

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

EIGHTEENTH REPORT

1986-87

(Presented to the Haryana Vidhan Sabha on the 6th March, 1987)



HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
March, 1987

CONTENTS

	Pages
Composition of the Committee	(ii)—(iii)
I Introduction	(iv)
II Report	1
III Scope and Functions of the Committee	1—4
IV General Observations/Recommendations of the Committee	4—8
V Scrutiny of Rules and Observations/ recommendations thereon—	
1. The Punjab Minimum Wages Rules, 1950 framed under the Minimum Wages Act, 1948.	9—27

(iii)

COMPOSITION OF THE COMMITTEE

(1986-87)

Chairman

Sh. Sahab Singh Saini

Members

Sh. Lila Krishan

Th. Bahadur Singh

£ Sh. Om Parkash Sharma

@ Sh. Tayyab Hussain

Sh. Kulbir Singh

Master Shiv Parshad

Advocate General

Special Invitees

*Sh. Roshan Lal Tiwari

**Smt. Shakuntla Bhagwaria

Secretariat

1. Sh. G. L. Batra, Secretary

2. Sh. S. S. Ahlawat, Joint Secretary

The Committee was constituted, vide Haryana Vidhan Sabha Secretariat Notification No. HVS-LA (Sub-Leg)-1/86-87/103, dated the 2nd May, 1986.

*Shri Roshan Lal Tiwari, M. L. A., was nominated by the Speaker as a Special Invitee of the Committee with effect from 29th July, 1986 for the remaining period of the year 1986-87, vide Notification No. HVS-LA(Sub-Leg)-1/86-87/125, dated the 29th July, 1986.

**Smt. Shakuntla Bhagwaria, M. L. A., was nominated by the Speaker as a Special Invitee of the Committee with effect from 7th October, 1986 for the remaining period of the year 1986-87, vide Notification No. HVS-LA (Sub-Leg)-1/86-87/135, dated the 7th October, 1986.

(iv)

@Shri Tayyab Hussain, M.L.A., resigned from the Membership of the Committee with effect from 6th December, 1986 on his appointment as Minister, Haryana, -vide Notification No. HVS-LA(Sub-Leg)-1/86-87/176, dated the 12th December, 1986.

£Dr. Om Parkash Sharma, M. L. A., resigned from the Membership of the Committee with effect from 9th December, 1986 on his appointment as Minister of State, Haryana, -vide Notification No. HVS-LA(Sub-Leg)-1/86-87/177, dated the 12th December, 1986.

(v)

INTRODUCTION

1. I, the Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to submit the Report on their behalf, present this Eighteenth Report.

2. The Committee consisting of eight Members (including the Advocate General) was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 2nd May, 1986 and was notified in the Official Gazette-vide Notification No. HVS-LA (Sub-Leg) -1/86-87/103, dated the 2nd May, 1986.

3. A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat.

4. The Committee place on record their appreciation for the valuable and willing assistance given by the Administrative Secretaries, Departmental Officers and the representative of the Law Department in their deliberations.

5. The Committee also place on record their high appreciation and whole hearted cooperation and assistance given by the Secretary, Joint Secretary, Superintendent and staff of the Legislation branch.

CHANDIGARH :

The 3rd February, 1987.

SAHAB SINGH SAINI,

CHAIRMAN.

REPORT

1. The Committee on Subordinate Legislation for the year 1986-87, consisting of eight Members, including the Chairman and the Advocate General and two special invitees was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 1st May, 1986 and was notified in the Official Gazette, vide Notification No. HVS-LA (Sub-Leg)-1/86-87/103, dated the 2nd May, 1986

2. Shri Sahab Singh Sami was appointed as the Chairman of the Committee by the Speaker.

3. The Committee held 40 sittings till presentation of its Report. Before scrutinizing the rules and orders etc. framed under certain Acts the Committee discussed its scope and functions and the procedure for scrutinizing the rules, regulations, orders etc. and also orally examined the representatives of various Departments of the State Government under various Acts.

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 242, 250 and 251 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule, 242 enjoins upon the Committee "to scrutinise and report to the House whether powers to make regulations, rules, sub-rules, bye-laws, etc conferred by the Constitution or delegated by Legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker". Further rule 250 of the said rules lays down that while examining any such set of rules, bye-laws, etc. the Committee shall, in particular consider:—

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made;
- (ii) whether it contains matters, which in the opinion of the Committee should more properly be dealt within an Act of the Legislature,
- (iii) whether it contains imposition of any tax;
- (iv) whether it directly or indirectly bars the jurisdiction of the courts;
- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- (vi) whether it involves expenditure from the Consolidated Fund of the State or the Public Revenues;

- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- (viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature; and
- (ix) whether for any reason its form or purport calls for any elucidation.

Rule 251 lays down as follows—

1. If the Committee is of opinion that any order should be annulled wholly or in part or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.
2. If the Committee is of opinion that any other matter relating to any order should be brought to the notice of the House, it may report that opinion and matter to the House.

In short, the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation. If the Committee finds that any rule is beyond the scope of the powers delegated under the Act by the Legislature, the Committee can recommend that the rule be suitably amended or omitted.

There are certain rules which are required by the statute to be laid before the Legislature. But, the Committee is competent to examine all the Rules, Regulations etc. framed by the Government under various Acts irrespective of the fact whether these have been laid on the Table of the House or not.

The Committee is competent to send for persons, papers or records if such a course is considered necessary for the discharge of its duties. In this connection attention is invited to rule 248 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly, which reads as under:—

“248. (1) The Committee on Subordinate Legislation shall have power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties .

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker, whose decision shall be final:

Provided futher that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) A witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of Committee.

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee."

The Committee has framed the working rules wherein the detailed procedure has been laid down. The copies of these rules were distributed to the members for their information and use. Generally, the Committee from time to time select set of rules framed under the various Acts for their scrutiny and examine these at the first instance at their own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The Committee then invites the Administrative Secretary concerned for oral examination to explain the discrepancies found in the various rules/orders. After the rules/orders and the departmental representatives have been examined, the Committee prepares the report and presents it to the House.

Some of the Parliamentary conventions established in connection with the scrutiny of Rules, Regulations, Bye-laws etc. are given below:—

1. The Committee would scrutinise only such rules as have already been framed and published in the Gazette and not the draft rules.

2. The Committee should see that rules are framed under an Act as early as possible after the enactment of the Act and in no case this period should exceed six months. If the Rules are not framed within six months, the Committee may ask the Department about the reasons for the delay in framing the Rules. This is only by convention.

3. Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the power delegated by legislature, the Committee may examine the same and report to the House.

4. The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules, these should be serially and centrally numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed.

However, some of the broad principles established by the Committee for the guidance of the Executive are given below:—

- (i) As far as possible, guidelines/criteria to be followed by the authority concerned for the exercise of discretionary power vested in it should be laid down in the rules.

- (ii) In cases where the authority concerned deviates from a norm, it should be required to record in writing the reasons for such deviation.
- (iii) Before any adverse action is taken against a party, it should be given a reasonable opportunity of being heard; and after a decision adversely affecting a party has been taken it should have the right of appeal or representation, as the case may be.
- (iv) In order that the persons similarly placed are not treated differently, the powers of exemption/relaxation should be exercisable in respect of categories or classes of persons, as contradistinguished from individuals.
- (v) In cases where an authority concerned is vested with the power to suspend a license or supplies, pending institution of regular proceedings, a maximum time-limit for suspension should be laid down in the rules.
- (vi) The provisions of rules which may make a citizen liable to a penalty should be well-defined and not worded vaguely.
- (vii) In case of seizures and searches, suitable safeguards like the presence of witness, preparation of inventories of seized goods and giving a copy thereof to the persons concerned should be provided.
- (viii) In case of rules relating to disciplinary proceedings not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority be also laid down in the rules.
- (ix) Statutory rules should be amended by statutory rules only and not by executive orders.
- (x) The rules made in exercise of powers delegated under statute are precise and free from ambiguity instead of being cryptic, sketchy or skeleton or needing further interpretation. It should be in simple language so that different people cannot put different interpretations. For example, expressions like 'unreasonably, large quantity', 'reasonable interval' or 'frequent intervals' etc. should be avoided.

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1. Delay in framing the Rules

The Committee reiterates the recommendations made in its previous seventeen Reports and observes that ordinarily Rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the Department concerned

should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the rules within that period.

The Committee further recommends that whenever an ordinance is promulgated, the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules.

2. Reference of Section under which Rules are framed

The main function of the Committee on Subordinate Legislation is to scrutinise and report to the House whether the powers to make regulations, rules etc. conferred by the Constitution or delegated by the Legislature are being properly exercised by the Executive within the delegation. The Committee observes that the Government Department generally supply the copies of rules without the preamble or note above the rules with the result that it becomes rather difficult for the Committee to know under what precise authority the rules have been framed. The Committee further observes that reference of the section under which each rule or order was framed is not indicated generally in the margin of each rule. The Committee is of the view that giving of reference of the section under which each rule has been framed in the margin of each rule is essential to enable the Committee and all concerned to know under what precise authority each rule has been framed.

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to them the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule.

If in the margin of each set of rules there is no reference of the section (s) under which each rule has been framed, Government Departments may invariably supply a memorandum containing the reference to the relevant section of the Act under which each rule has been framed so that the Committee may be able to understand under what precise authority each rule has been framed and whether in any case the Government has transgressed the powers delegated by the Legislature.

The Committee further recommends that whenever several amendments are made in a set of rules the same may be republished after incorporating all the amendments made from time to time. This recommendation of Committee should be observed meticulously.

3. (i) Supply of printed and upto date corrected copies of the Rules

The Committee observed that certain Departments supplied cyclo-styed copies of the rules for its scrutiny. During the scrutiny of the rules the Committee came across a large number of typographical/spelling mistakes in those copies, with the result that it was difficult for it to determine whether the errors were typographical or they actually existed in the rules, as originally published in the Gazette. The Committee, therefore, recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of

Gazette in which they are published. If, however, it is not possible for the Department to do so, it should be ensured that the copies of the rules, orders etc. are up-to-date, meticulously prepared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up-to-date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to or implemented by the Government are incorporated in the rules.

The Committee further recommends that whenever any Act is amended, it should also be looked that the relevant rules and forms are also amended as to bring them in consonance with the change in the Act.

(ii) Footnote in the Acts and Rules

It came to the notice of the Committee that some times it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances the date of commencement of the Act and Rules should invariably be given in the footnote so that legislators in particular and the public in general may come to know as to from which date the Act and Rules had come into force.

The Committee further recommends that whenever any amendment is made in an Act or Rules framed thereunder, it should also invariably be stated in the footnote the reference of the Act or Rules by which amendment has been made

4. Notes below the Rule

The Committee observes that the Government Departments while framing a set of Rules give notes and guidelines below the rule, this tendency should be curbed by the Government and such notes should be given in the shape of rules as these notes do not form part of the rules and these notes have no force of law.

5. Framing of Rules/Laws under Article 309 of the Constitution

The Committee observes that no Act has so far been enacted under Article 309 of the Constitution of India for regulating the conditions of service of the employees of the State. However, the conditions of service of the employees are regulated by the rules framed under proviso to Article 309 of the Constitution of India.

The Committee feels that after a long period of 37 years, it is improper to continue to enforce the service rules framed under the powers conferred by proviso to article 309 of the Constitution of India, which is a transitory provision empowering the State Government to frame

Rules till they do not have their own Legislation. The Committee is constrained to observe that the time has now come rather the State Government is late in not enacting an Act as envisaged in Article 309 and recommends that an Act under Article 309 of the Constitution of India should be enacted to regulate the conditions of service of the employees relating to recruitment, punishment etc. of Government servants in replacing the existing rules and necessary steps should be taken in that direction by the State Government at the earliest

The Committee in its earlier report for the year 1983-84, 1984-85 and 1985-86 made recommendations in this behalf but no efforts seem to have been made by the State Government in this behalf. The Committee reiterates its earlier recommendations and hope that the Government will soon make an Act under proviso to Article 309 of the Constitution of India so that there may be uniformity in the regulation of conditions of service, recruitment and punishment etc. of the Civil Servants.

6. Publishing the Acts and Rules in Hindi

The Committee observes that at present Acts and Rules are available in English language only. The Regional language of the State as well as National Language is Hindi. Under the Haryana Official Language Act, 1969, at present, whenever any Bill is introduced in the State Legislature, its authenticated Hindi translated version is also supplied to the Members. The Committee reiterates its earlier recommendation and recommends that all the Acts and Rules be translated into Hindi and made available to the legislators in particular and the public in general so that every body may be able to know the law of the land.

7. Laying of Rules on the Table of the House

The Committee has observed that a majority of the Acts contain provisions requiring the Government merely to publish the Rules framed thereunder in the Official Gazette. There is no provision for laying them on the Table of the House, with the result that the House can exercise no direct check over them. The Committee is of the view that there should be uniformity in the provisions of the Acts, delegating legislative powers and recommends that in future all the Acts, enacted by the State Legislature whether falling in the State List or Concurrent List of Seventh Schedule of the Constitution of India, contain provisions for making rules should invariably lay down provision for laying of rules on the Table of the House as soon as possible and the House should have the power to consider them.

8. Delay in laying Rules on the Table of the House

The Committee recommends that where the rules, orders etc. are required to be laid on the table of the House/before the State Legislature under any statute, the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette, so that the House may statutorily modify or annul such rules. If such rules are published, while the Assembly is in Session, the rules should be laid on the Table of the House during that Session

The Committee also recommends that in future each Government Department concerned should invariably forward with each set of

“Orders”, such as rules, regulations, bye-laws, etc the following Statement of “Orders” in respect of which there has been delay in framing the orders and laying them on the Table for the information of the Committee—

Statement of “Orders” such as rules orders, regulations, etc in respect of which there has been delay in framing the “Orders” and laying them on the Table—

Sr. No.	Name of order	Description of “Order”	Date of publication in the Gazette	Date of laying on the Table	Approximate delay and reasons of delay, if any	Department concerned
---------	---------------	------------------------	------------------------------------	-----------------------------	--	----------------------

9. System for serially and centrally numbering the Statutory Rules, Orders and Notification etc.

The Committee observes that the system of numbering the notification containing the amendments to the statutory rules, orders and regulations etc, should be strictly adhered to. In the absence of any definite system of numbering the notifications containing the amendments to the statutory rules, orders and regulations etc, considerable difficulty is experienced by the courts and the public in keeping track of all the amendments and in determining the correct and up-to-date position of the rules etc. The necessity of adopting the system for serially and centrally numbering the statutory rules, orders and notifications etc. was emphasised in the Chief Secretary to Govt. Punjab U.O. No. 81(51)-61, dated the 19th September, 1961 (Copy attached as Appendix of Eighth report)

The Committee, therefore, recommends that all the Administrative Departments, when the rules, orders, regulations and notifications under any Act or Ordinance, are framed should assign a number to such rules, orders regulations and notifications in accordance with the above said observations in consultation with the Law Department

10. Implementation of recommendations of the Committee

The Committee observes with great regret that the work regarding the implementation of recommendations/observations is very slow. The Committee, which works on behalf of the House, felt that the object with which it was constituted would be defeated if its recommendations are either not implemented at all or are implemented after a long time

The Committee, therefore, recommends that the action on the outstanding recommendations and observations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government, the Department concerned should supply a copy of the notification containing the amendment in the rules along with the statement showing the action taken by the Government in the implementation of its recommendations/observations.

**SCRUTINY OF THE PUNJAB MINIMUM WAGES RULES,
1950 FRAMED UNDER THE MINIMUM WAGES ACT, 1948.**

The Committee scrutinized the Punjab Minimum Wages Rules, 1950 framed under the Minimum Wages Act, 1948 and made the following observations/recommendations thereon :—

General

The Committee recommends that marginal heading giving precise authority under which a particular rule has been framed be given against each rule. 1

Rule 1

“1. * * *”

(2) They extend to the whole of the State of Punjab as formed by section 11 of the State Reorganisation Act, 1956.”

The Committee recommends that for the existing sub-rule (2) the following sub-rule be substituted — 2

“These will extend to the whole of the State of Haryana as formed by section 3 of the Punjab Reorganisation Act, 1966 ”.

Rule 5

“5 *Travelling allowance*—A member of the Committee, or the Board shall be entitled to draw 1½ second class railway fares and daily allowance at the rate of Rs 6-4-0 in the plains and Rs. 7-13-0 in the hills for any journey performed by him in connection with his duties as such member.”

The Committee is of the view that in view of the changed circumstances the rate of TA/DA requires reconsideration. 3

The Committee, therefore recommends that the rule be suitably amended 4

Rule 6

“6. Staff.—(1) * * * * *

(2) (i) * * * * *

(ii) The Secretary shall assist the Chairman in convening meetings shall keep a record of minutes of such meetings and shall take necessary measures to carry out the decision of the Committee ; or the Board, as the case may be ”.

5 . The Committee recommends that in sub-rule (2) (ii) of rule 6 line one after the word "meetings" the sign ",", be added.

Rule 11

"11. *Meetings*.—The Chairman may, subject to the provisions of rule 12, call a meeting of the Committee, or the Board, as the case may be, at any time he thinks fit :

Provided that on a requisition in writing from not less than one half of the members the Chairman shall call a meeting within fifteen days from date of the receipt of such requisition."

6 The Committee recommends that in line two of rule 11 the sign ",", after the word "Committee" be deleted.

Rule 18**CHAPTER III****Summoning of witnesses by the Committee, and the Board and production of documents**

"18 *Sammoning of witness and production of documents.*—(1) A Committee, or the Board may summon any person to appear as a witness in the course of an enquiry. Such summons may require a witness to appear before it on a date specified therein and to produce any books, papers, or other documents and things in his possession or under his control relating in any manner to the enquiry.

(2) to (4) * * — — * * * .".

The Committee recommends that in the heading for the word "Sammoning", the word "Summoning" be substituted and in line two the sign "," after the word "Committee" be deleted. 7

The Committee further recommends that in the heading for the word "witness" the word "witnesses" be substituted. 8

Rule 19

"19. *Expenses of witnesses*—Every person who is summoned and appears as a witness before the Committee, or the Board shall be entitled to an allowance for expenses incurred by him in accordance with the scale for the time being in force for payment of such allowances to witnesses appearing in civil courts in the State."

The Committee recommends that in line two the sign "," given after the word "Committee" be deleted. 9

Rule 20

CHAPTER IV

Computation and payment of wages, hours of work and holidays

“20. *Mode of computation of the cash value of wages.*—The retail prices at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concession rates. This computation shall be made in accordance with such directions as may issued by the Government from time to time.”.

10 The Committee recommends that in line four for the word “concession” the word “concessional” be substituted.

11 The Committee further recommends that in line five after the word “may”, the word “be” be added.

12 The Committee also recommends that the provision of wages paid in kind be deleted and the rule be suitably amended.

Rule 21

“21. *Time and conditions of payment of wages and the deductions permissible from wages.*—(1) The wage period with respect to any schedule employment for which wages have been fixed shall not exceed one month and the wages of a worker in such employment shall be paid—

- (a) in the case of establishments in which less than one thousand persons are employed before the expiry of seventh day ; and
- (b) in the case of other establishments before the expiry of the tenth day, after the last day of the wage period in respect of which the wages are payable

(11) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated :

	*	*	*	*	:	:	*
(iii)	*	*	*	*	*	*	*
(2)	*	*	*	*	*	*	*

(3) Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission or the damage or loss, in respect of which the fine or deduction is proposed to be im-

posed or made and give him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

- (4A) * * * * *
- (5) * * * * *
- (6) * * * * *

The Committee recommends that in the beginning of heading for the word "Time" the word "Term" be substituted. 13

The Committee further recommends that in sub-rule (3) line six for the words "another person", the words "another workman" be substituted. 14

Rule 22

"22. *Publicity to the minimum wage fixed under the Act*—Notices in form IX-A containing the minimum rates of wages fixed together with abstracts of the Act, the rules made there-under and the name and the address of the Inspector shall be displayed in English and in a language understood by the majority of the workers in the employment at the main entrances to the establishment and its office and shall be maintained in a clean and legible condition. Such notices shall also be displayed on the notice-boards of all Sub-Divisional and District Offices."

The Committee recommends that in line four/five for the words "in a language understood by the majority of the workers in the employment" the word "Hindi in Devnagri script" be substituted. 15

Rule 23

- "23.(1) * * * * *
- to
- (3) * * * * *

(4) An employee shall be granted for the rest day wages calculated at the rate applicable to the next preceding day and in case he works on the rest day and has been given a substituted rest day, he shall be paid wages for the rest day on which he worked, at the overtime rate and wages for the substituted rest day at the rate applicable to the next preceding day .

Provided that where the minimum daily rate of wages of the employee as notified under the Act has been worked out by dividing the minimum monthly rate of wages by twenty-six or where the actual daily rate of wages of the employee has been worked out by dividing the monthly rate of wages by twenty-six and such actual daily rate of wages is not less than the notified minimum daily rate of wages of the employee, no wages for the rest day shall be payable, and in case the employee works on the rest day and has been given a substituted rest day, he shall be paid,

only for the rest day on which he worked, an amount equal to the wages payable to him at the overtime rate, and if any dispute arises whether the daily rate of wages has been worked out as aforesaid, the Labour Commissioner may, on application made to him in this behalf decide the same after giving an opportunity to the parties concerned to make written representations :

Provided further that in the case of any employee governed by a piece rate scheme, the wages for the rest day or, as the case may be, the rest day and the substituted rest day, shall be such as the Punjab State Government may, by notification in the Official Gazette, prescribe having regard to the minimum rate of wages fixed under the Act in respect of the scheduled employment

Explanation.—In this sub-rule, “next preceding day” means the last day on which the employee has worked, which precedes the rest day or the substituted rest day, as the case may, and where the substituted rest day falls on a day immediately after the rest day, the next preceding day means the last day on which the employee has worked which precedes the rest day.

(5) * * * * *

(6) * * * * *

Explanation.— * * * * *

16 The Committee recommends that in the second proviso to sub-rule (4) of rule 23, for the words “Punjab State” the words “Haryana State” be substituted.

17 The Committee further recommends that in the explanation to sub-rule (4) of rule 23, after the words “as the case may” the word “be” be added.

Rule 24

“24. * * * * *

(1) * * * * *

(2) * * * * *

(3) The number of hours of work in the case of an adolescent shall be the same as that of an adult or a child according as he is certified to work as an adult or a child by a competent medical practitioner approved by the State Government. No adolescent or child shall be required or allowed to work on any plantation defined in section 2 (f) of the Plantations Labour Act, 1951, for more than forty hours in any one week, and no child who has not completed his twelfth year shall be required or allowed to work in any such plantation

(4) * * * * *

(5) * * * * *

The Committee recommends that in sub-rule (3) of rule 24 the words "No adolescent or child shall be required or allowed to work on any plantation defined in section 2 (f) of the Plantations Labour Act, 1951, for more than forty hours in any one week, and no child who has not completed his twelfth year shall be required or allowed to work in any such plantation", be deleted being superfluous

18

Rule 25

"25. (1) * * * * *

(2) * * * * *

(a) : : : * *

(b) in the case of employment in tea plantations—

(i) at one and a half times the ordinary rate of wages in tea plantations manufacturing tea with the aid of power ;

(ii) at double the ordinary rate of wages in tea plantations manufacturing tea without the aid of power :

Provided that in either case, if drying operations have to be suspended on account of rain or cloudy weather, the portion of the period for which such suspension may occur shall be excluded, subject to a limit of two hours per day, for the purposes of calculating the hours of work and overtime of workers engaged on drying operation;

(c) : : : : * *

Explanation—The expression "ordinary rate of wages" means the basic wage plus such allowances included the cash equivalent of the advantage accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus

(3) A register of overtime shall be maintained by every employer in Form IV in which entries under the columns specified therein shall be made as and when overtime is specified therein shall be made as and when overtime is worked in any establishment. The register shall be kept at the work-spot and maintained up-to-date. Where no overtime has been worked in any wage period, a 'nil' entry shall be made across the body of the register at the end of the wage period indicating also in precise terms the wage period to which the 'nil' entry relates".

The Committee observes that there is no tea-plantations estate in the State of Haryana, therefore, the provisions of tea plantations as contained in sub-rule (2) (b) of rule 25 and any other rule (s) be deleted being redundant

19

The Committee further recommends that in the explanation to sub-rule (2) of rule 25 line two for the word "included", the word "including" be substituted.

20

21 The Committee observes that sub-rule (3) of rule 25 is not correctly worded. Therefore, the Committee recommends that sub-rule (3) of rule 25 be suitably amended.

Rule 26

26. * * * * *

"26-A. Employers to provide cards to employees, engaged in public motor transport.—

- (1) Every driver, conductor or any other employee in public motor transport shall, at the beginning of every month, be provided with a card in Form X which may be in Hindi, Punjabi, Urdu or in the language understood by such employee.
- (2) The card shall be in the custody of such employee during the month and thereafter shall be returned to the employer who shall preserve it for a period of three years.
- (3) The entries in such card shall be made each day in the presence of the employee by the employer or any person authorised by him in that behalf and employee shall produce the card whenever required for this purpose.
- (4) If the employee loses his card, the employer shall, on payment of six Naya Paise provide him within a week with another card duly completed from his record."

22 The Committee recommends that the words "public motor transport" be defined in the rules.

23 The Committee further recommends that in sub-rule (1) rule 26-A for the words "Hindi, Punjabi, Urdu or in the language understood by such employee", the words "Hindi or English whichever is understood by such employee" be substituted.

24 The Committee also recommends that in sub-rule (4) of rule 26A for the words "six Naya Paise", the words "fifty paise" be substituted considering the escalation of prices.

Rule 30

"30 Costs —(1) * * * * *

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

- (i) expenses incurred on account of court-fees ;
- (ii) expenses incurred on subsistence money to witnesses ; and
- (iii) pleader's fees to the extent of ten rupees, provided that the Authority in any proceeding may reduce the fees to a sum not less than five rupees or for reasons to be recorded in writing increase it to a sum not exceeding twenty-five rupees.

(3) Where there are more than one pleader or more than one applicant or opponent the authority may, subject as afore-said award to the successful party or parties such costs as it may deem proper.”

The Committee recommends that the pleader's fees Rs. 10, Rs. 5 and Rs. 25 as mentioned in sub-rule (2) (ii) of rule 30 be increased as Rs. 100, Rs. 50 and Rs. 250 respectively considering the escalation of prices. 25

The Committee further recommends that in sub-rule (3) of rule 30 for the word “pleader” the word “Advocate” be substituted. 26

Rule 31

31. *Court-fees.*—The court-fee payable in respect of proceedings under section 20 shall be—

- (i) for every application to summon a witness ..one rupee in respect of each witness ;
- (ii) for every application made by or on behalf on an individual. . one rupee :

Provided that the Authority may, if in its opinion the applicant is a pauper, exempt him wholly or partly from the payment of such fees :

Provided further that no fee shall be chargeable—

- (a) from persons employed in Agriculture , or
- (b) in respect of an application made by an Inspector :

Provided that Government may by notification reduce the scale of court-fees in respect may by notification reduce the in any scheduled employment.”

The Committee observes that last proviso of rule 31 is not happily worded Therefore, the Committee recommends that the proviso be redrafted as under — 27

“Provided that the Government may by notification reduce the scale of Court-fees in respect of any scheduled employment.”.

“FORM VI

[Form of Application by an Employee under Section 20 (2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948 for. Area

Application No of 19 .

(1) } Applicant(s)
(2)
(3) }

(through official of a Legal Practitioner
. Union
which is a Registered Trade Union)

Address

Versus

(1) } Opponents
(2)
(3) }

Address

The applicant(s) above named beg(s) respectfully to submit as follows .

- (1) that
(2) that.. . . .

The applicant(s) has (have) been paid wages at less than the minimum rate of wages.

The applicant(s) estimate(s) the value of the relief sought by him (them) at the sum of Rs

The applicant(s) pray(s) that a direction may be issued under subsection (3) of section 20 for—

- (a) payment of difference between the wages due according to the minimum rate of wages fixed by Government and the wages actually paid ; and
(b) compensation amounting to Rs.....

The applicant(s) beg(s) leave to amend or add to or make alterations in the application, if any, and when necessary.

Date.....

Signature or +thumb-impression of the employee(s), legal practitioner or official of a registered trade union duly authorised,

The applicant(s) do (es) solemnly declare that what is stated above is true to the best of his (their) knowledge, belief and information.

This verification is signed aton day of19

Signature or thumb-impression of the employee(s) or legal practitioner or official of a registered trade union duly authorised.

*When the application is by a group of employees, the thumb impression or signature of the applicants need be put to the application and a full list of applicants should be attached to the application.”

The Committee recommends that in lines 7 & 8, for the signs“.....” occurring between the words “Legal Practitioner” and “official” the sign “/” be substituted. 28

The Committee also recommends that in line 15, the words “above named Beg(s)” be deleted, and in line 15, the word “to” be also deleted. The word and signs “(s)” be inserted after the word “submit”. 29

The Committee further recommends that in line 29, for the words and signs, “beg(s) leave”, the word and signs, “icquest(s)” be substituted. 30

The Committee also recommends that for the following words—

“The applicant(s) do(es) solemnly declare that what is stated above is true to the best of his (their) knowledge, belief and information. This verification is signed at _____ on _____ day of _____19 ”. 31

the words—

“Verified that the contents of this form are true and correct to the best of his (their) knowledge, belief and information.

Verified at _____ on _____”.
be substituted.

“FORM VII

[Form of application by an Inspector or person acting with the permission of the authority under section 20 (2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948, for. area.

Application No. of 196 .

(1) Applicant.

Address

Versus

(1) Opponent.

Address

The Applicant above-named begs respectfully to submit as follows :—

(1) that

(2) that

The opponent is bound to pay wages at the minimum rate of wages fixed by Government but he has paid less wages to the following employees :—

(1)

(2)

(3)

The application estimates the value of the relief sought for the employees at the sum of Rs

The applicant prays that a direction may be issued under sub-section (3) of section 20 for :—

(a) payment of the difference between the wages due according to the minimum rate of wages fixed by Government and the wages actually paid, and

(b) compensation amounting to Rs.

The applicant begs leave to amend or add to or make alterations in the application if and when necessary.

Date

Signature

The applicant does solemnly declare that what is stated above is true to the best of his knowledge, belief and information. This verification is signed aton.. . . . day of19 .

The Committee recommends that for the words "The Applicant above named begs respectfully to submit as follows" in line 9 the words "The Applicant respectfully submit as follows" be substituted. 32

The Committee recommends that for the following words—

"The applicant does solemnly declare that what is stated above is true to the best of his knowledge, belief and information. This verification is signed at on... . . day of19 ." 33

the words—

"Verified that the contents of this form are true and correct to the best of his knowledge, belief and information.

Verified aton"

be substituted

“FORM VIII

[Form of Authority in favour of a Legal Practitioner or any Official of a Registered Trade Union referred to in Section 20 (2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948, for... ..area

Application No.of 19 .

(1)..... } Applicant (s)
(2)..... }
(3) .. }

Versus

(1) } Opponent (s)
(2) }
(3) }

I hereby authorise M1, a legal practitioner official of the registered trade union ofto appear and act on my behalf in the above-described proceeding and to do all things incidental to such appearing and acting.

Date.

Signature or thumb-impression of the employee.”.

2/4 The Committee recommends that in line 11, for the signs “.” occurring between the words “Legal Practitioner” and “official”, the sign “/” be substituted.

“FORM IX

[Form of summons to the Opponent to appear before the Authority when an Application under sub-section (2) of section 20 or under section 21 is entertained]

(Title of the application)

To

(Name, description and place of residence)

Whereas . . . has made the above-said application to me under the Minimum Wages Act, 1948, you are hereby summoned to appear before me in person or by a duly authorised agent and able to answer all material questions relating to the applications, or who shall be accompanied by some person able to answer all such questions, on the . . . day of . . . 19 at o'clock in the noon, to answer the claim, and as the day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence

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

.....

Signature of the Authority.

Dated”

The Committee recommends that in line 10, the words “in the” occurring after the word “o Clock” be substituted by the word “at” and the word “noon” be deleted. 35

The Committee further recommends that in line 15, for the word “before”, the word “above” be substituted and in line 21, for the words “determined in your absence”, the words “decided ex-parte” be substituted. 36

"FORM IX-A"

Notices (Rule 22)

Abstracts of the Minimum Wages Act, 1948 and the Rules made thereunder.

I. Whom the Act affects

(a) The Act applies to persons engaged on scheduled employments on specified class of work in respect of which minimum wages have been fixed.

(b) No employee can give up by contract or agreement his rights in so far as it purports to reduce minimum rates of wages fixed under the Act.

37 The Committee recommends that in the heading, the word "applies" be substituted for the word "affects".

II. Definition of Wages

* : *

III. Computation and Conditions of Payment.

The employer shall pay to every employee engaged in scheduled employment under him wages at a rate not less than the minimum rate of wages fixed for that class of employee.

The minimum wages payable under this Act shall be paid in cash unless the Government authorises payment thereof either wholly or partly in kind.

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

Wage shall be paid on a working day within seven days of the end of the wage period or within ten days if 1,000 or more persons are employed.

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

If an employee is employed on any day for a period less than the normal working day he shall be entitled to receive wages for a full normal working day provided his failure to work is not caused by his unwillingness to work but the omission of the employer to provide him with work for that period.

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed the employer shall pay to such employee wages at not less than the minimum time rate.

The Committee recommends that the words "unless the Government authorises the payment thereof either wholly or partly in kind", given in lines four and five of paragraph III be deleted.

IV. Hours of work and holidays.

The number of hours which shall constitute a normal working day shall be :—

(a) in the case of an adult, 9 hours.

(b) in the case of a child, 4½ hours.

The Working day of an adult worker inclusive of the intervals of rest shall not exceed twelve hours on any day.

The employers shall allow a day of rest with wages to the employee every week. Ordinarily Sunday will be the weekly day of rest, but any other day of the week may be fixed as such rest day. No employee shall be required to work on a day fixed as rest day, unless he is paid wages for that day at overtime rate and is also allowed a substituted rest day with wages (see rule 23).

When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall in respect of overtime worked be entitled in wages in scheduled employment other than agriculture and tea plantations at double the ordinary rate of wages.

The Committee recommends that the words "and tea plantations" 38 given in line 15 of paragraphs IV be deleted.

V. Fine and deductions.

No deductions shall be made from wages except those authorised by or under the rules.

Deductions from the wages shall be one or more of the following kinds, namely :—

- (i) Fines—An employed person shall be explained personally and also in writing the act or omission in respect of which the fine is proposed to be imposed and given an opportunity to offer any explanation in the presence of another person. The amount of the said fine shall also be intimated to him. It shall be such as may be specified by the State Government of Punjab. It shall be utilised in accordance with the directions of the State Government of Punjab.

(ii) to (x) * * * * *

The Committee recommends that for the words "another person" 39 given in sub-para (i) of paragraph V the words "another workman" be substituted.

40 The Committee further recommends that for the word "Punjab" wherever occurring in this paragraph the word "Haryana" be substituted.

VI. Maintenance of Registers and Records

Every employer shall maintain a register of wages specifying the following particulars for each period in respect of each employed person.

- (a) The minimum rates of wages payable.
- (b) The number of days in which over-time was worked.
- (c) The gross wages.
- (d) All deductions made from wages
- (e) The wages actually paid and the date of payment.

Every employer shall issue wage-slips containing prescribed particulars to every person employed.

Every employer shall get the signature or the thumb-impression of every person employed on the wages-book and wage-slips.

Entries in the wage-books and wage-slips shall be properly authenticated by the employer or his agent

A Muster Roll shall be maintained by every employer and kept in the form prescribed.

Every employer shall keep exhibited at such places selected by the Inspector, notice in English and in language understood by a majority of the workers of the following particulars in a clean and legible form —

- (a) Minimum rate of wages.
- (b) Extracts from the Acts and the Rule made there-under.
- (c) Name and address of the Inspector

41 The Committee recommends that in the last sub-para, for the words "English and in language understood by a majority of the workers", the words "Hindi and English languages" be substituted.

FORM X

(Rule 26-A)

Name of employer or establishment

Depot
.....

Garage
Name of employee.....

Month of 19 .

Date	Reporting time	Relieving time	Rest intervals	Overtime hours	Endorsement of employer, officer or agent
1	2	3	4	5	6

Note.—The mark “H” shall be made in column, relating to any day on which a weekly holiday is given and “A” if the employee is absent on any other day

The Committee recommends that the spelling of the word “relieving” occurring in the third column be corrected. 42