

THE NAGALAND SHOPS AND ESTABLISHMENT RULES, 2015

GOVERNMENT OF NAGALAND LABOUR AND EMPLOYMENT DEPARTMENT NAGALAND:
KOHIMA

In exercise of the power conferred by Section 34 of the Nagaland Shops and Establishment Act, 1986, the Governor of Nagaland is pleased to make the following Rules namely:

CHAPTER-I PRELIMINARY

1. Short title extent and commencement

- (1) These Rules shall be called the Nagaland Shops and Establishment Rules, 2015.
- (2) They shall extend to the whole of Nagaland.
- (3) They shall come into force in such date as the State Government may by notification in the Official Gazette.

2. Definition

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

- (a) "the Act" means the Nagaland Shops and Establishment Act, 1986.
- (b) "Rule" means rules framed under the Act.
- (c) "Chief Inspector" means the Labour Commissioner or his subordinate appointed by the state Government under sub-section 2 of Section 25 of the Act;
- (d) "Inspector" means a person appointed as Inspector under Sub-Section 2 of the Section 25 of the Act;
- (e) "Section" means a section of the Act;
- (f) "schedule" means a schedule appended to these rules;
- (g) "form" means a form appended to these rules;
- (h) "Government" means the State Government of Nagaland;
- (i) "registration of Shop and Establishment" means for the registration of Shop or Commercial establishment under section 36 of the Act;
- (j) "theatre" includes any premises intended partly or wholly for the exhibition of picture or other optical effects by means of cinematography or other suitable apparatus or for dramatic or circus performances or for any other public amusement or entertainment.
- (k) "child" means a person who has not completed fourteenth year of age;
- (l) "woman" used with reference to any shop establishment means a woman who is employed in relation to such shop or establishment;
- (m) Words and expression used in the Act, and not defined in these Rules shall have same meaning assigned to them in the Act.

- (n) 'Appellate Authority' means the Registering Authority of the area as the case may be.

CHAPTER II

REGISTRATION

3. Register of Shops and Establishments

The Registering authority shall maintain a district wise Register of Shop and Establishments consisting of four parts as follows:

1. Part I Shops
2. Part II Commercial Establishment.
3. Part III Residential Hotels, Restaurant, Eating Houses and Café.
4. Part IV Theaters, Cinemas and other places of Public Entertainment or Amusement

4. Application for Registration

- (1) In the case of a shop or an establishment, not being a shop or an establishment in existence on the date on which the Act applies, the shop-keeper or the employer, as the case may be, shall apply under sub-section (1) of Section 36 for registration within thirty days from the date on which the shop or the establishment, as the case may be commence its business.
- (2) An application for registration or for renewal of registration certificate shall be made to the Chief Inspector or to such other Officer authorised in these behalf in Form "B" Rule 4 sub rule (2) within such date and containing such particulars as may be prescribed.
- (3) Every application shall be accompanied by requisite fees specified in Schedule I Part I (A), (B) and (C), Along with original Treasury Challan depositing the fees to the Government Treasury under the "Head of Account "0230"- L and E.
- (4) On receipt of an application accompanied by the requisite fee under sub-rule (3), the registering authority 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 in the appropriate part of the register of the shop and establishments referred to in Rule 3 and issue a certificate of registration.

5. Renewal of Registration Certificate

- (1) An application for renewal of certificate shall be accompanied by the existing registration certificate under sub-section (2) of Section 36 shall be in Form 'B' and shall be accompanied by the existing registration certificate together with such requisite fees as are prescribed in Schedule I. Part 1(A), (B) and (C).
- (2) On receipt of an application for renewal of a registration certificate and the necessary documents and fee under sub-rule (1) the registering authority shall, on being satisfied about the correctness of the information furnished, make necessary entries in the appropriate part of the Register of Shop and

Establishments and the registration certificate and return the registration certificate to the applicant;

Provided that if the registering authority so thinks fit he may issue a new registration certificate, instead of renewing the existing certificate by making alteration therein.

6. 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 authorized by him in this behalf, in Form 'C' together with the original treasury challan depositing the requisite fees as prescribed in SCHEDULE II appended to these rules, for any change in respect of any particulars contained in the statement submitted under sub-rule (2) of Rule 4 within ten days after the change has taken place.
- (2) The Chief Inspector or the Officer authorized 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 satisfied 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, if necessary.

7. Notice of Winding Up

Notice of winding up of business of a shop or an establishment shall be in Form 'D' and shall be accompanied by the registration certificate. The registering authority, 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 registering authority does not receive any written information about the winding-up of the business of an establishment, but he is otherwise satisfied that the establishment has been wound-up, he may remove the name of such establishment from the Register of Shops and Establishments and cancel the Certificate of Registration.

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

8. Loss of Registration Certificate

If any Certificate of Registration issued under sub-rule (4) of Rule 4 is lost, destroyed or defaced, the concerned shopkeeper or the employer, as the case may be, shall forthwith report the matter to the registering authority who issued certificate and make an application in Form 'E' accompanied with the requisite fees as specified in Schedule I for the issue of duplicate certificate, and the registering authority shall thereon issue a duplicate Certificate of Registration duly stamped "Duplicate" in red ink.

9. Transfer of Registration Certificate

- (1) A Certificate of Registration or a renewed Certificate of Registration issued under this rules shall not be transferable.

- (2) In case the ownership of any shop or establishment is transferred, the shop-keeper or the employer, as the case may be, within 15 days of such transfer, notify the fact of transfer and surrender the Certificate of Registration or the renewed Certificate of Registration, as the case may be, to the registering authority and shall submit to the registering authority a statement signed by himself specifying the name and address of the transferee.
- (3) The registering authority, on being satisfied about the correctness of the information relating to transfer, shall cancel the certificate of registration and amend the register of shop and establishment accordingly.
- (4) The transferee shall apply for new registration certificate as provided in Rule 4 within thirty days from the date of transfer.

10. Enquiry for Registration, Renewal, etc. and Payment of Fees

- (1) The registering authority may, for the purpose 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.
- (2) All fees to be paid by the shop keeper or the employer, as the case may be, payable under these rules shall be credited to the Government Treasury under the 'Head of Account' "0230 — L & E — Fees for registration of Shops and Establishments and the original copy of the challan depositing the requisite amount of fees shall be forwarded by the employer to the registering authority accompanied by the prescribed application form duly filled in and signed.

11. Display of Notice and Certificate

Every employer/shopkeeper shall keep the Certificate of Registration or Renewed Certificate displayed at some conspicuous place of the establishment Sec 36(5).

CHAPTER — III

WEEKLY CLOSURE, WEEKLY HOLIDAYS, HOURS OF WORK AND LEAVE

12. Notice of Weekly Closure of Shops

- (1) Every employer of a shop shall display closure notice in Form 'F' 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 'F', 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.

13. Notice of Weekly Holidays

- (1) An 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 'G', specifying the days of the week on which the

person employed in such establishment shall be allowed full holiday and half holiday.

- (2) Every employer in a commercial establishment or an establishment for 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 day 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.

14. Register of Hours of Work and Rest Intervals

- (1) A shop-keeper or an employer shall maintained a register in Form 'H' against the name of each employee showing the daily and weekly hours of work and hours of interval for rest and also the hours of opening and closing of such shop or establishment, as the case may be.
- (2) The entries in such register shall be made in course of the day to which itrelates.

15. Leave Register

Every shop-keeper and employer shall maintain a leave register in Form 'I', and every case of application for leave whether granted or refused, shall be entered in the corresponding part of the register immediately after decision is taken on the application.

16. Privilege Leave

Any person employed in a shop or an establishment desiring to avail of any privilege leave which is due to his credit under the Act, shall make an application in writing for the purpose to the shop-keeper or the employer, as the case may be, at least seven days prior to the date of intended commencement of such leave and the shop-keeper or the employer as the case may be, shall issue orders on the application within a week of its submission.

Provided that the shopkeeper or the employer, as the case may be, may, if satisfied that the leave is required for urgent matters, waive the period of ten days notice ordinarily required and pass order accordingly.

17. Casual Leave

Ordinarily, casual leave of absence shall not be admissible for more than three days at a time, except in cases of sickness, and previous permission in writing obtained from the shop-keeper or the employer, as the case may be, before such leave is availed:

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

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

18. 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 a person employed on production of a certificate from a registered medical practitioner:

Provided that the shop-keeper or the employer concerned may, if he so thinks fit and undertakes to defray the cost involved, requires the person employed to be examined by another registered medical practitioner nominated by him and if the employee refuses to submit to such examination or is certified on such examination to be fit for duty, the shop-keeper or the employer concerned may refuse the leave or extension thereof, as the case may be.

19. Combination of medical leave with privilege leave

Leave on medical certificate allowed under Rule 15 may be combined with privilege leave if due under the Act.

20. Prohibition of alteration of nature of leave

The shop keeper or the employer as the case may be, shall not alter the nature of leave applied for by the employee.

21. Leave Pass

- (1) If any leave other than casual leave, asked for is granted, a leave pass, showing the nature and period of leave granted shall be issued to the applicant.
- (2) Every employee praying for leave referred to in sub-rule (1) shall intimate to the shop-keeper or the employer concerned, his address during the period of leave and if there is any change of the address, the shop-keeper or the employer, as the case may be, shall be informed within three days from the date of such change.

22. Refusal of Leave

- (1) Leave due and prayed for shall not ordinarily be refused and no part of the privilege leave earned by a person employed in a shop or an establishment shall be allowed to lapse by the refusal of the shop-keeper or the employer, as the case may be, to grant such leave:

Provided that the shop-keeper or the employer as the case may be, may regulate the grant of privilege leave according to convenience of work of the shop or the establishment concerned, so that such leave shall be granted:

- (a) If the employee concerned intends to avail of the leave and does not want to accumulate it, within the first twelve months, or
 - (b) In other cases, within the first eighteen months following the twelve months during which leave has been earned.
- (2) If the whole or any part of the leave prayed for is refused or postponed, the fact of such refusal or postponement and the reason thereof shall be recorded in a

register to be maintained by the shop-keeper or the employer as prescribed in rule 13 of these rules and if the employee concerned so desires, a certified copy of such entry in the register shall be supplied to him by the shop-keeper or the employer, as the case may be.

23. Extension of Leave

If a person employed after proceeding on leave desires an extension thereof, he shall apply in writing to the shop-keeper or the employer as the case may be, and the latter shall send a written reply either granting or refusing the extension of leave prayed for to the applicant at the address given by him under Rule 16 before proceeding on leave.

24. Unauthorized Absence

- (1) If a person employed remains absent without leave or beyond the period of leave originally granted or subsequently extended, the shop-keeper or the employer, as the case may be, shall before taking any disciplinary action against the absentee, issue a notice requiring him to explain in writing the reason of his absence within fifteen days from the date of issue of the notice.
- (2) If on receipt of the notice referred to in sub-rule (1) the absentee explains the reason of his absence to the shop-keeper or the employer, as the case may be, the latter may if the explanation is found satisfactory, regularize the period of unauthorized absence by grant of such leave as may be due to the employee, and treat the remaining period of absence, if any, as absence without wages.
- (3) If the explanation given by the employee is considered not satisfactory by the shop-keeper or employer, as the case may be, the latter may treat the period of unauthorized absence of the employee as absence without wages even though leave with wages may be due to him or terminate his lien on his appointment, depending on the gravity of the case.
- (4) If the person employed does not submit any explanation to the shop-keeper or employer, as the case may be, within the time limit given in the notice referred to in sub-rule (1) above, the latter may terminate the lien of the person employed on his service.
- (5) The notice served to in sub-rule (1) shall be served by registered post to the address given under rule 16, or in its absence to the address given by the person employed to the shop-keeper or the employer, as the case may be.

CHAPTER — IV

PAYMENTS OF WAGES, RECOVERY OF WAGES AND OVERTIME

25. Pay Register

Every shop-keeper and every employer shall maintain a pay register in Form 'J' and all entries therein relating to payment shall be certified by the shop-keeper or the employer, as the case may be, in the presence of two witnesses as specified in such form.

26. Application for Recovery of Wages

- (1) Application under sub-section (2) of Section 17 shall be made in duplicate in Form 'K' to the Registering Officer as prescribed by the rules.

27. Procedure for Dealing with Application for Recovery of Wages

- (1) Any person desiring to act on behalf of any employee shall present to the Registering authority of that area as the case may be, referred to as the referee, a brief written statement explaining his interest in the matter and applying for permission so to act, and the referee shall record therein order specifying grant of permission and in the case of a refusal to grant the permission prayed for, the reason for the refusal.
- (2) Application under Rule 26 or other documents relevant to such applications shall be presented in persons to the referee at any time during the hour to be fixed by the referee or shall sent to the referee by registered post, and applying for permission so to act, and the referee shall record therein order specifying grant of permission and in the case of a refusal to grant the permission prayed for, the reason for the refusal.
- (3) On receipt of an application under Rule 26 the referee shall by issuing a notice in Form 'L' call upon the applicant as well as the shop-keeper or the employer, as the case may be, to appear before him on specified date not being earlier than fourteen days after date of service of the notice together with all relevant documents and witnesses if any.
- (4) If the shop-keeper or the employer, as the case may be, fails to appear on the specified date the referee may proceed to hear and determine the application ex-parte.
- (5) If the applicant fails to appear on the specified date, the referee may dismiss the application:

Provided that an order under sub-rule (4) or sub-rule (5) on good cause shown within one month of the date of the said order be set aside and the application reheard after giving not less than fourteen days notice to the opposite party of the date fixed for the rehearing of the application.

28. Maintenance of Records of Cases by the Referee

- (1) The referee shall record the particulars of each cases in Form 'M' and at the time of passing order shall sign and date the particulars so recorded.
- (2) The referee shall while passing order in each case also record the substance of the evidence adduced in the case in appendix to the order.
- (3) Any record, other than a record of any order or direction which is required by these rules to be signed by the referee, may be signed on behalf of and under the direction of the referee by any subordinate officer appointed in writing for this purpose by the referee.

29. Register of Overtime work and payment of overtime wages

Every shop keeper or an employer in an establishment shall maintain a register in Form 'N' showing the overtime work done every month by each employee and the amount of overtime wages the employee is entitled to.

30. Calculation of Ordinary Rate of Wages of Overtime

The ordinary rate of wages of overtime shall be calculated in the manner specified in Section 7 of the Act.

CHAPTER V

TERMINATION OF SERVICE

31. 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 authorized leave (including authorized holidays and weekly holidays) not exceeding forty-five days in aggregate, or
- (b) by 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 authorized 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.

32. Appellate Authority

For the purpose of sub-section (2) of Section 18 of the Act, the Registering authority of the area as the case may be, shall be the appellate authority.

33. 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 and 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.

34. 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 'P' to the appellant and in Form 'Q' to the employer whose order is appealed against to appear in person or by a duly authorized 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 'R' and it shall be carried out by the employer concerned within the period specified by the appellate authority.

35. 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 8, 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 District Collector/Deputy Commissioner who shall recover it as arrears of public demand with utmost expedition.

CHAPTER VI

EMPLOYMENT OF CHILDREN AND WOMEN

36. 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:
 - (a) The records of any School;
 - (b) 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), the Chief Inspector or the Inspector of the area within whose jurisdiction the establishment is situated shall, at the cost of the employer, arrange to determine the age of the person employed through medical examination by the Authorized Medical Officer of the area or by any other competent medical officer not below that rank.

37. Employment of women and persons below seventeen years during night

The regulation for employment of women and persons below the age of seventeen years during night shall be as per Section 20 of the Act.

CHAPTER — VII

HEALTH AND SAFETY

38. Cleanliness of establishments and precautions on health

- (1) All floors, passage ways and stairs shall be swept, washed and dried at least once a day to keep them adequately clean and free from slippery agents or substances giving offensive smell;
- (2) 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;
- (3) 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 there from;

- (4) 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;
- (5) No stationary internal combustion engine shall be operated in any establishment unless the exhaust is conducted into the open air and unless effective measures have been taken to prevent such accumulation of fumes there from as are likely to be injurious to the health of employees working in the establishment;
- (6) In every establishment in which there is given off any dust 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
- (7) In every establishment proper arrangements 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;
- (8) Latrines and Urinals shall be so situated as to be conveniently accessible and shall be provided in every establishment for the use of the employees thereof. All latrines and urinals shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

39. 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.

40. 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 naked light or cause or permit any such light to be used in the immediate vicinity of any inflammable material.

41. Safety

- (1) Every dangerous part of 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.

42. 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) of Section 25 or any other officer appointed by him on this matter as the case may be.
- (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 — VIII

INSPECTION AND PENALTY

43. Duties of Inspector

- (1) The duties of an Inspector appointed under Section 25 shall be, generally, to make such inspection as may appear to him to be necessary for satisfying himself that the provisions of the Act and these rules and of any orders issued by the Government under the Act are duly observed and, in particular, for ascertaining whether the local area which he is appointed,
 - (i) Shops and establishment are duly registered under the Act.
 - (ii) The registers, records and notice required to be maintained, and displayed under the Act or this rules are properly maintained and displayed.
 - (iii) The intervals of rest and holidays required to be granted under the Act are granted and the limits of hours of work and spread over laid down under the Act are duly observed;
 - (iv) Shop and establishment are closed in every week on days notified under sub-section (1) and (2) of Section 11.

- (v) The provision of the Act and of orders issued by the Government or any other powers empowered under the provision of sub-section (1) and (4) of Section 11 regarding opening and closing hours are duly observed;
 - (vi) The provision of the Act and these rule regarding leave are duly observed;
 - (vii) Every person employed in a shop or an establishment is furnished with a letter of appointment;
 - (viii) The provision of the Act and these rules regarding payment of wages and payment for overtime work are duly observed;
 - (ix) The prohibitions of employment of children and women and persons below the age of seventeen imposed under the Act are duly observed.
 - (x) The provisions of the Act and the rules relating to cleanliness, lighting, health, safety, welfare measures and the precautions against fire are properly observed.
 - (xi) The irregularities pointed out at previous inspections have been remedied and orders previously issued have been complied with.
- (2) For the purpose of making such inspection, the Inspector may interrogate such persons as he may deem necessary, at any premises or place where, he has reason to believe, there is a shop or an establishment: Provided that no such person shall be required under this rule to answer any question or give any evidence the answer to which, might tend to incriminate him.
- (3) Any Inspector shall inspect every shop and every establishment within the local area for which he is appointed at last once in every three months.

44. Submission of Diary by Inspector

Every Inspector shall keep a file of the records of his inspections and maintain a diary in Form 'S' in respect of the work done by him every month and shall submit to the officer to whom he is subordinate by the 15th day of every month such diary showing the work done in the preceding month. The Inspector shall also retain a copy of the said diary.

45. Method of Inspection

- (1) In conducting any inspection, the Inspector shall not, as far as possible. cause any suspension of business.
- (2) No inspection shall be held in any shop or establishment:
 - (i) During any day of half day specified in a notice under sub-section (4) of Section 11 as the day or half day during which the shop or establishment shall be entirely closed in each week, or
 - (ii) During any period for which the shop or establishment may be extended by notification under Section 5 from the provision of the Act on any specified occasion or occasions:

Provided that notwithstanding anything herein before mentioned an inspection may be held:

- (a) To ascertain the position if any shop or establishment, is found open on any of the days of weekly closure, notified in respect thereof, or
 - (b) To ensure that all these provision of the Act for which the shop or establishment, as the case may be, has not been exempted are duly observed.
- (3) If the Inspector during his inspection of any shop or establishment finds deviations from the provision of the Act or Rules, he shall pass orders or make recommendations for remedying or removing these defects, and, in such a case, he shall either endorse the same in the visit book maintained by the shop-keeper or employer under Rule 44 or he shall send a copy of his inspection notes to the shop or establishment within fourteen days from the date of inspection.

46. Method of Seizing Register, Record, Documents or Notes

- (1) The Chief Inspector appointed under Section 25 of the Act, may authorize any Inspector for the purpose of seizing any record, register, documents or notice or any portion thereof under clause (b) of Section 26.
- (2) An Inspector shall in such case of seizing of records, registers, documents or notices or any portion thereof give receipt to the shop-keeper or employer, as the case may be.

47. Visit Book

- (1) Every shop-keeper and every employer shall maintain a visit book in which an Inspector visiting the shop or the establishment, as the case may be, may record his remarks regarding any defects that may come to light at the time of his visit or give direction regarding production of any documents required to be maintained or produced under the provisions of the Act and these rules:

Provided that where the Inspector has no remarks to offer, he shall merely enter the date and time of his visit and sign on the book.

- (2) The visit book shall be a bound book more or less of size 7 inches x 6 containing at least 100 pages, and every page thereof shall be consecutively numbered that each consecutively numbered page is in duplicate and the duplicate between each two consecutive numbered pages shall have a vertical perforated straight line on the margin side at a margin of about 1 inch. Every page shall contain the following heading at the top:
 - i. Name of the Shop or Establishment or alternatively, name of the shop-keeper or employer.
 - ii. Address in full.
 - iii. Registration Number of the establishment.
 - iv. Date.
 - v. Time of visit.
 - vi. Signature of the shop-keeper/employer.

- (3) The duplicate marginally perforated page of the visit book shall be used for making a copy of the Inspector remarks and shall be taken out by the Inspector for his office record.
- (4) In case the visit book containing the remarks passed by an Inspector is lost, destroyed or defaced, the shop-keeper or employer concerned shall forthwith report in writing the loss of the visit book to the Inspector of the area where the shop or establishment, as the case may be, is situated and shall immediately start and maintain a new visit book.

48. Co-operation with the Inspector

All orders, letters, reports and other documents issued by an Inspector with respect to the provision of the Act shall be properly filed and preserved by the shop-keeper or employer concerned for a period of 12 months and shall be made available in the shop or establishment, and if not, as available within fifteen days of receipt thereof.

49. Appeal from the Inspector's orders or recommendation

- (1) A shop-keeper or an employer may, within fifteen days from the date on which an Inspector endorse an order or recommendation in the visit book or of the receipt of the copy of inspection note relating to any order passed or recommendation made by an Inspector, as the case may be, in respect of the shop or establishment concerned, appeal against such order or recommendation to the Chief Inspector of Shops and Establishment or any other officer of that area authorized by him for this matter as the case may be. The Chief Inspector or the authorized officer of that area as the case may be, may confirm, modify or reverse the order or recommendation appealed against.
- (2) The notice of appeal shall be in the form of a memorandum setting forth concisely the grounds of objection to the order or recommendation against which the appeal is preferred and bearing a court-fee stamp of two rupees and shall be accompanied by a copy of the order or recommendation appealed against.
- (3) The Chief Inspector or the Officer of that area authorized by him for this matter as the case may be, 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 — IX

OFFENCES AND PENALTIES

50. Penalty

- (1) Whoever contravenes any of the provision of these rules shall, on conviction, be punishable with fine which may extend to five hundred rupees, and where the breach of rule is a continuing one, with further fine which may extend to fifty rupees, for every day after the first during which the breach of rules continues.
- (2) 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

- (i) Willfully omit or cause or allow to be omitted from such register, record or notice an entry which is required to be made therein; or
- (ii) Maintains or causes or allows to be maintained more than one set of any registers, records or notice except the office copy thereof;
- (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 five hundred rupees and where the breach is a continuing one with a further fine which may extend to fifty rupees, for every day, after the first, during which the breach continues.

51. Determination of employer for the purpose of the Rules

- (1) Where the owner of an establishment is a firm or any other association of individuals, any one of the individual partner 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 purpose 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 fluffier 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.

52. Exemption of employer for liability in certain cases

Where the employer of an establishment is charged with an offence for violation of these rules or orders made hereunder, 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.

53. Penalty for obstructing Inspector

Whoever willfully 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 five hundred rupees. extend to five hundred rupees.

CHAPTER - X

MISCELLANEOUS

54. Register of Employees

- (1) Every shop-keeper or employer shall maintain a register of employees in Form 'S'.
- (2) All information in the register of employees shall be kept upto date and necessary correction shall be made within three days from the date on which any change takes place.

55. Letter of Appointment

Every shop-keeper or employer shall furnish to persons employed with letters of appointment in Form 'T',

- (i) In the case of every person who is already in employment in his shop or establishment, as the case may be, within sixty days from the date on which these rules come into operation, and
- (ii) In the case of every person who is employed in his shop or establishment as the case may be, after these rules come into operation, before the person so employed commences work:

Provided that it shall not be necessary for a shop-keeper or an employer to issue such letter of appointment to a person who is already in employment and has already been given a letter of appointment substantively containing the particulars specified in Form 'S'.

56. Maintenance and Presentation of Records, Registration, Notice, etc.

- (1) All registers required to be maintained under these rules shall be in English and all dates entered in a register shall be entered in ink and shall be eligible.
- (2) All registers except those in Form 'I' and 'J' records and notices relating to any calendar year shall be preserved and made available in the establishment for examination by the Inspector till the end of the next calendar year. Registers in Form 'I' and 'J' shall be so preserved and made available for examination by the Inspector till the end of the next calendar year.
- (3) Entries relating to any day, week or year in any of the registers shall be made after the close of such day, week or year except in so far as otherwise permitted under these rules, and shall be signed by the shop-keeper or employer.

- (4) Where an office, store-room, godown, warehouse, or workhouse, or work place used in connection with the trade or business of a shop is situated at any premises other than the premises of the shop or establishment, all register, records, visit book and notices required to be maintained, exhibited or given under the Act and these rules shall be separately so maintained, exhibited or given in respect of and at such offices, store-room, godown, warehouse or workplace.

57. Special Registers and Records

- (1) If an application is submitted by an employer or shop-keeper in writing, and if the Chief Inspector or the officer authorized by him is satisfied that any register or record maintained by such employer or shop-keeper gives in respect of the persons employed by him the particulars required to be shown in any register or record to be maintained under these rules, the Chief Inspector or the Registering Authority of that area as the case may be, by order in writing, direct that the register or record so maintained by shop-keeper or the employer shall notwithstanding that is not in accordance with the form provided in that behalf in these rules, be deemed to the corresponding extend to be a register or record maintained under these rules.
- (2) Every application under sub-rule (1) shall be accompanied by copies of Form of the relevant register or record.

58. Manner of Filing Application or Notices

An application or notice meant from any authority, officer or Inspector appointed under the Act shall be filled either by personal service with receipt during the hours fixed for the purpose by such authority officers or Inspector or by registered post with acknowledgement due.

59. Savings of Certain Rights and Privileges

Nothing in these rules shall effect any right or privilege to which any person employed in any shop or establishment is, on the date of the commencement of these rules, entitled under any law for the time being in force or under any contract, custom or usage which is in force on that date, if such right or privilege is more favourable to him than any right or privilege if such right or privilege is more favourable to him than any right or privilege conferred upon him by these rules granted to him at the time of appointment.