

THE TAMIL NADU SHOPS AND ESTABLISHMENTS RULES, 1948

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THE TAMIL NADU SHOPS AND ESTABLISHMENTS RULES, 1948

(G. O. Ms. No. 5484, Development, 5th November, 1948, as subsequently amended.) In

exercise of the powers conferred by sub-section (1) of section 49 of the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947), His Excellency the Governor of Madras hereby makes the following rules, the same having been previously published as required by sub-section (3) of that section:

1. Short title and extent

- (1) These rules may be called the Tamil Nadu Shops and Establishments Rules, 1948.
- (2) They extend to the whole of the State of Tamil Nadu including the Kanyakumari district and the Shencottah taluk of the Tirunelveli district and 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 there is anything repugnant in the subject or context, (a) "the Act" means the Tamil Nadu Shops and Establishments Act, 1947; (b) "Form" means a Form appended to these rules; (c) "Government" means the Government of Tamil Nadu; (d) "Section" means a section of the Act; (e) Words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

3. Inquiry by Government before passing orders fixing opening and closing hours of shops

- (1) The Government shall make the inquiry under sub-section (2) of section 7 in the manner specified in sub-rules (2) to (4).
- (2) Before passing an order under sub-section (1) of section 7, the Government shall give notice of their intention to pass such order. The notice shall be in Form A and shall, unless a copy of the order proposed to be passed is annexed to it, specify the area and the shop or shops or class or classes of shops to which the order shall apply, the hours of opening or the hours of closing or both which are proposed to be fixed and the days in respect of which such hours are so proposed to be fixed. The notice shall also state that objections and suggestions with respect to such orders, if any, may be sent to the officer mentioned in the notice within one month from the date of publication of such notice in the Tamil Nadu Government Gazette.
- (3) The notice shall be published in the Tamil Nadu Government Gazette.

(4) The Government shall consider all objections and suggestions received under sub-rule (2) before passing any order under sub-section (1) of section 7. **4. Inquiry by Government before passing orders fixing opening and closing hours of establishments other than shops**

The provisions of rule 3 shall mutatis mutandis apply to an inquiry to be made by the

Government-under sub-section (2) of section 13.

5. Cleanliness

(1)

- (a) In every establishment all the inside walls of the rooms and all the ceilings of such rooms (whether such walls or ceilings be plastered or not) and all the passages and staircases shall be lime-washed or colour-washed at intervals of not more than twelve months dating from the time when they were last lime-washed or colour-washed and shall be maintained in a clean state.
- (b) All beams, rafters, doors, window-frames and other wood-work with the exception of floors shall be either lime-washed or colour-washed at intervals of not more than twelve months dating from the time when they were last lime-washed or colour-washed or shall be painted or varnished at intervals of not more than seven years dating from the time when they were last painted or varnished and shall be maintained in a clean state.
- (c) This sub-rule shall not apply to the following:
 - (i) rooms used only for the storage of articles;
 - (ii) walls or ceilings of rooms which are made of galvanised iron, flat tiles, asbestos sheets, glazed bricks, glass, slate, bamboo thatch, cement plaster or polished chunam;
 - (iii) ceilings of rooms in which the lowest part is at least 6 metres from the floor;
 - (iv) any other establishment or part thereof in which lime-washing, colour washing, painting or varnishing is, in the opinion of the Commissioner of Labour, unnecessary to satisfy the requirements of section 20 in regard to cleanliness.
- (2) Rubbish, filth or debris shall not be allowed to accumulate or to remain on any part of the establishment for more than 24 hours and shall be disposed of in the manner approved by the Inspector. All filth and other decomposing matter shall be kept in covered receptacles.
- (3) All drains carrying waste or sullage water or sewage shall be constructed of masonry or other impermeable material and shall be regularly flushed at least twice daily and where possible, connected with some recognised drainage line.
- (4) The establishment and the compound surrounding it shall be maintained in a strictly sanitary and clean condition. The floors shall be swept or otherwise cleaned at least once daily, and the ceilings shall be dusted at least once a month.
- (5) The employer shall enforce the proper use of latrines and urinals and prevent pollution by excreta or urine of the surface of the ground in the vicinity of the latrine or urinal and in the compound of the establishment. The employer shall make suitable arrangements for the regular cleaning and conserving of the latrines and urinals to the satisfaction of the Inspector.

(6) The area around the place where drinking water is distributed to the workers shall be kept clean and properly drained.

6. Ventilation

In every room of an establishment ventilating opening shall be provided in the proportion of 0.5 square metre for each worker employed in such room and the opening shall be such as to admit of a continued supply of fresh air:

Provided that subject to the control of the Commissioner of Labour, the Inspector may, for reasons to be recorded in Writing, relax the conditions of this rule where, in his opinion, this may be done with due regard to the health of the workers employed in any room.

7. Precautions against fire

The employer of every establishment shall adopt such precautions against danger by fire to the life of persons employed therein as are considered adequate by the Inspector.

8. Appeals from orders passed under Chapter V of the Act

The Commissioner of Labour shall be the appellate authority for the purpose of hearing appeals from orders passed by the Inspector under Chapter V of the Act and any such appeal shall be preferred by the employer on whom the order of the Inspector under that Chapter have been served within thirty days from the date of the service of the order.

9. ¹[Appeals under section 41 (1)]

(1) The Deputy Commissioners of Labour in their respective areas assigned to them by the Commissioner of Labour shall be the authorities for the purposes of hearing appeals under sub-section (2) of section 41 of the said Act:

Provided that the Commissioner of Labour may, by order in writing, on the representation made by either of the parties in this behalf or on his own accord, withdraw any case under this Act, pending before an authority and transfer the same to another authority for disposal. Such authority to whom the case is so transferred may, subject to the special direction in the order of transfer proceed either de-novo or from the stage at which it was so transferred.

(2) Any appeal under sub-section (2) of section 41 shall be preferred by the person employed within thirty days from the date of service of the order terminating the service with the employer, such service to be deemed effective if carried out either personally or if that be not practicable, by prepaid registered post to the last known address when the date of such service shall be deemed to be the date when the letter would arrive in ordinary course of post.

²[Provided that an appeal may be admitted after the said period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.]

(3) The procedure to be followed by the appellate authority (Deputy Commissioner of

Labour), when hearing appeals preferred to him under sub-section (2) of section 41 shall be summary. He shall record briefly the evidence adduced before him and then pass orders giving his reasons therefor. The result of the appeal shall be communicated to the parties as soon as possible. Copies of the orders shall also be furnished to the parties, if required by them.]

³[9-A . Re-hearing of appeals

- (1) In any appeal preferred under the Act, if the employer or his representative fails to appear on the specified date, the appellate authority may proceed to hear and determine the appeal ex-parte.
- (2) In any appeal preferred under the Act, if the appellant fails to appear on the specified date, the appellate authority may dismiss the appeal.
- (3) Notwithstanding anything contained in sub-rules (1) and (2), an order passed under either of those sub-rules may be set aside and the appeal reheard 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 such rehearing.]

10. Manner of calculating ordinary rate of wages

For the purpose of the Explanation to section 31, ordinary rate of wages per hour shall be calculated by dividing the total wages payable to a person employed for the hours actually worked by him during the wage-period by the number of such hours in the wage-period.

Provided that hours worked by a person employed in excess of the normal daily hours during the wage-period shall be excluded in calculating the number of hours actually worked by him.

11. Fines

(1)

- (a) ⁴[The Commissioner of Labour and the Deputy Commissioners of Labour I and II, Madras, Salem, Coimbatore, Madurai, Tiruchirappalli and Tirunelveli] shall be the authority competent to approve, under sub section (1) of section 35, acts and omissions in respect of which fines may be imposed and under sub-section (8) of section 35, the purposes to which the fines realised shall be applied.
- (b) Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Commissioner of Labour or to the Deputy Commissioner of Labour having jurisdiction over the area-
 - (i) a list in English, in duplicate, clearly defining such acts and omissions;
 - (ii) in cases where the employer himself does not intend to be the sole person employed to impose fines, a list in duplicate, showing those appointments in his establishment the incumbents of which may

pass orders imposing fines and the class of establishments on which the incumbent of each such appointment may impose fines; and

(iii) a list showing the purpose to which the fines realised shall be applied.

(c) The Commissioner of Labour or the Deputy Commissioner of Labour having jurisdiction over the area may, on receipt of the list prescribed in sub-clause (i) or sub-clause (iii) of clause (b) after such enquiry as he considers necessary, pass order either

(i) disapproving the list, or

(ii) approving the list either in its original form or as amended by him in which case such list shall be considered to be an approved list

Provided that an 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 against such order.

(d) The employer shall display at or near the main entrance of the establishment a copy in English, together with a correct translation thereof, in the language of the majority of the persons employed therein of the list approved under clause (c).

(e) No fine shall be imposed by any person other than an employer or a person holding an appointment named in a list submitted under clause (b).

(2)

(a) Any person desiring to impose a fine on a person employed or to make a deduction from his wages 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 proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation. The charge in respect of which it is proposed to impose the fine or deduction and the explanation of the person concerned shall be reduced to writing, the signature of such person being obtained to the latter.

(b) Every person other than the employer imposing a fine or directing the making of a deduction for damage or loss shall at once inform the employer of all particulars so that the register prescribed in ⁵[* * *] sub rule (4) may be duly completed.

(3)

(a) The employer of any establishment in respect of which he has obtained approval under sub-section (1) of section 35 to a list of acts and omissions in respect of which fines may be imposed, shall maintain a Register ⁶[prescribed under sub-rule (4)]

⁷[Provided that the signature or thumb-impression of the person employed shall be

obtained in ⁸the Register prescribed under sub-rule (4)] immediately on the next working day following the last day of the month concerned.]

(b) At the beginning of the '[Register prescribed under sub-rule OA, the approved purpose or purposes on which the fines realised are to be expended shall be entered and serially numbered.

(c) When any disbursements are made from the fines realised, deduct entry of the amount so expended shall be made in the ⁹[Register prescribed under sub-rule (4)]. The vouchers or receipts in respect of the amounts so expended shall be serially numbered and kept separately, the serial number of each voucher or receipt and the amount to which it relates being noted in the remarks column of the register. If more than one purpose has been approved, the entry of the disbursements shall also indicate the purpose for which it is made.

(4) ¹⁰[****]

(5) ¹¹[****]

(6) ¹²[Wages Slip in Form T shall be issued by every employer, to every person employed, every month, a day prior to the disbursement of wages or at least on the date of disbursement or if the wages are paid daily, along with the wages, duly signed by him or any other authorised person and also the signature of the concerned person employed shall be obtained. The copies of wage slip issued shall be maintained by the employer and produced to the inspector on demand.]

12. 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.

(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 term of the contract of employment requiring the employee to give notice of the termination of such employment and the period of notice does not exceed either,

(i) fifteen days or the wage-period, whichever is less, or

(ii) 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 near the main entrance of the establishment 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 the main entrance of the establishment giving the names of the persons from whose wages 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 establishment, it shall be sufficient in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections affected.

(3) No deduction for the breach of contract shall exceed the wages of the person employed, for the period by which the notice of termination of service given 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 deductions for breach of contract shall be made from the wages of any person who has complied with those conditions.

13. Advances

(1) An advance of wages not already earned shall not, without the previous permission of the Inspector of Labour having jurisdiction, 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 subsequent calendar month.

(2) Any advance may be recovered in instalments by deductions from wages, spread over not more than twelve months :

Provided that this sub-rule shall not apply to the case of an advance made before the commencement of the Act and particulars relating to which are communicated before the expiry of one month from the date of publication of these rules in the Tamil Nadu Government Gazette, to the Inspector of Factories having jurisdiction over the establishment.

(3) No instalment by which an advance is repaid shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth of the wages for any age-period in respect of which the deduction is made.

(4) The amounts of all advances, whether made before the commencement of the Act or sanctioned after such commencement and all repayments of such advances, shall be entered in a register in ^{13,14}[Form P prescribed under sub-rule (4) of rule 11]

¹⁵[Provided that the signature or thumb-impression of the person employed shall be obtained in ^{16,17}[the Register in Form P] immediately on the next working day following the last day of the month concerned.]

14. Provision regarding Inspectors

No person shall be appointed to be an Inspector under the Act, or, having been so

appointed shall continue to hold office, who is or becomes directly or indirectly interested in any establishment to which the Act applies, in the area for which he is to be or has been appointed.

15. ¹⁸Name board of the establishments

(1) The name board of every establishment shall be in Tamil and wherever other languages are also used, the version in English shall be in the second place followed by the versions in other languages, if any.

(2) The Tamil version shall be written predominantly in the name board by providing more space than for other languages.

(3) The Tamil letters in the name board shall be in the reformed script. Explanation. —

The "reformed script" means the script in the form as given in the

Annexure to the G.O. Ms. No. 1875, Education, dated the 19th October 1978 as amended by Government Memo No. 4704/79120, Education, dated the 23rd May, 1979.]

¹⁹15A. Manner of examination of premises, etc., by the Inspector

(1) An Inspector making an examination under section 43 shall make such examination of the premises and of the prescribed registers, records and notices as may appear to him necessary for the purpose of satisfying himself that the provisions of the Act or these rules and any orders passed by the Government under the Act are being properly observed. In particular, he shall satisfy himself

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

(ii) that the intervals for rest and the holidays required to be granted under the Act are granted and that the limits of hours of work and spread over laid down under the Act are not exceeded ;

(iii) that the provisions of the Act relating to the payment for overtime work are duly observed

(iv) that no child is allowed to work in any establishment to which the Act applies and

(v) that the provisions of the Act and any order issued by the Government regarding the opening and closing hours are duly observed.

(2) For carrying out such examination, the Inspector may interrogate such persons on the premises, as he may deem necessary, provided that no such person shall be required under this rule, to answer any question the answer to which might tend to incriminate him.

16. Maintenance of registers and records and display of notices

(1)

(a) ²⁰[Every employer shall maintain

(i) a Register of persons employed in Form-U;

(ii) a Register of Employment in Form-V;

(iii) a Register of Wages in Form-W; and

(iv) a Register of Leave and Social Security Benefits in Form-X.

(b) The registers referred to in clause (a) shall be maintained either electronically or manually.

(c) Where the registers referred to in clause (a) are maintained in electronic form, the layout and presentation of the registers may be adjusted without changing the integrity, serial number and contents of the columns of the registers.]

(2) ²¹[***]

(3) ²²[***]

(4) ²³[

(a) Every employer shall exhibit in his establishment in a conspicuous place, a notice in ²⁴[Form S] showing the names of the persons employed, daily periods of work, rest interval and weekly holiday and send a copy of the same to the Assistant Inspector of Labour having jurisdiction over the area before commencement of work by the persons employed therein.

(b) No employer shall require or allow any person employed to work, in his establishment without exhibiting a notice in [Form S] in respect of him and without sending a copy of it to the Assistant Inspector of Labour concerned and shall not require or allow him to work otherwise than in accordance with the periods of work and weekly holiday shown therein.

Provided that the persons employed may be required to work overtime in accordance with the provisions of the Act, if entries showing the periods of such overtime work are made before commencement of such work in the employment register

Provided further that in exceptional circumstances and due to unforeseen reasons when a notice of change could not be sent to the Assistant Inspector of Labour prior to allowing or requiring any person/ persons employed to work otherwise than in accordance with the notice in ²⁵[Form S], it will be deemed sufficient compliance with the rules, if the notice of change has been exhibited simultaneously while so allowing him to work subject to the payment of overtime wages, in accordance with the provisions of the Act and Rules, entries being made to the employment register.

(5) Every employer shall exhibit in his establishment a notice containing such extracts of the Act and these Rules in English and in the language of the majority of the persons employed by him as the Government may direct.

- (6) Any notice required to be exhibited under these rules shall be exhibited in such manner that can be readily seen and read by any person whom it affects and shall be renewed whenever it becomes defaced or otherwise ceases to be clearly legible.
- (7) 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 such day.
- (8) The registers, records and notices relating to any calendar year shall be preserved till the end of the next calendar year.
- (9) ²⁶[***]
- (10) Save as otherwise provided in sub-rule (5), all registers, records and notices required to be maintained, exhibited or given under this rule shall be either in English or in the language of the majority of the persons employed in the establishment.
- (11) 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 inspection and shall produce it whenever required to do so by any Inspector having jurisdiction.

16A. Admissibility of forms other than those prescribed in the rules

Where the Commissioner of Labour or the Deputy Commissioner of Labour having jurisdiction over the area considers that the fo.ir is maintained in an establishment give the particulars required by the forms prescribed in these rules, he may direct that such forms be kept in the place of the forms prescribed in these rules and such forms shall thereupon, for the purpose of these rules be deemed to be the forms so prescribed.

²⁷16-AA. Maintenance and supply of Service Book *]**

16-B.

The registers, records and notices maintained or exhibited under the provisions of these rules shall always be available in the establishment and shall be produced or caused to be produced for inspection at all reasonable hours by any Inspector having jurisdiction.

²⁸16-C. Self-Certification by the employer

Every employer of Information Technology Software Establishment and Information Technology Software enabled services, shall furnish to the Assistant Inspector of Labour at the end of each half year, a certificate of maintenance of registers, records and notices which are required to be maintained or exhibited under the provisions of these Rules in Form "O" in duplicate. The certificate for the half year ending 30th June shall be furnished before 31st July of the year and the certificate for the half year ending 31st December shall be furnished before 31st January of the succeeding year.]

17. Ascertainment of age by the Inspectors

An Inspector may require an employer to produce an authentic extract from the records

of any school, village munsif, panchayat or municipality or, in the absence of such extract, at least a certificate which shall be in Form "L" from a Registered Medical Practitioner showing the age of any person employed by such employer.

18. Penalty

Any person who contravenes any of the provisions of these rules shall on conviction be punishable with fine which may extend to fifty rupees.

19. Exemptions

The Government may exempt either permanently or for any specified period, any establishment or class of establishments, or person or class of persons, from all or any of the provisions of these rules, subject to such conditions as the Government deem fit. 1 Subs. by G.O. Ms. No. 1030. Labour, dated the 15th, May, 1984.

2 Ins, by G.O. Ms. No. 2548, Labour, dated the 4th December, 1984.

3 Ins. vide S.R.O. No. 801 of 1970, dated the 22nd June, 1970.

4 Subs. by G.O. Ms. No. 1293, Labour and Employment, dated the 18th June, 1981.

5 The expression "sub-rule (3) or omitted by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007

6 Subs. by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007, for the expression "of Fines in Form B

7 Ins. by G.O. Ms. No. 714, Labour and Employment, dated the 30th July, 1976

8 Subs. by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007, for the expression "Form B ".

9 Subs. by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007, for the words "Register of Fines

". 10 Omitted by Notification No. No. SRO A-8/2022, dated 3rd March 2022.

11 Omitted by Notification No. No. SRO A-8/2022, dated 3rd March 2022.

12 Added by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007.

13 Subs. by G.O. Ms. No 3, Labour and Employment (C), dated the 4th January, 2007, for the words Form D 14 Form P and sub-rule (4) of rule 11 have been omitted by Notification No. No. SRO A-8/2022, dated 3rd March 2022. 15 Ins. by G.O. Ms. No. 714, Labour and Employment, dated the 30th July, 1976

16 Subs. by GO. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007, for the words " Form

D ". 17 Form P has been omitted by Notification No. No. SRO A-8/2022, dated 3rd March 2022.

18 Subs. by G.O. Ms. No. 3312, Labour, dated the 29th December, 1983.

19 Re-numbered by G.O. Ms. No. 575, Labour and Employment, dated the 8th August,

1977. 20 Substituted by Notification No. No. SRO A-8/2022, dated 3rd March 2022.

21 Sub-rules (2) and (3) omitted by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007. 22 Ibid.

23 Subs. by S.R.O. A-45/77, dated the 6th January, 1977.

24 Subs. by G.O. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007, for the words "Form J ".

25 Subs. by G.O. Ms. No. 3, Labour and Employment (C).. dated the 4th January, 00.1" 2007, for the words Form J ".

26 Sub-rule (9) omitted by GO. Ms. No. 3, Labour and Employment (C), dated the 4th January, 2007. 27 Omitted by

GO. Ms. No. 3, Labour and Employment (C), dated the 4th January., 2007.

28 Ins. by G.O. Ms. No. 37. Labour and Employment (C). dated the 24th March, 2006.