

WEST BENGAL PAYMENT OF WAGES RULES, 1958

Notification No. 2392L.W ./LW/IR-21\57, 8th July 1958.—In exercise of the power conferred by sub-section (2) of Section 26 of the Payment of Wages Act, 1936 (IV of 1936), the Governor is pleased to make the following rules, the same having been previously published as required under sub-section (5) of the said section :

1. Title.—These rules may be called the West Bengal Payment of Wages Rules, 1958.

2. Application.—These rules shall apply to factories and also to the industrial establishment to which the provisions of the Act have been or may be extended by notification under sub-section (5) of section 1 of the Act.

3. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act, 1936 (IV of 1936);
- (b) “the Authority” means the authority appointed under sub-section (1) of section 15 of the Act;
- (c) “the Chief Inspector of Factories” means the Chief Inspector of Factories appointed under sub-section (2) of section 8 of the Factories Act, 1948 (LXII of 1948);
- (d) “the Labour Commissioner” means the Labour Commissioner as defined in rule 2 of the Bengal Industrial Dispute Rules, 1947;
- (e) “the Court” means the court mentioned in sub-section (1) of section 17 of the Act;
- (f) “deduction for breach of contract” means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;
- (g) “deduction for damage or loss” means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;
- (h) “factory” means a factory as defined in section 2 of the Factories Act, 1948 (LXIII of 1948);
- (i) “Industrial establishment” means an industrial establishment as defined in section 2 of the Act;
- (j) “Form” means a form appended to the rules;
- (k) “Inspector” means the Inspector authorized by or under section 14 of the Act;
- (l) “Person employed” excludes all persons to the payment of whose wages the Act does not apply;
- (m) “section” means a section of the Act;

- (n) "paymaster" means an employer or other person responsible under section 3 of the Act for the Payment of Wages.

4. Register of fines.—(1) In any factory or industrial establishment in respect of which the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form 1.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, an entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the register. If more than one purpose have been approved the entry of the establishment shall also indicate the purpose for which it is made.

5. Register of deductions for damage or loss.—In every factory or industrial establishment in which deductions for damage or loss are made, the paymaster shall maintain the register required by sub-section (2) of section 10 in Form II.

6. Register of wages.—In every factory or industrial establishment, the paymaster shall maintain a Register of Wages in such form as he finds convenient including, inter alia, the following particulars :—

- (a) the rate of wages of each person employed ;
- (b) the gross wages earned by each person employed for each wage-period ;
- (c) all deductions made from those wages, with an indication in each case of the clause of sub-section (2) of section 7 under which the deduction is made ;
- (d) the wages actually paid to each person employed for each wage-period ;
- (e) date of payment.

7. Maintenance of Registers.—(1) The registers required by rules 4, 5, 6 and 18 shall be maintained in the English language

(2) all entries in the registers shall be made in ink, shall be legible and shall be maintained up to date.

(3) All registers for the preceding three calendar years shall be preserved and be available in the factory or industrial establishment as the case may be for examination by the Inspector.

8. Weights and measures.—(1) All weights, measures or weighing machines which are used in checking, or ascertaining the wages of persons employed in any factory or industrial establishment shall be examined at least twice a year by an Inspector who may prohibit the use of any weight, measure or weighing machine which he finds to register incorrectly.

(2) If the Inspector considers that any action should be taken under the Indian Penal Code (XLV of 1860), he may seize the article in question and shall record his opinion and send it to the District Magistrate for such action as he may think fit.

9. Notice of dates of payment.—The paymaster shall display in a conspicuous place at or near the main entrance of the factory or industrial establishment, a notice in English and in the language of the majority of the persons employed therein, specifying for not less than one month in advance, the wage-period and the date or dates on which wages are to be paid.

10. Prescribed authority.—(1) The Chief Inspector of Factories shall be the authority competent in respect of factories and docks wharfs and jetties to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed, and under sub-section (8) of section 8, the purposes on which the proceeds of fines shall be expended.

(2) The Labour Commissioner shall be the authority competent in respect of industrial establishments other than docks, wharfs and jetties to approve under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed, and under sub-section (8) of section 8, the Purposes on which the proceeds of fines shall be expended

11. Applications in respect of fines.—Every employer requiring the power to impose fine, in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories or the Labour Commissioner, as the case may be,—

(a) a list in English, in duplicate, clearly defining such acts and omissions ;

(b) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list, in duplicate, showing those appointments in his factory or industrial establishment of which the incumbents may pass orders imposing fines and the departments or sections in respect of which the incumbent of each such appointment may impose fine.

12. Approval of list of acts and omissions.—The authority appointed under rule 10 on receipt of the list prescribed in clause (a) of rule 11 may, after such enquiry as he considers necessary, pass orders either—

(a) disapproving the list :

(b) approving the list either in their original form or as amended by him, in which case such list shall be considered to be an approved list.

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of shows approved or in writing why the list submitted by him should be.

13. Posting of list of acts and omissions.—The employer shall display at or near the main entrance of the factory or industrial establishment a copy each in English and Bengali together with a literal translation thereof in the language of the majority of persons employed therein, of the list approved under rule 12.

14. Persons authorized to impose fines.—No fine shall be imposed by any person other than an employer, or a person holding an appointment named in the list submitted under clause (b) of rule 11.

15. Procedure in imposing fines and deductions.—Any persons desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person the act or omission or damage or loss in respect of which the fine or deduction which is proposed to be imposed and the amount of the fine or deduction which it is proposed to impose, and if any such employed person has any explanation to offer in this behalf, he shall hear the employed person in the presence of at least one other person.

16. Informations to paymaster.—The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars, so that the register prescribed in rule 4 or rule 5 may be duly completed

17. Deductions for breach of contract.—(1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless :—

- (a) there is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment; and—
 - (i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less, and
 - (ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;
- (b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory or industrial establishment and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;
- (c) a notice has been displayed at or near the main entrance of the factory or industrial establishment giving the names of the persons from whom the deduction is proposed to be made, the number of days, wages to be deducted and the conditions (if any) on which the deduction will be remitted :

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory or industrial establishment, it shall be sufficient, in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections affected,

(3) No deduction for breach of contract shall exceed the wages of the persons employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no deduction for breach of contract shall be made from any person who has complied with these conditions.

18. Advances.—(1) An advance of wages not already earned shall not, without the previous permission of an Inspector, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period, an amount equivalent to the wages he is likely to earn during the two subsequent calendar months.

(2) The advance may be recovered in installments by deductions from wages ordinarily spread over not more than twelve months. No installment shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth, of the wages for the wage-period in respect of which the deduction is made.

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

19. Annual Return.—In respect of every factory or industrial establishment the paymaster shall submit a return in Form IV so as to reach the Chief Inspector of Factories or the Labour Commissioner, as the case may be, not later than the 31st of January, following the end of the calendar year to which it relates.

20. Costs.—(1) Where the Authority or the Court, as the case may be directs that any costs shall not follow the event, he shall state his reasons for so doing in writing.

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

- (a) the charges necessarily incurred on account of court-fee;
- (b) the charges necessarily incurred on subsistence money to witnesses;
and
- (c) pleader's fees which shall ordinarily be Rs. 10 provided that the Authority or the Court, as the case may be, in any proceedings, may reduce the fee to a sum not less than Rs. 5 or increase it to a sum not exceeding Rs. 30.

(3) When a party engaged more pleaders than one to defend a case, he shall be allowed one set of costs only.

21. Fees for copies of documents.—The Authority or the Court, as the case may be, may fix, fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be :

Provided that the Authority or the Court, as the case may be, may in consideration of the poverty of the applicant grant copies free of cost.

22. Other fees.—The fees payable in respect of proceedings under the Act shall be—

- (i) For every certificate of authorization— One Rupee.
- (ii) For every application to summon a witness—
 - (a) for the first witness mentioned in the application—Fifty naye paise.
 - (b) for each subsequent witness in the application— Twenty-five naye paise.
- (iii) For every other application made by or on behalf of an individual person before the Authority—Fifty naye paise.
- (iv) For every other application made by or on behalf of an unpaid group before the Authority—Twenty-five naye paise for each member of the group, subject to a maximum of five rupees.
- (v) For every appeal lodged with the Court—Five rupees,

Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit this fee :

Provided further that no fee shall be chargeable in respect of an application presented by an Inspector.

23. Manner of payment of amount directed to be paid under section 15.—

(1) Any amount directed to be paid under section 15 may be deposited with the Authority along with a statement in Form V.

(2) When any deposit is made under sub-rule (1), the Authority shall grant a receipt for the amount so deposited in Form VI and this Receipt shall be a sufficient discharge in respect of any amount deposited with him :

Provided that the said receipt in Form VI may be signed under the direction of the Authority and on his behalf by any officer subordinate to him appointed by him to writing for this purpose.

(3) Any sum deposited with the Authority under sub-rule (1), or recovered under sub-section (5) of Section 15 shall, on application, be paid by the authority to the person entitled thereto.

24. Abstracts.—The abstracts of the Act and of the Rules made thereunder to be displayed under Section 25 shall be in Form VII.

25. Penalties.—Any breach of rules 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 18 and 19 of these rules shall be punishable with fine which may extend to rupees two hundred.

FORM-I

[See rule 4(1)]

Register of Fines

.....Factory of Industrial Establishment.....

Serial No.	Name	Token or ticket number of the worker or father's or husband's name	Department	Act or omission for which fine imposed	Wages payable during wage-period	Date and amount of fine imposed	Date on which fine realised	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(8)	(8)	(9)

Note—A title page should be attached to each register showing the acts for which fines may be imposed.

W.B. Payment of Wages Rules, 1958

FORM-II

[See rule 5]

**Register of Deductions for damage or loss caused to the employer
by the neglect or default of the employed persons**

.....Factory or Industrial Establishment.....

[illegible]

FORM-III

[See rule 18 (3)]

Register of advances made to employed persons

.....Factory or Industrial Establishment.....

Serial No.	Name	Token or ticket number of the worker or rather's or husband's name	Department	Date and amoung of advance made	Date and amount of each instalment by which the advance is repaid	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)

FORM-IV

[See Rule 19]

Annual Return under the West Bengal Payment of Wages Rules for the year ending 31st December, 19.....

1. (a) Name of the factory or industrial establishment and postal address.
(b) Industry.
2. Number of days worked during the year.
3. (a) Average daily number of persons employed during the year—
 - (i) Employees earning Rs.200 per month—
Adults..... Children.....
 - (ii) Employees earning Rs. 200 or more per month but less than Rs. 400 per month—
Adults..... Children.....
- (b) Number of man-days worked during the year—
 - (i) Employees earning Rs. 200 per month
Adults..... Children.....
 - (ii) Employees earning Rs. 200 or more per month but less than Rs. 400 per month.
Adults..... Children.....
4. (i) Gross amount paid as remuneration to the persons included in item 3 (a) (ii) including deductions under Section 7(2) was Rs..... to adults and Rs..... to children of which the amount due to profit-sharing bonus was Rs..... paid to adult and Rs..... paid to children and that due to money value of concession was Rs.....,
(ii) Gross amount paid as remuneration to the persons included in item 3 (a) (ii) including deductions under Section 7(2) was Rs..... to adults and Rs..... to children of which the amount due to profit-sharing bonus was Rs..... paid to adults and Rs..... paid to children and that due to money value of concession was Rs.....
5. (i) Total wages paid including deductions under Section 7 (2) on the following accounts to the persons included in item 3 (a) (i) :
 - (a) Basic wages including overtime and non-profit sharing bonus—
Adults Rs..... Children Rs.....

(b) Dearness and other allowances in cash—

Adults Rs..... Children Rs.....

(c) Arrears of pay in respect of the previous years paid during the year—

Adults Rs..... Children Rs.....

(ii) Total wages paid including deductions under Section 7 (2) on the following accounts to the persons included in item 3 (a) (ii)~

(a) Basic wages including overtime and non-profit sharing bonus—

Adults Rs..... Children Rs.....

(b) Dearness and other allowances in cash-Adults Rs...»

..... Children Rs.....

(c) Arrears of pay in respect of the previous years paid during the year.

Adults Rs..... Children Rs.....

6. Number of cases and amount realized as—

No. of cases		Amount	
(1)	(2)	(1)	(2)
(a) Fines			

Adults :

Children :

(b) Deductions for damage or loss

Adults :

Children :

(c) Deductions for breach of contract

Adults :

Children :

show separately (1) for persons included in item 3 (a) (i) and (2) for persons included in item 3 (a) (ii)

7. Disbursements from the fine funds

Purpose	Amount
(a)	
(b)	
(c)	
(d)	

8. Balance of fine fund in hand at the end of the year.

Date :

Signature of Paymaster
Designation

W.B. Payment of Wages Rules, 1958

FORM-V

[See Rule 23 (1)]

Form of Deposit

The sum of Rs..... (Rupees.....) is hereby presented for deposit in accordance with the direction issued on..... (date) in the matter of an application No..... of 19 filed by.....(Applicant) against..... (Opposite Party).

Date :

Signature of the Depositor

FORM-VI

[See Rule 23 (2)]

Receipt

Name of depositor.....
Name of payee.....
Number of application of..... 19.....
Name of opposite party.....
Amount deposited—Rupees.....
Date of deposit.....

Authority
Payment of Wages Act, West Bengal

FORM-VII

[See Rule 24]

**Abstract of the Payment of Wages Act, 1936
and the Rules made thereunder**

Whom the Act affects.

1. The Act applies to the payment of wages to persons in this factory or industrial establishment receiving less than Rs. 400 a month.
2. No employed person can give up by contract, or agreement, his rights under the Act.

Definition of Wages.

3. "Wages" means all remuneration payable to an employed person on the fulfillment of his contract of employment. It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes—

- (a) the value of house accommodation, supply of light, water, medical attendance or other amenity or of any service excluded by the Central Government or the State Government;
- (b) the employer's contribution to a pension to provident fund ;
- (c) traveling allowance, or concession or other special expenses entitled by the employment;
- (d) any gratuity payable on discharge.

Responsibility for and method of payment.

4. The manager of the factory or industrial establishment is responsible for the payment under the Act of Wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.
5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.
6. Wages shall be paid on a working days 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.
7. Payments in kind are prohibited.

Fines and Deductions.

8. No deductions shall be made from wages except those authorized under the Act, (See paragraphs 9 to 15 below).

9. (1) Fines can be imposed only for such acts and omission as the employer may, with the previous approval of the Chief Inspectors of Factories, or the Labour Commissioner, as the case may be, specify by a notice displayed at or near the main entrance of the factory or industrial establishment and after giving the employed person an opportunity for explanation.

(2) Fines—

- (a) shall not exceed three naye paise in the rupee ;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition ;
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as are approved by the Chief Inspector of Factories or the Labour Commissioner, as the case may be ;
- (d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause not without due notice the deduction for absence may include wages for eight days in lieu of notice, but—

- (1) No deduction for breaking a contract can be made from a person under 15 or a woman,
- (2) there must be a provision in writing which forms part of the contract of employment requiring that a specific period of notice of intention to cease work not exceeding fifteen days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice,
- (3) the above provision must be displayed at or near the main entrance of the factory or industrial establishment,
- (4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory or industrial establishment,
- (5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed persons an opportunity for explanation.

12. Deduction can be made, equivalent to the value thereof, for house accommodation supplied by the employer, or by Government or any housing board set up under any law and for amenities or services (other than tools and raw materials) supplied by the employer. Provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and, services been authorized by order of Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advance given for traveling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment but must not exceed the amount of two months' wages without the permission of and Inspector.

These advances can be recovered by installments ordinarily spread over not more than twelve months and the installments must not exceed one-third or if the wages are not more than Rs. 20, one-fourth of the wages for any wage-period.

14. Deductions can be made for subscription to and for repayment of advances from any recognized Provident Fund.

15. Deductions can be made for payments to co-operative societies approved by the State Government or for payment of insurance premia subject to any condition imposed by the State Government.

16. Deductions can be made with the written authorization of the person employed, for payment of premium on the life insurance policy to the Life Insurance Corporation of India or for purchase of securities of the Central Government or the State Government or for being deposited in Post Office Savings Bank.

Inspections.

17. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of Deductions or Delays.

18. (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within six months to the Authority appointed by the State Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(b) Any legal practitioner, official of a registered trade union, Inspector under the Act or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(c) A single application may be presented by, or on behalf of, any number of persons belonging the same factory or industrial establishment the payment of whose wages has been delayed.

Action by the Authority.

19. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refused of illegal deductions.

If a malicious or vexatious complaint is made, the authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority.

20. An appeal in the prescribed form against an order or a direction made by the Authority may be preferred, within thirty days (in Calcutta to the Court or Small Causes) to the District Court—

(a) by the paymaster if the total amount directed to be paid exceeds Rs. 300 ;

(b) by an employed person, if the total amount of wages withhold from him or his co-workers, exceeds Rs. 50 ;

(c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act.

21. Any one delaying the payment of wages beyond the due date, or making any unauthorized deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with sanction of the Authority or the Appellate Court.

22. The paymaster who—

(1) does not fix a wage-period, or

(2) makes payment in kind, or

(3) fails to display at or near the main entrance of the factory or industrial establishment this abstract in English and in the language of the majority of the employed persons, or

(4) breaks certain rule made under the Act, is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.