies or recognized fund as defined in section 58-A of the Indian Income-tax Act 1922 (XI of 1922) of any Provident Fund approved in this behalf by the State Government.
- (j) deductions for payment to co-operative societies approved by Government or to a Scheme of Insurance approved by Government;
- (k) deductions for revenue stamps required to be attached to pay receipts where applicable.
- (l) deductions for any saving scheme approved by Government with the written authority of the employee; and
- (m) deductions on account of supply of cooked food or refreshments during the hours of employment in accordance with any scheme previously approved by the Chief Inspecting Officer;

Explanation: Every payment made by the employee to the employer or his agent shall, for the purposes of these rules be deemed to be deductions from wages:

(2) An employer desiring to impose a fine on an employee or to make a deduction for damage or loss caused to him shall explain to him personally and also in writing the act or omission or the damage or loss in respect of which the fine or deduction is proposed to be imposed or made and give him an opportunity to offer an

explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him in writing.

- (3) The total amount of fine which may be imposed in any one wage period on any employee shall not exceed ten paise in a rupee of the wages payable to him in respect of that wage period
- (4) No fine shall be imposed on a child
- (5) All fines realised shall be expended only on such purposes beneficial to the persons employed in the establishment as are approved by the Chief Inspection Officer.
- (6) A deduction under clause (c) of sub-rule (1) shall not exceed the amount of damage or loss caused to the employer by the neglect or default of the employee.
- (7)
 - (a) Deductions may be made under clause (b) of sub-rule (1) only on account of the absence of an employee from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is required to work
 - (b) The amount of such deduction shall, in no case bear to the wages payable to the employee in respect of the wage period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period within such wage period, during which by the terms of his employment he was required to work
- (8) A deduction under clause (d) or clause (e) of sub-rule (1) shall not be made from the wages of an employee unless the house accommodation amenity or service has been accepted by him as a term of employment or otherwise and such deduction shall not exceed an amount equivalent to the value of the house accommodation amenity or service supplied and in the case of deduction under clause (e) shall be subject to such conditions as Government may by notification in the official Gazette impose.
- (9) Deductions under clause (1) of sub-rule (1) shall be subject to such conditions as Government may by notification impose

5. Register of fines and deductions

Every shop keeper or employer shall record the amount of fine realised and all deductions imposed on the wages of employee in Form-II

6. Acts constituting a misconduct

- (1) Each of the following acts shall be treated as misconduct for the purposes of the second proviso to sub-section (1) of section 27 of the Act:
 - (a) Wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a Supervisor,
 - (b) wilful damage or loss of employer's property,
 - (c) taking or giving bribes or any illegal gratification,

- (d) theft, fraud or dishonesty in connection with the employer's business or property;
 - (e) habitual absence without leave or absence without leave for more than ten days;
 - (f) habitual breach of any law applicable to the establishment;
 - (g) habitual late attendance;
 - (h) riots or disorderly behaviour during working hours at the establishment or any act subversive of discipline;
 - (i) habitual or gross negligence or neglect of work;
 - (j) striking work or inciting others to strike in contravention of the provisions of any law or rule having the force of law;
 - (k) breach of provisions to the standing orders applicable to the establishment and certified under the Industrial Employment (Standing Orders) Act, 1946.
- (2) No order of discharge on ground of misconduct shall be made unless the employee concerned is informed in writing of the alleged misconduct and is given an opportunity to defend himself and explain the circumstances alleged against him.

7. Complaint against the order of discharge under Section 27

- (1) Any employee discharged under section 27, may make a complaint in writing to a Labour Court constituted under the Industrial Disputes Act. 1947 (14 of 1937) or to an Officer authorized in this behalf by a notification in the Official Queue, whether by himself or through an officer of a registered trade union. Such Court or Officer shall entertain the complaint and hear the same in the manner prescribed in Sub-rules (5) to (9).
- (2) Such complaint may be made within 30 days of the receipt of the order of discharge on one or more of the following grounds, namely:
- (i) there was no reasonable cause for dispensing with his services: or
 - (ii) no notice was served on him as required by clause (a) of sub-section (1) of section 27, or
 - (iii) he had not been guilty of any misconduct as held by the employer under rule 6.
- (3) The complaint shall be prepared in the form of memorandum in duplicate; setting forth concisely the grounds of objection to the order complained against. The memorandum shall be accompanied by an affidavit sworn before a Magistrate of the First class that the contents of the memorandum are true to the knowledge and belief of the applicant and that no such complaint has been filed and heard before any other authority.
- (4) Every such memorandum shall bear a court-fee stamp of Rs.5.00 p
- Provided that the authority may, in consideration of the poverty of the applicant, reduce or remit this fee.

- (5) The authority entertaining the complaint shall call upon the employer by a notice to appear on that date fixed, before him either personally or through his agent at a specified time and place together with all relevant documents and witnesses, if any, and shall inform the complainant of the said date, time and place of hearing of the said case.
- (6) If the employer or his agent fails to appear on the date fixed at the specified time and place, the authority may proceed to hear and determine the complaint except unless for proper reasons to be recorded in writing, the hearing is adjourned to another date
- (7) If the complainant fails to appear on the date fixed or any day subsequent thereto, to which the hearing may be adjourned, the authority may dismiss the complaint
- (8) An order passed under sub-rule (5) or sub-rule (6) may, on sufficient cause being shown within 30 days of the order be set aside and the complaint reheard, notice being served on the opposite party of the date fixed for re-hearing.
- (9) The Labour court or the officer authorised in this behalf, as the case may be, shall record briefly the evidence adduced before him; hear the parties summarily and after making such further enquiry as he may consider necessary. pass order giving reasons therefor. The orders so passed, shall be communicated to the parties immediately.

8. Powers of Inspecting Officer

An Inspecting officer appointed under Sub-section (1) or (2) of section 21 shall, for the purpose of giving effect to the provisions of the Act and these rules have powers to do all or any of the following namely:

- (a) to inspect and make such examination of the premises and of the register, records and notices as may appear to him to be necessary for the purpose of satisfying himself that the provisions of the Act and of the rules and any order passed by Government under the Act are being properly observed;
- (b) to prosecute and to assist in the conduct and defence of any complaint or other proceeding arising under the Act or in discharge of his duties as Inspecting Officer:
- (c) to satisfy himself at such inspection that:
 - (i) the register, records and notices required to be maintained or exhibited under the Act and these rules are properly maintained and exhibited;
 - (ii) the intervals, for rest and the holidays required to be granted under the Act are granted and limits of the hours of work and spread over laid down under the Act are not exceeded:
 - (iii) the provisions of the Act relating to the payment for overtime work are duly observed:
 - (iv) no child below the age of twelve (fourteen) years is allowed to work in any establishment to which the Act applies;
 - (v) the provisions of the Act and any order passed by the Government regarding the opening hours are duly observed, and

- (vi) how far the defects pointed out at previous inspections have been removed and how far orders previously issued have been complied with, and
- (d) to point out all such defects or irregularities as he may base observed and to give orders for their remedy or removal and hand over to the employer a summary of the defects or irregularities and of his orders.

9. Record of Inspection

The Inspecting Officer shall keep a separate file for records of his inspection of each establishment.

10. Service of order passed by Inspecting Officer

Every order passed by the Inspecting Officer under the Act and the Rules shall be served on the employer of an establishment

- (a) by delivering a copy of the same to him personally or at his office, or
- (b) by registered post

11. Inspection Book

Every employer shall maintain an Inspecting Officer's visit and Inspection Book in which the Inspecting Officer may record his remarks regarding any defect that may come to light in the course of an inspection of the establishment and shall produce it whenever required to do so by an Inspecting Officer

12. Hours of Inspection

An Inspecting Officer shall ordinarily visit or inspect an establishment during the normal working hours but he may visit an establishment at any time if he has reasonable doubt that the employer is infringing the provisions of the Act or the Rules beyond such hours.

13. Re-employment of a discharged employee

- (1) An employer proposing to re-employ a discharged employee or employees under section 29 of the Act shall arrange for the display on a notice board in a conspicuous place in the premises of his shop or establishment details of those vacancies and shall also give intimation of vacancies by registered post to every one of all the discharged employees eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter

Provided that where the number of such vacancies is less than the number of discharged employees, it shall be sufficient if intimation is given by the employer individually to the senior-most discharged employees in the list maintained under rule 14 the number of such senior-most employees being double the number of such vacancies

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual discharged employees.

- (2) Immediately after complying with the provisions of sub rule (1) the employer shall also inform the trade unions connected with the Industrial establishment of the number of vacancies to be filled and names of the discharged employees to whom intimation has been sent under the sub-rule (1)

Provided that the provisions of this rules need not be complied with by the employees in any case where intimation is sent to every one of the employees mentioned in the list prepared under rule 14

14. Maintenance of Seniority list of employees

The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according in the seniority of their service in that category and cause a copy thereof to be posted on a notice board in a conspicuous place in the premises of the shop of establishment at least seven days before the actual date of discharge

15. Annual Statement

The Annual Statement under section 30 of the Act shall be in Form III

16. Notice of weekly closure in Shops

The notice under sub-section (1) of Section 10 shall be in Form IV

17. Maintenance of Registers and Records and Display of Notice under Section 31 of the Act

- (1) Every employer shall exhibit in his establishment - a notice in Form V specifying day or days of the week on which the employees shall be given a holiday.
- (2) Every employee or shopkeeper shall maintain leave with wages register in Form VI and the same shall be preserved for a period of three years after the last entry in it
- (3) Every shopkeeper or employer shall maintain a register showing attendance, overtime work and account of wages in respect of every employee in Form VII.
- (4) Every employer or shopkeeper shall exhibit in his establishment or shop a notice specifying the daily hours to be worked and intervals for rest and meals to be allowed to the employees in Form VIII.
- (5) Every employer or shopkeeper shall exhibit a notice containing extracts of the Act and these rules in English or in the language known to the majority of the persons employed by him
- (6) Every employer or shopkeeper shall exhibit in his establishment or shop in English or in the language known to the majority of the persons employed by him a copy of the leave rules applicable to his employees
- (7) The registers records and notices relating to any calendar year shall be preserved till the end of the next year,
- (8) [In respect of shops and establishments to which the Minimum Wages Act 1948 (11 of 1948) and rules made thereunder or Payment of Wages Act 1936 (4 of 1936) and the rules made there under or the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 (51 of 1988) apply the following registers require to be maintained by an employer under these Acts and Rules shall be deemed to be required to be maintained under sub rules (2) and (3) and rules 3 and 5 namely
 1. Muster Roll

2. Register of wages
3. Register of deductions
4. Register of overtimes
5. Register of fines
6. Register of ads antes
7. Monthly Register of Muster Roll cum wages]³

18. Cleanliness

The premises of every shop of establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleansed by such methods as lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

19. Ventilation

- (1) The premises of every establishment shall be well ventilated and adequately lighted during all working hours
- (2) If it appears to an inspecting Officer that the premises of any shop or establishment within his jurisdiction are not sufficiently 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 them to be carried out before a specified date.

20. Appeal

Against any order of the inspecting Officer an appeal shall be to the Labour Commissioner Manipur and his decision shall be final

21. Repeal and Saving

The Manipur Shops and Establishments Rules 1971 are hereby repealed:

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

1 Inserted by the Manipur Shops and Establishments (Amendment) Rules 1996.

2 Rules 2 A to 2H are inserted by the Manipur Shops and Establishments (Amendment) Rules 1996

3 Inserted by the Manipur Shops and Establishments (Amendment) Rules, 1996