

BOMBAY SHOPS AND ESTABLISHMENTS RULES, 1962

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BOMBAY SHOPS AND ESTABLISHMENTS RULES, 1962

In exercise of the powers conferred by section 67 of the Bombay Shops and Establishments Act, 1948. (Bom. LXXIX of 1948) and in supersession of the Bombay Shops and Establishment Rules, 1949 and the Saurashtra Shops and Establishment Rules, 1955, the

Government of Gujarat hereby makes the following rules to carry out the purposes of the Act namely ;

1. Short title :-

These rules may be called the Gujarat Shops and Establishments Rules, 1962.

2. Definitions :-

In these rules unless the context otherwise requires:

(a) "The Act" means the Bombay Shops and Establishments Act, 1948.

(b) "Form" means a form appended to these rule;

(c) "Government" means the Government of Gujarat.

(d) "Schedule" means a schedule appended to these Rules.

(e) "Section" means a section of the Act;

(f) Words and expressions used in the Act and not defined in these rules shall have the meaning assigned to them in the Act.

3. Appointment of prescribed authority :-

In respect of the local area specified in the first column of the appexed table the authority specified against it in the second column of the said table shall be the prescribed authority, namely :

4. Suspension of provisions of the Act :-

Government may suspend the operation of the provisions of the Act under section 6 at the time of the following holidays and occasions namely :

Christmas holidays.

Diwali holidays.

Pateti holidays.

Jamshedi Navroz.

Ramzan and Ramzan Id.

Ganesh Chaturthi.

5. Form of Statement, fees and other particulars under section 7(1) :-

The statement to be sent by an employee to the Inspector under sub-section

(1) of the section 7 shall be in the Form A and shall be accompanied by a fee specified in Schedule I.

6. Manner of registering establishment and the form of registration certificate :-

An establishment shall be registered by making entries in the appropriate Part of the register of establishments in Form B A registration certificate to be issued to an employer shall be in Form C.

7. Form of Statement, fees and other particular under section 7(6) :-

An application for renewal of a registration certificate under sub-section (6) of section 7 shall be in Form D and shall be accompanied by a fee specified in Schedule II.

8. Form of renewal of registration certificate :-

A registration certificate shall be renewed by the inspector by making entries under his seal and signature with date in the appropriate Part of the register of establishments in Form B as well as in the original registration certificate which shall be produced by the holder thereof for that purpose.

9. Grant of "duplicate" of registration or renewal of certificate :-

If a registration certificate issued under rule 6 or renewal under rule 8 is lost, destroyed or defaced the employer of the establishment shall forthwith report the matter to the Inspector by whom the certificate was issued and shall apply alongwith a fee of ¹ [rupees five] for the issue of a duplicate registration certificate or renewal registration certificate as the case may be. Upon the receipt of such application and the fee, the Inspector shall furnish the employer a duplicate copy of the registration certificate or renewal registration certificate, duly stamped "duplicate" in red.

1. Substituted by Noti. dated 7-12-1989; G.G. Gaz. Exty., Pt. IV-B, dt. 7-12-1989, P. 250.

10. Form of notifying a change and fee :-

The employer of any establishment shall notify to the Inspector of the local area concerned in Form E any change in any of the particulars contained in the Statement sent by him under rule 5 or 7 within thirty days after the change has taken place:

Provided that any change as respect the total number of employees shall be notified within fifteen days after the expiry of the quarter to whom the change relates.

The notice in Form E shall be accompanied by fee specified in Schedule II.

Explanation. For the purposes of this rule quarter means a quarter ending 31st March 30th June, 30th September and 31st December of any year.

11. Fixing six days in a year for additional overtime :-

(1) An employer may be required or allowed to work in a shop or commercial establishment under sub-section (3) of section 4 in excess of the period fixed under sub-section (1) of the said section on any of the following days in a year for purpose of the making of accounts, stock taking or settlements, provided such excess period does not exceed twenty four hours, namely: The 31st day of March. The 30th day of June. The three days preceding the Diwali New year day. The 31st day of December:

Provided that, in lieu of any day or days mentioned above the employer may substitute any other day or days, as the case may be, which shall be intimated to the Inspector at the beginning of the year.

(2) On any of the days mentioned in sub-rule (1) the operation of the provisions relating to closing hours in sections 11 and 13 shall be deemed to be suspended.

12. Notice to be given to Inspector when additional overtime is to be worked :-

Notice of the intention to require employees in a shop or commercial establishment to work under sub-section (3) of section 14 in excess of the period fixed under sub-section (1) of the said section on any day mentioned in rule shall be given by the employer either in Gujarati, Hindi or English to the Inspector within whose jurisdiction such establishments is situated at least 24 hours before such day:

Provided that if the employer for reasons beyond his control is unable to give the requisite notice at least 24 hours before such day, he shall give the notice on such day.

13. Form of Manner of Publication of order under section 18

(IB) :-

An order fixing the day on which shops and commercial establishments are to be closed under sub-section (IB) of section 18 shall be published by Government in the Official Gazette and by the local authority in any newspaper circulating in the area within its jurisdiction in English, Hindi or Gujarati. A copy of the order so published shall be caused to be exhibited on the notice board in the office of the Inspector.

14. Form of register or entering refusal of leave :-

The register for entering refusal of leave to be kept under sub-section (3) of section 35 shall be in Form F and shall be kept in five parts as follows, namely:

Part I Shops. Part II Commercial Establishments. Part III Residential Hotels. Part IV Restaurants and Eating Houses. Part V Theatres and other place of Public Amusement or Entertainment.

15. Fixing times and methods for cleaning the establishments :-

In every establishment all the inside walls of the rooms and all the ceiling and tops of such rooms (whether such walls, ceiling and tops to be plastered or not) and all the passages and staircases shall be lime-washed or colour-washed at least once in every two years continued from the date when they were last lime-washed or colour washed. Where the walls ceiling or tops are rendered in the opinion of the local authority particularly, unclean, the local authority may require them to be lime-washed or colour washed earlier than the period specified above. All the beams, rafters, doors, windows, frames and other wood work with the exception of floor shall be either painted or varnished once in every seven years continued from the date when they were painted or varnished and shall be kept in a clean state. The dates on which lime-washing, painting or varnishing is carried out shall be duly entered in a register maintained in Form G which shall be shown to the Inspector when required.

Provided that the provisions of this rule shall not apply to:

(i) rooms used only for the storage of articles;

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

(iii) any other establishment or parts thereof in which lime-washing or painting is in the opinion of the local authority or Government as the case may be, unnecessary to satisfy the requirement of section 39 about cleanliness.

16. Rubbish not to be allowed or accumulate :-

No rubbish, filth or debris shall be allowed to accumulate or to remain on any premises in an establishment in such position that effluvia therefrom can arise within the establishment.

17. Precautions against fire :-

No person shall smoke or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any establishment.

18. First Aid appliances :-

A first aid box maintained under section 42-A shall contain the following equipment together with a book of instructions in first aid, namely;

(i) 3 small sterilised dressings; (ii) 2 medium size sterilised dressings; (iii) 2 large size sterilised dressings; (iv) 2 large size sterilised burn dressings; (v) 2 (1/2 oz. or grams) packets sterilised cotton wool; (vi) 1 pair of dressing scissors; (vii) 1 (1 oz. or 25 grams) bottle containing solution of iodine or mercury chrome; (viii) 1 (1 oz. or 25 grams) bottle containing solution of salvolation having dose and mode of administration indicated on the label; (ix) 1 (1 oz. or 25 grams) bottle containing potassium permanganate crystals. (x) any antidote for burns.

19. Supervisions of Government over local authority :-

Government may exercise its supervision over the local authority through the Commissioner of Labour, Ahmedabad and such of the officers under his as may be authorised by him in that behalf and give such directions to the local authority as may appear to it to be necessary for the proper enforcement of the Act.

20. Qualifications of Inspectors :-

(1) No person shall be appointed to be an Inspector under the Act unless he is a graduate of a recognised University and is able to speak, read and write the Gujarati language :

Provided that in special circumstances a person who is not a graduate may be appointed to be an Inspector under the Act with the previous sanction of Government.

(2) No person shall be appointed to be an Inspector under the Act, or having been so appointed, shall continue, to hold office, if he has or acquires directly or indirectly by himself or by any partner, any share or interest in any establishment to which the Act, applies in the area which he is to be or has been appointed:

Provided that nothing in this sub-rule shall apply (i) to any person who has been permitted by the authority competent to appoint him as Inspector to hold or acquire directly or indirectly by himself or in the name of any member of his family living with him or dependent on him, any share, or interest in any registered co-operative society or in any public limited company, or (ii) to any person who acquires by inheritance any share or interest in any firm or business but who is not a working partner therein.

21. Duties of Inspectors :-

The Inspector shall make such examination of premises and prescribed registers, records and notices, as may appear to him to

be necessary for the purpose of satisfying himself that the provisions of the Act and of these rules and any orders passed by Government or the local authority under the Act are duly observed. In particular, he shall satisfy himself

(i) that the establishments are duly registered under the Act;

(ii) that the registers, records and notices required to be maintained or displayed under the Act or these rules are properly maintained or displayed;

(iii) that the intervals of rest and holidays required to be granted or observed under the Act are granted or observed and that the limit of hours of work and spread over laid down by or under the Act are not exceeded;

(iv) that the provisions of the Act and any order issued by Government or the local authority regarding the opening and closing hours are duly observed;

(v) that the identity cards for employees in residential hostels, restaurants and eating houses are properly provided;

(vi) that the provisions of the Act and these rules regarding leave are properly observed;

(vii) that the provisions of the Act and these rules relating to cleanliness, lighting and precautions against fire are properly observed;

(viii) that the provisions of the Act relating to the payment of over time work are duly observed; and

(ix) that no child is allowed to work in any establishment.

22. Submission of diary by Inspector :-

The Inspector shall keep a file of the records of the inspections arranged in monthly bundles and shall submit to the officer or local authority to whom he is subordinate on the 15th day of each month, a diary in Form H, showing the work done in the preceding month. A copy of the said diary shall be retained by the Inspector.

23. Maintenance of registers and records and display of notice :-

(1) Every employer of a shop or commercial establishment shall maintain a register of employment in Form I, provided that where the opening and closing hours are ordinary uniform the employer may maintain such register in Form J. Every employer of a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment shall maintain a register of employment in Form K, provided that where the opening and closing hours are ordinarily uniform the employer may maintain such register in form L.

(2) Every employee of a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment shall exhibit in his establishment a notice in form M, specifying the day or days of the week on which his employees shall be given a holiday. The notice shall be exhibited before the employees to whom it relates cease work on the Saturday immediately proceeding the first week during which it is to have effect.

(3) The provisions of sub-rule (2) shall apply mutatis mutandis to employer or manager of an establishment which is entitled to exemptions specified in the Note 1 to Schedule II to the Act, subject to the conditions the employees concerned are given on the day in a week as a holdiday and no deduction are made from their wages on account thereof.

¹ [(3-A) Every employer shall maintain an extract from the register of births relating to the birth of any young person who is required or allowed to work, whether as an employee or otherwise, in the

establishment or it is not reasonably practicable to maintain such extract, the certificate in Form-P, issued by a qualified medical practitioner in respect of such a person shall be obtained by the employer".

Explanation. For the purposes of this rule and rule 24(1) "register of births" shall have the same meaning as in the Registration of Births and Deaths Act, 1969.

(2) "qualified medical practitioner" shall have the same meaning as in the Factories Act, 1948.]

(4) Every employer shall maintain a register of leave in Form N.

(5) The employer shall provide each employee with a book called Leave Book in Form O, shall be kept up-to-date by making entries therein from time to time. The book shall be the property of the employee and the employer or his manager or other agent shall not demand it except make entries therein and shall not keep it for more than a week at a time, provided that with the consent in writing of an employee whose wages are not less than Rs. 300 per month, the "Leave Book" may be kept in the custody of the employer.

(6) If any employee loses his "Leave Book" the employer shall provide him with another copy on payment of six naye paise complete it from his record.

(7) Every employer shall exhibit in his establishment a notice containing such extracts of the Act and these rules in Gujarati, Hindi or English, as the local authority or Government may direct.

(8) Any notice required to be exhibited under these rules shall be exhibited in such manner that it can be readily seen and read by any person whom it affects and shall be replaced whenever it becomes defaced or otherwise ceases to be clearly legible.

(9) In any register or record which an employer is required to maintain under these rules, the entries relating to any day shall be authenticated under the signature of the employer or the Manager, provided that the entries relating to overtime work shall be made immediately after completion of such overtime work.

(10) The registers, record and notices relating to any year shall be preserved until the end of the next year.

(11) If on an application made by an employer in writing, the local authority or Government as the case may be, is satisfied that any muster roll, register or record maintained by such employer gives in respect of all or any of the employees in his establishment the particulars required to be shown in any register, record or notice prescribed under this rule the local Government as the case may be, order in writing direct that such muster, register or record shall to the corresponding extent be maintained in place of such register, record or notice prescribed under this rule is the case may be.

(12) Save as provided in sub-rule (7), all registers, records, muster rolls and notice required to be maintained, exhibited or given under this rule shall be either in English or in Gujarati language.

(13) (a) Every employer shall maintain a visit book in which an Inspector visiting the establishment may, record his remarks regarding any defects that may come to light at the time of his visit or give directions regarding the production of any documents required to be maintained or produced under the provisions of the Act and the rules,

(b) The visit book shall be a bound book of size 7"x6" or 15 cms. x 18 cms containing atleast 100 pages, every second pages, every second page thereof shall be consecutively numbered and the unnumbered page between each two consecutively numbered pages shall have a vertical perforated straight line on the marginal side at a margin of 1". Every numbered page shall contain the following heading at the top namely (1) Name of the establishment

or employer (2) locality, (3) registration number of the establishment, (4) date, and (5) Time.

(c) In case the visit book containing the remarks passed by an Inspector is lost the employer shall forthwith report in writing the lost of the visit book to the Inspector of the area and immediately maintain a new visit book.

(14) When an office, store-room, godown, warehouse or work place used in connection with the trade and business of a shop is situated at premises other than the premises of the shop, all registers, records, muster rolls, visit books and notices required to be maintained, exhibited, or given under the Act and these rules shall be separately so maintained exhibited or given in respect of and at such office, store-room, godown, warehouse of work place.

1. Inserted by Noti. No. GHU-89-190-BSE-1088-1051-M (3), dated 14th June, 1989; Pub. in G.G. Gaz. Exty., Pt. IV-B, dt. 14-6-1989, P. 122.

24. Evidence of age :-

An Inspector may require the employer or manager of any establishment to produce an extract from the register of births relating to the birth of any person, not being a young person, who is required or allowed to work in the establishment within such reasonable period (being not less than five days) or, if it is not reasonably practicable to obtain such an extract, a certificate in Form-P issued by a qualified medical practitioner in respect of such person.]

SCHEDULE 1

The fee to be paid along with the Statement it

SCHEDULE— I		
The fee to be paid along with the Statement it. Form "A"		
Sr. No	Category of Establishment	Registration Fees Rs. P.
1	2	3
1.	Commercial Establishment employing ten or more employees.	60.00

2.	Commercial Establishment employing less than ten employees.	60.00
3.	Shops employing ten or more employees.	60.00
4.	Shops employing less than ten employees.	40.00
5.	Residential Hotels	60.00
6.	Restaurants and Eating Houses	60.00
7.	Theatres and other places of public amusement or entertainment.	60.00
8.	Establishment engaging no employee.	20.00

SCHEDULE 2

The fee to be paid along with the Statement in Form "D"

SCHEDULE II		
The fee to be paid along with the Statement in Form "D"		
SR.	Category of Establishment	Renewal Fees
No.		Rs. P.
1.	Commercial Establishment employing ten or more employees.	30.00
2.	Commercial Establishment employing less than ten employees.	20.00
3.	Shops employing ten or more employees.	30.00
4.	Shops employing less than ten employees.	20.00
5.	Residential Hotels.	30.00
6.	Restaurants and Eating Houses.	30.00
7.	Theatres and other places of Public amusement or entertainment.	30.00
9.	Establishments engaging no employee.	20.00

SCHEDULE 3

The fee to be paid alongwith the Statement in Form "E"

SCHEDULE III		
The fee to be paid alongwith the Statement in Form "E"		
Sr.	Category of Establishment	Fees for notice of
No		Change
		Rs. P.
1.	Commercial Establishment.	2.00
2.	Shops employing five or more employees	2.00
3.	Shops employing less than five employees.	2.00
4.	Residential Hotels.	2.00
5.	Restaurants and Eating Houses.	2.00
6.	Theatres and other places of public amusement or entertainment.	2.00]

