

**ASSAM SHOPS AND ESTABLISHMENTS  
ACT AND RULES**

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**FOREWORD**  
**TO**  
**THE THIRD EDITION**

I have been requested by Dr. Todi to write foreword to his book Assam Shops and Establishments Act and Rules. This book was first published in 1987 and the Second Edition of the book was published in 1990 and this is the Third Edition, which is going to be published.

The publication of the Third Edition of the book during the period of seven years will go to show that the book has been able to catch imagination of the Bench and the Bar and the other concerned members of the society. That itself is a compliment to the author of the book. This book is required not only by the Lawyers and the other Judicial officers for use in the court but it has also the utility for common people because this book is regarding the law relating the to the regulations and conditions of work and workmen in shops and commercial establishments and establishments for public entertainment and amusement in the State of Assam. Dr. Todi in the book has extensively given the reference to a number of cases decided by the Supreme Court as well as by the different High Courts which will help all in understanding, interpreting and analysing the provisions of the Act. The cases decided by out High Court also find place in the book.

I hope and trust that this book shall be useful and this edition also shall be accepted in the same manner as the earlier two editions were accepted by the people at large.

Guwahati

7<sup>th</sup> June, 1994

**J.N. Sarma**

**Judge**

**Gauhati High Court**

## **PREFACE TO THE SIXTH EDITION**

The Fifth edition of the book Assam Shops and Establishments Act and Rules received continuous encouraging response and became out of print within a short span of time requiring publication of the Sixth edition. All steps have been taken to bring out the present edition incorporating all upto date amendments making the book useful for the renders.

While revising the book great help was received from Sri Ankit Kr. Todi, B. Com. (Hons.) Who also performed the arduous task of proof reading. He deserves all thanks.

I also extend my sincere thanks to all renders, friends and well wishers for their continued confidence making it possible to publish the Sixth edition of the book.

My efforts shall be deemed suitably rewarded if the readers are benefited from the book.

**Dr. B.P. Todi**

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

**(ASSAM ACT XXI OF 1974)**

**(Received the assent of the President on the  
12<sup>th</sup> August, 1974)**

(Published in the Assam Gazette, Extraordinary dated the 4<sup>th</sup> Sept.,  
1974)

*An*

*Act*

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

**Preamble -**

Whereas it is expedient to consolidate and amend the law  
relating to the regulation of conditions of work and employment in  
shops and commercial establishments and establishments for  
public entertainment or amusement in the State of Assam.

In Preamble the main object of the Act is set out. A preamble to a Statute is a preliminary statement of the reasons, which have made the passing of statute desirable. The words and phrases used in the Preamble are recital and intend to explain the mind of the Legislatures and the mischief which has been intended to be remedied. The title and Preamble whatever their value is as aids to construction of statute undoubtedly throw light on the intent and design of the legislature and indicate the scope and purpose of the legislation itself. (*Poppatlal Shah vs. State of Madras* (1953) 4 STC 188 SC).

The Preamble of this Act aims to regulate certain conditions of work and employment of employees employed in shops and commercial establishment in the State of Assam to which the Act has been extended.

## **LEGISLATIVE HISTORY**

The Assam Shops and Establishments Act were originally enacted in the year 1948 (ACT No. XIII of 1948). Since then, many amendments had been made to the Act. Besides amendments some new provisions regarding the regulation of the working hours of shops, holiday and wage benefit to be given to employees were also sought to be provided in the interest of the employees. Hence to achieve all these measures it was considered expedient to bring in fresh legislation repealing the Act No. XIII of 1948.

The Assam Shops and Establishments Act, 1971 (Assam Act No. XXI of 1974) had repealed the Act No. XIII of 1948 and presently is in force in the State of Assam.

It is hereby enacted in the Twenty-second Year of the Republic of India as follows –

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

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



entertainment or dates as the State Government may, by notification specify.

## **APPLICATION OF THE ACT**

The Assam Shops and Establishments Act, 1971 applies in the first instance to the areas declared by Municipalities constituted under the provisions of the Assam Municipal Act, 1956. It also applies to all such areas and to all shops, commercial establishments and establishments for public entertainment or amusements to which the Assam Shops and Establishments Act, 1948 applied before the commencement of this Act. This Act shall also be applicable to such shops and commercial establishments or establishments for public entertainment or amusement in such other areas from such date or dates as the State Government may specify by notification.

In accordance with the powers conferred under sub-section (4) of section 1, the State Government from time to time made the Act applicable to all shops, commercial establishments for public entertainment or amusement to the following areas –

- (1) All Town Committees declared or constituted under the provisions of the Assam Municipal Act, 1956 (*Vide* Govt. Notification No. GLR 290/76/4, Dt. 21-6-1976).
- (2) Karbi Anglong and North Cachar Hill Districts including Municipal areas (*Vide* Govt. Notification No. GLR (RC) 77/80/16, Dt. 8-3-1988 issued in exercise of

the powers conferred under sub-section (4) of section 1 of the Assam Shops and Establishments Act, 1971 read with clause (b) sub-paragraph (I) of paragraph 12 of the Sixth Schedule to the Constitution of India).

(3) Within the Gauhati Municipal Corporation areas under the Gauhati Municipal Corporation Act, 1969 (*Vide* Govt. Notification No. GLR (RC) 77/80/27, Dt. 31-10-1989).

(4) In the following places and areas of the following districts:

- |                             |                                                                             |
|-----------------------------|-----------------------------------------------------------------------------|
| 1. North Cachar District -  | Umrangso.                                                                   |
| 2. Karbi Anglong District - | Hamren and Manje Chariali.                                                  |
| 3. Goalpara District -      | Krishnai and Dudhnoi.                                                       |
| 4. Morigaon District -      | Jagiroad.                                                                   |
| 5. Nagaon District -        | Raha, Deboka, Kampur and<br>Jakhalabandha.                                  |
| 6. Golaghat District -      | Sarupathar and Barpathar.                                                   |
| 7. Jorhat District -        | Kamalabari, Garhmurh, Teok,<br>Deberapara Chariali (Nakachari),<br>Titabar. |
| 8. Tinsukia District -      | Chapakhowa, Panitola,                                                       |

	Barhapjan, Ledo and Margherita.
9. Dibrugarh District -	Moran, Tingrai Chariali & Namrup.
10. Dhubri District -	Mankachar.
11. Bongaigaon District -	Dhaligaon and North Salmara.
12. Kokrajhar District -	Salakati, Sarfanguri & Bookman.
13. Darrang District -	Rowta Chariali, Sipajhar, Orange and Dalgaon
14. Kamrup District -	Baihata Chariali, Bejera, Hajo, Meerza, Nagarberra, Bijohnagar, Goreswar and Kamalpur.
15. Nalbari District -	Mukalmua, Tamulpur, Barama, Daulashal and Chamata.
16. Barpeta District -	Bhalla, Simalguri and Patacharkuchi.
17. Lakhimpur District -	Narayanpur and Laluk.
18. Sonitpur District -	Gohpur.
19. Dhemaji District -	Hojai and Silapathar, Gogamukh.
20. Cachar District -	Kalain, Lakhipur and Udarbund.
21. Sibsagar District -	Bhojo, Sapekhati & Gaurisagar.

22. Hailakandi District - Pachgram.
23. Karimganj District - Patharkandi and  
Ramkrishnanagar.

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(*Vide* Govt. Notification No. GLR 364/88/67, Dt. 18-12-1993,  
Assam Gazette, Part IIA, Dt. 26-1-1994.)

# CHAPTER I

## Preliminary

### 2. Definition. -

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

- (1) **“apprentice”** means a person aged not less than twelve years whom an employer employs in his service for training by himself or by any other person for any trade or calling;
- (2) **“child”** means a person who has not completed his fourteenth year;
- (3) **“closed”** means not open for the service of any customer or any business connected with the establishment;
- (4) **“commercial establishment”** means an establishment in which there is conducted the business of advertising, commission, forwarding agency, a department of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an

insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the State Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for public entertainment for public entertainment or amusement;

- (5) **“day”** means the period of twenty-four hours beginning at mid-night;
- (6) **“employee”** means a person wholly or principally employed in and in connection with any establishment and includes an apprentice;
- (7) **“employer”** means a person owning or having ultimate control over the affairs of an establishment and includes the manager, agent or other person acting in the general management;
- (8) **“establishment”** means a shop or a commercial establishment or an establishment for public entertainment or amusement;
- (9) **“establishment for public entertainment or amusement”** means a restaurant, eating house, café,

cinema, theatre and such other establishment or class thereof as the State Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;

- (10) **“factory”** means a factory as defined in or declared to be a factory under the Factories Act, 1948 (Central Act No. 63 of 1948);
- (11) **“half day”** means a period of six consecutive hours between the hours of half past seven O’clock ante-meridian and seven O’clock post-meridian;
- (12) **“Inspector”** means an inspector appointed under this Act;
- (13) **“leave”** means leave provided for in chapter III of this Act;
- (14) **“notification”** means a notification published in the Official Gazette;
- (15) **“opened”** means opened for the service of any customer or to any business connected with the establishment;

- (16) **“period of work”** means the time during which an employee is at the disposal of the employer;
- (17) **“prescribed”** means prescribed by rules made under this Act;
- (18) **“prescribed authority”** means the authority prescribed by rules made under this Act;
- (19) **“shop”** means any premises where any trade or business is carried on or where services are rendered to customers, and includes office, store rooms, godown or warehouse whether in the same premises or otherwise used in connection with such trade or business workshops including automobile repairing garages, accountants establishments, drawing and designing firms, solicitors’ establishments, but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefit provided for workers under the Factories Act, 1948 (Central Act No. 63 of 1948) or an establishment for public entertainment or amusement;
- (20) **“spread over”** means the period between commencement and the termination of the work of an employee on any day;



- (21) **“wages”** means pay at whatever intervals paid and includes dearness and such other allowances payable in terms of money and includes the value of lodging and such other amenities whose value is capable of being computed in terms of money;
- (22) **“week”** means the period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the prescribed authority;
- (23) **“year”** means a year commencing on the first day of January.

Section 2(3). “Closed” - Mere opening of the doors cannot be termed as opened within the meaning of the Act. It must be open for the service of customers or for any purpose relating to business. (*N Usman vs. ALO, Tellichery*. 1973 KLT 458, *State of UP. vs. Choudhury (SR)*, 1961 (1) LLJ 673).

Section 2(19)- The definition of shop indicates that premises are necessary ingredient to make it a shop. So, any trade or business carried on or services rendered to customers without occupying fixed premises cannot be termed as shop. A godown where goods are stored and taken out to the market for sale but no sale or service is rendered thereon is not a shop. Distinction between shop and commercial establishment is that there must be premises for any establishment to make a shop and that in this premises trade or business must be carried on or services are to be

rendered to customers. In absence of premises there cannot be a shop.

Premises where services are rendered to customers are also included within the definition of “Shop”. But the word “service” has different meaning and takes colour from the context. The term “service” has to be explained in the context of the provisions contained in different Acts. The Supreme Court in the case of *Hindu Jea Band vs. E.S.I. Corporation*, 71 FJR 183: 1987 Lab IC 894 held that shops includes a place where services are sold and in order to make a premise a shop, services are to be sold on retail basis. Even though the places where services are rendered will be a shop by definition, it is to be confined by decision to situation when the services are sold to any person who wants to avail the same and made available on payment of stipulated price with no variation according to the volume, nature and quantity or complexity of work involved in the matter. In that way service has been characterised as the ordinarily understood services like repairs on and services of an Automobile, Barber-shop, Drycleaners, Lending libraries of books and video cassettes, bicycle shop where ordinary people have access to such shops in a routine manner and not to so in the case of Atelier of an Artist whether he paints or does sculpturing.

The Bombay High Court in the case of *E.S.I., Corporation vs. Dattaram Advertising (P) Ltd.*, 73 FJR 183 stated that though the word “shop” liberally interpreted would take in any place whether services are rendered, it will not go to the extent of including the premises where basically and mainly intellectual activity is taking

place and things are not sold or purchased, a concept which is peculiar to a shop. This decision though rendered under E.S.I. Act explained the meaning of the shop by holding that any premises where services are rendered will not be regarded as “shop” within the meaning of the Act. The service is which can be rendered on a retail basis involving the sale or purchases in tangible form.

The Karnataka High Court in the case of *Phillipos & Co., Chartered Accountants vs. the State of Karnataka*, (1990) 1 LLJ 227 had taken the view that the office of a Chartered Accountant or the office of a firm of Chartered Accountants cannot and would not fall within the definition of ‘Commercial Establishments’ as understood in Karnataka Shops and Establishments Act, 1961. It has been stated by the Court that the word “Commercial” as is commonly understood related to or connected with the “trade”, a profit or commerce in general. It is occupied with business and commerce. Where the exchange of goods, production of property of any kind takes place or where the buying, selling and exchange of articles happens, such a transaction is described as “Commerce”.

The Court has further held that the office of a Chartered Accountant or of a firm of Chartered Accountants is not a “Shop” within the meaning of the definition of Shop contained in section 2(u) of the said Act. The Court took support from the view of the Supreme Court in the case of *V Sasidharan* (AIR 1984 SC 1700) in which the office of Lawyer or a Firm of Lawyers was held to be outside the Kerala. Shops and Commercial Establishments Act, 1960. Holding that profession of Accountancy is not very much different from the profession of a Lawyer, reliance was placed on

the said decision of the Supreme Court. In view of the Court, the Chartered Accountant carries on a learned profession and that it is his special qualification, professional equipment and knowledge that are placed at the disposal of his clients. The nature of the work of a Chartered Accountant with the restrictions and the obligation to conform to the norms of professional conduct would show that the purposes of his functions and duties is analogous to the functions and duties of the Lawyer or solicitor. The requirements of learning, skill, and integrity for carrying on a profession would make it clear that the office of Chartered Accountant or a firm of Chartered Accountants cannot be regarded as premises where services are rendered to customers. The Court further held that the office of a Chartered Accountant or of a firm of Chartered Accountants cannot be categorised or classified as an administrative service.

“Industry” whether a shop came up for decision before the Hon’ble Gauhati High Court. The court while deciding the case of the *State of Assam vs. Md. Jowaidur Rahman Mazumdar* (1986) 2 GLR 482 observed that it appears “the factories” and “the industries” governed by the Factories Act, 1948 and Industrial Disputes Act, 1947 respectively do not fall within the bounds of “the Act”. The reasons are obvious. First, that for regulation of the condition of work and employment in factories and industries there are special laws and accordingly, the factories and industries have not been brought within the four corners of “the Act”. Secondly, the factories and the industries have not been specifically included within the provisions of “the Act”. On perusal of the provisions of “the Act” it appears that factories have been impliedly excluded as

the definition of commercial establishments and establishments for public entertainment or amusement do not take within them any factory, though the term “factory” has been specifically defined in section 2(10) of “the Act”. Only a department of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on is included within the term “commercial establishment”. As such, it appears that factories have been impliedly excluded.

It appears that a shop must be premises where any trade or business is carried on or where services are rendered to customers and also includes office, storerooms, godown, or warehouse whether in the same premises or otherwise used in connection with such trade or business. However, the definition does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948 or an establishment for public entertainment or amusement. As such, it is clear that even a shop attached to a factory, although it is a shop is not “a shop” falling within the definition of the term “shop” if the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948.

## **LEGISLATIVE HISTORY**

Section 2 (19) - The Assam Shops and Establishments (Amendment) Act, 1983 (Assam Act 1 of 1984) includes Workshop including automobile repairing garages, accountants' establishments, drawing and designing firms, solicitors' establishments, within the definition of shop.

### **3. Exemptions. -**

(1) The provisions of Sections 10 and 11 shall not apply to-

(a) Shops or classes of shops dealing mainly in dairy product, bread, pastries, sweetmeat and flowers;

(b) pharmacies or shops dealing mainly in medicines, surgical appliance, bandages or other medical requisites;

(c) shops dealing mainly in articles required for funerals, burials or cremations as may be specified by the Inspectors within respective jurisdictions;

(d) shops dealing in tobacco, cigars, cheroots, cigarettes, bidis, pan, liquid refreshment sold in

retail for consumption on the premises, ice, newspaper or periodicals;

(e) barbers' and hairdresser's shops -

(2) Nothing contained in this Act shall apply to -

(a) persons employed in any establishment in a position of management;

(b) persons whose work mainly involves travelling and persons employed as canvassers and caretakers;

(c) establishments under the Central or any State Government, local authorities, the Reserve Bank of India or any other Bank, any Railway Administration and cantonment authorities;

(d) any water transport service or motor transport service, or any system of public conservancy or sanitation, any industry or business or undertaking which supply power, light or water to the public and such other public utility companies or associations or classes thereof as the State Government may, by notification, exempt from the operation of this Act;

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



- (l) such seasonal commercial establishments engaged in the purchase of raw jute pressing and the clerical department of such seasonal factories and such other establishments as the State Government may, by notification, exempt from the operation of all or any of the provisions of this Act.

Section 3(1) provides that in respect of certain categories of establishment specified in clauses (a) to (e) the provisions of sections 10 and 11 shall not apply. Section 10 provides for opening and closing hours of establishment as fixed by the Government and section 11 provides for closing of shops and grant of weekly holidays for religious purposes.

Section 3(2) provides that the provisions of Assam Shops and Establishments Act, 1971 shall not apply at all to categories of establishments specified in clauses (a) to (l).

Section 3(2)(C) - Life Insurance Corporation of India is held to be an establishment under the control of the Central Government and exempted from the purview of the Act. *Balaram Chandra Roy vs. M.N. Battacharjee and Ors.*(1984) 2 GLR (NOC) 11.

## **LEGISLATIVE HISTORY**

Section 3 originally read as follows –

### **3. Exemptions -**

- (1) Nothing contained in this Act shall apply to –
  - (a) person employed in any establishment in a position of management;
  - (b) person whose work mainly involves travelling, and persons employed as canvassers and care-takers and whose names do not appear in the muster rolls;
  - (c) establishments under the Central or any State Government, local authorities, the Reserve Bank of India or any other Bank, any Railway administration and cantonment authority;
  - (d) any water transport service or motor service, or any system of public conservancy or sanitation, any industry, business or undertaking which supply power, light or water to the public and such other public utility companies or associations or classes thereof as the State Government may, by notification, exempt from the operation of this Act;

- (e) clubs, residential hotels and boarding houses;
- (f) stalls and refreshment rooms at railway station, docks, wharves and airports;
- (g) establishments for the treatment or care of the sick, infirm destitute or mentally unfit;
- (h) shops or class of shops dealing mainly in vegetables, meat, fish, dairy products, bread, pastries, sweetmeat and flowers so far as the retail sales of these articles are concerned;
- (i) pharmacies or shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites so far as sales of these articles are concerned;
- (i) pharmacies or shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites so far as sales of these articles are concerned;
- (j) shops dealing in articles required for funerals, burials or cremations so far as the sales of these articles are concerned;

- (k) shops dealing in tobacco, cigars, cheroots, cigarettes, bidis, pan, liquid refreshment sold in retail for consumption in the premises, ice, newspaper or periodicals so far as the sales of these articles are concerned;
- (l) shops dealing in supplies, stores, or other articles necessary for shops so far as sales of these articles are concerned;
- (m) shops or stalls in any public exhibition or show so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purposes of such exhibition or show;
- (n) shops or stall in any public fair or bazar held for charitable purposes;
- (o) barber's and hairdresser's shops;
- (p) shops dealing in petroleum products or spare parts for motor vehicles or cycles;
- (q) excise shops;
- (r) establishments in mine and oilfield;
- (s) any person employed in a confidential capacity, messenger, watchman or exclusively in

connection with the collection, despatch, delivery and conveyance or customs formalities of goods or such other persons or classes of persons as the State Government may, by notification, exempt from the operation of all or any of the provisions of this Act;

- (t) such seasonal commercial establishments engaged in the purchase of raw jute or cotton ginning or cotton or jute pressing and the clerical department of such seasonal factories and such other establishments as the State Government may, by notification exempt from the operation of all or any of the provisions of this Act.

This section was substituted vide Assam Act No. X of 1979.

**4. Power of Government to apply the Act to exempted persons or establishment. -**

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

## **5. Exemptions. -**

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

## **APPLICABILITY OF THE PROVISIONS OF CERTAIN LABOUR LAWS TO ASSAM SHOPS AND ESTABLISHMENTS ACT.**

### **Industrial Disputes Act, 1947**

The Industrial Disputes Act deals with the right and obligations of employer and employees and provides the machinery and procedure for the investigation and settlement of industrial disputes. On the other hand the Assam Shops and Establishments Act aims to regulate certain conditions of work and employment of employees employed in shops and commercial establishments and in establishments for public entertainment or amusement in the State of Assam to which the Act has been extended.

It is important to note that the object of the Shops and Establishments Act is to regulate the condition of work and employment of employees to give minimum benefit and relief to vast unorganised sector of the employees. It does not mean to take away the right, which an employee enjoys under the Industrial Disputes Act or other beneficial labour legislations. Therefore, even if an employee is converted by Shops and Establishments Act he is entitled to invoke the provisions of Industrial Disputes Act, 1947. There is no conflict between Industrial Disputes Act and the Shops and Establishments Act but they are supplementary to each other. The Industrial Disputes Act will prevail over the provisions of any other Act including Shops and Establishments Act prevalent in the States. [*P. Venkateshwara Raw and others vs. Labour Court, Guntur*, 1984 Lab. 1 (NOC) 47 (APHC); *Delhi Consumer Co-operative Wholesale Stores Ltd. vs. Secretary Lab. and others*, 1983 Lab. IC 1652; 63 FJR 141, 1983 (II) LLN 889 (Delhi HC) and *National Engineering Industries Ltd., vs. Shri Krishan Bhangeria and others*, AIR 1988 SC 329.]

### **Minimum Wages Act, 1948**

The Minimum Wages Act, 1948 (Act No. XI of 1948) is a Central Act and requires the Central and State Governments to fix minimum rates of wages in scheduled employment. The object of this particular legislation is to prevent exploitation of labour in respect of wages. The State Governments under the Act are empowered in the matter of fixation and revision of minimum wages and to notify in their respective State Gazette. The Act empowers in the matter of State Gazette. The Act empowers the

State Government to appoint Committees and Sub-Committees to advice of fixation and revision of minimum wages rates. Central Minimum Wages advisory Board has also been set up under the Act to advice Central and State Governments on the subject. The Act covers all employees who are engaged to do any work whether skilled, manual or clerical in any scheduled employment including worker engaged for manufacturing or processing. The State of Assam derives power to fix or revise the minimum rates of wages in respect of different categories of employees by virtue of powers conferred under sub-section (2) of section 5 of the Minimum Wages Act, 1948 (Act XI of 1948) as amended by the Minimum Wages (Assam Amendment) Act, 1964 (Assam Act XIX of 1964). The Minimum Wages Act, 1948 is also applicable to different categories of employees employed in shops, commercial establishments, eating houses and restaurants. The workers are to be paid wages at the prescribed rates subject to change from time to time.

### **Employees State Insurance Act, 1948**

The Employees State Insurance Act, 1948 has been enacted to provide for certain benefits to employees in case of sicknesses, maternity and employment injury and to make provisions for certain other matters in relation thereto. This Act can be said as beneficial piece of social legislation in the interest of labour of factories. This act in the first instance is applicable to all factories including factories belonging to Government other than seasonal factories. The State Government with the approval of the Central Government can extend the provision of the Act to any establishment, or class of establishments, industrial, commercial,



agricultural or otherwise only after giving six months notice of its intention of so doing by notification in the Official Gazette.

However the department of a factory in which persons are employed in clerical capacity in any room or place where no manufacturing process is being carried on and the employees falling under the definition of Section 2(9) of the Employees State Insurance Act performing jobs which are connected with the factory are not exempted from the provisions of the Employees State Insurance Act, it is to be seen whether the employees working in any establishment is an employee within the meaning of section 2(9) of the Employees State Insurance Act.

The Government of Assam *vide* Notification No. GLR 385/74/56 dt. 22.7.1975 appointed 16<sup>th</sup> August 1975 as the date for extension of all the provisions of the Employees State Insurance Act, 1948 (Act No. 34 of 1948) to the class of establishments and areas as specified in the following schedule –

#### **SCHEDULE**

Description of Establishment	Areas in which the establishment are situated
------------------------------	-----------------------------------------------

(1)

(2)

- |                                                         |                                                         |
|---------------------------------------------------------|---------------------------------------------------------|
| 1. Any premises including the precincts thereof whereon | All the areas in the State of Assam where Chapters IV & |
|---------------------------------------------------------|---------------------------------------------------------|

ten or more persons but in any case less than twenty persons are employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power but excluding mine subject to the operation of Mines Act, 1952 (35 of 1952) or a Railway running shed or, an establishment which is exclusively engaged in one or more of the manufacturing processes specified in clause (12) of section 2 of the Employees' State Insurance Act, 1948 (34 of 1948)

V of the ESI Act, 1948 (34 of 1948) are already in force. Detailed list is specified below -

2. Any premise including precincts thereof whereon twenty or more persons are employed for wages on any day of the preceding twelve months and in any part of which a manufacturing process is being carried on without the aid of power but excluding a mine subject to the operation of Mines Act, 1952 (35 of 1952) or a railway running shed on an establishment which is exclusively engaged in one or more of the manufacturing processes specified in clause(12) of Section 2 of the Employees' State

All the areas in the State of Assam where Chapters IV & V of the ESI Act, 1948 (34 of 1948) are already in force. Detailed list is specified below -

Insurance Act, 1948 (34 of  
1948)

3. The following establishments wherein twenty or more persons are employed, or were employed for wages on any day of the preceding twelve months, namely –
  - (i) Hotels,
  - (ii) Restaurants,
  - (iii) Shops,
  - (iv) Road Motor Transport Establishment,
  - (v) Cinemas including preview theatres,
  - (vi) Newspaper establishments as defined in section 2(d) of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).
4. The following areas where the Employees' State Insurance Act, 1948 are in force in the State of Assam on this date of issue of this notification .

## **1. District of Kamrup -**

Town of Gauhati within the Municipal Corporation and the areas comprising within the revenue village of the above district.

(A) (i) Japarigog, (ii) Udalbakra, (iii) Fatasil, (iv) Kahilipara, N.C. (v) Dispur, (vi) Noonmati Grant, (vii) Saru Motoria in Beltola Mouza.

(B) (i) Santipur, (ii) Maligaon, (iii) Pachhim Jalukbari in Ramchariali Mouza.

### **Payment of Wages Act, 1936**

The Payment of Wages Act, 1936 (Central Act No. 4 of 1936) was passed to regulate the payment of wages to certain classes of persons employed in industrial establishments.

The Act was enacted to ensure that the wages payable to employees covered by the Act are paid within the prescribed time limit and that no deduction other than those authorised by law are made by the employees.

It applies in the first instance to the payment of wages to persons employed in any factory, to persons employed otherwise than in factory upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration, and to persons employed in

an industrial or other establishments specified in sub-clauses (a) to (g) of clause (ii) of section 2.

As provided in the Payment of Wages Act, 1936 the Government of Assam with a view to extend the Act in the State enacted the Payment of Wages (Assam Amendment) Act, 1969 (Assam Act No. 1 of 1970) with certain amendments. This Act was brought into force with effect from 17-2-1970 *vide* Notification No. GLR 396/58/11, dated 16-2-1970 (Assam Gazette,. Part IIA, dated 16-2-1970).

The Government of Assam in exercise of the powers conferred by sub-section (1) of section 17 of the Assam Shops and Establishments Act, 1971 (Assam Act No. XXI of 1974) *vide* Notification No. GLR (RC) 77/80/33, dated 3<sup>rd</sup> January, 1992 and published in the Official Gazette made applicable the provisions of the Payment of Wages Act, 1936 (Central Act No. 4 of 1936) to all the employees employed in establishments to which the Assam Shops and Establishments Act, 1971 applies.

## **CHAPTER II**

### **Hours of Work**

#### **6. Daily and weekly hours. -**

No employees in any establishment shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week –

Provided that the total number of hours of work including overtime, shall not exceed ten hours in any day except on days of stock taking the preparation of accounts and that total number of hours of overtime shall not exceed fifty for any quarter.

Section 6 - A careful reading of this section would make it clear that normal hours of work is not fixed but it limits the maximum hours of work in any day in any week. It provides that no employee is allowed to work in any establishment for more than eight hours in any day and forty-eight hours in any week. Proviso to section 6 limits the number of working hours to 10 hours including overtime in any day except the days when stock is taken and accounts are prepared. The proviso also days when stock is taken and accounts are prepared. The proviso also limits the total hours of overtime in a quarter to fifty hours.

**7. Extra wages for overtime. -**

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

*Explanation. -*

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

**8. Interval for rest. -**

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



**9. Spread over. -**

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

Section 8 provides that the employees in any establishment are entitled to have interval for rest of at least one hour in each day after work for four hours and further provides that their work in each period in a day shall not exceed four hours.

Whereas section 9 provides for fixation of periods of work of an employee in an establishment in such a way that inclusive of employee's interval for rest the period shall not exceed ten and a half hours in any day.

The Supreme Court have held that the interval for rest means the period when the employees though would be present on duty is not called upon to display either physical activity or sustained attention. (1966) 1 LLJ 709 S.C.

**10. Opening and closing hours. -**

- (1) No establishments shall on any day be opened earlier than and closed later than such hour as may be fixed

by a general or special order of the State Government made under sub-section (2).

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

- (2) The State Government may, by general or special order fix the time at which any establishment or class of establishments shall be opened or closed in any local area.

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

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

The Government of Assam *vide* Notification No. GLR 290/76/3, dt. 21-6-1976 had fixed the opening

hour and closing hour of all shops to which the said Act applies as follows : Opening hour 8 A.M. and closing hour 7.45 P.M.

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

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

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

Provided further that, when in any establishment for which the provisions of this Act applies two or more trades or business are conducted, one or more of which are usually conducted in a shop

while the others are usually conducted in a commercial establishment, the provisions of this Section shall not apply to the establishment so far as the conduct of the trades or business usually conducted in a commercial establishment are concerned.

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

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

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

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

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

- (6) No deduction on account of any holiday allowed under the provisions of sub-section (5) shall be made from the wages of any person employed in such commercial establishment.
- (7) Notwithstanding anything contained in the Weekly Holidays Act, 1942 (Act XVIII of 1942) every person employed in an establishment for public entertainment or amusement shall be allowed as holidays at least one and a half day in each week:

Provided that, when there are conducted in an establishment for public entertainment or amusement two or more trade or business any of which is of such a character that if it was the sole trade or business therein conducted the provisions of this Act would not apply to that establishment, such establishment shall so far as the conduct of that trade or business is

concerned, be exempt from the operation of this sub-section.

- (8) No deduction of account of any holiday allowed under the provisions of sub-section (7) shall be made from the wages of any person employed in such establishment for public entertainment or amusement.
- (9) Every person employed in a shop, commercial establishment for public entertainment or amusement shall be entitled to leave of absence for any days, he may select, not exceeding three in number in any one year for the purpose of attending ceremonies or performing functions of duties connected with or enjoined by his religion.
- (10) Every person employed in an establishment shall be granted a paid holiday on each of the following occasions and on such other day or days as may be notified by the State Government from time to time.

- |                              |                             |
|------------------------------|-----------------------------|
| (a) 26 <sup>th</sup> January | (c) 15 <sup>th</sup> August |
| (b) 1 <sup>st</sup> May      | (d) 2 <sup>nd</sup> October |

Section 11 - Sub-Section (1) of Section 11 makes it compulsory for every shop to remain entirely closed for one day in a week. The State Government in addition to one day as referred to in the above may under sub-section (2) require every shop or any specified class of shops to remain closed between particular hours

in the afternoon in the day in each week by specifying in the notification. Restriction has also been imposed on the employer under sub-section (3) from deducting wages of any employee of such shop on account of any closure of shops as per the provisions stated above.

The day on which the shop shall be closed in each week shall be such day as may be specified in a notice. The notice shall have to be displayed in conspicuous place in the shop. It is provided that the day so specified shall not be altered by employer more often than once in every three months. It is further provided that the inspector may in a particular area within their respective jurisdiction require that shops to be closed on a particular day as specified in the order.

Sub-sections (5) to (8) provides that every person employed in a commercial establishment and establishment for public entertainment or amusement shall be allowed in each week at least one and a half day as holidays. And no deduction from the wages of any person employed in such establishments shall be made for such holidays.

Under sub-section (9) every person employed in a shop, commercial establishments, establishments for public entertainment or amusement shall be entitled to leave of absence for any three days in a year as per his selection of the purpose of attending ceremonies or performing functions of duties connected or enjoined by his religion. Sub-section (10) which was inserted vide Assam Act No. 1 of 1984 provides that every person employed

in a shop or commercial establishment shall be granted a paid holiday on the following four occasions namely 26<sup>th</sup> January, 1<sup>st</sup> May, 15<sup>th</sup> August and 2<sup>nd</sup> October or such other days as the State Government may notify from time to time.

Section 11 ((1) - Whether an eating house is a shop or an eating house will be decided by the main activity carried on in the premises. If sweetmeat shops only sell few snacks it would not transform the shop into an eating-house, hence, the normal and literal meaning available in dictionary should be accepted. A wrong registration of shop as an eating-house by registration authorities would not entitle a shop to become an eating-house and on the basis of such wrong registration one cannot urge that a weekly closure as specified in section 11 (1) of the Act is not applicable to the alleged eating-house. (*Pashim Banga Mistanna Byabasayee Samity vs. State of West Bengal*, 79 CWN 839).

## **LEGISLATIVE HISTORY**

1. Second Proviso to sub-section (4) of section 11 was inserted *vide* Act No. X of 1979.
2. Sub-section (10) was inserted *vide* Assam Act No. 1 of 1984.



## **CHAPTER III**

### **Leave**

#### **—12. Application of chapter. -**

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

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

—*Explanation. -*

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

**13. Annual leave with wages. -**

(1) Every employee in an establishment shall be entitled after twelve months' continuous service in that establishment to privilege leave with wages for a period of 16 days in the subsequent period of twelve months, provided that such privilege leave with wages may be accumulated upto maximum period of 30 days.

(2) Every employee in an establishment shall also be entitled during every twelve months of continuous service to medical leave with wages for a period not exceeding twelve days on the ground of any sickness incurred or accident sustained by him and to casual leave with wages for a period not exceeding twelve days on any reasonable ground.

(3) If an employee entitled to any leave under sub-section (1) is discharged by his employer before he has been allowed the leave, or if having applied for and been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay

him the amount payable under this Act in respect of the leave.

—(4) If an employee entitled to any leave under sub-section (2) is discharged by him employer when he is sick or suffering from the result of an accident, the employer shall pay him the amount payable under this Act in respect of the period of the leave to which he is entitled at the time of his discharge, in addition to the amount if any, payable to him under sub-section (3).

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

—14. **Wages during leave period.** —

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

**15. Power of Inspectors to act for employees.-**

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

**16. Power to exempt establishment. -**

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

## **CHAPTER IV**

### **Wages**

#### **17. Application and amendment of the Payment of Wages Act. -**

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

(2) On the application of the provisions of the said Act to any establishment under sub-section (1), the

Inspector appointed under this Act shall be deemed to be Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

The Government of Assam *vide* Notification No. GLR (RC) 77/80/33, dt. 3<sup>rd</sup> January, 1992 and published in the Official Gazette made applicable the provisions of the Payment of Wages Act, 1936 (Central Act No. 4 of 1936) to all the employees employed in establishments to which the Assam Shops and Establishments, Act, 1971 applies.

**18. Notice of dismissal.-**

(1) \_\_\_ No employer shall dispense with the service of an employee employed continuously for a period of not less than six months, except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided, however, that such notice shall not be necessary where the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose.†

—(2) \_\_\_ Any employee whose services are dispensed with may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or

on the ground that he had not been guilty of misconduct as held by the employer.

—(3) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it may deem fit in the circumstances of the case.

—(4) In directing the reinstatement of an employee the appellate authority shall also direct the payment of such amount of compensation as may be specified by him in case the employer fails to reinstate the employee in accordance with the directions.

—(5) The decisions of the appellate authority shall be final and binding on both the parties, not be liable to be questioned in any Court of law, and be given effect to within such time as may be specified in the order of the appellate authority.

—(6) Any compensation required to be paid by the employer under sub-sections (3) and (4) but not paid by him shall be recoverable as arrears of land revenue under the provisions of the Revenue Recovery Act, 1890 (Act 1 of 1890) for the time being in force.

Section 18 Safeguards employees from arbitrary dismissal by employer and deals with the right of appeal by the employee in cases of dismissal. Sub-section (1) provides that an employer shall not terminate the service of any employee who is employed continuously for six months. Termination in such cases is possible only for a reasonable cause and only after giving the employee one month's notice and where such notice is not given one month's wages is to be given. Service of such notice is not necessary in case where the service of such employee is terminated on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held for the purpose. Rule 16 of the Assam Shops and Establishment Rules, 1976 prescribes when an employee is said to have completed a period of six months' continuous service.

Any employee whose services are dispensed with may appeal to the appellate authority within prescribed time on the ground that there was no reasonable cause for dismissal or he had not been guilty of misconduct as held by the employer.

The appellate authority may after giving notice in the prescribed manner to the employer and the employee dismisses the appeal or direct the employer to reinstate the employee with or without wages for the period he was out of employment or may direct for payment of compensation



without re-instatement or grant other relief depending upon the circumstances of the case.

While directing re-instatement of an employee the appellate authority shall specify the amount of compensation to be paid by the employer in case he fails to re-instate the employee as per direction given.

The decision of the appellate authority shall be final and binding on both the employer and the employee and the same is not liable to be questioned in any court of law. The decision shall be effective within the time specified in the Appellate Order.

Failure to pay compensation by the employer fixed by the appellate authority shall be recovered as arrear of land revenue under the provisions of Revenue Recovery Act, 1890.

Assistant Labour Commissioner of the area was made the Appellate Authority in place of Chief Inspector of Shops and Establishments by amending Rule 17 of the Assam Shops and Establishments Rules, 1976 (Amended in 1979). Appointment whether valid-*Held* that the appointment of the appellate authority is valid, legal and in accordance with the provisions of the Act and Rules-*Management Of Kalabati Talkies vs. State of Assam and others* (1984) 1 GLR (NOC) 19.

The term misconduct has not been defined in the Assam Shops and Establishment Act, 1971. Industrial

Disputes Act, 1947 also does not define the term misconduct. The term misconduct normally means commission or omission of any act prescribed in the Code of Conduct Rules or violation of Code of Conduct Rules framed by any establishment to determine what constitutes misconduct within employees Code of Conduct Rules. The following acts may be treated as misconduct, which may provide an occasion for disciplinary proceedings.

(a) Willful insubordination or disobedience, whether alone or in combination with others to any lawful and reasonable order of a superior.

(b) Theft, fraud or dishonesty in connection with the employers business or property.

(c) Willful damage to or loss of employers goods or property.

(d) Taking or giving bribes for any illegal gratification.

(e) Habitual absence without leave.

(f) Habitual late attendance.

(g) Habitual breach of any law applicable to the establishment.

(h) Riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline.

(i) Slowing down in performance of work or inciting others to resort to deliberately go slow policy.

(j) Sleeping on duty.

(k) Refusal to accept alternative job or transfer from one section or department to another section or department.

(l) Refusal to carry out an work in accordance with general or specific instructions given by the Proprietor/managing director or through delegated authority.

(m) Hiding away or attempting to hide away any article or material of employers business or property.

(n) Gross neglect or work or habitual negligence, loitering, interfering or wasting other's time during working hours or remaining in the establishment after authorised hours of work without permission.

(o) Canvassing of Union or Party membership or the collection for Union or party during working hours in

the place of work without written permission of the management.

(p) Habitual negligence or neglect of work.

(q) Frequent repetition of any act or omission for when fine was imposed or warning given whether verbally or written.

Neither the Assam Shops and Establishments Act nor the Industrial Disputes Act prescribed any procedure to be followed by ~~eh~~the management in domestic enquiries as stated in Section 18(1) of the Assam Shops and Establishments Act, 1971 for investigating into the misconduct of its employee or employees. But, where an employer decides to take disciplinary action against an employee he is under obligation to have a proper enquiry into the alleged misconduct of an employee. The guiding principle is that the management must proceed keeping in mind the principles of natural justice that is it should not be biased and that reasonable opportunity is given to the employee to represent his case. The rules of natural justice also requires that the workmen against whom proceeding started is informed clearly of the charges leveled against him.

## **CHAPTER V**

### **Employment of Children and Women**

#### **19. Prohibition of employment of children. -**

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

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

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

## **CHAPTER VI**

### **Health and Safety**

#### **21. Cleanliness, ventilation and lighting. -**

(1) The premises of every establishment shall be kept clean and free from alluvia arising form any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime washing, colour washing painting, varnishing, disinfections and deodorising.

(2) The premises of every establishment shall be ventilated and sufficiently lighted during all working hours, with such standards and by such methods as may be prescribed.

—(3) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently kept clean or lighted or ventilated, he may serve on the employer an order in writing specifying the measures which in his opinion, should be adopted and requiring him to be carried out before a specified date.

—**22. Precaution against fire. -**

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

—**23. Appeals. —**

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

—**24. Apportionment of expenses under preceding sections. -**

-If any person, being either the owner or the occupier of an establishment who has incurred or is about to incur any expenses for the purpose of securing that the requirements of section 21 or section 22 are complied with respect to the establishment, alleges that the whole or any part of the expense ought to be borne by any other person

having an interest in the premises, he may apply to the Court of Munsiff having jurisdiction over the area in which the establishment is situated and that court shall make such order concerning the expenses or their apportionment as it appears to the Court, having regard to all circumstances of the case including the terms of any contract between the parties, to be just and equitable, and any order made under this section may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

## **CHAPTER VII**

### **Enforcement and Inspection**

#### **—25. Appointment of Inspectors. —**

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

—(2) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the Chief Inspector for the purposes of this Act.



## LEGISLATIVE HISTORY

Section 25. – Sub-section (2) of section 25 was substituted *vide* Assam Act No. 1 of 1984.

Original sub-section read as follows – The State Government may, by notification in the Official Gazette, appoint either the Labour Commissioner or Additional Labour Commissioner of Assam as Chief Inspector for the purpose of this Act.

In exercise of the powers conferred under section 25 of the Assam Shops and Establishments Act, 1971 the Government of Assam *vide* Notification No. GLR 364/88/66 dt. 18-12-1993 appointed Labour Inspector (Agril) to exercise the powers to enforce the provisions of the Assam Shops and Establishments Act, 1971 and the Rules framed there under within their local jurisdictions.

### **26. Powers and duties of Inspectors. –**

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

(a) Enter, at all reasonable times and with such assistants, if any, being persons in the service of the Government or any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment.

(b) make such inspection of the premises and of any prescribed registers, records and notice and take on the spot or otherwise evidence of any person as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purpose of this Act:

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

Section 26 – The State Government has employed Inspectors to make the provisions contained in the Act workable and assigned them the area within which they are required to work. These Inspectors given various powers and also assigned duties. Section 26 of the Assam Shops and Establishments Act, 1971 and Rule 29 provides the powers and duties of Inspectors.

The Inspector have the following powers within the local limit having jurisdiction-

(a) To enter at all reasonable times in any place which is an establishment or a place which the Inspector has reason to believe is an establishment. He has power to enter and if necessary may take the

assistance from persons who are in Government service or any local authority.

—(b) — In order to carry out the purpose of the Act an Inspector has power to make inspection of the premises and prescribed registers, records and notices. The Inspector has also the power to take evidence of any person even on the spot.

—(c) — For carrying out the purpose of the Act and the Rules the Inspector may require the photograph to be taken of any employee or the premises of any establishment.

—(d) — For proper implementation of the Act and the Rules the Inspector has power to call for any information from any establishment or employer.

—(e) — The Inspector has power to point out any defects or irregularities found in the course of his inspection in an establishment and as such give orders for removal of the defects or irregularities as observed and furnish the employer a summary of the defects or irregularities along with a summary of the orders given for the removal of such defects or irregularities in the establishment.

—(f) —The Inspector may also exercise such other powers as may be necessary for carrying out the purpose of the Act.

—The Inspectors are also assigned with various duties. Such duties are enumerated in Rule 29 of the Assam Shops and Establishments, 1976. The Inspectors are required to examine an establishment for the purpose of satisfying that the provisions of the Assam Shops and Establishments Act and the Rules and the orders issued by the Government under the Act are duly observed. The Inspector within his jurisdictional limit have duties particularly to ascertain –

(i) —the restrictions imposed on the daily and weekly hours of work and the intervals of rest and the spread over of the periods of work are duly observed according to the provisions of the Act and the Rules;

(ii) —the overtime work done by the person employed are within the prescribed limits of the Act and the Rules and the overtime wages due are paid regularly;

(iii) —the shops remain closed on the notified day of the week and the declared one and a half days of holiday are give;

(iv) the opening and closing hours fixed under the Act and the Rules are observed in the shops and establishments;

(v) any deduction from the wages of the person employed in establishments on account of the weekly closure day or the weekly holidays as the case may be, are made in contravention of the provisions of the Act;

(vi) leave with wages are afforded to the employees;

(vii) the provisions of the act on payment of wages are duly observed;

(viii) the prohibitions of employment of children and women and persons below the age of seventeen imposed under the Act are duly observed;

(ix) the provisions of the Act and the Rules relating to cleanliness lighting, health, safety, welfare measures and the precautions against fire are properly observed;

(x) the registers, records and notices required to be maintained and displayed under the Act and the Rules are properly maintained and exhibited;

(xi) the establishments have been duly registered;

(xii) the irregularities pointed out at previous inspections have been remedied and orders previously issued have been complied with.

**27. Inspector to be public servant. –**

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

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

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

Section 28 requires that on demand of the Inspector every employer shall produce for inspection of the Inspector all registers, records and notice required to be kept for the purpose of this Act.

The Supreme Court in the case of *Kedarnath Jute Mfg. Co. Ltd. vs. CTO* (1965) 16 STC 607, 611 held that if it says

that it shall be furnished on demand, that is to say it fixes the time when these are to be furnished.

## **CHAPTER VIII**

### **Offences, Penalties and Procedure**

#### **—29. Penalties. —**

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

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

— (2) No court shall take cognizance of any offence punishable under this Act or any rule or order made there under unless the complaint is made.

(a) by the employee of an establishment either by himself or through the Union of which he is a member within three months from the date on which the offence is alleged to have been committed; or

(b) by the Inspector within six months from the date on which the alleged offence comes to his knowledge.

(3) No Court inferior to that of judicial Magistrate of the first class shall try any offence punishable under this Act or any rules or orders made there under.

## **LEGISLATIVE HISTORY**

Sub-section (1) of section 29 was substituted and sub-section (2) of the said section was deleted vide Act No. X of 1979. Original sub-sections (3) and (4) was renumbered as sub-sections (2) and (3). Original sub-sections (1) and (2) read as follows –



Section 29(1) – Whoever contravances any of the provisions of Sections 6, 8, 9, 10, 11, 13, 14, 18, 21 and 22 shall, on conviction be punishable with fine, which for a first offence may extend to two hundred and fifty rupees and for a second or any subsequent offence may extend to five hundred rupees.

Section 29(2) - Whoever contravances any of the provisions of sections 7, 19, 20, 28 and 30 shall, on conviction be punishable with fine, which may extend to fifty rupees.

## **CHAPTER IX**

### **Miscellaneous**

#### **30. Maintenance of registers and records and display of notices. –**

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

**31. Saving of certain rights and privileges. –**

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

**32. Indemnity. –**

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

**33. Delegation of powers. –**

(1) The State Government may, by notification in the Official Gazette authorize any officer or authority subordinate to them to exercise all or any of the powers vested in them by or under this Act, except the powers mentioned in section 34, subject to such

restriction and conditions if any, as may be specified in the notification.

- (2) The exercise of the powers delegated under subsection (1) shall be subject to control and revisions by the State Government or by such persons, as may be empowered by them in that behalf. The State Government shall also have power to control and revise the acts or proceedings of any person so empowered.

—The Government of Assam *vide* Notification No. GLR/545/81/2, dated 18-11-1981 authorised all District Magistrates and SDO's (Civil) to exercise all the powers vested in the State Government under the Act except Rule making power mentioned in section 34.

—**34. Powers to make Rules. –**

- (1) —The State Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

- (2) In particular and without prejudice to the generality to the foregoing power, such rules may provide for all or any of the following matters, namely -

(a) health, safety, welfare of employees, holiday of occasions;

(b) the form and the date for application of registration or renewal of certificate and fees payable for such registration or renewal;

(c) the particulars with respect of certificate of registrations or renewal thereof;

(d) the manner of taking precaution against fire;

(e) the setting up an appellate authority fire; limitation for filing appeal and manner of giving notice; and

(f) any other matter which has to be, or may be prescribed.

- (3) All rules under this section be laid as soon as may be, after they are made before the Assam Legislative Assembly while it is in session for a total period of fourteen days one session or in two successive sessions and if before the expiry of that session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rules should be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that

any such modification or annulment shall be without prejudice to the validity of anything previously done under the rules.

## LEGISLATIVE HISTORY

Sub-section (3) of section 34 was deleted *vide* Act. No. X of 1979. Sub-section (4) was renumbered as sub-section (3), Original sub-section (3) read as follows:

The State Government may provide in the rules that a contravention of any of the rules shall be punishable with fine which may extend to fifty rupees and where the breach in continuing one with a further fine which may extend to ten rupees for every day, after the first during which the breach continues.

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

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

### **36. Registration of establishment. –**

(1) Every employer shall have his establishment registered under this Act. The registration shall be valid for a calendar year and thereafter shall be renewed for every calendar year.

(2) The application for registration or for renewal of registration shall be made to the Chief Inspector or to such other officer as the Chief Inspector may authorise in this behalf in such forms and within such date and containing such particulars as may be prescribed.

(3) The fees payable for registration or for renewal of registration shall be such as may be prescribed by the State Government.

(4) Where an establishment is registered under this renewed there shall be issued to the employer, of registration, as the case may be, containing such particulars as may be prescribed.

(5) The certificate or the renewal certificate, as the case may be, shall be kept prominently displayed at some conspicuous place of the establishment.

## **LEGISLATIVE HISTORY**

Sub-section (1) of section 36 was substituted vide Act No.1 of 1984. Original sub-section read as follows:

Every employer shall have his establishment registered under this Act. The registration shall be renewed every twelve months.

Sub-section (6) of section 36 was deleted *vide* Act No.1 of 1984. Original sub-section read as follows:

If any employer carries on business without a valid registration certificate after the expiry of the least day for submission of application for registration or for renewal, he shall be liable to pay a penalty equal to the fee prescribed for registration for renewal of registration as the case may be, plus an additional penalty at rupee one per day for each day of continued default after the said penalty shall be realised by the Collector as an arrear of land revenue on a certificate being issued to that effect by the Chief Inspector appointed under this Act.

Provided that no employer shall be liable for any penalty under this section if he has submitted a valid application for a certificate of registration or renewal thereof within the period prescribed to the proper authority.

**~~37.~~ Repeal and Saving. –**

(1) ~~The~~ Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) hereby repealed.

~~(2)~~ Notwithstanding the repeal of the Assam Shops and Establishment Act, 1948 (Assam Act XIII of 1948)

any order made, any notification issued or any action taken under the Act so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act and shall continue to be in operation until cancelled or suspended by order made or notification issued under the corresponding provisions of this Act.

## **THE ASAM SHOPS AND ESTABLISHMENTS RULES, 1976**

### **CHAPTER I**

#### **Preliminary**

**1. Short title and commencement. –**

- (1) These rules may be called the Assam Shops and Establishments Rules, 1976.



(2) They shall come into force at once.

**2. Definition. –**

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

(a) **‘the Act’** means the Assam Shops and Establishment Act, 1971.

(b) **‘Appellate authority’** means the authority set up under these rules;

(c) **‘Family’** in relation to an employer means:

(i) Spouse;

(ii) Children and step-children; and

(iii) Parents, sisters and brothers, nephews and nieces if residing with the wholly dependent upon him /them.

(d) **‘Form’** means a form appended to these rules;

(e) **‘Government’** means the Government of Assam;

(f) **‘Rule’** means rules framed under the Act;

(g) **‘Schedule’** means a Schedule appended to these rules;

(h) **'Section'** means a section of the Act;

(i) **'Time'** with reference to time of day in this rule means the Indian Standard Time which is five and a half hours ahead of Greenwich Tim;

(j) Words and expressions under in the Act and not defined in these Rules shall have same meaning assigned to them in the Act.

## **CHAPTER II**

### **Overtime Work and Weekly Holidays**

#### **3. Overtime Slip. –**

In addition to recording the full particulars of the overtime work done by an employees on any day in the registered prescribed for the purpose, over-time slips in Form No. 'A' shall be issued to an employee immediately after overtime work is done by him on each occasion by the employer concerned under his own signature or under the

signature of any other person authorised by him to do so on his behalf by general or special order:

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

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

(1) — The price of meals of the type and standard actually made available to an employee by his employer in terms of the contract of service, expressed or implied, charged in the nearest hotel or restaurant, as the case may be, immediately before the date on which overtime work is done or the leave commences shall be regarded as the money value of, such meals made available to that particular employee for the purpose of calculating either the leave wages or the overtime wages as the case may be.

— (2) For the purpose of computing the money value of food grains and other articles supplied or made available to a particular employee in a wage period, the difference between the prices of food grains and other articles prevailing on an average during that period in the nearest market in the area where the concerned employee ordinarily resides and the price at which food

grains and other articles are supplied to him by his employer; shall be reckoned by it for calculating the overtime wages or the leave wages.

- (3) If any dispute arises in respect of computation of the money value of meals and food grains and other articles made available to an employee by his employer the matter may be referred to the local Inspector of Shops and Establishments by either of the parties to the dispute and his decision thereon shall be final and binding on both the employer and the employee concerned unless it is modified in any manner on appeal. If, however, the order of the Inspector is modified, the order so modified shall be final and binding on both the parties to the dispute and shall not be liable to be questioned in any court of law and be given effect to within such time as may be specified in the order of the appellate authority.

—**5. Notice of weekly closure of Shops. –**

- (1) — Every employer of a shop shall display closure notice in Form 'B' specifying the day of the week on which the shop shall remain entirely closed.

- (2) Every employer of a shop before displaying in weekly closure notice in Form 'B' shall submit the said notice with the required entries in duplicate to the Inspector of shops and establishments within whose

jurisdiction the shop is situated and the inspector shall, on receipt of the Forms duly filled in and on being satisfied about the correctness of the entries made therein, countersign them and shall, after retaining one copy thereof for his office record, return the other copy to the employer for display in the shop as required under the Act.

**6. Notice of Weekly Holidays in Establishments. –**

(1) The employer in a commercial establishment or an establishment for public entertainment or amusement, as the case may be, shall display in the establishment a Notice in Form 'C' specifying the one and a half days in each week during which every employee in the establishment shall be allowed holidays.

(2) Every employer in a commercial establishment or an establishment for 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 his office record, return the other copy to the employer for display in the establishment.

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

—**7. Restriction on double employment. –**

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

## **CHAPTER III**

### **Leave**

—**8. Privilege Leave. –**

(1) — Every employee in an establishment desiring to avail of any privilege leave which is due to his credit under the

Act, shall make an application in writing at least seven days prior to the intended commencement of such leave and the employer shall issue orders on the application within three days of its submission:

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

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

Provided that the employer may regulate the grant of privilege leave shall accumulate without any limit.

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

## — 9. **Casual leave.** –

Ordinarily Casual Leave of absence shall not be admissible for more than seven days at a time and previous

permission in writing of the employer shall be obtained before such leave is availed of :

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

**10. Medical leave. –**

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

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

**11. Combination of medical leave with privilege leave.**

—



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

**12. Prohibition of alteration of nature of leave. –**

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

**13. Intimation of employee's address on leave. –**

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

**14. Extension of leave. –**

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

**15. Unauthorised absence. –**

(1) If an employee remains absent without leave or beyond the period of leave originally granted or subsequently

extended, the employer shall, before taking any disciplinary action against the absentee employee issue a notice requiring him to explain in writing the reasons of his absence within fifteen days of the receipt of the notice.

—(2) If on receipt of the notice referred to in sub-rule (1) above, the absence employee explains the reasons of his absence to the satisfaction of the employer, the later may regularise the period of absence, if any, as leave of absence without wages; and where the explanation given by the employee is considered not satisfactory, the employer may either treat the period of Unauthorised absence of the employee as absence without wages even though leave with wages may be due to him or terminate his lien on service, depending on the seriousness and gravity of the case.

—(3) If the employee does not submit any explanation to the employer within the time limit given in the notice referred to in sub-rule (1) above, the later may terminate the lien of the person employed on his service.

—(4) The notice referred to in sub-rule (1) above shall be served by registered post to the address given under Rule 13, or in its absence, to the address last given by the persons employed.

## **CHAPTER IV**

### **Wages and Termination of Service**

- 16. Continuous employment for six months. —

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

**17. Appellate Authority. –**

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

*Explanation. –*

Assistant Labour Commissioner includes Senior Assistant Labour Commissioner.

Rule 17 – The words “the Chief Inspector of Shops and Establishments” appointed by the

Government under sub-section (2) of Section 25 of the Act were substituted by the words 'Assistant Commissioner of the Area' vide Notification No. GLR 472/78. dt. 16-2-1979.

*Explanation* to Rule 17 was inserted *vide* Notification No. GLR (RC) 17/84/14, dt. 16.7.1982.

**18. Time within which appeal can be submitted. –**

(1) An Employee, whose service have been dispensed with an alleged contravention of the provisions of sub-section (1) of section 18 of the Act may within thirty days ~~of the date~~ of the date of termination of service, make an appeal to the appellate authority.

(2) The appellant authority may, however, entertain an appeal after the expiry of the aforesaid period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

**19. Procedure for hearing of appeal. –**

(1) The appellate authority, on receipt of the memorandum of appeal and on being satisfied that there is a *prima facie* case showing alleged contravention, shall fix a date for the hearing of the

appeal by giving due notice in Form 'D' to the appellant and in Form 'E' to the employer, whose order is appealed against to appear in person or by a duly authorised agent and shall, after giving both the parties fair and full opportunity of being heard and making such further enquiry as he may deem fit, dispose of the appeal in the manner required under the provisions of the Act as expeditiously as possible.

—(2) The decision or the order of the Appellate Authority shall be recorded in Form 'F' and it shall be carried out by the employer concerned within the period specified by the appellate authority.

—**20. Recovery of sums of money under section 18. –**

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

—**21. Issue of appointment letters to employees. –**

Every employer in an establishment shall furnish every employee with a letter of appointment with a copy to the Chief Inspector to his official address, by a registered post, with acknowledgment due and to the Inspector of the area in

which the establishment is situated and it shall be effective from the actual date of employment in Form 'G' in the case of every person who is -

(i) already in employ of the establishment within thirty days from the date on which these rules come into force, and

(ii) employed in the establishment after these rules come into force and before the person so employed commence work:

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

Rules 21- The words 'with a copy to the Chief Inspector to his official address, by a registered post, with acknowledgment due and to the Inspector of the area in which the establishment is situated and it shall be' were inserted in between the words 'appointment' and 'effective' *vide* Notification No. GLR (RC) 105/89/47, dt. 5-9-1990.

**22. Employee's liability to give prior notice. -**

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

## **CHAPTER V**

### **Employment of Children and Women**

—23. Evidence as to age of an employee. –



(1) \_\_\_ In respect of an employee in an establishment the Chief Inspector or the inspector of the area within whose Jurisdiction the establishment is situated may, at any time, in writing require the employer to produce at his own cost within such time, not being less than ten days from the date of the requisition, one of the following documents showing the age of such person employed, namely a certified copy of an extract from:

(i) \_\_\_ The records of any School;

(ii) \_\_\_ The Birth Register of Local Authority:

(2) \_\_\_ In the case of the employer's failure to produce either of the documents required under sub-rule (1) above the Chief Inspector or the Inspector shall, at the cost of the Employer, arrange to determine the age of the person employed through medical examination by the District Health Officer of the area or by any other competent medical officer not below that rank.

## **CHAPTER VI**

### **Health and Safety**

**24. Times and methods of cleansing establishments. –**

(1) Subject to the provisions of the sub-rule (2) in every establishment -

(a) all the inside walls of the rooms and all ceilings and tops of such rooms (whether such walls, ceiling and tops be plastered or not) and all the passages and stair cases shall be limewashed or colourwashed at least once a year, unless in the opinion of the local Inspector such walls, ceilings, passages or stair cases require to be limewashed or colourwashed earlier –

(b) all the beams, rafters, doors, window frames and other wood work with the exception of the floors shall be either painted or varnished once in two years.

(2) Noting in the rules apply to :

(a) rooms (not being rooms in residential hotels, restaurants and eating houses) used only for storage of articles;

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

(c) any other establishment or part thereof in which lime-washing or painting is in the opinion of the local Inspector unnecessary to satisfy the requirements of section 21 of the Act in respect of cleanliness.

(3) All floors, passages and stairs shall be swept, washed and dried (wherever necessary with mixtures or detergents or deodorisers) at least once a day to keep them adequately clean and free from slippery agents or substances giving offensive smell.

—(4) Where the floor of the premises of an establishment is liable to become wet in the course of any process effective means of drainage shall be provided and maintained.

—(5) No rubbish, filth or debris shall be allowed to accumulate or to remain on or near any premises in an establishment in such position that effluvia can arise therefrom.

—(6) All drains carrying waste or sullage water or sewage shall be constructed of impermeably material and shall be flushed regularly twice daily.

—(7) The dates on which lime washing, colour washing, painting or varnishing is carried out under

sub-rule (1) shall be duly entered in a register maintained in Form 'H'.

- (8) In every establishment in which articles are stored with a view to their transport or sale, adequate washing facilities shall be provided and maintained free for the use of employees such as soap, towel, nail, brush, etc.
- (9) No stationary internal combustion engine shall be operated in any establishment unless the exhaust is conducted into the open air and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the health of employees working in the establishment.
- (10) In every establishment in which there is given off any dust or fume or other impurity of such nature and to such an extent as is likely to be injurious or offensive to the persons working therein effective measures shall be taken to prevent its inhalation and accumulation in the premises and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point or origin of the dust, fume or other impurity and such point shall be enclosed as far as possible.

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

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

—(12) In every establishment proper arrangement shall be made for providing sufficient supply of drinking water to the employees. The water so supplied shall be fit for human consumption and shall be stored in a hygienically sheltered place and kept cleanly and properly covered. As far as practicable only filtered water shall be supplied for the purpose.

—(13) Every employer in an establishment shall provide and maintain at convenient place sufficient number of spittoons in a clean and hygienic condition with disinfectants, which may be liquid, or sand covered with lime. The disinfectants shall be replaced daily.

—(14) Latrines and Urinals shall be so situated as to be conveniently accessible and shall be provided in every establishment in sufficient number for the use of employees thereof. The walls, ceilings and partitions of every latrine and urinals shall be made of glazed tiles as far as practicable and wherever they are not made of glazed tiles, they shall be white washed or colour washed once in every months. All latrines and urinals shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

—**25. Ventilation. –**

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

—**26. Precautions against fire. –**

(1) —Every establishment shall be provided with adequate means of escape in case of fire.

—(2) In every establishment the doors affording exit from any room shall not be locked or fastened in such a way that they cannot be easily and immediately

opened from inside while any persons 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.

—(3) In every establishment dealing in or with inflammable substances there shall be a warning notice in writing conspicuously displayed that not person shall smoke or use a naked light or cause or permit any such light to used in the immediate vicinity of any inflammable material.

—**27. 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 employ 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 and maintained.

—**28. Appeals under section 23. –**

(1) —The authority for the purpose of hearing appeals under section 23 of the Act shall be the Chief Inspector of Shops and Establishments appointed under sub-section (2) of section 25.

—(2) Any person aggrieved by any order passed by an Inspector under sub-section (3) of section 21 of the Act may prefer an appeal against that order within thirty days of the passing of it. Such appeal shall be in the form of a memorandum setting forth clearly the grounds on which the appeal is preferred against and shall be accompanied by a copy of the order and the original copy of the treasury challan showing payment of ten rupees as hearing fee for each of the order contested.



—(3) The appellate authority shall make such enquiries as he deems fit in the matter appealed against and issue fresh orders affirming, rescinding or modifying the original order.

## **CHAPTER VII**

## **Enforcement and Inspection**

### **29. Powers and functions of Inspector. –**

(1) The duties of the Inspector appointed under section 25 shall generally be to make such examination of an establishment as may be necessary for the purpose of satisfying himself that the provisions of the Act, the rules and any orders issued by the Government under the Act are duly observed and in particular, to ascertain whether within limits of his jurisdiction:

(i) the restrictions imposed on the daily and weekly hours of work and the intervals of rest and the spread over of the periods of work are duly observed according to the provisions of the Act and the Rules;

(ii) the overtime work done by the person employed are within the prescribed limits of the Act and the Rules and the overtime wages due are paid regularly;

(iii) the shops remain closed on the notified day of the week and the declared one and a half days of holiday are given;

(iv) the opening and closing hours fixed under the Act and the rules are observed in the shops and establishments;

(v) any deduction from the wages of the person employed in establishments on account of the weekly closure day or the weekly holidays as the case may be, are made in contravention of the provisions of the Act;

(vi) leave with wages are afforded to the employees;

(vii) the provisions of the Act on payment of wages are duly observed;

(viii) the prohibitions of employment of children and women and persons below the age of seventeen imposed under the Act are duly observed;

(ix) the provisions of the Act and the rules relating to cleanliness lighting, health, safety, welfare measures and the precautions against fire are properly observed ;

(x) the registers, records and notices required to be maintained the displayed under the Act and the rules are properly marinated and exhibited;

(xi) the establishments have been duly registered;

(xii) the irregularities pointed out at previous inspections have been remedied and orders previously issued have been complied with.

(2) For carrying out the purposes of the Act and these rules the Inspector may cause to be taken a photograph of any employee or the premises of any establishment.

—(3) The Chief Inspector shall have all the powers of an Inspector and shall direct and supervise the works of the Inspectors who shall be his subordinates.

—(4) The Chief Inspector or any Inspector may call for any information from any establishment or employer which he may deem relevant for the efficient administration of the provisions of the Act or these rules.

—(5) Any person called to furnish any information under sub-rule (4) shall, subject to the provisions of the proviso to clause (c) of Section 26 of the Act be legally bound to do so within such time as may be fixed by the Chief Inspector as the case may be.

—**30.** (1) — The Chief Inspector or an Inspector shall have powers to point out all such defects or irregularities as he may observed in course of inspection and to give

orders for their removal and to record and furnish to the employer a summary of the defect or irregularities and of his orders.

—(2) Every order passed under the Act and the rules shall be served on the employers:

(a) by delivering a copy of it to him personally or at his office through a messenger, or

(b) by registered post.

(3) The power under second proviso of sub-section (4) of section 11 shall be exercised by the Senior Assistant Labour Commissioner or the Assistant Labour Commissioner of the area who have been appointed Inspector under the Act.

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

—**31. Method of Inspections. –**

(1) In conducting any inspection, the Inspector shall not, as far as possible, cause any suspension of business in any establishment.

(2) No inspection shall be held during-

(i) any day in which the shop remains entirely closed in each week, or

(ii) any period of periods for which the establishment may be exempted notification under section 5 of the Act.

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

(a) ascertain if any shop is open on any day of weekly closure notified in respect thereof; or

(b) check up whether the provisions of the Act and the rules from which the establishment has not been exempted are duly observed.

### **32. Visit Book. –**

(1) Every employer shall maintain a Visit Book, which shall be produced on demand by an Inspector.

(2) The Visit Book shall be a bound Book of size 7” x 6” containing at least two hundred pages, every page

whereof shall be so numbered that each consecutive number is in duplicate and the duplicate page between each two consecutively numbered pages shall have a vertically perforated straight line on the margin side at a margin of at least one inch. Every page shall contain the following headlines at the top:

(a) Name of the Establishment

(b) Address in full.

(c) Registration Number of the Establishment.

(d) Date

(e) Time of Visit.

- (3) If the Inspector in course of inspection of an establishment finds any deviations from the provisions of the Act and these any deviations from the provisions issued by the Government he may record the same in duplicate on the serially numbered pages of the Visit Book and take out the marginally perforated duplicate pages for his office record and thereafter, may send separately a detailed copy of his Inspection Notes to the employer for necessary action with a copy thereof to the Chief Inspector within seven days from the date of inspection. Where the Inspector has no remarks to

offer he shall merely enter the date and time of his visit and sign on the Visit Book.

—(4) In the case of the Visit Book containing the remarks passed by an Inspector is lost, destroyed or defaced, the employer shall forthwith report in writing the loss of the Visit Book to the Inspector of the area and immediately replace it by the fresh one.

—(5) The Inspector within the limits of his jurisdiction shall inspect each establishment at least once in three months.

—**33. Submission of Diary by Inspector.-**

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

—**34. Appeal from an Inspector's orders or recommendations. –**

(1) — An employer may, within fifteen days of the date on which an Inspector endorses an order or recommendation in the Visit Book or of the receipt of



the copy of the Inspection Notes or any order or recommendation made by an Inspector, appeal against such order or recommendation to the Chief Inspector and the Chief Inspector may, after necessary inquiries, confirm, or modify or reverse the order of the recommendation appealed against.

—(2) The notice of appeal shall be in the form of a memorandum setting forth concisely the grounds of objection accompanied by a copy of the order or recommendation against which the appeal is preferred and shall bear a Court Fee Stamp of the value of two rupees. It shall be signed by the appellant or, on his behalf, by an authorised agent.

—(3) The Chief Inspector may, however, entertain an appeal after the expiry of the aforesaid period of fifteen days if he is satisfied that the appellant had reasonable cause for his inability to prefer the appeal in time.

## CHAPTER VIII

### Offences of Penalties

#### **35. Penalties. –**

(1) \_\_\_\_\_ Whoever contravenes any of the provisions of these Rules, except in the case of rules 7 and 22, shall, on conviction, be punished with fine which may extend to fifty rupees, and where the breach is a continuing one, with a further fine which may extend to ten rupees, for every day, after the first, during which the breach continues.

\_\_\_\_\_(2) -If any one contravenes the provisions of rule 7 he shall, on conviction, be punished with the fine, which may extend to five rupees.

(3) If any employer:

(i) \_\_\_\_\_ Makes or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of these rules any entry which to his knowledge, is false in any material particular; or

(ii) Willfully omits or causes or allows to be omitted from such register, record or notice an entry which is required to be made therein; or

(iii) Maintains or causes or allows to be maintained more than one set or any register, record or notice except the office copy thereof; or

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

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

**36. Determination of employer for the purposes of the Rules.—**

(1) Where the owner of an establishment is a firm or any other association of individuals, any one of the individual partners or members thereof, may be prosecuted and punished under these rules for any offence 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, deemed to be the employer for the purpose of these rules, until further notice canceling 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, and 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 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 canceling his nomination is received by

the Inspector or until he ceases to be a director or shareholder.

**37. Exemption of employer for liability in certain cases. –**

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

(i) that he has used due diligence to enforce the execution of these rules; and

(ii) that the said other person committed the offence in question against his orders and without his knowledge, consent or connivance;

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer.

**38. Penalty for obstructing Inspector. –**

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

## **CHAPTER IX**

### **Miscellaneous and Supplemental**

#### **—39. Register of hours of work and interval for rest. —**

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

#### **—40. Register of overtime work and payment of overtime wages. —**

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

#### **—41. Maintenance of register of employment. -**

—(1) — Every employer in an establishment shall maintain a register of employment in Form 'M'.

—(2) All information in the register of employment shall be kept and maintained up-to-date and corrections, as and when necessary, shall be made within three days from the date any change takes place.

—(3) The register of employment kept and maintained in the prescribed Form 'M' shall bear the signature of the employee and the employer shall authenticate the entries under his signature.

—(4) If any application made by an employer in writing the Chief Inspector is satisfied that any muster roll, register or record already maintained by the employer substantially contains in respect of all or any of the employees in his establishment the particulars required to be shown in any register, record or notice referred to in these rules, the Chief Inspector may, by order in writing, direct the such muster roll, register or record shall, to the corresponding extend be maintained in place of such register, record or notice. A copy of the Chief Inspector's order to this effect shall be forwarded to the Inspector of the area within whose jurisdiction the establishment is situated.

—**42. Register of leave. –**

The employer shall maintain a Register of Leave in Form 'N' and particulars of applications for leave, whether



granted or refused, shall be entered in the corresponding part of the register against the name of the employee immediately after receipt of the application.

**43. Leave card. –**

(1) The employer shall provide each employee with a card called the 'Leave Card' in the same Form 'N' as the form of the Register of Leave but a separate card shall be made for each employee on a thick sheet which shall be the property of the employee and the employer shall not demand it except to make entries therein and shall not keep it for more than a week at a time.

(2) -If any employee loses the Leave Card, the employer shall provide him with another copy on payment of ten paise and shall complete it from the records in Leave Register.

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

(1) Every employer shall on demand from an Inspector produce for inspection all registers, records and notices required to be kept, and maintained under and for the purpose of these rules on the premises of the establishment to which they relate.

- (2) -The registers and records required to be kept and maintained under these rules shall be maintained regularly and legibly in English, Assamese, Bengali and the dates entered shall be in accordance with the English Calendar and shall be so preserved that the records and registers of every year continue to remain for at least a full period or three successive years.

Provided that office copies of all the appointment letters issued by the employer to the employees must be preserved for at least three successive years after ~~superannuation~~Superannuation/ retirement/ termination/ dismissal/ resignation of an employee.

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

- (3) -Every such register shall be serially page marked and well bound.

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

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

— **44A. Suspension of the provision of the Act. –**

Government may suspend the operation of the Act under section 35 on account of the following holidays or occasion, namely:

(a) Bohag Bihu

(b) Durga Puja

(c) Dewali,

(d) Christmas,

(e) Id-Ul-Fitr.

(f) Aany other occasion as may be specified by the Government.

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

— **45. Registration of establishment and application for registration. –**

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

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

\_\_\_\_ Rule 45 – \_\_\_\_ Schedule I prescribes the fee payable for Registration of establishment, Renewal of registration, issue of duplicate certificate of registration and for Notice of change. This Schedule I has been substituted by new Schedule I *vide* Notification No. GLR (RC) 105/89/47, dt. 5-9-90 published in the Assam Gazette Extraordinary, dt. 10-9-90. In old schedule shops were categorised for the purpose of fee payable for different purposes as aforesaid on the basis of number of

persons employed. However, under the substituted Schedule, apart from different categories made depending upon the number of persons employed. These are: self employed small shops (Pan Ghumti), Jewellery Shops engaged in marking ornaments and shops dealing in costly stories.

Under the new Schedule rate of the fee payable has been enhanced for different categories of Shops, Commercial Establishments and Establishments for Public Entertainment or Amusement.

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

**46. Register of shops and establishments. –**

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

Part I	Shops.	
Part II	Commercial Establishment	
Part III	Establishment	for
	Public Establishment or Amusement.	

**47. Issue of Certificate of Registration. –**

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

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

**48. Display of notices and certificate of registration. –**

(1) Any notice or certificate required to be exhibited under the Act or the rules shall be exhibited in such a manner that it is readily seen and can be read by any person whom it concerns and shall be replaced by a fresh one whenever it becomes defaced or ceases to be legible at case.

—(2) Every employer in an establishment shall display the Certificate of Registration or the Renewed Certificate, as the case may be issued under rule 47 or 9 in a conspicuous place in the establishment.

—**49. Renewal of certificate registration. –**

An application for the renewal of a Certificate of Registration shall be submitted in the prescribed Form 'O' within three months after the date of expiry of the Certificate of Registration or the Renewed Certificate of Registration, as the case may be and shall be accompanied by the current Certificate or Registration together with the original copy of the treasury challan depositing such fees as prescribed in Schedule I and the Chief Inspector or the Officer authorised by him in this behalf shall on being satisfied about the correctness of the statement, issue the renewed Certificate of Registration in the prescribed Form 'O' after making relevant entries in the appropriate part of the Register of Shops and Establishments.

—Rule 49. – The words 'not less than fifteen days before the date of expiry', were substituted by the words 'within three months after the date of expiry' vide Notification No. GLR 472/78/7, dt. 16-2-79.

**50. Notice of change in Establishments. –**

(1) \_\_\_ It shall be the duty of every employer in an establishment to notify to the Chief Inspector or the Officer authorised by him in this behalf, in the prescribed Form 'R' together with the original of the treasury challan depositing the requisite fees, for any change in respect of any particulars contained in the statement submitted under sub-rule (1) of rule 45 within ten days after the change has taken place.

—(2) The Chief Inspector or the Officer authorised by him in the behalf on receiving the prescribed notice of change together with the original copy of the treasury challan depositing the required fees shall, on being specified about the correctness of the change of particulars, make the required change with the Register of Shops and Establishments, in accordance with such notice and shall amend the current Certificate of Registration, if necessary.

—**51. \_\_\_ Notice of winding-up of establishments. –**

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



the Register of Shops and Establishments and cancel the Certificate of Registration:

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

— *Explanation.* –

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

## — **52. Loss of Certificate of Registration.-**

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

Registration duly stamped with the words 'DUPLICATE' in red ink.

**53. Not-transferability of Certificate of Registration. –**

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

**54. Certificate of Registration on transfer of ownership of Establishment.–**

(1) In case the ownership of an establishment is transferred the employer shall, within fifteen days of such transfer, notify the fact of transfer and surrender the Certificate or Registration or the renewed Certificate of Registration, as the case may be, to the Chief Inspector or the Officer authorised by him in this behalf along with a signed statement specifying the name and address of the transferee.

(2) The Chief Inspector or the Officer authorised by him in this behalf, on being satisfied about the correctness of the statement relating to transfer, shall cancel the Certificate of Registration or the Renewed

Certificate of Registration as the case may be, by making necessary alternations in the Register of Shops and Establishments.

—(3) The employer of the establishment so transferred shall apply for a new Certificate of Registration as provided in the Act and these rules.

—**255. Enquiry in connection with registration, renewal, etc. –**

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

—**56. Mode of payment of fees. –**

—All fees to be paid by the employer of an establishment under the provisions of these rules shall be credited to the Government Treasury under the 'head of Account' "0230 – Labour and Employment – 101-Fees for registration under the Assam Shops and Establishments Rules, 1976" and the original copy of the challan depositing the requisite amount of fees shall be forwarded by the employer to the Chief Inspector or the officer authorized by him in this behalf

accompanied by the prescribed application from duly filled in and signed.

— Rule 56.— The words and figures ‘087 – Labour and Employment Fees under the Assam Shops and Establishments Rules, 1976’, were substituted by the words and figures ‘0230 – Labour and Employment – 101 – Fees for Registration under the Assam Shops and Establishment Rules, 1976’ vide Notification No. GLR (RC) 105/89/47, dt. 5-9-90.

— **57. Finality of decision in matters of doubt, etc. –**

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

**FORM NO. A**  
**Overtime slips**  
***[See Rule 3]***

Foil

1. Name of the Establishment
2. Name of the Employer
3. Name of the Employee
4. Date
5. Extent of overtime work done

**FORM NO. A**  
**Overtime slips**  
***[See Rule 3]***

Counter Foil

1. Name of the Establishment
2. Name of the Employer
3. Name of the Employee
4. Date
5. Extent of overtime work done

\_\_\_\_(in hours)

\_\_\_\_(in hours)

Signature of Employer/

Signature of Employer/

Authorised person.

Authorised person.

Date .....

Date .....

**FORM 'B'**

**Notice of Weekly Closure**

***[See Rule 5]***

(To be displayed in a conspicuous place)

Name of shop .....

Name of Employer .....

Address .....

Registration No. ....

Until further notice this shop shall remain entirely closed for one day in each week as specified below following the date of notice:

**EVERY ..... OF THE WEEK**

Counter Signature of the  
Inspector of Shops and  
Establishment

Signature of the employer/  
the Manager/ Agent or any  
other authorised persons  
acting in the general  
management :

Designation.

Date .....

Date .....

Official Seal of the Inspector with

Date .....

Copy to: The Inspector of Shops and Establishments and  
Labour Inspector ..... Assam.

**FORM 'C'**

**Notice of Weekly Holidays**

***[See Rule 61]***

(To be displayed in the Establishment)

- Name of : (i) Commercial Establishment
- (ii) Establishment for public Entertainment:
- (iii) Establishment of Amusement:

Address :



Registration No.

Until further notice employees in this Commercial Establishment/ Establishment for Public Entertainment/ Establishment for Amusement (Strike out the words which are not applicable) shall be allowed holidays continuously for one and a half day in each week as specified below following the date of this notice:

Name of Employees	Days on which Half Holiday is allowed	Days on which Full Holiday is allowed
(1)	(2)	(3)

Counter Signature of the  
Inspector of Shops and  
Establishments.

Signature of the Employer/  
the Manager/ Agent or any  
other authorised person  
acting in the general  
management :

Designation

Date:

Date :

Office Seal of the Inspector with date :

Copy to—(1) \_\_\_\_\_The Inspector of Shops and Establishments and

Hlabour Inspector ..... Assam.

**FORM 'D'**

**Notice to the employee under Section 18(3)**

***[See Rule 19]***

To

Shri .....

Address .....  
.....

Your appeal dated ..... has been posted for hearing  
on the ..... day of ..... 20

..... A.M./P/M. ....  
at.....

Your shall appear before the Appellate Authority on that day to prove the claim. You must be prepared to produce on that day all the witnesses on whose evidence and all the documents upon which you intend to rely in support of your case. In default of your appearance on that day, the matter will be heard and determined in your absence.

Office Seal

.....

Appellate Authority.

Date .....

### **FORM 'E'**

#### **Notice to the employer under Section 18(3)**

***[See Rule 19]***

To

Shri .....

Address .....

.....

Shri ..... has appealed to the Appellate Authority under sub-section (2) of section 18 of the Assam Shops

and Establishments Act, against the orders of the termination of his services by you. A copy of his appeal petition enclosed herewith.

The appeal has been posted for hearing on the ..... day of ..... 20 ..... at ..... A.M./ P.M. at ..... you shall appear before the Appellate Authority on that day and answer the charges. You must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence. In default of your appearance on that day the matter will be heard and determined in your absence.

Office Seal

.....

with date

Appellate Authority.

Date .....

### **FORM 'F'**

#### **Record of Decision/Order of the Appellate Authority**

***[See Rule 9(2)]***

1. Serial Number.

2. Date of application/appeal.

3. Date of receipt of application/appeal.

- 4. Name or names of the applicant/ Appellant or Appellants.
- 5. Address of the applicant or applicants/ Appellant or Appellants.
- 6. Name of the employer or the person whose decision has been appealed against.
- 7. Address of the employer or the person whose decision has been appealed against.
- 8. Substance of the complaint/ appeal.
- 9. Date of hearing/ hearings given.
- 10. Pleas of parties and their examination, if any.
- 11. Documents seen.
- 12. Substance of the evidence taken.
- 13. Finding and brief statement of reasons thereof.
- 14. Decision.

Office Seal  
\_\_\_\_\_

Appellate  
Authority

.....  
\_\_\_\_Signature of the

Date .....

**FORM 'G'**

**Letter of Appointment**

***[See Rule 21]***

Name of the Establishment .....

Registration No. ....

Name of the Employer .....

Address .....

To

You, Shri /Shrimati ..... is hereby appointed on Probation for a period

\_\_\_\_\_ ~~to casual basis~~ ~~to~~  
~~casual basis~~

of three months on temporary basis to for the period from

.....

\_\_\_\_\_ ~~Permanent basis~~ ~~Permanent basis~~

for .....

Your time scale of pay including rate of increment shall be ..... (here insert the scale of pay) and you will get the total wages/salary per day/month composed of the following :

(i) Basic Pay \_\_\_\_\_ Rs.

(ii) Dearness Allowance \_\_\_\_\_ Rs.

(iii) Other Allowances \_\_\_\_\_ Rs.

In addition to the above you will be entitled to :

(1) Free Board.

(2) Free Lodging.

(3) Concessional supply of food grains @ ..... per K.~~g~~G

(4) Concessional supply of other articles (here mention the articles and the prices that will be charged for them)

Seal, if any

.....

\_\_\_\_\_  
employer

Signature of the

N.B.: Strike off whichever in inapplicable.

Date .....

# **FORM 'H'**

**Record of lime washing, painting, etc.**

***[See Rule 24 (7)]***



<p>Description of part of the establishment (1) i.e., name of room etc.</p>	
<p>Parts limewashed colour washed, (2) paint-ed or varnished, e.g. walls ceilings wood works, etc.</p>	
<p>Treatment whether limewashed or colour (3) washed, painted or varnished.</p>	
<p>Date on which lime-washing, colour (4) washing, painting or varnishing was carried out according to the English Calendar.</p>	
<p>Signature of the employer. (5)</p>	
<p>(6) Remarks</p>	

## FORM 'I'

### Certificate of Fitness (Communicable Diseases)

*[See Rule 24 (11)]*

This is to certify that Shri/Shrimati ..... son  
of/ daughter of ..... age ..... resident of  
..... has been thoroughly examined by me and is  
considered to be free from any communicable diseases and is fit for  
being employed, where food, drink and beverage is prepared and/  
or served to customers.

His/her mark(s) of identification is/are –

(i)

(ii)

(iii)

.....

Officer

Signature of competent Medical

Registration No . .....

Date .....

**FORM 'J'**

**Diary of the Inspector for the month ending**

**[See Rule 33]**

Name and Address of the Inspector .....

Date	Place	Name of the Establishments Inspected	Purpose of Inspection	Remarks— <u>  </u> on defects <u>ir</u> regularities observed and orders and directions issued.
(1)	(2)	(3)	(4)	(5)

.....

Signature of the Inspector of  
Shops and Establishments

Memo No. ....

Dated .....

Copy to –

(1) Labour Officer/ Asst. Labour Commissioner of the  
area.

(2) Chief Inspector of Shops and Establishments.

.....  
Signature

**FORM 'K'**

**Register of hours of work and rest**

***[See Rule 39]***

For the week ending on –

Name of the Establishment –

Name of the Employer –

Address –

Registration No. –

Name of Sex Age  
the  
Employer

Hours worked on  
SUNDAY

			Time which employment commences.	at Time which employment ceases	at Interval for rest	Signature of the employee
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Hours worked on Monday

Hours worked on Tuesday

- (8) Time at which employment commences
- (9) Time at which employment ceases
- (10) Interval for rest
- (11) Signature of the employee
- (12) Time at which employment commences
- (13) Time at which employment ceases
- (14) Interval for rest
- (15) Signature of the employee

Hours worked on Wednesday

Hours worked on Thursday

- (16) Time at which employment commences
- (17) Time at which employment ceases
- (18) Interval for rest
- (19) Signature of the employee
- (20) Time at which employment commences
- (21) Time at which employment ceases
- (22) Interval for rest
- (23) Signature of the employee

Hours worked on Saturday

Time at which employment commences

(25) Time at which employment ceases

Interval for rest

Signature of the employee  
(27)

(28) Time at which employment commences

(29) Time at which employment ceases

Interval for rest

(3) Signature of the employee

\_\_\_\_\_  
Signature of

(i) The mark ‘H’ shall be made in the column relating to any day on which a holiday is given in accordance with the Notice referred to in Rule 5(1) or 6(1).

(ii) The mark 'A' shall be made if an employee is absent on any day.

(iii) The entries under heading 'intervals for rest' shall be actual hours at which the intervals began and ended.

(iv) The mark 'SL' shall be in the column relating to any day on which the employee is allowed special ~~leave~~ of absence in the year for the purpose of attending religious ceremonies or functions.

(v) The mark 'CH' shall be made in the column relating in any day on which the employee was allowed Compensatory Holiday as per Government orders, if any.

**FORM 'L'**

**Register of overtime work and payment of  
overtime wages**

***[See Rule 40]***

For the months ending on .....

1. Name of the Establishment –

2. Name of the Employer –

3. Address –

4. Registration No. –



- (1) Name of the Employee
- (2) Rate of wages
- Money value of meals &
- (3) concessional supply of food grains  
etc., if any
- (4) Overtime rate of wages per hour
- (5) Dates on which overtime work  
was done
- (6) Extent of overtime work done  
on each day (in hours)
- (7) Total amount of overtime wages  
the employee entitled to
- (8) Total amount of overtime wages paid.
- (9) Signature of the employee

\_\_\_\_\_  
Employee

\_\_\_\_\_  
.....

\_\_\_\_\_  
Signature of the

\_\_\_\_\_  
Date .....

**[See Rule 41]**

4. Name of the Employer –

(8) Scale of pay, if any

Rate of Increment (9)							
Basic Pay (10)							
Dearness allowance (11)							
Other allowances (12)							
Free Board and/or Lodging (13)							
Concessional supply of food grains and/or other articles, if any (14)							
Signature of the employer (15)							

\*            According to School records or Birth Register of a Local Authority.

**FORM 'N'**

**Register of leave with wages**

***[See Rule 43]***

Name of the Establishment -      Name of the Employee -

Name of the Employer -      Father's Name -

Address -      Permanent Address -

Registration No. -      Lave Address, if any -

Date of Entry into Service -

Period of twelve month's  
continuous service.

**LEAVE DUE**

From	To	Number of days of accumulated leave due, if any	Number of days for which leave due currently	Total number of days of leave to credit
(1)	(2)	(3)	(4)	(5)

Date of Application for leave	Leave applied for			Leave Allowed		
	From	To	No. of days	From	To	No. of days
(6)	(7)	(8)	(9)	(10)	(11)	(12)

Leave Availed			Extended			Balance Leave to
From	To	No. of Days	From	To	No. of Days	Credit, if any
(13)	(14)	(15)	(16)	(17)	(18)	(19)

**Leave, if refused in Part or Full**

**WAGES**

From	To	Reasons of Refusal	Normal rate of wages including Dearness Allowance, etc., if any	Cash equivalent of supply of meals and sale of food grains or other articles at concessional rates
(20)	(21)	(22)	(23)	(24)

Wages paid during the leave period

(25)

Remark

(26)

Signature of the Employee in Acquittance of payment received

(27)

**FORM ‘N’ Contd.**

**Medical Leave**

Period of twelve month's continuous service		Number of days of leave credit	Date of application	Leave applied				
			of <u>for leave</u>					
From	To			From	To	No. of days		
(1)	(2)	(3)	(4)	(5)	(6)	(7)		
Leave allowed			Leave availed			Leave extended		
From	To	No. of days	From	To	No. of days	From	To	No. of days
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

Balance of

leave to Leave, if refused in  
credit part or full

**WAGES**

during the From To Reasons Normal rate Cash equivalent  
period of of of wages to supply of  
twelve refusal ~~in~~cluding meals and sale  
month's if dearneess of food grains or  
any allowance, other articles at  
etc., if any concessional  
rates

(17) (18) (19) (20) (21) (22)

**FORM 'N' Contd.**

**Casual Leave**

Wages paid during the leave period  (23)	Remark  (24)	Signature of the Employee in acquaintance of payment received  (25)
---------------------------------------------------	--------------------	---------------------------------------------------------------------------------

Period of twelve month's continuous service	Number of days of leave at credit	Date of application for leave	Leave applied for
From  (1)	To  (2)		From  (5)
			To  (6)
			No. of days. (7)



Leave allowed			Leave availed			Leave extended			Balance
From	To	No. of days.	From	To	No. of days.	From	To	No. of days.	of leave at credit if any
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)

Leave, if refused

#### WAGES

From	To	Reasons of refusal	Normal rate of wages including dearness allowance, etc., if any	Cash equivalent to supply of meals and seal of food grains or other articles at concessional rates	Remarks
(18)	(19)	(20)	(21)	(22)	(23)

Wages paid

(24)

Signature of the Employee in  
acquaintance of payment received

(25)

Signature of the Employee

Date

**N.B.** —        For each employee separate pages in the Register  
containing columns for each kind of leave shall be allotted.

**FORM 'O'**

**Application for certificate of Registration of  
Establishments,**

**(and also periodic renewal thereof)**

***[See Rule 45 and 49]***

To,

The Inspector of Shops and Establishments,  
(here specify the area and the address of the Inspector)

Sir,

I beg to apply for registration/-renewal of registration of my establishment for the period of twelve months from .....     to .....                      as required under section 36 of the Assam Shops and Establishments Act, 1971 and the Rules framed there under.

The required particulars in regard to the establishment are furnished herein below in the form prescribed for the purpose in Duplicate –

1. Name of Establishment, if any –

2. Postal Address and exact location of the Establishment –

3. Situation of Office, store-room, godown, warehouse or work place, if any, attached to the establishment but situated in premises different from those of the establishment –

4. No. and date of previous Certificate of Registration (certificate to be surrendered with the application for renewal) –

5. Name of employer –

6. Residential address of employer –

7. Name of the Manager/ Agent/ other person acting in the general management, if any, and his address.

8. Name of the partners and their residential addresses (if it is a partnership concern) -

9. Names and residential addresses of Directors (if it is a case of limited company) -

10. Category of establishment i.e. whether shops, commercial establishments hotel, restaurant, eating house or other place of amusement or entertainment -

11. Nature of business -

12. Date of commencement of business

13. Name of members of the employer's family employed in the establishment and residing with the wholly dependent upon him -

Sl. No.	Name	Relationship	Male or Female	Adult or Child
(1)	(2)	(3)	(4)	(5)

14. Total No. of permanent employees -

Sl. No.	Name	Relationship	Male or Female	Adult or Child
(1)	(2)	(3)	(4)	(5)

15. Total No. of Temporary-/-Casual employees –

Sl. No.	Name	Relationship	Male or Female	Adult or Child
(1)	(2)	(3)	(4)	(5)

16. Total No. of learner Probationer employees –

Sl. No.	Name	Relationship	Male or Female	Adult or Child
(1)	(2)	(3)	(4)	(5)

The application must be accompanied by attested copy of the appointment letter issued to each of the permanent, temporary, casual probationer/-learner employees.

(Enter 'not applicable' in case any of the information sought for is not applicable to an establishment).

I testify that the particulars furnished above are true to the best of my information, knowledge and belief.



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From 'O' was substituted *vide* Notification No. GLR (RC) 105/89/Pt IV/22, dt. 20-7-95 and published in The Assam Gazette Extraordinary No. 216, dt. 10-10-95.

## **FORM 'P'**

### **Register of Shops and Establishments**

***[See Rules 46]***

Part I - Shops –  
Part II - Commercial Establishments –  
Part III - Establishment for  
Public Entertainment or Amusements –



(1)	Serial No.
(2)	Number of Certificate of Registration and Date of Registration
(3)	Name of the Establishment
(4)	Name of the Employer with residential address
(5)	Name of the Manager/ Agent/ other person, if any, acting in the general management with residential address
(6)	Postal address and exact location of the establishment
(7)	Exact location of Office, store-room, godown, Ware-house, work place, if any, attached to an establishment, but situated in premises other than those of the establishment

**FORM ‘P’ (Contd.)**

Date	of	Name	of	Number	of	
commen-		business		other person		Total No. of
cement	of		Number of Members of employee’s family	occupying		Employee
business				position of		
		Adult	Child	management	Adult	Child

		Males	Females	Males	Females	of	Males	Females	Males	Females
						employees				
						engaged in				
						confidential				
						capacity				
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

**FORM ‘P’ (Contd.)**

Free Paid

- (19) Date of Inspection in connection with Registration
- (20) Date of Registration and Number of Registration
- (21) Date of Receipt of Notification of changes, if any
- (22) Declared Weekly closure day in case of shop
- (23) Declared weekly one and a half holiday in cash of establishments
- (24) For Registration
- (25) For renewal
- (26) For changes
- (27) For loss of Certificate
- (28) Maximum Number of Employees for which Certificate granted
- (29) Date of Renewal of Certificate
- (30) Date of Cancellation of Certificate on Winding-up of an establishment
- (31) Remarks

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**FORM 'Q'**

**Certificate of Registration**

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***[See Rule 47]***

Name of Establishment –

Name of Employer –

Address and Location of the Establishment –

No. of Employees –

Nature of Business

Registration No. .... ————— Date

.....

Certified that under the Assam Shops and Establishments Act,  
1971 and the rules framed there under –

**(i)** \_\_\_\_\_ the establishment bearing the above particulars has been  
registered this ..... day of ..... for a period of  
twelve months upto (here put the date) and the Registration  
Number is .....

The validity of the Certificate of Registration shall expire  
unless renewed before that date.

Office Seal and Date : ————— Signature of  
the  
————— Inspector of  
Shops  
and  
Establishments.

(ii) the validity of the Certificate of Registration issued to the  
establishment bearing the above particulars having expired  
on ..... , is, on the employer's application under the  
Rule 49, renewed –

(a) for a period of twelve months upto .....

(b) for a further period of twelve months, upto .....

Office Seal and Date : ————— Signature of the  
————— Inspector of  
Shops  
and  
Establishments.

(iii) the information in the prescribed Form R by the employer  
under Rule 50 as requiring change in respect of the  
establishment bearing the above particulars have been  
registered this ..... day of .....

Office Seal and Date : ————— Signature of the

\_\_\_\_\_  
Shops Inspector of  
and  
Establishments.

**FORM 'R'**

**Notice of Change in establishments**

***[See Rules 50]***

1. \_\_\_\_\_ Name of Establishment –

2. \_\_\_\_\_ Address and Location –

3. \_\_\_\_\_ Number of Employer with Residential address –

Registration Certificate No. \_\_\_\_\_ Date \_\_\_\_\_  
.....

To,

The Inspector of Shops and Establishments,  
.....  
.....

Sir,

Notice is hereby given that the following change has taken place with effect from ..... in respect of the particulars of information relating to my establishment forwarded in the statement under rule 45 in Form O, which please note.

The Certificate of Registration is enclosed herewith for amendment.

A copy of the challan depositing the fee of Rs. .... (Rupees ..... ) only on ..... at the Treasury at (mention place) as specified in Schedule I is also sent herewith.

	_____ Yours	
faithfully,		
Date : .....	_____	_____ Signature of
the Employer		

**FORM 'S'**

**Notice of winding-up of the business of the  
Establishment**

***[See Rule 51]***

To,

The Inspector of Shops and Establishments,  
.....  
.....

Sir,

Notice is hereby given that I am winding-up the business of  
my establishment with effect from .....



The Certificate of Registration No. .... dated  
..... is surrendered herewith,

Name of Establishment –

Name of the Employer –

Address and Location –

Number of Employees affected –

Reasons for winding-up –

Date : .....                      \_\_\_\_\_                      \_Yours faithfully,  
the Employer                      \_\_\_\_\_                      \_Signature                      of

**FORM 'T'**

**Notice of loss of Certificate of Registration or  
renewed**

**Certificate of Registration**

***[See Rule 51]***

Name of Establishment –

Address and Location of the

Establishment –

Name of the Employer –

Certificate of Registration No. ..-...-.....

Date

.....

To,

The Inspector of Shops and Establishments,

.....

.....

Sir,

This is to inform you that the Certificate of Registration No. .... dated ..... which was issued in favour of the above establishment has been lost/destroyed /defaced.

Please issue a duplicate Certificate.

A Copy of the challan depositing the fee of Rs. .... (Rupees ..... ) only at a Treasury at (here mention the place) as specified in Schedule I is forwarded herewith for needful.

Date : .....  
the Employer

\_\_\_\_ Yours faithfully,  
\_\_\_\_ Signature of

**\*SCHEDULE-1**

***[See Rules 45, 49, 50, & 52]***

**Fees for Certificate of Registration, Renewal of  
Registration, Issue of Duplicate Certificate of  
Registration and for notice of change**

**A. SHOPS -**

Category of Shops	Fees for	Fees for	Fees for	Fees for	Remarks
	Regist-	for	Dupli-	Notice of	
	ration	Renew	cate	change	
		al	copy		
(1)	(2)	(3)	(4)	(5)	(6)

	Rs.	Rs.	Rs.	Rs.	
<u>1.</u> Self-employed small Shops (pan Ghumti type)	20	20	10	10	..
<u>2.</u> Shops with no employees	50	50	10	10	Shops   dealing in stationeri es & other costly articles
<u>3.</u> Shops with 1 to 3 employees	100	100	10	10	..
<u>4.</u> Shops with 4 to 9 employees	200	200	10	10	..
<u>5.</u> Shops with 10 employees or more	300	300	10	10	..
<u>6.</u> Jewellery shops engaged in making	300	300	10	10	...

ornaments

<u>7.</u> Shops dealing in costly stones	500	500	10	10	...
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\* Substituted *vide* Notification No. GLR (RC) 105/89/47, dt. 5-9-90 and came into force with effect from 10-9-90.

## **B. COMMERCIAL ESTABLISHMENT -**

Category of Shops	Fees for Registration	Fees for Renewal	Fees for Dupli- cate copy	Fees for Notice of change	Remarks
(1)	(2) Rs.	(3) Rs.	(4) Rs.	(5) Rs.	(6)
<u>1.</u> Establishment with no employee	100	100	10	10	...
<u>2.</u> Establishment with 1 to 3 employees	200	200	10	10	...
<u>3.</u> Establishment with 4 to 9 employees	300	300	10	10	...

<u>4.</u> Establishment ___with 10 or more ___employees	500	500	10	10	...
---------------------------------------------------------------	-----	-----	----	----	-----

**C. ESTABLISHMENT FOR PUBLIC ENTERTAINMENT OR  
AMUSEMENT -**

Category of Shops	Fees for Regist- ration	Fees for Renewal	Fees for Duplic ate copy	Fees for Notice of change	Remarks
(1)	(2) Rs.	(3) Rs.	(4) Rs.	(5) Rs.	(6)
<u>1.</u> Establishment ___with no employee	100	100	10	10	...
<u>2.</u> Establishment ___with 1 to 3 ___employees	500	500	10	10	...
<u>3.</u> Establishment ___with 4 to 9 ___employees	1000	1000	10	10	...

<u>4.</u> Establishment	1500	1500	10	10	...
<u>  </u> with 10 or more					
<u>  </u> employees					

## NOTIFICATIONS

**Dated 21<sup>st</sup> June, 1976**

*No. GLR.290/76/3* – In exercise of the powers conferred by Sub-Section (2) of the Section 10 of the Assam Shops and Establishments Act, 1971 the Governor of Assam is pleased to fix the opening hours and closing hours of all Shops to which the said Act applies as under with immediate effect.

Opening Hour	----	8.00 A.M.
Closing Hour	----	7.45 P.M.



This cancels all previous notification issued on the subject of opening and closing hours of shops.

\_\_\_\_\_ **T.S. Gill**  
 \_\_\_\_\_ Secretary to the Govt. of Assam  
 \_\_\_\_\_ Labour Department

**Dated 21<sup>st</sup> June, 1976**

*No. GLR.290/76/4* – In exercise of the powers of conferred by Sub-Section (4) of Section 1 of the Assam Shops and Establishments Act, 1971 the Governor of Assam is pleased to specify that the said Act shall apply also to all Town Committees declared or constituted under the provisions of the Assam Municipal Act, 1956 with immediate effect.

**T.S. Gill**

Secretary to the Govt. of Assam  
Labour Department

**Dated 21<sup>st</sup> June, 1976**

*No. GLR.290/76/5* – In exercise of the powers conferred by Sub-Section (1) of Section 7 of the Assam Shops and Establishment Act, 1971 the Governor of Assam is pleased to direct the subject to the provisions of the Sub-Section (2) of that said Act, the provisions of the Payment of Wages Act, 1936 shall apply to all the establishment the which the Assam Shops & Establishments Act, 1971 applies with immediate effect.

**T.S. Gill**

Secretary to the Govt. of Assam

Labour Department

**Dated 21<sup>st</sup> June, 1976**

*No. GLR.290//76/6* – In exercise of the powers conferred by Sub-Section (1) of Section 25 of the Assam Shops and Establishments Act, 1971 the Governor of Assam is please to appoint the following offers of the Labour Department as Inspectors for the purposes of the said Act within their respective Jurisdictions with immediate effect: -

1. All Labour Inspectors.
2. All Labour Officers.
3. All Assistant Labour Commissioners.

**T.S. Gill**

Secretary to the Govt. of Assam

Labour Department

**Dated 18<sup>th</sup> November, 1981**

*No. GLR. 545/81/2* – In exercise of the powers conferred under Section 33 of the Assam Shops and Establishments Act, 1971 the Governor of Assam is please to authorise all the District Magistrates and SDO's (Civil) to exercise all the powers vested in the State Government under the Act except the powers mentioned in Section 34.

**S.K. Sonowal**

Deputy Secretary to the Govt. of Assam  
Labour and Employment Deptt.

**Dated 8<sup>th</sup> March, 1988**

*No. GLR. (RC) 77/80/16* – In exercise of the powers conferred under Sub-Section (4) of Section 1 of the Assam Shops and Establishment Act, 1971 (Assam Act, XXI of 1974) read with Clause (b) sub-paragraph (1) of paragraph 12 of Sixth Schedule of the Constitution, the Governor of Assam is pleased to order that the Act, shall apply to all Shops, commercial establishments or

establishment for public entertainment or amusement in Karbi Anglong and North Cachar Hill Districts including such establishments in Municipal areas.

**G.C. Khound**

Secretary to the Govt. of Assam,  
Labour and Employment Department.

**Dated 31<sup>st</sup> October, 1989**

*No. GLR. (RC) 77/80/27* – In exercise of powers conferred by Sub-Section (4) of Section-I of the Assam Shops and Establishment Act, 1971 (Assam Act XXI of 1974), the Governor of Assam is pleased to notify that the Assam Shops and Establishments Act, 1971 (Assam Act XXI of 1974) shall apply immediate effect to all shops, commercial establishments or establishments for public entertainments or amusement within the Guwahati Municipal

Corporation Areas notified under the Guwahati Municipal Corporation Act, 1969.

**S.K. Purakayastha**

Commissioner ~~-~~& Sect. to the Govt. of Assam,  
Labour & Employment Department

**Dated 3<sup>rd</sup> January ~~2,~~ 1992**

*No. GLR. (RC) 77/80/33* – In exercise of the powers conferred by Sub-Section (1) of Section 17 of the Assam Shops and Establishments Act, 1971 (Assam Act XXI of 1974), the Governor of Assam is hereby pleased to order that the provisions of the Payment of Wages Act, 1936 (Central Act 4 of 1936), shall apply, to

all the employees employed in establishments to which the Assam Shops and Establishments Act, 1971 applies with immediate effect.

**P.K. Das**

Joint Secretary to the Govt. of Assam,  
Labour and Employment Department.

**Dated 18<sup>th</sup> December, 1993**

*No. GLR. 364/88/67* – In exercise of the powers conferred under Section 4 of Section I of the Assam Shops and Establishment Act, 1971, the Governor of Assam is pleased to extend the applicability of the provisions of the Assam Shops and Establishment Act, 1971 in the following places/areas with immediate effect.



<u>1.</u> North Cachar District -	Umrangso
<u>2.</u> Karbi Anglong District -	Momran and Manje Chariali
<u>3.</u> Goalpara District -	Krishnai and Dudhnoi
<u>4.</u> Morigaon District -	Jagiroad
<u>5.</u> Nagaon District -	Raha, Deboka, Kampur and Jakhalabandha
<u>6.</u> Golaghat District -	Sarupathar and Barpathar
<u>7.</u> Jorhat District -	Kamalabari, Garhmurh, Teok, Deberapara Chariali (Nakachari), Titabar.
<u>8.</u> Tinsukia District -	Chapakhowa, Panitola, Barhapjan, Ledo and Margherita.
<u>9.</u> Dibrugarh District -	Moran, Tingrai Chariali & Namrup
<u>10.</u> Dhubri District -	Mankachar
<u>11.</u> Bongaigaon District -	Dhaligaon and North Salmara
<u>12.</u> Kokrajhar District -	Salakati, Sarfanguri & Bhoomka
<u>13.</u> Darrang District -	Rowta Chariali Sipajhar, Orang and Dalgaon
<u>14.</u> Kamrup District -	Baihata Chariali, Bejera, Hajo,

	Meerza, Nagarberra, Bijohnagar, Goreswar and Kamalpur.
<u>15.</u> Nalbari District -	Mukalmua, Tamulpur, Barama, Daulashal and Chamata.
<u>16.</u> Barpeta District -	Bhalla, Simalguri and Patacharkuchi.
<u>17.</u> Lakhimpur District -	Narayanpur and Laluk
<u>18.</u> Sonitpur District -	Gohpur
<u>19.</u> Dhemaji District -	Hojai and Silapathar, Gogamukh
<u>20.</u> Cachar District -	Kalain, Lakhipur and Udarbund
<u>21.</u> Sibsagar District -	Bhojo, Sapekhati & Gaurisagar
<u>22.</u> Hailakandi District -	Pachgram
<u>23.</u> Karimganj District -	Patharkandi and Ramkrishnanagar.

**J. P. Rajkhowa**

Commissioner & Secy. to the Govt. of Assam,  
Labour & Employment Department

**Dated 18<sup>th</sup> December, 1993**

*No. GLR. 364/88/66* – In exercise of the powers conferred under Section 25 of Chapter VII of the Assam Shops and Establishment Act, 1971 the Governor of Assam is pleased to appoint the following Officers as Inspector to exercise the powers to enforce the provisions of the above mentioned Act and the Rules there under, within their local jurisdictions, with immediate effect.

1. Labour Inspector (Agril.) - Nazira, Dist. Sibsagar

2.	- do -	- Narayanpur, Dist. Lakhimpur
3.	- do -	- Nawbaicha, Dist. Lakhimpur
4.	- do -	- Mazuli, Dist. Jorhat
5.	- do -	- Bokakhat, Dist. Golaghat
6.	- do -	- Sarupathar, Dist. Golaghat
7.	- do -	- Mazbat, Dist. Darrang
8.	- do -	- Bihali, dist. Sonitpur
9.	- do -	- Khoirabari, Dist. Darrang
10.	- do -	- Dhekiajuli, Dist. Sonitpur
11.	- do -	- Hapjan, Dist. Tinsukia
12.	- do -	- Kokapathar, Dist. Tinsukia
13.	- do -	- Khowang, Dist. Dibrugarh
14.	- do -	- Joypur, Dist. Dibrugarh
15.	- do -	- Rangia, Dist. Kamrup
16.	- do -	- Chaigaon, Dist. Kamrup
17.	- do -	- Bhabanipur, Dist. Barpeta
18.	- do -	- Rupsi, Dist. Barpeta
19.	- do -	- Lanka, Dist. Nagaon
20.	- do -	- Batadroba, Dist. Nagaon
21.	- do -	- Mayong, Dist. Morigaon
22.	- do -	- Patharkandi, Dist. Karimganj

- |     |        |                                                       |  |
|-----|--------|-------------------------------------------------------|--|
| 23. | - do - | - Lakhipur, Dist. Cachar                              |  |
| 24. | - do - | - Udarband, Dist. Cachar                              |  |
| 25. | - do - | - Dudhnoi, Dist. Goalpara                             |  |
| 26. | - do - | - Mankachar, Dist. Dhubri                             |  |
| 27. | - do - | - Bilasipara, Dist. Dhubri                            |  |
| 28. | - do - | - Gossaigaon, Dist. Kakrajhar                         |  |
| 29. | - do - | - Rongkhawang, Dist. Karbi                            |  |
|     |        | <u>Anglong</u>                                        |  |
| 30. | - do - | - Kaliabar, Dist. Nagaon                              |  |
| 31. | - do - | - Titabar, Dist. Jorhat                               |  |
| 32. | - do - | - Hailakandi, Dist. Hailakandi                        |  |
| 33. | - do - | - Demow, Dist. Sibsagar                               |  |
| 34. | - do - | - Kakrajhar, Dist. Kokrajhar                          |  |
| 35. | - do - | - Dayang <del>Valley</del> <u>Valley</u> , Dist. N.C. |  |
|     |        | Hills                                                 |  |
| 36. | - do - | - Bokajam, Dist. Karbi Anglong                        |  |
| 37. | - do - | - Hawraghat, Dist. Karbi Anglong                      |  |
| 38. | - do - | - Jatinga Valley, Dist. N.C. Hills                    |  |
| 39. | - do - | - Sonari, Dist. Sibsagar.                             |  |

The Chief Inspector of Shops and Establishment, Assam is authorised to earmark the jurisdictions of the above Inspectors immediately for proper implementation of the Act.

**J.P. Rajkhowa** |

Commissioner & Secy. to the Govt. of Assam,  
Labour & Employment Department

**Dated 26<sup>th</sup> December, 2000**

*No. GLR (RC) 105/89/Pt-I/141* – In exercise of the powers conferred by Section 5 of the Assam Shops & Establishment Act, 1971 (Assam Act XXI of 1974) the Governor of Assam is pleased to exempt all Information Technology (IT) and IT enabled services establishment from the purview of Section – 6, 9, 10, of the said Act for a period of 2 (Two) years.

**N.C. Barooah**

Commissioner & Secy. to the Govt. of Assam  
Labour and Employment Department, Dispur

**Dated 31<sup>st</sup> August, 2001**

*No. GLR. (RC) 105/85/Pt/153* – In exercise of the powers conferred under Sec. 5 of the Assam Shops & Estt. Act, 1971, the Governor of Assam is pleased to exempt NEDFI IT Park Guwahati, in public interest from the operation of Sec. 20 of the said Act for a period of 2 years in respect of employment of a women workers subject to the following conditions:

1. An adult women worker may be allowed to work between 7 P.M. & 6 A.M. with her consent given in writing.
2. No women worker shall be require to work for more than 8 (eight) hours in any day nor for more than 48 hours in a week.
3. If a women worker is called for work any time between 7 P.M. and 6 A.M., the employers shall make necessary arrangements on own expense for her transport from her residence to working place and back.

**B.B. Hagjer**

Secy. to the Govt. of Assam  
Labour & Employment Department

**Dated 2<sup>nd</sup> November, 2001**

*No. GLR (RC) 167/90/58* – The following draft rules further to amend the Assam Shops and Establishment (Amendment) Rules, 1990 which the Governor of Assam proposes to make in exercise of the powers conferred by Section 34 of the Assam Shops and Establishment Act, 1971 (Assam Act of XXI of 1974) are hereby published as required under Sub-Section (I) of the said Section, for



the information of all persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken into consideration after the expiry of the period of thirty days from the date of publication of this notification in the Official Gazette.

Any objections or suggestions which may be received from any person with respect to the said draft rules before the expiry of the period specified above shall be considered by the Governor.

### **DRAFT RULES**

Short title and 1. (a) These rules may be called the commencement Assam Shops and Establishments (Amendment) Rules, 2001.

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

Substitution of ~~2.~~ 2. In the Assam Shops and Schedule I. Establishment Rules, 1976 (as amended upto date) for Schedule-I, the following Schedule shall be substituted, namely: -

## SCHEDULE – 1

*[See Rules 45, 49, 50 & 52]*

Fees for Certificate of Registration, Renewal of  
Registration, Issue of Duplicate Certificate of  
Registration and for notice of change.

## A. SHOPS -

Category of Shops	Fees for Registration	Fees for Renewal	Fees for Duplicate copy	Fees for Notice of change	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
	Rs.	Rs.	Rs.	Rs.	
<u>1.</u> Self-employed ___small Shops (pan ___Ghumti type)	30	30	20	20	...
<u>2.</u> Shops with no employees	75	75	20	20	Shops dealing in stationeries & other costly items.
<u>3.</u> Shops with 1 to 3 employees	150	150	20	20	...
<u>4.</u> Shops with 4 to 9 employees	300	300	20	20	...
<u>5.</u> Shops with 10 employees or more	450	450	20	20	...
<u>6.</u> Jewellery shops engaged in	450	450	20	20	...

___making					
___ornaments					
<u>7.</u> Shops dealing in	750	750	20	20	...
___costly stones					

## B. COMMERCIAL ESTABLISHMENT -

Category of Shops	Fees for Regist- ration	Fees for Renewal	Fees for Dupli- cate copy	Fees for Notice of change	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
	Rs.	Rs.	Rs.	Rs.	
<u>1.</u> Establishment	150	150	20	20	...
___with no employee					
<u>2.</u> Establishment	300	300	20	20	...
___with 1 to 3					
___employees					
<u>3.</u> Establishment	450	450	20	20	...
___with 4 to 9					
___employees					
<u>4.</u> Establishment	750	750	20	20	...

\_\_\_with 10 or more  
\_\_\_employees

**C. \_ESTABLISHMENT FOR PUBLIC ENTERTAINMENT OR**

**\_\_\_AMUSEMENT -**

1. Establishment                      150              150              20              20              ...

\_\_\_with no employee

2. Establishment                      750              750              20              20              ...

\_\_\_with 1 to 3

\_\_\_employees

\_\_\_(Hotel,

\_\_\_Restaurants)

3. Establishment                      1500              1500              20              20              ...

\_\_\_with 4 to 9

\_\_\_employees

4. Establishment                      2250              2250              20              20              ...

\_\_\_with 10 ~~or more~~

\_\_\_employees or

more

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**B.B. Hagjer**

Secy. to the Govt. of Assam  
Labour & Employment Department

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Note— Proposed enhancement of fees under the above Notification  
has not yet been published in the Official Gazette.

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