

(As amended till Sept.,2005)

**THE SIKKIM SHOPS AND COMMERCIAL ESTABLISHMENTS ACT,
1983
(ACT No. 6 OF 1983)**

CHAPTER I

PRELIMINARY

- Short title,
Extent,
Operation and
Application.***
1. (1) This Act may be called The Sikkim Shops and Commercial Establishments Act, 1983.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and for different area or different classes of establishment.
- Definitions.***
2. In this Act, unless the context otherwise requires, -
- (1) "apprentice" means a person aged not less than fourteen years who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, business or employment in any establishments.
- (2) "Chief Inspector" means the Chief Inspector appointed under section 68 (2).
- (3) "child" means a person who has not completed his fourteenth year.
- (4) "closed" means not open for the services of any customer or for any other purpose, whatsoever, relating to business;
- (5) "commercial establishments" means an establishments which carries on any business, trade, profession or any work in connection with, incidental or ancillary to, any business, trade or profession and includes -
- (a) a society registered or deemed to have been registered under the Sikkim Co-operative Societies Act, 1978, and a charitable or other trust, whether registered or not, any business, trade, profession or work in connection with or incidental or ancillary to such business, trade or profession ;
- (b) an establishment which carries on the business of advertising, commission agency, forwarding or commercial agency or which is a clerical department of a factory or of any industrial or commercial undertaking ;
- (c) an insurance company, joint stock company. bank, broker's office and exchange; but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or

entertainment;

- (6) "day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the periods of twenty-four hours beginning whom such employment commences irrespective of midnight;

- (7) "employer" means person owing or having ultimate control over the affairs of an establishment and includes the manager, agent or any other person acting in the general management or control of such establishment;

- 8) "establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment and includes such other establishment as the State Government, may by notification, declare to be an establishment for the purposes of this Act ;

- (9) "factory" means any premises which is a factory within the meaning of the Factories Act, 1948 or which is deemed to be a factory under section 85 of the said Act ;

- (10) "goods" includes all materials, commodities, and articles;

- (11) "holiday" means a day on which an establishment shall remain closed or on which an employee shall be given holiday under provisions of this Act.

- (12) "Inspector" means an Inspector appointed under this Act;

- (13) "leave" means leave as provided for in Chapter VIII of this Act;

- (14) "local area" means any area or combination of areas to which this Act applies;

- (15) "local authority" means the Gangtok Municipal Corporation constituted under the Gangtok Municipal Corporation Act, 1975 and includes any other body which the State Government may, by notification, declare to be local authority for the purposes of this Act;

- (16) "manager" means a person declared to be a manager under section 6;

- (17) "member of the family of an: employer" means the husband, wife, son, daughter, father, mother" brother, sister of an employer who lives with and is dependent on such employer;

- (18) "notification " means a notification published in the Official Gazette;

- (19) "opened" means opened for the services of any customer for any business of the establishment, for work, by or with the help of any

employee of or connected with the establishment ;

- (20) "period of work" means the time during which an employee is at the disposal of the employer ;
- (21) "prescribed" means prescribed by rules made under this Act ;
- (22) "prescribed authority" means the authority prescribed under the rules made under this Act;
- (23) "register of establishment" means a register maintained for the registration of an establishment;
- (24) "registration certificate" means a certificate showing the registration of an establishment;
- (25) "residential hotel" means any premises in which a bonafide business is carried on of supplying for payment lodging or board and lodging to travelers and other members of the public on payment and includes a residential club ;
- (26) "restaurant and eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises ;
- (27) "shop" means any premises where goods are sold either by retail or whole or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place whether in the same premises or otherwise used in connection with such trade or business but does not include, a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place public amusement or entertainment ;
- (28) "spread over" means the period between the commencement and the termination of the work of an employee on any day ;
- (29) "theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment ;
- (30) 'wages" means wages as defined in the Payment of Wages Act, 1916;
- (31) "week" means the period of seven days beginning at midnight of Saturday; .
- (32) "year" means a year commencing on the first day of January;
- (33) "young person" means a person who is not a child and has not completed his seventeenth year.

- References to time of day** 3. References to the time of day in this Act are the reference to Indian Standard Time.
- Act not applicable to certain persons and establishments** 4. Nothing contained in this Act shall apply to -
- (a) a person whose work is inherently intermittent such as a travelers, canvasser, watchman or a caretaker;
 - (b) offices of the Central or State Government or of local authorities, or the State Bank of India, the State Bank of Sikkim and the Life Insurance Corporation ;
 - (c) establishment for treatment or care of the sick, infirm, destitute or menially, unfit persons;
 - (d) bazars, fairs or exhibitions for the sale of works for charitable or other purposes from which no profit is derived;
 - (e) stalls and refreshments rooms at railway stations or railway cleaning cars;
 - (f) clubs not being residential clubs ;
 - (g) any commercial establishment carrying on the business of transport of passengers and goods by motor vehicles and persons exclusively employed in relation to such business;
 - (h) offices of lawyers; - and
 - (i) any other class of establishments or class of persons which the State Government may, by notifications, exempt from the operation of this Act.
- Power of State Government to exempt** 5. The State Government, may, if satisfied that the public interest so requires or that the circumstances of any establishment are such that it would be just or proper so to do, by notification, exempt either permanently or for any specified period, any establishment or class of establishments or person or class of persons to which or whom this Act applies, from all or any of its provisions, subject to such restriction and condition as the State Government may specify in the notification.

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

**Registration
applies of
Establishments**

6. (1) Every establishment to which this Act shall be registered in accordance with the provision of this section.
- (2) Within thirty days from the date on which the Act applies to an establishment, the employer shall send to the Chief Inspector, a statement in prescribed form, together with such facts as may be prescribed containing : -
- (a) the name of the employer and the manager, if any;
 - (b) postal address of the establishment;
 - (c) the name, if any, of the establishment;
 - (d) the category of the establishment, i.e, whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or the place of public amusement or entertainment ; and
 - (e) such other particulars as may be prescribed.
- (3) On the receipt of the statement and the fees, the Chief Inspector on being satisfied about the correctness of the statement made therein, shall register an establishment in the register of establishment, and shall issue in the prescribed form, a registration certificate to the employer. The registration certificate shall be displayed at a conspicuous place in the establishment.
- (4) Registration certificate granted under sub-section (2) shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or the renewed registration, as the case may be, and shall be accompanied by such fees as may be prescribed and the renewed registration certificate shall be in such form, as may be prescribed.
- (5) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the Chief Inspector, who shall after such inquiry as he thinks proper, decide the category of such establishment and his decision shall be final for the purposes of this Act.

**Suspension
and revocation
of licence**

7. (1) The Chief Inspector may suspend or revoke a registration certificate granted under this Act and may for that purpose require the holder of certificate by notice in writing to deliver up such certificate to it or to any other officer within such time as may be specified in the notice.
- (2) The Chief Inspector may, by an order in writing, suspend a license, for such period as he thinks fit or revoke a licence : -
- (a) if he deems it necessary in the interest of the public safety to

suspend or revoke the licence ; or

(b) if the licence was obtained by suppression of material information or on the basis of wrong information provided by the holder of licence or any other person on his behalf at the time of sending an application for the licence; or

(c) if the holder of licence has failed to comply with notice under sub-section (1) requiring him to deliver up the licence.

- (3) The Chief Inspector may also revoke a licence on the application of the holder thereof.
- (4) Where the Chief Inspector makes an order suspending or revoking a licence under sub-section (2) he shall record in writing the reasons thereof and furnish to the holder of licence on demand a brief statement of the same.
- (5) A Court convicting the holder of licence of any offence under this Act or rules made thereunder may also suspend or revoke a licence;

Provided that if the conviction is set aside in appeal or otherwise, the suspension or revocation shall be final.

- (6) On the Suspension or revocation of licence under this section, the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

Appeals.

- 8.** (1) Any person aggrieved by an order of the Chief Inspector, refusing to grant a licence or by an order of the Chief Inspector suspending or revoking a licence may prefer an appeal against the order to the Secretary in the Department of Labour of the State Government within thirty days from the date of communication of the order of refusal, suspension or revocation, as the case may be:

Provided that an appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the Secretary that he was prevented by sufficient cause from preferring the appeal within the said period.

- (2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the appeal against where such statement has been furnished by the appellant and by such fees as may be prescribed.
- (3) No appeal filed under this section shall be disposed of until the appellant is given reasonable opportunity or being heard.
- (4) Every order of the Appellate Authority confirming, modifying or reversing the order appealed against shall be final.

CHAPTER III

SHOPS AND COMMERCIAL ESTABLISHMENT

- Opening hours of shops.***
9. (1) No shop
(a) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the State Government shall on any day be opened earlier than 5 a.m.

(b) other than those specified in clause (a), shall on any day be opened earlier than 7 a.m.
- (2) Subject to the provisions of sub-section (1) the State Government may fix different opening hours for different classes of shops or for different areas or for different periods of the year.
- Closing hours of shops.***
10. (1) No shop
(a) other than those specified in clause (b) of this sub-section shall on any day kept open after 7 p.m.

(b) dealing mainly in the sale of pan, bidis, cigarettes, safety matches and other ancillary articles shall, on any day, be kept open after 9 p.m. ;

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.
- (2) Subject to the provision of Sub-section (1), the State Government may fix earlier closing hours for different classes of shops or different areas or for different periods of the year.
- Hawking prohibited before opening and after closing hours of shops.***
11. (1) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 9 and 10 and for the shop dealing in the same class of good in the locality in which such street or public place is situated:

Provided that nothing in this section shall apply to the sale of newspaper.
- (2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.
- (3) The goods seized under sub-sections (2) shall be returned to the person from whom they were seized on his depositing rupees fifty as security for his appearance in the court. (4) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions to their temporary custody as he thinks fit.
- (5) Where no prosecution is instituted for contravention of the provisions of sub-section (1) within such period as the Magistrate may fix, in this behalf, the Magistrate shall direct their return to the person from whom

they were seized.

- (6) Subject to the provisions of sub-section (5), the provisions of any law relating to the criminal procedure for the time being in force, shall, so far as they may be applicable, apply to the disposal of the good seized under this section.

Opening and closing hours of commercial establishments.

12. (1) No commercial establishment shall on any day be opened earlier than 8.30 a.m. and kept open after 9.30 p.m.
- (2) Subject to the provisions of sub-section (1), the State Government may fix different opening or closing hours for different classes of commercial establishment for different areas or for different periods of the year.

Daily and weekly hours of work in commercial establishments.

13. (1) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty eight hours in any week.
- (2) Any employee may be required to work in a shop or commercial establishment commercial for any period in excess of the limit fixed under sub-section (1) if such periods docs not exceed three hours in any week.
- (3) On not more than six days in a year which the State Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period under sub-section (1) if such period does not exceed twenty four hours.

Interval for rest.

14. The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour :
- Provided that -
- (a) in the case of employee in a commercial establishment engaged in any manufacturing process, interval for rest shall be at least half an hour ; and
- (b) in the case of any other employee the State Government on an application _made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.

Spread over in shop 15.

The spread over of an employee in a shop shall not exceed eleven hours in any day:

Provided that where an employee has worked on any day in accordance with the provisions of sub-section (2) of section 13, the spread over shall not exceed fourteen hour in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread over shall not exceed sixteen hours in any such day.

***Spread over in
Commercial
establishments.*** 16.

The spread over of an employee in a commercial establishment shall not exceed eleven hours in any day:

Provided that the State Government may, by notification, increase the spread over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishment.

***Holidays, in a
week in shops
and
commercial
establishments.*** 17.

- (1) Every shop or establishment shall remain closed on one day of the week. The employer shall choose any day of the week and shall fix such day at the beginning of the year or within thirty days in case establishment comes into existence at some time during the year other than the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed at a conspicuous place in the shop or establishment and shall be maintained in a clean and legible condition.
- (2) Notwithstanding anything contained in sub-section (1) the Government may, by notification in the Government Gazette fix any day in respect of any area specified in the notification.
- (3) If any day notified as a holiday under sub-section (1) happens to be a day of public festival, the employer may keep the shop or commercial establishment open on such day but in that event he shall keep the shop or commercial establishment closed on some other day, within three days before or after the date of such public festival and give notice of the change to the Inspector at least seven clear days before the day of such public festival.
- (4) It shall not be lawful for an employer to call an employee at, or for any employee to go to, his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.
- (5) No deduction shall be made from the wages of any employee of a shop or commercial establishment on account of any day on which it has remain closed under this section. If any employee is employed on a daily wage he shall nonetheless be paid his daily wage for the day on which such shop or commercial establishment remains closed. If any employee is paid a piece rate wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he actually worked during the six days preceding such closed day exclusive of any earning in respect of overtime:

Provided that nothing in this section shall apply to any person whose total period of continuous employment is less than six days.

CHAPTER IV

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES

- Opening and closing hours of restaurants and eating houses.*** **18.** (1) Notwithstanding anything contained in any other enactment for the time being in force no restaurant or eating house shall on any day be opened earlier than 5 a.m. and be kept open after 11 p.m. for service:
- Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4.30 a.m. and shall not be required to work later than 11.30 p.m.:
- Provided further that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.
- (2) Subject to the provisions of sub-section (1), the State Government may fix different opening or closing hours for different restaurants or eating houses or for different areas or for different periods of the year.
- (3) Notwithstanding anything contained in this section or any other enactment for the time being in force, the State Government may, by notification, fix not more than ten days in a year on festive or special occasions such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.
- Restriction of selling of goods.*** **19.** Before and after the hours fixed for the opening and closing of shops under section 9 and 10 no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.
- Daily hours of work in residential hotels, restaurants and eating houses.*** **20.** (1) Except on the day that may be notified under sub-section (3) of section 18, no employee shall be required or allowed to work in a residential hotel, restaurant and eating house for more than nine hours in a day fixed under sub-section (1) of section 18 if such period does not exceed three hours on any day.
- (2) On the days which may be notified under sub-section (3) of section 18, any employee may be required or allowed to work in residential hotel, restaurant and eating house in excess of the period fixed under sub-section (1) of section 18 if such period does not exceed three hours on any day.
- Interval for rest.*** **21.** The period of work of an employee in a residential hotel, restaurant or eating house each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.
- Spread over.*** **22.** The spread over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours:

Provided that the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.

**The employer to
furnish identity
card to
employee.**

23.

The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particular as may be prescribed, namely:

- (a) the name of the employer;
- (b) the name, if any, and the postal address, of the establishment;
- (c) the name and age of the employee;
- (d) the hours of work, the interval for the rest and the holiday, of an employee:
- (e) passport size photographs of the employee;
- (f) the signature or thumb impression of the employee;
- (g) the signature with date of the employer or manager.

CHAPTER V

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT

- Closing hours of theatres or other places of public amusement or entertainment.*** 24. Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day be kept open after than 12 midnight.
- Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hours of shop.*** 25. After the hour fixed for the closing of shop under section 10, no goods of the kind sold in a shop shall be sold in any theatre or other places of public amusement except for consumption on premises.
- Daily hours of work in a theatre or other places of public amusement or entertainment.*** 26. (1) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day.
(2) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed six hours in any week.
- Interval for rest.*** 27. The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours unless he has had an interval or rest of at least one hour:
Provided that the State Government may on an application made in that behalf by the employees, permit the reduction of the interval for rest to half an hour.
- Spread over.*** 28. The spread over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day:
Provided that the State Government may increase the spread over periods, subject to such conditions as it may, impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.
- Holidays in a week.*** 29. (1) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one, day in a week as a holiday:
Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

- (2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any place for any work, in connection with the business of his theatre or place public amusement or entertainment on any day on which such employee has a holiday.
- (3) No deduction shall be made from the wages of an employee in a theatre or place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall nonetheless be paid his wages for the holiday equal to the average of the daily wages earned by him during preceding six working days.

Identity card. **30.**

The employer shall furnish every employee in a theatre, or other place of public amusement or entertainment an identity card which shall be kept by the employee when on duty and shall be produced on demand by an Inspector, such card shall contain the following and such other particulars as may be prescribed, namely:-

- (a) the name of the employee;
- (b) the name, if any, and the postal address of the theatre and public place of amusement or entertainment;
- (c) the name and age of the employer;
- (d) the hours of work, interval for rest; if any, and the holidays of the employee;
- (e) passport size photograph of the employee;
- (f) the signature with date of the employer;
- (g) the signature or thumb impression of the employee.

- Maternity benefit.** 38. (1) Every woman employed in an establishment who has been continuously employed in such establishment or in establishments belonging to the owner of such establishment for a period of not less than six months preceding the date of her delivery, shall be entitled to receive and the employer shall be liable to make to her, a payment, of a maternity benefit at a rate for every day during the six weeks immediately preceding , and including the day of her delivery and for each day of the six weeks following her delivery as may be prescribed by the State Government:
- Provided that no such payment shall be made for any day on which she attends work and receives payment therefore during the six weeks preceding her delivery.
- (2) The manner in which the maternity benefit shall be payable in such manner as may be notified by the State Government.
- Interval for nursing the child.** 39. Any woman employed in an establishment, who is delivered of a child, shall while she is nursing such child, be allowed half-an-hour twice a day during her working hours for purposes of such nursing in addition to regular intervals for rest.
- Prohibition on dismissal during or on account of absence from work owing to confinement.** 40. (1) When a woman absents herself from work under section 38 it shall not be lawful for the employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.
- (2) The dismissal of ,a woman at any time within six months before she is delivered of a child, if the woman, but for such dismissal, would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of such maternity benefit if the Inspector is satisfied that her dismissal was without sufficient cause.
- Facilities to women Employees in case of miscarriage etc..** 41. Any woman employee who has a miscarriage or has under-gone operation for medical termination of her pregnancy shall also be entitled to leave for six weeks or such period as may be medically certified and her absence shall be treated as authorized absence on leave.
- Special casual leave for sterilization operation.** 42. (1) Every employee who undergoes sterilization operation shall be entitled to special casual leave with wages for a period not exceeding -
- (a) six days in the case of a male employee; or
- (b) fourteen days in the case of a female employee, with effect from the day on which he or she undergoes such operation.
- (2) If an employee who has undergone sterilization operation is discharged by his or her employer during the period specified in sub-section (1), the employer shall pay such employee wages payable during leave period in respect of the period of special casual leave which the employee was entitled at the time of his or her discharge.
- Application and amendment of the Payment of** 43. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as "the said Act"), the State. Government may, by notification, direct that subject to the

***Wage Act,
1936.***

provisions of sub-section (2), the said Act or any of the provision thereof or of the rules made there under shall, apply to all or any class of establishment or to all or any class of employees to which or whom this Act for the time being applies.

- (2) On the application of the provisions of the said Act to any establishment or to any employee under sub-section (1). Inspector appointed under this acts, shall be deemed to be the Inspector for the purpose of the enforcement of provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VIII

HOLIDAYS AND WAGES

Holidays and sick leave.

49. (1) Every person employed in any establishment shall be entitled, after twelve months' continuous service, to holidays with wages for a period of twenty days, in the subsequent period of twelve months, provided that such holidays with wages may be accumulated upto a maximum period of sixty days.

Explanation. - For the purpose of this sub-section any continuous period of service preceding the date on which this Act applies to any establishment shall also count, subject to a maximum period of twelve months. . .

- (2) Every person employed in any establishment shall also be entitled during his first twelve months of continuous service after the commencement of this Act, and during every subsequent twelve months of such service:

(a) to leave with wages for a period not exceeding 12 days, on the ground of any sickness, incurred or accident sustained by him; and

(b) to casual leave with wages for a period not exceeding 12 days on any reasonable ground.

- (3) If a person entitled to any holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if having applied for and been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under this Act in respect of the holidays.

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

- (5) A person employed shall be deemed to have completed a period of twelve months' continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about -

(i) by sickness, accident, or authorized leave (including authorized holidays) not exceeding ninety days in the aggregate for all three;

(ii) by a lock-out; or

(iii) by a strike which is not an illegal strike; or

(iv) by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorized leave shall be deemed, not to include any weekly holiday or half -holiday allowed under this Act which occurs at the beginning or end of an interruption

brought by the leave.

- (6) A person employed in a hostel attached to a school or college or in an establishment maintained in a boarding school in connection with the boarding and lodging of pupils and resident teachers shall be allowed the privileges referred to in sub-sections (1) to (5), reduced however proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year as the case may be; and all references to periods of holidays or of leave in sub-sections (1) and (2) shall be construed accordingly, fractions or less than one day being disregarded.
- (7) The State Government shall have power to issue directions as to the manner in which the provisions of sub-section (6) shall be carried into effect in all or any class of cases or in any particular case.

| | | |
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| Pay during annual holidays. | 50. | Every person employed shall, for the holidays, or the period of the leave allowed under sub-section (1) or (2) of section 49, be paid at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months exclusive of any earnings in respect of overtime. |
| Power to increase of the number of holidays. | 51. | Notwithstanding anything contained in section 49, the State Government may, by notification, increase the total number of annual holidays and the maximum number of days upto which such holidays may be accumulated in respect of any establishment or class of establishments. |
| Mode of recovery unpaid wages. | 52. | <p>(1) Any sum required to be paid by an employer under this Chapter but not paid by him shall be recovered as "delayed wages" under the provisions of the Payment of Wages Act, 1936.</p> <p>(2) Any Inspector may institute proceedings on behalf of any person employed to recover any sum required to be paid under this Chapter by an which he has not paid.</p> |
| Responsibility for payment of wages. | 53. | <p>(1) Every employer shall be responsible for the payment to persons employed by him of all wages and sums required to be paid under this Act.</p> |
| Fixation of wage period. | 54 | <p>(1) Every employer shall fix periods (in this Act referred to as wage periods) in respect of which such wages shall be, payable.</p> <p>(2) No wage period shall exceed one month.</p> |
| Wages for overtime work | 55. | <p>Where any person employed in any establishment, is required to work overtime, he shall be entitled in respect of such overtime work, to wages at twice the ordinary rate of wage.</p> <p><i>Explanation,-</i> For the purpose of this section, the expression "ordinary rate of wages" shall mean such rate of wages as may be calculated in the manner prescribed.</p> |
| Gratuity. | 56. | An employee who has completed ten or more years of continuous service with full wages shall, on quitting the service or on his death his legal heirs, be entitled to gratuity equivalent to fifteen days' wages last |

drawn for each year of service.

Time of payment of wages.

57. (1) The wage of every person employed shall be paid before the expiry of the fifth day after the last day of the wage period in respect of which the wages are payable.
- (2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by such person shall be paid before the expiry of the second working day from the day on which his employment is terminated.
- (3) The State Government may, by general or special order, exempt an employer from the operation of this section in respect of the wages of any person employed or class of persons employed, to such extent and subject to such conditions as may be specified in the order.
- (4) All payments of wages shall be made on a working day.

Payment of advance in certain cases.

58. An employee who has been allowed leave for not less than four days, in the case of an adult, and five days in the case of a child shall, before his leave begins, be paid wages due for the period of leave allowed.

Wages to be paid in current coin or currency notes.

59. All wages shall be paid in current coin or currency notes or in both.

Deduction which may be made from wages.

60. (1) The wages of a person employed shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation.-Every payment made by a person employed to the employer shall, for the purpose of this Act, be deemed to be a deduction from the wages.

- (2) Deduction from the wages of a person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely : -

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to, or loss of, goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default.;

(d) deductions for house accommodation, if any, supplied by the employer;

(e) deductions for such amenities and services supplied by the employer as the State Government may, by general or special order,

authorise;

(f) deductions for recovery of advance or for adjustment of over-payments of wages;

(g) deductions of income-tax payable by the employed person;

(h) deductions required to be made by an order of a Court or other authority competent, to make such order;

(i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925 applies or any provident fund approved in this behalf by the State Government during the continuance of such approval;

(j) deductions for payments to co-operative societies approved in this behalf by the State Government or to a scheme of insurance maintained by the Indian Post Office or by any insurance company approved in this behalf by the State Government;

(k) deductions made with the written authorisation of the employed person in furtherance of any savings scheme approved by the State Government for the purchase of securities of the Central or State Government.

Fines.

- 61.** (1) No fine shall be imposed on any person employed save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the Chief Inspector may have specified by notice, under sub-section (2).
- (2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on.
- (3) No fine shall be imposed on any person employed until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.
- (4) The total amount of fine which may be imposed in any one wage period on any person shall not exceed an amount equal to paise three in a rupee of the wage payable to him in respect of that wage period.
- (5) No fine shall be impose on any person employed who has not completed his fifteenth year of age.
- (6) No fine imposed on any person employed shall be recovered from him after the expiry of sixty days from the date on which it as imposed. .
- (7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect Of which it was imposed.
- (8) All fines and all realizations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed; and all such realizations shall be applied only to such purposes beneficial to

the persons employed in the establishment as are approved by the prescribed authority.

Explanation.-When the persons employed are part only of the staff employed under the same management, all such realizations may be credited to common fund maintained for the staff as whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

Deduction for absence from duty.

62. (1) Deductions may be made under clause (b) of sub-section(2) of section 61 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deductions shall in no case bear to the wages payable to the employed person in respect of the wage period for which the deduction is made, a larger proportion than the period for which he was absent bears to the total period, within such wage period during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the State Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say, without giving the notice which is required under the terms of their contract of employment) and without reasonable cause such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation.-For the purpose of this section, an employee person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

Deduction for damage or loss.

63. (1) A deduction under clause (c) of sub-section (2) of section 61 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the person employed and shall not be made until the persons employed has been given an opportunity of showing cause, against the deduction, or otherwise than in accordance with such procedure as may be prescribed. (2)All such deductions and all realizations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

Deductions for services rendered.

64. A deduction under clause (d) or clause (e) of sub-section (2) of section 61 shall not be made from the wages of a person employed unless the house accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and in the case of a deduction under the said clause (e) shall be subject to such conditions as the State Government may impose.

- Deductions for recovery of advances.*** 65. Deductions under clause (f) of sub-section (2) of section. 61 shall be subject to the following conditions, namely:
- (a) recovery of an advance of money given before employment shall be made from the first payment of wages in respect of a complete wage period, but no recovery shall be made of such advances given for traveling expenses;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the installments by which they may be recovered.
- Deductions for payment to co-operative societies and insurance scheme.*** 66. Deduction under clauses (j) and (k) of sub-section (2) of section 61 shall be subject to such conditions as the State Government may impose.
- Notice of termination of service.*** 67. No employer shall dispense with the services of an employee who has been in his continuous employment -
- (a) for not less than a year, without giving such persons at least thirty days' notice in writing, or wages in lieu of such notice.;
- (b) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing or wages in lieu of such notice:
- Provided that such notice shall not be necessary where the services of such employees are dispensed with for misconduct.
- Explanation.*-For the purposes of this section "misconduct" shall include -
- (a) absence from service without notice in writing or without sufficient reasons for seven days or more;
- (b) going on or abetting a strike in contravention of any law for the time being in force;
- (c) causing damage to the property of his employer.

CHAPTER IX

ENFORCEMENT AND PROSECUTION

- Appointment of Chief Inspectors and Inspectors.* 68. (1) The State Government may, by notification, appoint as many Inspectors for different areas thereof as may be considered necessary.
- (2) The State Government may, by notification, appoint one of the Inspectors to be the Chief Inspector for the purposes for this Act who may exercise all the powers of an Inspector.
- Power and duties of the Inspectors.* 69. (1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed –
- (a) enter, at all the reasonable times and with such assistance as he thinks fit, any place which is or which he has reason to believe, is an establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise record statement of any person, as he may deem necessary, for carrying out the purposes of this Act;
- (c) exercise such other power, as may be prescribed or may be necessary for carrying out the purpose of this Act:
- Provided that no one shall be required under this section to answer any question or give any statement tending to incriminate himself.
- (2) For the purpose of investigation of offences under this Act, an Inspector shall have the same powers as an Officer-in-charge of a police station has under the Code of Criminal Procedure, 1898 for investigation of cognizable offences except that he shall not have the power of arrest.
- Inspectors to be public servant.* 70. Every Inspector appointed under the section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
- Protection of action taken in good faith* 71. No suit, prosecution or legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or rules made thereunder.
- Employer and Manager to produce registers, records and notices for inspection.* 72. Every employer and in his absence the Manager shall, on demand, produce for inspection to an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER X

OFFENCES AND PENALTIES

- Penalties.** 73. Save as otherwise provided in this Chapter, whoever being an employer or manager of an establishment contravenes any of the provisions of this Act or rules made thereunder shall-
- (a) on first conviction, be punished with fine which shall not be less than five hundred rupees and may extend to one thousand rupees; and
 - (b) for second and subsequent conviction for contravening the same provision of this Act or rules made thereunder, shall be punished with fine which shall not be less than one thousand rupees and may extend to five thousand rupees.
 - (c) in default of such payment of fine, the employers shall be liable to undergo simple imprisonment for six months.
- False entries by Employer and Manager.** 74. If any employer or manager with intention to deceive, makes or allows to be made, in any register, record or notice prescribe, to be maintained under the provisions of this Act or the rules made thereunder, an entry which to his knowledge, is false in any material particular, or willfully omits, or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made under the provisions of this Act or the rules made thereunder or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends or causes or allows to be sent, to the Chief Inspector or Inspector any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder which to his knowledge is false in any material particular, he shall, on conviction, be punished with imprisonment not exceeding six months or with fine which may extend to two thousand rupees or with both.
- Penalty for obstructing Inspector.** 75. Whoever willfully obstructs the Chief Inspector or an Inspector in the exercise of any power under this Act or rules made thereunder or conceals or prevent by any employee in an establishment from appearing before or being examined by the Chief Inspector or an Inspector, shall, on conviction, be punished with fine which shall not be less than one hundred rupees and which may extend to one thousand. Rupees.
- Determination of employer for purposes of this Act** 76. (1) Where the owner of establishment is a firm or other association of individuals, anyone of the individuals, partners or members thereof, may be prosecuted and punished under this Act for any offences for which an employer of an establishment is punishable;
- Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purposes of this Act and such individual shall, so long as he is so resident, be deemed to be the employer for the purposes of this Act, until the notice canceling nomination, is received by the Inspector or until he ceases to be a partner or member of the firm or association.
- (2) Where the owner of an establishment is a company, anyone of the

directors thereof, or in the case of a private company anyone of the share holders thereof may be prosecuted and punished under this Act for any offence for which the employer of the establishment is punishable;

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of private company, a shareholder who is resident in the State, to be the employer in the establishment for the purposes of this Act, and such director, or share holders shall, so long as he is so resident, be deemed to be the employer of the establishment for the purposes of this Act, until further notice canceling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

- Cognizance of Offences.*** 77. (1) No prosecution under this Act or the rules made thereunder shall be instituted except by an Inspector.
- (2) No court inferior to that of a Magistrate of the first class shall try any offence under this Act or any rule made thereunder.
- (3) Notwithstanding anything contained in any law relating to the criminal procedure for the time being in force, all offences under this Act or rules made thereunder, be tried summarily.

- Limitation of prosecution.*** 78. No court shall take cognizance of an offence under this Act or any rule or order made thereunder unless complaint thereof is made within six months of the date on which alleged commission of the offence first came to the knowledge of an Inspector.

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTARY

Maintenance of registers or records and display of the notices.

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

Powers to make rules.

80. (1) The State Government may, subject to previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following matters, namely:

(a) the appointment of prescribed authority;

(b) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended;

(c) the form of submitting a statement, the fees and other particulars, the manner in which the registration of establishments is to be made and the form of registration certificate and the form and the period for notifying a change and the fees;

(d) fixing six days in a year for additional overtime;

(e) fixing ten days in a year for overtime;

(f) further particulars to be prescribed for an identity card;

(g) fixing times and methods for cleaning the establishments, fixing standards methods for ventilation, and prescribing such establishments as are to be exempted from the provisions of, and, precaution against fire to be taken in this Act;

(h) the articles which a first-aid box maintained shall contain;

(i) the qualification of Inspectors appointed under this Act and their powers and duties;

(j) the register and records to be maintained and notices to be displayed;

(k) any other matter which is to be or may be prescribed.

Repeal and Savings.

81. (1) All the notifications, rules, regulations and orders relating to shops and establishments in Sikkim in force immediately before the commencement of this Act are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the notification, rules, regulations, orders, on the subject, shall be deemed to have been done or taken, as far as may be, under the corresponding provisions of this Act.

THE SIKKIM SHOPS AND COMMERCIAL ESTABLISHMENTS RULES, 1984.

1. SHORT TITLE AND COMMENCEMENT:

- (1) These rules may be called the Sikkim Shops and Commercial Establishments Rules, 1984.
- (2) They shall come into force from the date of their publication in the official gazette.

2. DEFINITIONS:

In these Rules, unless there is anything repugnant in the subject or context :-

- (a) "Act" means Sikkim Shops and Commercial Establishments Act, 1983.
- (b) "Form": means a form appended to these rules.
- (c) "Section" mean a section of the. Act.
- (d) "Schedule" means a schedule appended to the rules.
- (e) Words and expressions not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the said Act.

3. EXEMPTIONS TO ESTABLISHMENTS ON CERTAIN HOLIDAYS FROM THE OPERATION OF THE ACT BY THE STATE GOVERNMENT.

The state government may by notification, exempt from the operation of the provisions of the Act all establishments on the following holidays, namely :-

- (1) Magha Sankrati Mela;
- (2) Tibetan New Year's Day;
- (3) Saga Dawa;
- (4) Id-ul-Fitar;
- (5) Drukpa Thechi;
- (6) Pang Lhabsol;
- (7) Durga Puja;
- (8) Labab Thuchen;
- (9) Dewali;
- (10) Chrjstmas;
- (11) Any occasion on which a public emergency is declared in this behalf by the State Government;
- (12) Public fairs or exhibitions or religious festivals recognized in this behalf by the State Government;
- (13) Any other occasion which the State Government deems fit.

4. FORM FOR SUBMITTING, STATEMENT, FEES, REGISTRATION OF ESTABLISHMENT, FORMS OF REGISTRATION CERTIFICATE AND THE FORMS AND PERIODS FOR NOTIFYING A CHANGE AND THE FEES:

- (1) A statement to be sent to the Chief Inspector by the employer under sub-section (2) of section 6 shall be in form "A" and shall be accompanied by a fee as specified in schedule 1.
- (2) An establishment shall be registered in the Register of Establishment under Sub-section (3) of section 6, under the appropriate category to which it belongs. The Register of establishment shall be in form "B".
- (3) The registration of certificate, to be issued under sub-section (3) of section 6 shall be in part A of form "C".

- (4) The application for renewal of a registration certificate shall be accompanied by a fee as specified in Schedule I and the renewal certificate shall be in Part B of form "C". Provided that any application for renewal of a license submitted after the period prescribed in these rules shall be accompanied with a late fee of Rs. 1/- for every day of delay.
- (5) In the event of loss or destruction of the registration certificate an application shall be made to the Chief Inspector within seven days of such loss or destruction for a duplicate copy thereof which may be granted on payment of ten rupees.
- (6) The employer shall notify to the Inspector of the area concerned, in form "D" alongwith such fees as are specified in Schedule II, any change in respect of the total number of employees, within 15 days after the expiry of the quarter to which the change relates; and any change, other than in respect of the total number of employees, in respect of the information contained in the statement furnished by him under rule 4(1) within thirty days after the change has taken place.
- Explanation:** For the purpose of this rule "quarter" means a quarter ending on 31st March, 30th June, 30th September and 31st December.

5. PETITION OF APPEAL TO BE ACCOMPANIED BY FEE:-

- (1) Every petition of appeal as referred to in sub-section (1) and (2) of Section 8 of the Act shall be accompanied by a Bank Receipt of the State Bank of Sikkim for ₹ 20/-.
- (2) Every fee as referred to under the Act and the Rules shall be credited under the head "087- Labour & Employment- Other Receipts".

6. SIX DAYS IN A YEAR FOR ADDITIONAL OVERTIME :

- (1) An employee may be required or allowed to work in a Shop or Commercial establishment under sub-section (3) of section 13 in excess of the period fixed under sub-section (1) of that section on any the following days, for the purposes of making accounts, stock, taking or settlements if such excess period does not exceed twenty four hours :-
- (i) The 31st day of March;
 - (ii) The 30th day of June;
 - (iii) The 31st day of December;
 - (iv) The three days preceding the Ram Nawami day;
- (2) On any of the days mentioned in sub-rule (1) the operation of the provisions relating to closing hours in sections 10 and 12 shall remain suspended.

7. 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 13 in excess of the period fixed under sub-section (1) of section 13 and sub-section 2 of section 20 on any day as specified under sub-rule (1) of rule 6 shall be given by the employer in English or in any of the official languages of the State of Sikkim to the Inspector within whose jurisdiction such establishment is situated at least 24 hours before such day;

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

8. IDENTITY CARD TO BE ISSUED TO THE EMPLOYEES AFTER NECESSARY POLICE VERIFICATION:

The Identity card to be issued under section 23 and 30 shall be issued only after necessary police verification.

9. RECEIPT OF SECURITY MONEY

- (1) The Inspector with whom money is deposited by way of security for the return of the seized goods under sub-section (3) of section it shall maintain in a serially numbered cash receipt in Form 'E' the amount so deposited. The amount shall be refunded to the depositor if he is not prosecuted within the period prescribed in sub-section (5) of that section, on the expiry of such period, and if he is prosecuted, after the case is finally disposed of in his favour.
- (2) The Inspector shall, for the goods seized by him under sub-section (2) of section II, issue a seizure memo in form "F" to the person from whom such goods have been seized and when such goods are returned to the person concerned he shall obtain a delivery memo from the said person with the acknowledgement in Part B of Form 'F'.

10. THE EMPLOYMENT OF CHILDREN AND YOUNG PERSON

An Inspector may require an employer to produce in respect of any person employed by him whom the Inspector suspects to be a child or young person as proof of his age.

- (i) An authentic extract from the school record, or
- (ii) A certificate of age from a registered medical practitioner in form 'G'.

11. FIXATION OF TIMES AND METHODS FOR CLEANING ESTABLISHMENTS, EXEMPTION OF CERTAIN ESTABLISHMENTS FROM THE PROVISIONS OF THE ACT AND PRECAUTION AGAINST THE FLEA TO BE TAKEN.

- (1) In every establishments,
 - (a) all the inside walls of the rooms and all the ceilings and tops of such rooms and all the passages and staircases shall be lime washed or colour washed at least once in every two years dating from the period when these were lime washed or colour washed and shall be maintained in a clean State.

Provided that the Inspector may require them to be lime washed or colour washed earlier than two years if in his opinion they have become so unclean as to require immediate lime washing or colour washing.
 - (b) All the beams, rafter, doors, window frames and other wood work with the exception of floors shall be either painted or varnished once in seven years dating from the period when these were last painted or varnished and shall be maintained in a clean state;
- (2) The date on which lime washing, colour washing, painting or varnishing, as the case may be is carried out, shall be duly entered in a register maintained in form 'H' which shall be shown to the Inspector when required.
- (3) Nothing in this rule shall apply to:-
 - (a) rooms (not being rooms in residential hotel, restaurants and eating houses) used only for storage of articles.
 - (b) Walls or tops of rooms which are made of galvanized iron, tiles, asbestos sheets or similar material or glazed bricks.

- (c) Any other establishment or part thereof in which lime washing or painting is in the opinion of the Inspector unnecessary to satisfy the requirements of section 44 as to cleanliness.
- (4) rubbish, filth or debris shall not be allowed to accumulate or to remain on any part of the establishment for more than twenty-four 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.
- (5) 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 recognized drainage line.
- (6) 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 a month.
- (7) 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 the urinal and in the compound of the establishment. The employer shall make suitable arrangement for the regular cleaning and conserving of the latrines and urinals to the satisfaction of the Inspector.
- (8) the area around the place where drinking water is distributed to the workers shall be kept clean and properly drained.
- (9) 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 materials in any establishment.

12. FIRST AID APPLIANCES :

The first aid box to be maintained under section 48 shall contain the following equipment together with a book of instructions in first-aid, that is to say :

- (i) 3 small sterilized dressings,
- (ii) 2 medium size sterilized dressing,
- (iii) 2 large size sterilized burn dressings,
- (iv) 2 large size sterilized dressings,
- (v) 2(1/2 doz.) packets sterilized cotton wool.
- (vi) 1 pair of dressing scissors.
- (vii) 1 (1oz.) bottle containing solution of iodine or mercurichrome.
- (viii) 1 (1oz.) bottle containing solution of salvolative having the dose and mode of administration indicated on the label.
- (ix) 1 (1 oz.)bottle containing potassium permanganate crystals.
- (x) Any antidote for burns.

13. QUALIFICATIONS OF INSPECTORS:

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 for which he is to be or has been appointed:

Provided that nothing in this 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 Bank or 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

14. POWERS AND DUTIES OF THE INSPECTOR

The Inspector shall make such examination 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 issued by the Government under the Act are duly observed in particulars, he shall satisfy himself.

- (1) That the establishments are duly registered under the Act;
- (2) That the registers, records and notices required be maintaining or displaying under the Act or these rules are properly maintained or displayed;
- (3) That the intervals of rest and holiday required to be granted or observed under the Act are granted and observed and that the limit of hours of work and spread-over laid down under the Act are not exceeded;
- (4) That the provisions of the Act and any orders issued by Government regarding the opening and closing hours are duly observed;
- (5) That the identity cards for employees in residential hotels, restaurants and eating houses are properly provided;
- (6) That the provisions of the Act and these rules regarding leave are properly observed;
- (7) That the provisions of the Act and these rules relating to cleanliness, lighting and precautions against fire are properly observed;
- (8) That the provisions of the Act relating to the payment for overtime work are duly observed; and
- (9) That no child is allowed to work in any establishment.

15. MAINTENANCE OF REGISTERS AND RECORDS AND DISPLAY OF NOTICES:

- (1) Every employer or manager of a Shop or Commercial Establishment shall maintain a register of employment in form 'I' provided that where the opening and closing hours and period of interval for rest are ordinarily uniform, the employer or Manager may maintain such register in form K.
- (2) Every employer or manager of a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment shall-
 - (a) maintain a register of employment in form J provided that where the opening and closing hours and period of interval for rest are ordinarily uniform the employer or manager may maintain such register in form 'L'.
 - (b) 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 (such notice being exhibited before the employees to which it relates cease work on the Saturday immediately preceding the first week during which it is to have effect).
- (3) Every employer or manager shall maintain a register of leave in form 'N'.
- (4) The employer or manager shall provide each employee with a book called "Leave Book" in form 'O'. The book shall be the property of the employees and the employer or his manager shall not demand it except to 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 Rs. 300/- P.M. or more, the "Leave Book" may be kept in the custody of the employer.

- (5) If any employee loses his "Leave Book" the employer or manager shall provide him with another copy on payment of Rs. 2/-, and shall complete it form his record.

- (6) Every employer or manager shall exhibit in his establishment a notice containing such extracts of the Act and these rules, in any of the said languages of the majority of his employees, as the Government may direct.
- (7) Any notice required to be exhibited under these rules shall be exhibited in such manner that it is 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.
- (8) In any register or record which an employer or manager is required to maintain under these rules, the entries relating to any day shall be made on such day and shall be authenticated under the signature of the employer or the manager on the same day

Provided that the entries relating to overtime work shall be made immediately after completion of such overtime work.

Provided further that in case both the employer and the manager are absent on any day the entries shall be authenticated by such person as may be authorized in writing by the employer.

- (9) The registers and records relating to any year shall be preserved to a period of two years after the last entry is made therein.
- (10) If on an application made by an employer or manager in writing, the State Govt. is satisfied that any muster roll, register or record maintained by the employer or manager 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 referred to in this rule, the State Govt. may by order in writing direct that such muster roll, register or record shall to the corresponding extent be that such muster roll, register or record shall to the corresponding extent be maintained in place of such register, record or notice referred to in this rule.
- (11) Save as provided in Sub-rule (6), all registers, records, muster rolls and notices required to be maintained, exhibited or given under this rule shall be either in English or in any of the said languages.
- (12)
 - (i) Every employer or manager 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. Where the Inspector has no remarks to offer, he shall merely enter the date and time of his visit and sign on the book. The visit book shall be produced when demanded by an Inspector.
 - (ii) The visit book shall be a bound book of size 7"x 6" containing at least 100 pages, every second pages thereof shall be consecutively numbered and the unnumbered page between each two consecutively numbered pages shall have a vertical perforated straight line on the margin side at a margin of 1". Every numbered page shall contain the following headings at the top:-
 - (a) Name of the establishment or employer
 - (b) Locality
 - (c) Registration number of the establishment
 - (d) Date
 - (e) Time.
 - (iii) In case the visit book containing the remarks passed by an Inspector is lost, destroyed or defaced, the employer or manager shall forthwith report in writing the loss of the visit book to the Inspector of the area and immediately maintain a new visit book.

- (13) Where 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 or work place.

FORM 'A'
See Rule No. 4 (i)

STATEMENT UNDER SECTION 6 (2)

- (1) Name of the Establishment, if any (in block letter)
- (2) Full postal address and location of the Establishment
- (3) Situation of office, storeroom, godown, warehouse or workplace, if any attached to the establishment but situated in premises different from those of the establishment.
- (4) Category of the Establishment i.e. whether (a) shops, (b) Commercial establishments (c) residential hotel, restaurant or eating house, (d) theatre or other place of public amusement or entertainment.
- (5) Particulars of the persons having interest in the establishment as employer (applicable only where a nomination is made under section 76)

| Sl.No. | Name and parentage | Designation | Permanent address | Nature of interest(Whether partner member/director/ Shareholders) |
|--------|--------------------|-------------|-------------------|---|
| 1 | 2 | 3 | 4 | 5 |
| | | | | |

- (6) Nature of business
- (7) Name, Designation and permanent address of the Employer (manager, agent or any other person) who is immediate in-charge of the general management or control of the establishment.
- (8) Particulars of the members of employer's family employed in the establishment as defined in section 2(17):

| Name | Age | Sex | Relationship with employer |
|------|-----|-----|----------------------------|
| (1) | | | |
| (2) | | | |
| (3) | | | |

- (9) Names of other persons occupying position of management or employees engaged in confidential capacity, if any.

| Name | Age | Sex | Relationship with employer |
|------|-----|-----|----------------------------|
| | | | |

(10) Total number of employees

| | Male | Female | Total |
|-------------------|------|--------|-------|
| (1) Adult | | | |
| (2) Young persons | | | |
| TOTAL | | | |

(11) Name the day of the week on which weekly holidays will be observed (in case of Shops and Commercial Establishment only)

(12) Details of remittance (enclosed copy of Bank receipt) B.R. No. & date – Amount of fee paid.

Place.....

Date

Signature of
Proprietor/Partner/Manager/
Secretary/Managing Director or a
person in charge.

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Form 'B'
See Rule No. 4 (2)

REGISTER OF ESTABLISHMENTS

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 entertainment & amusement.

Note : This register shall be maintained Category wise separately for each town.

| Registration No. of establishment and date of registration | Name and address of the establishment(item 1 & 2 of form A) | Name of employer | Name of Manager or other person other than employer in immediate in charge of the general management or control of the establishment | Nature of business |
|--|---|------------------|--|--------------------|
| 1 | 2 | 3 | 4 | 5 |
| | | | | |

6. No. of employees:

| | Male | Female | Total |
|-------------------|------|--------|-------|
| (1) Adult | | | |
| (2) Young persons | | | |
| TOTAL | | | |

7. Renewals:

| Year | Year | Year |
|------|------|------|
| | | |

Form 'C'
(See Rule 4 (3))

The Sikkim Shops and Commercial Establishment Act 1983
(Registration Certificate of Establishment)

Part A

- (1) Registration mark and number
- (2) Name of establishment.....
- (3) Full postal address of the establishment.....
- (4) Nature of business, trade or profession carried on
- (5) Name & designation of the proprietor/manager/agent or any other person in the immediate charge or control of the establishment.
- (6) Name and designation of other persons (s) having interest as employer in the establishment, if any, with his/their address in the State.
- (7) Total number of employees

| | Male | Female | Total |
|-------------------|------|--------|-------|
| (1) Adult | | | |
| (2) Young persons | | | |
| TOTAL | | | |

This is to certify that the establishment, the particulars of which have been given above, has been registered under the Sikkim Shops and Commercial Establishments Act 1983 on the day of198.....

(Seal)

Chief Inspector under the Sikkim Shops and
Commercial Establishment Act, 1983

(Annual renewals under rule 5)

Part B

No.....Dated.....

It is hereby certified that the above certificate of Registration has been renewed for the year ending 31st Dec., 19.....

Chief Inspector
The S.S.& C.E. Act, 1983.

Form 'D'
(See Rule 4(6))
Notice of Change

Name of the establishment already registered with full address and name of the employer/proprietor/Manager.

Registration number.

To
The Inspector under S.S. & C.E. Act, 1983

Sir,

Notice is hereby given that the following change has been taken place in respect of information forwarded to you in form 'A'.

The Registration Certificate is forwarded herewith to be returned after recording necessary changes.

- 1.
- 2.
- 3.
- 4.
- 5.

Place.....
Date.....

Signature of the Proprietor/Manager
Secretary/Managing Director/or a person in charge

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Form 'E'
(See Rule 9 (1))
Cash Receipt

Received a sum of Rs. 50/- only from Shri S/o
Resident ofas a deposit by way of security for the return of
seized goods/ in consideration that his goods may not be seized for contravention of the provisions of
section 11(1) of the Sikkim Shops and Commercial Establishments Act, 1983.

Time.....

Place.....

Date.....

Inspector,
Sikkim Shops & Commercial
Establishment Act, 1983

.....
Signature of depositor.

Note : - The depositor shall prefer his claim for refund only after the case has been finally disposed of.

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Form 'F'
See Rule No. 9 (2)
Seizure Memo (Part A)

In exercise of the power conferred on me under sub-section (2) of section 11 of the Sikkim Shops and Commercial Establishments Act, 1983, I hereby seize the goods of following description belonging to ShriS/O resident of who has been detected hawking the said goods in contraventions of the provision of sub-section (1) of section 11 of the Sikkim Shops and Commercial Establishments Acts, 1983.

Particulars of goods seized.

Time.....

Date.....

& Place.....

witness.....

(1).....

(2).....

Inspector,
Sikkim Shops & Commercial
Establishments Act, 1983

Delivery memo
(Part B)

The goods seized with the description as given under seizure memo no..... dated..... are hereby delivered to their owner Shri S/O resident of

Time.....

Date.....

Place.....

Inspector,
Sikkim Shops & Commercial
Establishments Act, 1983.

Received the said goods

(Name of the owner of goods with
signature & date).

FORM 'G'
[See Rule 10(ii)]
Form of Certificate

I hereby certify that I have personally examined (name) residing at and he/she has completed his/her twelfth/seventeenth year.

His / Her marks of identification are:-

.....
.....
.....

Thumb impression or signature of the person examined.

Place.....

Date.....

Medical Practitioner

Regd. No.....

Date.....

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Form 'H'
[See Rule No. 11 (2)]

Register showing dates of lime washing, colour washing etc.

| Parts of the establishment, i.e. name of room | Parts lime washed, colour washed, painted or varnished, e.g. walls, ceilings, wood works etc. | Treatment (whether lime washed, colour-washed, painted or varnished) | Date on which lime washing, colour-washing painting or varnishing was carried out(according to the English Calender) | Signature of the employer or manager. | Remarks. |
|---|---|--|--|---------------------------------------|----------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | |

Form I
[See Rule 15 (1)]

Register of employment in a Shop or Commercial Establishment, for the week ending198

| | | |
|--|-----|-----|
| Name of the employee and the establishment | Sex | Age |
| 1 | 2 | 3 |
| | | |

| Days of the week | | | | | | | | |
|---------------------------------------|-----------------------------------|----------------|---------|----------|------------|-----------|---------|-----------|
| Sunday | | | Mon-day | Tues-day | Wednes-day | Thurs-day | Fri-day | Satur-day |
| Time at which employ-ment commen-ces. | Time at which employ-ment ceases. | Rest intervals | * | * | * | * | * | * |
| 4 | | | | | | | | |
| | | | | | | | | |

| | | | |
|-------------------------------------|--|--|---|
| Total hours worked during the week. | Days on which overtime work is done and extend of such overtime on each day. | Extent of overtime worked during the week. | Extend of overtime worked previously during the year in accordance with the provisions of rule 9. |
| 5 | 6 | 7 | 8 |
| | | | |

Note: The mark 'H' shall be made in the column relating to any day on which an establishment remains closed in accordance with the notice referred to in section 17(1) or a holiday is given in accordance with the condition subject to which exemption is granted as specified in sec : 4 and 5 of the Act and 'A' if the employee is absent on any other day.

* The same sub-columns as for Sunday.

The entries under the heading "Rest intervals" shall be the actual hours at which intervals are to begin and end (e.g. 1 P.M. to 2 P.M. or so on).

Form J
[See Rule 15(2) (a)]

Register of employment in a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment for the monthending.....19.....

| Name of the employee and the establishment | Sex | Age | Day of the month | | | | | | | |
|--|-----|-----|------------------------------------|---------------------------------|----------------|---|---|---|---|--------|
| | | | 1 | | | 2 | 3 | 4 | 5 | 6 etc. |
| | | | Time at which employment commences | Time at which employment ceases | Rest intervals | * | * | * | * | * |
| 1 | 2 | 3 | 4 | | | | | | | |
| | | | | | | | | | | |

| Days on which overtime work is done and extent of such overtime on each day | Extent of overtime worked previously during the year in accordance with the provisions of Section 20 (2). |
|---|---|
| 5 | 6 |
| | |

Note : The mark 'H' shall be made in the column relating to any day on which a holiday is given in accordance with the notice referred to in Sub-Sec : (2) (b) of Sec : 15 of the rule – and 'A' if the employee is absent on any other day.

* The same Sub-Column as for 1.

The entries under the heading "Rest intervals" shall be the actual hours at which intervals are to begin and end (e.g. 1 P.M. to 2.00 P.M. or so on).

Form K
[See Rule 15 (1)]

Register of employment in a Shop or Commercial Establishment where opening and closing hours are ordinarily uniform for the week ending 19.....

| Name of the employee and the establishment | Sex | Age | Time at which employment commences | Time at which employment ceases | Rest intervals |
|--|-----|-----|------------------------------------|---------------------------------|----------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | |

| Hours worked on | | | | | | |
|-----------------|--------|---------|-----------|----------|--------|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| 7 | | | | | | |
| | | | | | | |

| Total hours worked during the week. | Days on which overtime work is done and extend of such overtime on each occasion. | Extent of overtime worked during the week | Extend of overtime worked previously during the year in accordance with the provisions of rule 5. |
|-------------------------------------|---|---|---|
| 8 | 9 | 10 | 11 |
| | | | |

Note: The marks 'H' shall be made in the column relating to any day on which an establishment remains closed in accordance with the notice referred to in Sec : 17(1) or a holiday is given in accordance with the condition subject to which exemption is granted is specified in Sec : 4 and 5 of the Act and 'A' if the employee is absent on any other day.

The entries under the heading 'Rest of intervals' shall be actual hours at which intervals are to begin and end (e.g. 1.00 P.M. to 2.00 P.M. and so on).

Form – L
[See Rule 15 (2) (a)]

Register of Employment in a residential hotel, restaurant, eating house, theatre or other place of public of amusement or Entertainment where opening and closing hours are ordinarily uniform for the month ending19.....

| (Name of the employee and the establishment) | Sex | Age | Time at which employment commences | Time at which employment ceases | Rest intervals |
|--|-----|-----|------------------------------------|---------------------------------|----------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | |

| Hours worked on | | | | | | | | Days on which overtime work is done and extend of such overtime on each occasion | * Extend of overtime worked previously during the year in accordance with the provisions of rule 20(2) and 26(2). |
|-----------------|---|---|---|---|---|---|------|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | Etc. | | |
| 7 | | | | | | | | 8 | 9 |
| | | | | | | | | | |

Note : The marks “H” shall be made in the column relating to any day on which a holiday is given in accordance with the notice Referred to in rule 15(2) (a) and “A” if the employee is absent on any other day.

* This column need not be filled by theatres or other places of public amusement or entertainment.

The entries under the heading “Rest intervals” shall be the actual hours at which intervals are to begin and end (e.g. 1 P/M. to 2 P.M.)

Form M
[See Rule 15 (2) (b)]

Notice of holiday.

Name and address of the Establishment.

*(Residential Hotel
(Restaurant
(Eating House

The employees in this

(Theatre
(Other place of public amusement and entertainment
(Shops/Commercial Establishment which

is entitled to exemption from Sections 17 and 29 of the Act. shall be given a holiday on the day named below in the week following the date of this notice and until further notice.

| Name of the employee | Day on which holiday is allowed |
|----------------------|---------------------------------|
| (1) | (2) |
| | |

* Strike out the words which are not appropriate.
Strike out the words "until further notice" if the notice is intended to apply only to one week.
If the same day is fixed for all the employees, the word "all" only need to be inserted in this column.

Signature of the employer/manager

Date.....

Form N
[See Rule 15 (3)]
Register of Leave

Name of the employer of the establishment:

Name of the employee:

Description of the department (if applicable).Date of entry into service:

| Accumulation of leave | | Leave allowed | | Payment for leave made on | | Refusal of leave | | |
|-----------------------|-------------|---------------|-------------------------------|---------------------------|------------------------|---------------------|-----------------|-------------------------|
| Leave due on | No. of days | From to | Balance of leave carried over | 1 st Moiety | 2 nd Moiety | Date of application | Date of refusal | Amount of leave refused |
| 1 | 2 | 3 | 4 | 5 | | 6 | | |
| | | | | | | | | |

| Payment for leave on discharge of an employee quitting employment if admissible | | | Signature or thumb impression of employee in receipt of Leave Book in Form O and Date | Remarks. |
|---|----------------------|--|---|----------|
| Date of discharge | Date and amount paid | Signature or left hand thumb impression of employee. | | |
| 7 | | | 8 | 9 |
| | | | | |

Form O
[See Rule 14 (4)]
Leave Book

Same form as the form of the register of leave but a separate book shall be made for each employee on a thick bound sheet.

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Schedule I

(See Rule 4(1) and (4))

| Sl. No. | Category of establishment | Registration Fees | Renewal fees |
|---------|---|-------------------|--------------|
| (1) | (2) | (3) | (4) |
| 1 | Shops and establishment having no employees | ₹ 50/- | ₹ 50/- |
| 2 | Shops and establishments having 1 to 9 employees. | ₹ 100/- | ₹ 100/- |
| 3 | Shops and establishments having 10 to 19 employees. | ₹ 150/- | ₹ 150/- |
| 4 | Shops and establishment having 20 to 50 employees. | ₹ 250/- | ₹ 250/- |
| 5 | Shops and establishment having above 50 employees | ₹ 500/- | ₹ 500/- |

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Schedule II
[See Rule 4 (6)]

The notice of change in form 'D' – shall be sent to the Inspector together with the fees specified in this schedule.

| Sl.No. | Category of establishment | Fees |
|--------|---|--------|
| (1) | (2) | (3) |
| 1 | Commercial Establishments | ₹ 10/- |
| 2 | Shops having Employees | ₹ 10/- |
| 3 | Shops having no Employees | ₹ 5/- |
| 4 | Residential Hotels | ₹ 10/- |
| 5 | Restaurants and eating houses | ₹ 10/- |
| 6 | Theatres and other places of public amusement or entertainment. | ₹ 10/- |

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