

THE TAMIL NADU INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) RULES, 1959

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In exercise of the powers conferred by sub-sections (1) and (2) of section 12 of the Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1958 (Tamil Nadu Act XXXIII of 1958), the Governor of Madras hereby makes the following rules:

1. Short title and extent

- (1) These rules may be called the ¹[Tamil Nadu] Industrial Establishments (National and Festival Holidays) Rules, 1959.
- (2) They extend to the whole of the State of Madras including the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959).

2. Definitions

In these rules, unless the context otherwise requires

- "Act" means the Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1958 (Tamil Nadu Act XXXIII of 1958)
- "Form" means a form appended to these rules ;
- "Section" means a section of the Act.

3. Specification of festivals by Inspector

- (1) Every employer shall, within thirty days from the date on which the Act comes into

force, in the case of an industrial establishment existing on such date and within thirty days from the date of commencement of work in the case any of new industrial establishment, send in duplicate together with a copy of the notice mentioned in sub-rule (2) to the Inspector having jurisdiction over the area in which the industrial establishment is situated, his proposal for the specification of festivals in Form No. I:

Provided that in case of any industrial establishment, the Inspector may, if he thinks fit, extend the period within which the proposal for the specification of the festivals should be sent.

- (2) The employer shall, on the day on which he sends to the Inspector the proposal mentioned in sub-rule (1), display in the premises of the industrial establishment in such manner as can be readily seen and read by the employees a notice in Form No. II specifying the period within which objections or suggestions of the employees referred to in sub-rule (3) shall be sent to the Inspector :

Provided that the employer may consult the employees before formulating his proposal mentioned in sub-rule (1).

- (3) Objections or suggestions, if any, to the proposal of the employer shall be sent to the Inspector having jurisdiction over the area in which the industrial establishment is situated by the employees or by the trade unions representing the employees within a period of 15 days from the date on which the notice mentioned in sub-rule (2) is displayed in the premises of the industrial establishment.
- (4) The Inspector shall, after considering the proposal of the employer and the objections and suggestions, if any, of the employees received within the period specified in sub-rule (3), specify the five festivals for which holidays are to be allowed under section 3.
- (5) The festivals specified by the Inspector under sub-rule (4) shall be communicated to the employer in Form No. III. The employer shall, within seven days of receipt of the Communication, exhibit in his industrial establishment a copy thereof in such manner as can be readily seen and read by the employees.

4. Change of the festivals specified

- (1) The employer or a majority of the employees or any trade union representing a substantial number of employees in any industrial establishment in respect of which festivals have been specified under section 3, may, at any time, apply to the Inspector for a change in all or any of the festivals as specified
- (2) The application for changing the specified festivals shall be sent to the Inspector having jurisdiction over the area in which the industrial establishment is situated in Form No. IV in duplicate.
- (3) The provisions of rule 3 shall, mutatis mutandis apply to the change of festivals

under this rule.

- (4) The change made by the Inspector in the specified festivals under this rule shall be communicated to the employer in Form No: III in duplicate. The employer shall, within seven days of receipt of the communication, exhibit in his industrial establishment a copy thereof in such manner as can be readily seen and read by the employees. The festivals so changed by the Inspector shall take effect from the 1st day of the calendar year immediately following the year in which such change is effected.

5. Statement to be sent to the Inspector and displayed in the Industrial establishment under section 4

- (1) Statement to be sent to the Inspector by the employer under section 4 shall be in Form No. V and shall be sent by registered post so as to reach the Inspector before the commencement of each calendar year in which the holidays are to be allowed.
- (2) Every employer shall exhibit simultaneously in his industrial establishment a copy of the statement referred to in sub-rule (1) in such manner as can be readily seen and read by the employees of that industrial establishment and shall maintain it in a legible condition.

6. Calculation of daily average wage for the purpose of clause (i) of sub-section (3) of section 5

For the purpose of clause (i) of sub-section (3) of section 5, the daily average of the wages of an employee mentioned in that sub-section shall be calculated by dividing by twelve the total wages earned by him during any period of twelve days²[***] immediately preceding the holiday concerned, such twelve days being days on which he had actually worked.

6A. Manner of service of notice under sub-clause (i) of clause (a) of sub-section (2) of section 5

- (1) The notice under sub-clause (i) of clause (a) of sub-section (2) of section 5 shall be in Form V-A and the notice shall be served:
 - (i) by giving or tendering the said notice to the employee ; or
 - (ii) if the employee is not found, by leaving such notice at his last known place of abode, or by giving or tendering the same to some adult member of his family.
- (2) The signature of the person to whom the notice is given or tendered together with the date on which and the hour at which it was so given or tendered shall be obtained on a duplicate copy of the notice.

7. Maintenance of registers and records

- (1) ³[Every employer shall maintain a register in Form No. VI with up-to-date entries, by making the entry relating to any day on that day itself:

⁴[***]

Provided that no separate register need be maintained if the Inspector having jurisdiction over the area in which the Industrial establishment is situated is satisfied that the particulars required to be kept in Form No. VI are contained in any other register maintained by the employer.

(2) Every employer shall maintain a visit book in which the Inspector visiting the industrial establishment may record his remarks regarding any defects that may come to light at the time of his inspection ⁵[***]:

Provided that no separate visit book need be maintained where the employer maintains such a book with reference to the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947), the Factories Act, 1948 (Central Act LXIII of 1948), or the Plantations Labour Act, 1951 (Central Act LXIX of 1951).

(3) The register and notice required to be maintained and exhibited under these rules shall be in English or in Tamil.

(4) The records relating to a calendar year shall be preserved till the end of the subsequent calendar year.

8. Penalty

A contravention of sub-rule (1), (2) or (5) of rule 3, sub-rule (4) of rule 4 or rules 5, 6, 6A or 7 by the employer shall be punishable with fine which may extend to fifty rupees.

¹Subs. for "Madras" by S.R.O. No. A/676 of 1970, dated the 6th April, 1970.

²The words "within a period of ninety days" omitted by G.O. Ms. No. Si, dated the 9th January, 1986.³Subs. by G.O. Ms. No.12, Labour and Employment, dated the 3rd January, 1981.⁴Certain words omitted by G.O. Ms. No. 88, Labour and Employment, dated the 18th January, 1990.

⁵Certain words omitted by G.O. Ms. No. 88, Labour and Employment, dated the 18th January, 1990.