

# THE ASSAM PAYMENT OF WAGES RULES, 1937

## NOTE

These rules has made under sub-sections (3) and (4) of Section 26 of the Payment of Wages Act, 1936.

## ARRANGEMENT OF RULES

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|--|---|
| 1. Title.  | 13. Procedure in imposing fines and deductions.             |
| 2. Definitions.<br>Section 26 (3)(a)                       | 14. Information to paymaster.<br>Section 26 (3)(g)          |
| 3. Register of Fines.                                      | 15. Deductions for breach of contract.<br>Section 26 (3)(i) |
| 4. Register of deductions for damage or loss.              | 16. Advance.<br>Section 26 (3)(a)                           |
| 5. Register of Wages.                                      | 17. Annual Return.<br>Section 26 (3)(j)                     |
| 6. Maintenance of Registers.<br>Section 26 (3)(c)          | 18. Costs.  |
| 7. Weights and Measures.<br>Section 26 (3)(e), (f) and (h) | 19.   |
| 8. Prescribed Authority.                                   | Section 26 (3)(k)   |
| 9. Application in respect of fines.                        | 20. Fees.<br>Section 26 (3)(l)                              |
| 10. Approval of list of acts and omission.                 | 21. Abstracts.<br>Section 26 (4)                            |
| 11. Posting of list.                                       | 22. Penalties.  |
| 12. Persons authorised to impose fines.                    |   |

## FORMS

### LIST OF AMENDING RULES WHICH HAVE BEEN INCORPORATED IN ITS DUE PLACES AND THEREFORE NOT PRINTED SEPARATELY

1. Noti.No. GGN.108/47/17, dated 17.04.1948.
2. Noti.No. GGN.108/47/26, dated 05.09.1950.
3. Noti.No. GLR. 151/53/25, dated 11.02.1954.
4. Noti.No. GLR. 538/62, dated 25.09.1963.
5. Noti.No. GLR. 38/62/26, dated 09.12.1963
6. Noti.No. GLR.369/58/96, dated 15.06.1966.
7. Noti.No. GLR.263/71/Pt/87, dated the 16th April, 1981.
8. Noti. No. GLR(RC) 4/94/19, dated the 21st July, 1995.

**1. Title-** These rules may be called the Assam Payment of Wages Rules, 1937. They shall come into force from the 20th March, 1937.

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

- (a) "the Act" means the Payment of Wages Act (IV of 1936);
- (b) "the authority" means the authority appointed under sub-section (1) of Section 15 of the Act;
- (c) "the Chief Inspector of Factories" means the Chief Inspector of Factories appointed under sub-section (2) of Section 10 of the Factories Act (XXV of 1934);
- ["(cc) "the Labour Commissioner" means the person appointed to be the Labour Commissioner for Assam;"<sup>1</sup>]
- (d) "the Court" means the Court mentioned in sub-section (1) of Section 17 of the Act;
- (e) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of Section 9;
- (f) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of Section 7;
- (g) "Form" means a form appended to these rules;
- (h) "Inspector" means the Inspector authorised by or under Section 14 of the Act;
- (i) "person employed" excludes all persons to the payment of whose wages the Act does not apply;
- (j) "section" means a Section of the Act;
- (k) "paymaster" means an employer or other person responsible under Section 3 of the Act for the Payment of Wages;
- (l) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

#### SECTION 26 (3)(a)

**3. Register of Fines-** (1) In any factory <sup>2</sup>[or industrial

1. Inserted *vide* Notification No. GGN.108/47/17, dated the 7th April, 1948.  
 2. Inserted in Rules "3", "4" and "5" the words "or industrial establishment" *vide* Notification No. GLR.263/71/Pt./87, dated the 16th August, 1981, *See* A.G.Part-IIA, dated 30th December, 1981.

establishment] in respect of which the employer has obtained approval under sub-section (1) of Section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

**4. Register of deductions for damage or loss-** In every factory ["or industrial establishment"] in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of Section 10 in Form II.

**5. Register of wages-** A Register of Wages shall be maintained in every factory ["or industrial establishment"] and may be kept in such form as the paymaster finds convenient but shall include the following particulars-

- (a) the gross wages earned by each person employed for each wage period;
- (b) all deductions made from these wages, with an indication in each case of the clause of sub-section (2) of Section 7 under which the deduction is made;
- (c) the wages actually paid to each person employed for each wage period.

**6. Maintenance of Registers-** The registers required by rules 3, 4, 5 and 16 shall be preserved for twelve months after the date of last entry made in them.

#### SECTION 26 (3)(c)

**7. Weights and Measures-** All weights, measures or weighing machines which are used in checking or ascertaining the wages of persons employed in any factory shall be examined at least biennially by an Inspector who may prohibit the use of any weight, measure, or weighing machine which he finds to register incorrectly.

(2) If the Inspector considers that any action should be taken

under the Indian Weights and Measures of Capacity Act (*XXXI of 1871*), or the Indian Penal Code (*XLV of 1860*), he may seize the article in question and shall record his opinion and send it to the District Magistrate for such action as he may think fit.

#### **SECTION 26 (3)(e), (f) and (h)**

**8. Prescribed Authority**— The Chief Inspector of Factories [for Factories and the Labour Commissioner for Plantations]<sup>1</sup> [and other industrial establishments to which the provisions of the Act have been extended]<sup>2</sup> shall be the authority competent to approve, under sub-section (I) of Section 8, acts and omission in respect of which fines may be imposed and, under sub-section (8) of Section 8, the purposes on which the proceeds of fines shall be expended.

**9. Application in respect of fines**— Every person responsible for the Payment of Wages under Section 3 of the Act requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories [or Labour Commissioner, as the case may be.]<sup>1</sup>

- (a) a list, English, in duplicate, clearly defining such acts and omission;
- (b) in cases where the employer himself does not intend to be the sole person empowered to impose fine, a list, in duplicate, showing these appointments in his factory of which the incumbents may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

**10. Approval of list of acts and omission**— The authority appointed under Rule 8 on receipt of the list of acts and omissions prescribed in paragraph (a) of the preceding rule may, after such enquiry as he considers necessary, pass order either,—

- (a) disapproving the list;
- (b) approving the list either in its original form or as amended by him in which case such list shall be considered to be the approved list provided that no order disapproving or amending any list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing why the list as submitted by him should be approved.

1. Inserted *vide* Notification No. GGN.108/47/17, dated the 7th April, 1948.

2. Inserted *vide* Notification No. GGN.108/47/26, dated the 5th September, 1950.

**11. Posting of list**— The person responsible for the payment of wages under Section 3 of the Act shall display at or near the main entrance of the factory [or at the main Office of the establishment]<sup>1</sup> a copy in English, together with literal translation thereof in the language of the majority of the persons employed therein, of the list of acts and omissions approved under Rule 10.

**12. Persons authorised to impose fines**— No fine may be imposed by any person other than an employer, or a person holding an appointment named in a list submitted under Rule 9.

**13. Procedure in imposing fines and deductions**— Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person, the act or omission or damage or loss, in respect of which the fine or deduction, is propose to be impose and the amount of the fine or deduction, which it is propose to imposed and shall hear his explanation in the presence of atleast one other person who shall sign the register in evidence that requirements of this rule have been complied with.

**14. Information to paymaster**— The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the Paymaster all particulars, so that the register prescribed in Rule 3 or Rule 4 may be duly completed.

#### **SECTION 26 (3)(g)**

**15. Deductions for breach of contract**— (1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless—

- (a) there is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment, and
  - (i) the period of this notice does not exceed fifteen days or wage period, whichever is less; and
  - (ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;
- (b) this rule has been displayed in English, and in the language of the majority of the employed persons at or

1. Inserted *vide* Notification No. GGN.108/47/26, dated the 5th September, 1950.

near the main entrance of the factory ["or at the main office of the establishment"]<sup>1</sup> and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

- (c) a notice has been displayed at or near main entrance of the factory [or at the main office of the establishment]<sup>1</sup> giving the names of the person from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted :

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory, it shall be sufficient, in lieu of giving the names of persons in such departments or sections to specify the Departments or section affected or where the deduction is proposed to be made from all the employees of a specified class in plantation [(or in any industrial establishment), it shall be sufficient to specify the class.]<sup>2</sup>

(3) No deduction for breach of contract shall exceed the wages of the person employed for the period by which the notice of termination of service giving falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no deduction for breach of contract shall be made from any person who has complied with these conditions.

#### SECTION 26 (3)(i)

**16. Advance-** (1) An advance of wages not already earned shall not without the previous permission of an Inspector [which in the case of advances for the purchase of the cattle may be general or special]; exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months or if he has not been employed for that period twice the wages he is likely to earn during the two subsequent calendar month.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than twelve months. No

1. Inserted *vide* Notification No. GGN.108/47/17, dated the 7th April, 1948.

2. Inserted *vide* Notification No. GGN.108/47/26, dated the 5th September, 1950.

instalments shall exceed one-third, or where the wage for any wage-period are not more than twenty rupees, one-fourth of the wages for the wage-period in respect of which the deduction is made.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

#### SECTION 26 (3)(a)

<sup>1</sup>[**17. Annual Return-** In respect of persons employed in Factories the employer shall furnish to the Chief Inspectors of Factories ["and in respect of persons employed in industrial establishment"]<sup>2</sup> to the Labour Commissioner ["or Senior Assistant-Labour Commissioner or Assistant Labour Commissioner of the Area"]<sup>3</sup> not later than the 15th February, following the end of the calendar year to which it relates, a return in Form IV"].

#### SECTION 26 (3)(J)

**18. Costs-** (1) Where the authority or the Court, as the case may be direct that any costs shall not follow the event, he shall state his reasons or so doing in writing.

(2) The costs which may be awarded shall include-

- (a) the charges necessarily incurred on account of court-fees;
- (b) the charges necessarily incurred on subsistence money to witnesses; and
- (c) pleader's fees which shall ordinarily be Rs. 10 provided that the authority or the Court, as the case may be, in any proceeding, may reduce the fee to a sum not less than Rs. 5 or increase it to a sum not exceeding Rs. 30.

(3) When the party engages more pleaders than one to defend a case, he shall be allowed one set of costs only.

**19.** The Authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any document filed with the Authority or the Court as the case may be :

1. Substituted Rule "17" *vide* Noti. No. GLR.151/53/25, dated the 11th February, 1954.

2. Substituted in Rule "17" for the words "and in respect of persons employed in Plantations, Motor Omnibus Services, Docks, Wharves and Jetties and all Inland Steam Vessel Services," *vide* Notification No.GLR.263/7/Pt./87, dated the 16th April, 1981, *See* A.G.Part IIA, 30th December, 1981.

3. Inserted in Rule "17" *vide* Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995, (w.e.f. from 22nd August, 1995).



Provided that the Authority or the Court, as the case may be, may in consideration of the poverty of the applicant, grant copies free of cost.

### SECTION 26 (3)(k)

**20. Fees-** The fee payable in respect of proceedings under the Act shall be-

- (i) For every application to summon in respect of witness [Twenty-five paise]<sup>1</sup> each witness;
- (ii) For every other application made by or on behalf of an individual person before the Authority. [Fifty Paise]<sup>2</sup>
- (iii) For every other application made by or on behalf of an unpaid group before the Authority [Twenty-five paise]<sup>3</sup> for each member of the group subject to a maximum of five rupees.

(iv) For every appeal lodged with the Five rupees Courts :

Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit this fee :

Provided further that no fee shall be chargeable in respect of an application presented by an Inspector.

### SECTION 26 (3)(L)

**21. Abstracts-** The abstracts of the Act and of the rules made there under to be displayed under Section 25 shall be in Form V.

### SECTION 26 (4)

**[22. Penalties-** Any breach of Rules 6, 11, 14, 16(1) and 16(2) shall be punishable with fine which may extend to two hundred rupees."]<sup>4</sup>

1. Substituted in clause "(i)" of Rule 20, for the words, "Four annas" vide Notification No. GLR.263/71/Pt/87, dated the 16th April, 1981, See A.G.Part IIA, dated 30th December,1981.

2. Substituted in clause (ii) of Rule 20, for the words "Eight annas" by the *Ibid*.

3. Substituted in clause (iii) in Rule 20, for the words " Four annas" by the *Ibid*.

4. Substituted Rule 22, by the *Ibid*.

**Note:-** Substituted Rule 22, originally read as follows-

**22. Penalties-** Any breach of Rules 3,4,5,6,11,14 and 17 of these rules shall be punishable fine which may extend to two hundred rupees.

### FORM - I REGISTER OF FINES

["Name of the Factory/Industrial Establishment"]<sup>1</sup>

Serial No	Name	Father's name	Department	Act or omission for which fine imposed	Whether workman showed cause against fine or not if so, enter date	Rate of wages	Date and amount of fine imposed	Date on which fine relised	Signature of witness	Remarks
1	2	3	4	5	6	7	8	9	10	11

1. Substituted in FORM I, for the word "Factory" vide Notification No.GLR.263/71/Pt./87, dated the 16th April, 1981, See A.G.Part IIA, dated 30th December, 1981.

**FORM - II**REGISTER OF DEDUCTIONS FOR DAMAGE OR LOSS CAUSED TO THE EMPLOYER, BY THE NEGLIGENCE OR  
DEFAULT OF THE EMPLOYED PERSONS["Name of the Factory/Industrial Establishment"]<sup>1</sup>

Serial No	Name	Father's name	Department	Damages or loss caused	Whether worker showed cause against deduction or not, If so, enter date	Date and amount of deduction imposed	No. of instalments if any	Date on which total amount realised	Signature of witness	Remarks
1	2	3	4	5	6	7	8	9	10	11

1. Substituted in FORM I, for the word "Factory" *vide* Notification No.GLR.263/71/Pt./87, dated the 16th April, 1981, See A.G.Part IIA, dated 30th December, 1981.

**FORM - III**

## REGISTER OF ADVANCES MADE TO EMPLOYED PERSONS

["Name of the Factory/Industrial Establishment"]<sup>1</sup>

Serial No.	Name	Father's name	Department	Date and amount of advance made	Purpose (s) for which advance made	No. of instalments by which advance to be repaid	Postpone-ment granted	Date on which total amount repaid	Remarks
1	2	3	4	5	6	7	8	9	10

1. Substituted in FORM I, for the word "Factory" *vide* Notification No.GLR.263/71/Pt./87, dated the 16th April, 1981, See A.G.Part IIA, dated 30th December, 1981.

**REVISED FORM IV**

## ANNUAL RETURNS

**Wages and Deductions from Wages**

Return for the year ending 31st December, 20..

1. (a) Name of factory or ["industrial"]<sup>1</sup> establishment and postal address.

(b) Industry.

2. No. of days worked during the year.

3. (a) No. of man-days worked the year.

Persons earning less than ["Rs.1600/-"]<sup>2</sup> per month.

Adults

Children

3. (b) Average daily No. of persons employed the year.

Adults

Children

Total

4. Gross amount paid as remuneration to persons getting less than [Rs.1600/-]<sup>2</sup> including under Section 7(2) ..... of which the amount due to profit sharing bonus is ..... and that due to money value of concessions & is .....

5. Total wages paid including deductions under Section 7(2) on the following accounts:-

This is the aggregate number of attendance during the year.

The average daily number of persons employed during the year is obtained by dividing the aggregate number of attendance during the year by the number of working days.

Money value of concessions should be obtained by taking the difference of the cost price paid by the employee and the actual price by the employees for supplies of essential commodities given free or at concessional rates.

Persons receiving less than ["Rs.1600/-"]<sup>2</sup>

(a) Basic wages including overtime wages and non-profit sharing bonus.

1. Substituted *vide* Notification No.GLR.369/58/96, dated the 15th June, 1966.
2. Substituted for the words and figures "Rs.1000/-" *vide* Notification No.GLR(RC)4/94/19, dated the 21st July, 1995, (w.e.f 22nd August, 1995), which was earlier substituted for the words and figures "Rs.400/-" *vide* Notification No.GLR.263/71/Pt/87, dated the 16th April, 1981, *See* A.G. Part-IIA, dated 30th December, 1981.

(b) Dearness and other allowances in cash.

(c) Arrears of pay in respect of previous year paid and during the year.

Total

6. Deduction.

Persons receiving less than ["Rs.1600/-"]<sup>1</sup>

No. of cases      Amount

(a) Fines

(b) Deductions for damage or loss

(c) Deductions for breach of contract.

Purpose      Amount

7. Disbursement from the fines fund—

(a)

(b)

(c)

(d)

8. Balance of fines fund in hand at the end of the year.....

Signature .....

Designation .....

1. Substituted for the words and figures "Rs.1000/-" *vide* Notification No.GLR(RC)4/94/19, dated the 21st July, 1995, (w.e.f 22nd August, 1995), which was earlier substituted for the words and figures "Rs.400/-" *vide* Notification No.GLR.263/71/Pt/87, dated the 16th April, 1981, *See* A.G. Part-IIA, dated 30th December, 1981.

**REVISED PROFORMA (A)**

Statement on working of the Payment of Wages Act, 1936 for the year ..... in respect of earning less than [ "Rs.1600/-"]<sup>1</sup> per month

**FORM A**

Industry	Total No. of factories or Estab-lishments		Total No. of days worked by all the units in column 3.	Total No. of man-days worked by all the units in column 3.	Average daily Employment			Gross Wages including deduction column 12, 11, 10	Bonus	Money value concession	Total Wages including deductions	Basic Wages	Cost allowance including dearness	Remarks
	Covered by the Payment of Wages Act	Submitting Returns			Adults	Children	Total							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

1. Substituted in the Revised Proforma (A) , for the words and figures "Rs. 1000/-" vide Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995, (w.e.f. 22.8.1995), which was earlier Substituted for the words and figures "Rs.400/-" vide Notification No.GLR.263/71/Pt/87, dated the 16th April, 1981 (w.e.f. at once) (See A.G.Part IIA, dated 30th December, 1981)P-3024-3025.

**PROFORMA (B)**

Statement of working on the Payment of Wages Act, 1936 for the year ..... in respect of person earning less [than Rs.1600]<sup>1</sup> per month

**FORM A**

Industry	Fines		Deductions for damage or loss		Deductions for breach of contract	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	2	3	4	5	6	7

1. Substituted in the Revised Proforma (A) , for the words and figures "Rs. 1000/-" vide Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995, (w.e.f. 22.8.1995), which was earlier Substituted for the words and figures "Rs.400/-" vide Notification No.GLR.263/71/Pt/87, dated the 16th April, 1981 (w.e.f. at once) (See A.G.Part IIA, dated 30th December, 1981)P-3024-3025.



**FORM V<sup>1</sup>****Abstract of the Payment of Wages Act, 1936, and the rules made thereunder**

**1. Whom the Act affects**— The Act applies to the payment of wages to persons in this Factory/Establishment receiving less than ["Rs.1600/-"]<sup>2</sup>.

**2.** No employed person can give up by contract or agreement his right under this Act.

**3. Definition of wages**— "Wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes—

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of over-time work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

but does not include—

- (1) any bonus (whether a scheme of profit sharing or other

1. Substituted *vide* GLR.538/62, dated 25th September, 1963 and connected *vide* GLR.38/62/26, dated 9th December, 1963.

1. Substituted in the Revised Proforma (A) , for the words and figures "Rs. 1000/-" *vide* Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995, (w.e.f. 22.8.1995), which was earlier Substituted for the words and figures "Rs.400/-" *vide* Notification No.GLR.263/71/Pt/87, dated the 16th April, 1981, *See* A.G.Part IIA, dated 30th December, 1981.

wise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or a court;

(2) the value of any house-accommodation, or of the supply of light water, medical attendance or other amenity or of any service excluded from the computation of wages by an order of the State Government;

(3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereof;

(4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

(6) any gratuity payable on termination of employment in cases other than those specified sub-clause (d).

**4. Responsibility for and method of payment**— The manager of the Factory/Industrial Establishment is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment of persons he employs.

**5.** Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

**6.** Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of person discharged shall be paid not later than the second working day after his discharge.

**7.** Wages in kind are prohibited.

**8. Fines and deductions**— No deduction shall be made from wages except those authorised under the Act (*see* paragraphs 9-15 below).

**9.** (1) Fines can be imposed only for such act and omissions as the employer may, with the previous approval of the Chief Inspector of Factories in respect of factories and the Labour Commissioner in respect of [industrial Establishments]<sup>1</sup> to which the Act applies specify

1. Substituted in Form "V" in sub-clause (1) of clause 9, for the words "Plantations, Motor Omnibus Services, Docks, Wharves and Jetties, all Inland Steam Vessels Services including all other establishments" *vide* Noti. No.GLR.(RC) 4/94/19, dated the 21st July, 1995 (w.e.f. 22.08.1995) *See* A.G.Part IIA, dated 22nd August, 1995.

by a notice displayed at or near [the main entrance of the office of the Factory or industrial establishment as the case may be]<sup>1</sup> and after giving the employed person an opportunity for explanation.

(2) Fines—

- (a) shall not exceed three [\*\*]<sup>2</sup> paise in the Rupee;
- (b) shall not be recovered by instalments, or latter than sixty days of the date of imposition;
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed person as approved by the Chief Inspector of Factories or Labour Commissioner, as the case may be;
- (d) shall not be imposed on any employed person who is under the age of fifteen years.

**10.(a)** Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wages period, as the time he was absent and in that period is to the total time he should have been at work.

(b) If ten or more employed persons acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but—

- (1) no deduction for breaking a contract can be made from a person under 15 or a woman;
- (2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice intention to cease work not exceeding 15 days of the period or notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice;
- (3) the above provision must be displayed at or near the main entrance of ["the office of the Factory or Industrial Establishment as the case may be"]<sup>3</sup>;

1. Substituted for the words "the main entrance of the factory" *vide* notification No.GLR.263/71/Pt/87, dated the 16th April, 1981, *See* A.G.Part IIA, dated 30th December, 1981.

2. Deleted the word "naye" in FORM "V" in sub-clause (2) of clause 9, *vide* Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995 (w.e.f.22.08.1995).

3. Substituted for the words "the factory" in FORM "V" by *Ibid*.

(4) no deduction of this nature can be made until a notice, that this deduction is to be made has been posted at or near the main entrance of the factory/establishment.

(5) no deduction must exceed the wages of the employed person for the period by which the notice, he gives of leaving employment, is less than the notice, he should give under his contract.

**11.** Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is to due to his neglect or default.

Such deduction cannot exceed the amount of damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

**12.** Deduction can be made, equivalent to the value thereof, for house-accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidising house accommodation which may be specified in this behalf by the State Government; amenities and services (other than tools and raw materials) supplied by the employer; provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the State Government.

**13.(a)** Deductions can be made for the recovery of advances, or for adjustment of over-payment of wages;

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made advances given for travelling expenses before employment began;

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

**14.** Deductions can be made for subscription to and for repayment of advance from any recognised provident fund or for adjustment of over-payment of wages.

**15.** Deductions can be made for payments to co-operative society approved by the State or Central Government or to the

Postal Insurance subject to any conditions imposed-

- (a) Deductions can also be made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India or for the purchase of securities of the Government of India, or of any State Government or for being deposited in any Post Office, Savings Bank, in furtherance of any Savings Scheme of any such Government;
- (b) Deduction can be made with the written authorisation of employed person or the President or Secretary of the registered trade union of which the employed person is a member of contribution to the National Defence Fund, or to any Defence Savings Schemes, approved by the Central or State Government on the condition prescribed by the Central Government *vide* notification No.536/36/72 Pac, dated 13th December, 1962.

**16.** Any loss of wages resulting from with holding of increment or promotion, reduction to a lower post or time scale or to a lower stage in a time scale or suspension does not constitute deduction from wages within the meaning of the Act. For this purpose of the aforesaid penalties shall provide that,-

- (i) any such penalty as aforesaid, except the penalty of suspension pending enquiry, shall not be imposed unless the person concerned-
  - (a) has been informed of the charges in respect of which it is proposed to impose the penalty;
  - (b) has been given a reasonable or opportunity of showing cause why the proposed penalty should not be imposed;
- (ii) the person concerned is given a right of appeal against any order imposing the penalty.

**17. Inspections-** An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

**18. Complaints of deductions or delays-** (1) Where irregular deductions are made from wages, of delays in payment take place, an employed person can make an application in the prescribed

form within ["one year"]<sup>1</sup> to the authority appointed by the ["State"]<sup>2</sup> Government for the purposes. As application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of any number of persons belonging to the same factory, the payment of whose wages has been delayed.

**19. Action by the Authority-** The authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

**20. Appeal against the Authority-** An appeal against an order dismissing either wholly or in part an application or against a direction may be preferred within 30 days to the District Court-

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person or any official of a registered trade union authorised in writing to act, on his behalf, if the total amount of wages withheld from him or his co-workers exceeds Rs. 50;
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

**21. Punishments for breaches of the Act-** Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

**22.** The paymaster who-

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1. Substituted for the words "6 months" in sub-clause (1) of Clause 18 in Form V(1) *vide* Notification No.GLR.263/71/Pt./87, dated the 16th August, 1981, *See* A.G.Part-IIA, dated 30th December, 1981.

2. Substituted for the words "6 months" in sub-clause (1) of Clause 18 in Form V(1) by *Ibid*.

- (1) does not fix a wage-period; or
- (2) makes payment in kind; or
- (3) fails to display at or near the main entrance of ["the office of the factory or industrial establishment"]<sup>1</sup> this Abstract in English and in the language of the majority of the employed person; or
- (4) breaks certain rules, made under the Act, is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

**23. Correspondences-** All letters, reports, returns and notices may be addressed to the official concerned by his official title and not by name.

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## THE ASSAM PAYMENT OF WAGES (PROCEDURE) RULES, 1981

(ASSAM RULE 1 OF 1981)<sup>1</sup>

[Dated the 1st August, 1981]

**No.GLR.(RC)29/80/41-** *In exercise of the powers conferred by Section 26 of the Payment of Wages Act, 1936 (Act IV of 1936), the Governor of Assam is pleased to make the following rules, the draft rules of the same having been previously published vide this Department draft Notification No.GLR.263/71/Pt./1/2, dated 20th February, 1980.*

### ARRANGEMENT OF RULES

- |   |   |
|---|---|
| 1. Short title extent and commencement. | 12. Appeals.                            |
| 2. Definitions.                         | 13. Order or direction when to be made. |
| 3. Disposal of Application.             | 14. Inspection of documents.            |
| 4. Form of Application.                 | FORM A                                  |
| 5. Authorisation.                       | FORM B                                  |
| 6. Permission to appear.                | FORM C                                  |
| 7. Presentation of documents.           | FORM D                                  |
| 8. Refusal to entertain application.    | FORM E                                  |
| 9. Appearance of parties.               | FORM F                                  |
| 10. Record of Proceeding.               | FORM G                                  |
| 11. Signature on Form.                  |   |

**1. Short title extent and commencement-** (i) These Rules may be called the Assam Payment of Wages (Procedure) Rules, 1981;

(ii) They shall extend to the whole of Assam;

(iii) They shall come into force at once;

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

1. Substituted for the word "the factory/establishment" in FORM "V" in sub-clause (3) of Clause 22, vide Notification No.GLR(RC) 4/94/19, dated the 21st July, 1995, (w.e.f. 22.08.1995).

1. Published in the Assam Gazette, Part-IIA, dated 30th September, 1981, pp.-1946-1954 (w.e.f. at once).



- (a) the "Act" means the Payment of Wages Act, 1936 (4 of 1936);
- (b) "appeal" means an appeal under Section 17;
- (c) "the authority" means the authority appointed under sub-section (1) of Section 15;
- (d) "the Court" means the court mentioned in sub-section (1) of Section 17;
- (e) "employer" includes the persons responsible for the payment of wages under Section 3;
- (f) "Section" means a Section of the Act;
- (g) "Form" means a form appended to this rules;
- (h) "record of order or direction" means the record of an order allowing or dismissing either wholly or in part an application made under sub-section (2) of Section 15 or of a direction made under sub-section (3) or sub-section (4) of that Section in form "F".
- (i) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

**3. Disposal of Application-** (1) An application presented under sub-section (2) of Section 15 of the Act shall be heard and decided within sixty days of its presentation of receipt, as the case be, provided that the authority may hear and decide the application beyond the period of sixty days also after recording reasons for such delays.

(2) The hearing of the application including arguments of the parties, if any, shall be held day-to-day and the decision of the authority shall be given immediately after the close of hearing. In any case in which, the decision cannot be given immediately for reasons to be recorded in writing, the authority shall fix a day not later than fifteen days from the date of close of hearing for giving the decision.

(3) As far as practicable, any such application shall be heard and the evidence on it be taken on the premises of the Industrial Establishment where the workers concerned are generally paid their wages.

(4) In case in which the application cannot be decided within the stipulated period of sixty days for default of the Employed the authority may award reasonable compensation to the other party.

**4. Form of Application-** Application under sub-section (2) of Section 15 by or on behalf or an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C, as the case may be, one copy of which shall bear such court fee as may be prescribed.

**5. Authorisation-** The authorisation to act on behalf of an employed person or persons, under Section 15 shall be given by a certificate in Form D and shall be presented to the authority hearing the application and shall form part of the record.

**6. Permission to appear-** Any person, other than the person or persons that may be authorised by the applicant or the applicants as per Rule 5 hereto before, desiring the permission of the authority to act on behalf on any employed person or persons shall present to the authority a brief written statement explaining his interest in the matter and the authority shall record an order on the statement, which in the case of refusal shall include reasons therefor, and shall incorporate it in the record.

**7. Presentation of documents-** (1) Applications or other documents relevant to any application may be presented in person to the authority at any time during hours to be fixed by the authority or may be sent to him by registered post.

(2) The Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be.

**8. Refusal to entertain application-** (1) The authority may refuse to entertain an application presented under Rule 8, if after giving the applicant an opportunity of being heard and the authority is satisfied, for reason, to be recorded in writing that-

- (a) the applicant is not entitled to present as application;  
or
- (b) the application is barred by reason of the provisions in the provision to sub-section (2) or Section 15; or
- (c) the application shows no sufficient cause for making direction under Section 15.

(2) The authority may refuse to entertain an application which is insufficient stamped or otherwise incomplete and if he so refuses, shall return it at once with an indication of the defects. If the application is presented again after the defects have been made good, the date of representation shall be deemed to be the



date of representation for the purpose or the provision of sub-section (2) of Section 15.

**9. Appearance of parties-** (1) If the application is entertained, the authority shall call upon the employer by a notice in Form E to appear before him on a specified date at the place fixed for the purpose together with all relevant documents and witnesses, if any, shall inform the applicant of the date and place so specified:

Provided that if necessary or thought to be expedient the notice shall be served on the employer through a messenger.

(2) If the employer or his representative fails to appear on the specified date the authority may proceed to hear and determine the application *ex-parte*.

(3) If the applicant fails to appear on the specified date, the authority may dismiss the application :

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application re-heard on good cause being shown within one month of the date of the said order notice being served on the opposite-party of the date fixed for re-hearing.

**10. Record of Proceeding-** (1) The authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders shall sign and date the Form.

(2) In a case where no appeal lies, no further record of proceeding shall be necessary.

(3) In a case where an appeal lies, the authority shall record the substance of the evidence and shall append it under his signature to the record of order or direction.

**11. Signature on Form-** Any form, other than the record or order or direction, which is required by these rules to be signed by the authority, may be signed under his direction and on his behalf by any officer sub-ordinate to him appointed by him in writing for this purpose.

**12. Appeals-** (1) An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court fee setting forth concisely the grounds of objection to the order dismissing either wholly or in part an application made under sub-section (2) or Section 15 or a direction made under sub-section (2) or sub-section (4) of that Section as the case may be, and shall be accompanied by a certified copy of the said order or direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or set aside the order or direction from which the appeal is preferred, and shall make an order accordingly.

(4) An appeal shall be heard and decided within sixty days of its presentation of receipt, as the case may be, unless any question of law is referred to the High Court for a decision.

**13. Order or direction when to be made-** The authority or the Court as the case may be after the case has been heard shall make the order or direction immediately as may be practicable or fix some further day.

**14. Inspection of documents-** Any employed persons, or any employer or representative, or any person permitted under sub-section (2) of Section 15 to apply for a direction shall be entitled to inspect any application, memorandum of appeal, or any other documents filed with the authority or the Court as the case may be, in a case to which he is a party and may obtain copies thereof on the payment of such fees as may be prescribed.

**FORM A****Form of Individual Application**

[See sub-section (2) of Section 15]

In the Court of the Authority appointed under the Payment of Wages Act, 1936 (4 of 1936) for ..... area.

Application No. .... of 19.....

Between A.B.C. .... applicant

a legal practitioner

(through ..... an official .....

..... which is a registered trade union)

and X, Y, Z ..... opposite party.

The applicant states as follows :-

**1.** A.B.C. is a person employed in the  
on

Factory ..... entitled .....  
Industrial establishment

and resides at .....

The address of the applicant for the service of all notices and processes is:-

**2.** X. Y. Z. the opposite-party, is the person responsible for the payment of his wages under Section 3 of the Act, and his address for the service of all notices and processes is:-

**3.**(1) The applicant's wages have not been paid for the following wage period (s) (Give date) ..... or a sum of Rs. .... has been unlawfully deducted from his wages of ..... (amount) for the wage period(s) which ended on (give date(s)].

(2) (Here give any further claim or explanation).

(3) The applicant estimates the value of the relief sought by him at the sum of rupees .....

**4.** The applicant prays that a direction may be issued under sub-section (3) of Section 15 for:-

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the authority may fine to be due.

or

refund of the amount illegally deducted.

(b) Compensation amounting to .....

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief is accurate.

Signature or thumb-impression  
employed person, or legal practitioner  
or official of a registered trade union  
duly authorised.

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**NOTE :** "FORM B" IS NOT PRINTED IN THE OFFICIAL GAZETTE.

**FORM C**

**Form of application by an Inspector or person permitted by the authority to act**

[See sub-section (2) of Section 15 and Section 16]

Before the authority appointed under the Payment of Wages Act, for ..... areas.  
Application No. .... of 19..

Between

A.B.C., (designation) ..... an Inspector under the Payment of Wages Act or a person permitted by the authority to act under sub-section (2) of Section 15 ....., applicant.

And

X.Y.Z., ..... the Opposite Party.

The applicant states as follows:-

**1.** X.Y.Z. the opposite-party is the person responsible under the Act for the payment of wages to the following persons whose names and permanent addresses are given below:-

- (1)
- (2)
- (3)
- \*
- \*
- \*

**2.** His address for the service of all notices and processes is:-

**3.** The wages of the said person(s) due in respect  
have not been paid

of the following wage period(s)-----  
have been subjected to the following  
illegal deduction:-

**4.** The applicant estimates the value of the relief sought for the person(s) employed at the sum of Rs. ....

**5.** The applicant prays that a direction may be issued under sub-section (3) of Section 15 for:-

(a) Payment of the delayed wages as estimated or such greater or lesser amount as the authority may find to be due.

Or refund of the amount illegally deducted.

(b) Compensation amounting .....

The applicants certify that the statement of facts contained in this application is the best of his knowledge and belief is accurate.

**FORM D**

**Certificate of authorisation**

I \_\_\_\_\_ employed persons(s) hereby authorise \_\_\_\_\_  
a legal practitioner

We

Or .....an official of .....  
..... which is a registered trade union to act on my/our behalf under Section 15 and Section 17 of the Payment of Wages Act, 1936 (4 of 1936) in respect of the claim against .....  
..... on account of the delay in payment of my Wages for.....  
illegal deductions from our

Witnesses

- (1)
- (2)
- (3)
- (4)
- \*
- \*
- \*

Signatures

- (1)
- (2)
- (3)
- (4)
- \*
- \*
- \*

I accept the authorisation.

Signature

Legal practitioner

-----  
Official of a registered trade union

**FORM E**

**Notice for the disposal of application**

To,

Whereas under the Payment of Wages Act, 1936 (4 of 1936), a claim against you have been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person or by any person duly instructed, and able to answer all material questions relating to the application or who shall be accompanied by some person able to answer all

such questions on the .....  
 day of ..... 19 ..... at ..... O'clock  
 in the forenoon/afternoon at ..... (Place) .....  
 ..... answer the claim and as the day fixed  
 for your appearance is appointed for the final disposal of the  
 application you must be prepared to produce on that day all the  
 witnesses upon whose evidence, and the documents upon which  
 you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day  
 mentioned above the application will be heard and determined in  
 your absence.

Give under my hand seal, this day of ..... 19..

Seal

Authority

#### FORM F

##### Record of Order of Direction

1. Serial No. ....
2. Date of application .....
3. Name or names, parentage, address, or addresses of applicant  
or some or all of the applicants belonging to the same unpaid  
group.....
4. Name and address of the employer .....
5. Amount claimed:-  
  - (a) as delayed wages :Rs. ....
  - (b) as deducted from wages : Rs. ....
6. Plea of employer and his examination (if any) .....
7. Finding, and a brief statement of the reasons therefor .....
8. Amounts awarded :-  
  - (a) Delayed wages Rs. ....
  - (d) Deducted wages Rs .....
9. Compensation awarded .....
10. Penalty imposed .....
11. Cost awarded :-  
  - (i) Court fee charges .....
  - (ii) Pleader's fee .....
  - (iii) Witnesses expenses .....

12. Date by which the amounts awarded shall be paid .....

Signed .....

Dated .....

**Note :** In cases where an appeal lies attach on a separate sheet  
 the substance of the evidence.

#### FORM G

Notice to respondent of the day fixed for the hearing of the  
 appeal under Section 17 of the Payment of Wages Act, 1936.

Appeal from the decision of the authority for the .....  
 area, dated the ..... day of ..... 19..

To,

Respondent.

Take notice that an appeal of which a copy is enclosed, from  
 the decision of the authority for ..... area has  
 been presented by X.Y.Z. (and others) and registered in the Court  
 and that the ..... day of ..... 19.., has been  
 fixed by this Court for the hearing of this appeal.

If not appearance is made on your behalf yourself or by some  
 legal practitioner authorised to act for you in this appeal, it will  
 be heard and decided in your absence.

Give under my hand and the seal of the Court this day of  
 .....19.. .

Seal of the Court

Judge.