

**THE PUNJAB SHOPS AND COMMERCIAL ESTABLISHMENTS  
RULES, 1958**

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**(First published in Punjab Government Labour Department Notification No. 6089/5544-C-Lab-58, dated 13th May 1958)**

No. 6089/5544-C-Lab-58, dated 13th May, 1958 - In exercise of the powers conferred by Section 34 of Punjab Shops and Commercial Establishments Act, 1958, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules :-

**1. Short title**

These rules may be called the Punjab Shops and Commercial Establishments Rules, 1958.

**2. Definitions**

In these rules, unless there is anything repugnant in the subject or context.-

- (a) "Act" means the Punjab Shops and Commercial Establishments Act, 1958;
- (b) "Chief Inspector" means the Chief Inspector of Shops and Commercial Establishments, <sup>1</sup>[Haryana;]
- (c) "Form" means a form appended to these rules;
- (d) "Inspector" means an inspecting officer appointed under Section 19 of the Act.

**3. Form of an intimation under section 10 of the act**

- (1) An intimation under clause (i) of sub-section (2) of Section 10 of the Act shall be sent by the employer in Form A to the Inspector within whose local limits the establishment is situated:

Provided that such intimation need not be sent by an employer within whose establishment no employee is working.

- (2) If any employer referred to under the proviso to sub-rule (1) employs in his establishment any person at any subsequent time, he shall send the intimation in Form A to the Inspector within one week of the employment of such person.

**4. Form of notice under section 20(1) of the act**

The notice under sub-section (1) of Section 20 of the Act to be exhibited by the employer in his establishment shall be in Form B.

**5. Maintenance of registers**

The employer of every establishment about the business of which persons are employed shall maintain the following registers, namely:-

- (1) a register of employees in Form C ;
- (2) a register of wages of employees in Form D; and

(3) a register of deductions in Form E.

**6. Language etc. In which records and registers are to be kept**

- (1) Every register, form or record required to be maintained or furnished under the Act and these rules shall be in <sup>2</sup>[English and Hindi] and all entries therein shall be legibly made in ink.
- (2) Every such register shall be duly bound and page-marked in serial number.
- (3) <sup>3</sup>[Every such register shall be signed by the employer and the Inspector concerned.]

**7. Preservation of records, etc**

All registers and records required to be maintained under the Act and these rules shall be preserved by the employer for a period of <sup>4</sup>[three years] to be calculated from the date to which such records or registers relate.

**8. Payment of overtime**

The payment in respect of overtime shall be made by the employer to an employee on the next pay day under Section 16 of the Act.

**9. Utilization of fines imposed on employees**

Acts and omissions on the part of employees for purposes of imposition of fine and the manner in which the amount of fine so imposed is to be utilised as laid down in Section 8 of the Payment of Wages Act, 1936, shall be approved by the Chief Inspector on an application duly made by the employer in that behalf.

**10. Powers of inspector**

For carrying out the purposes of the Act an Inspector may –

- (i) cause to be taken a photograph of any employee or the premises of any establishment; and
- (ii) call for any information, document or record, and obtain a copy thereof or take into possession any register, form, document or record maintained under the Act and these rules.

**11. Condition under section 24 of the act – <sup>5</sup>[omitted.]**

**12. Maternity benefit**

- (1) The maternity benefit payable to a woman under Section 31 of the Act shall be at the rate of her average daily wages earned during the three months immediately before the period of six weeks proceeding the day of her delivery.
- (2) <sup>6</sup>[The payment of maternity benefit accruing to a woman employee shall be made to her after one week from the date of demand after delivery. If the employer fails to make the payment within the said period he shall pay to her an additional amount at the rate of 50 per centum of the maternity benefit as penalty.]

- (3) The amount payable to a woman employee as maternity benefit in accordance with the foregoing rules shall for the purposes of its recovery be deemed to be a part of her wages illegally withheld.

### **13. Registration**

<sup>7</sup>[(1)A statement required under Section 13 of the Act for registration of an establishment or its renewal shall be submitted by the employer to the Inspector of the area within whose jurisdiction the establishment is situated in triplicate in Form F, along with requisite registration/renewal fee prescribed hereunder for different categories of establishments :-

The Inspector, after scrutiny of the statement and if found in order, shall issue or renew the registration certificate , as the case may be, as required under clause (i) of sub-section (2) of Section 13 of the Act in the same form within 30 days of the receipt of the statement by him :

Provided that all those establishments in whose case a registration certificate has already been issued and is valid on the date of publication of this notification shall also remit the requisite fee on the scale prescribed above, to the Inspector of the area in which the establishment falls, within 90 days of the publication of this notification.]

- (2) The notice about any change as required under sub-section (4) of Section 13 shall be given to the Inspector referred to in sub-rule (1) in Form G and the registration certificate shall be sent along with such notice.
- (3) The registration certificate shall be returned by the Inspector to the employer <sup>8</sup>[after making the necessary amendment therein, within 15 days of the receipt of the notice referred to in sub-rule (2).]
- (4) A register of establishments in Form H shall be maintained in the office of the Inspector.
- (5) The notice of closing the establishment as required under sub-section (5) of Section 13 shall be given by the employer to the Inspector within whose area the establishment is situated.

### **14. Authority competent to prosecute**

A prosecution under this Act may be instituted on a complaint in writing before a court of competent jurisdiction by the Chief Inspector of Shops or by a Labour Officer of the Labour Department, <sup>9</sup>[Haryana] in whose jurisdiction the offence is committed or with the permission in writing of the Chief Inspector of Shops, <sup>2</sup>[Haryana] or of the Labour Officer concerned by any Inspector or by the employee concerned.

### **15. Condition for grant of exemption**

- (1) <sup>10</sup>[No application for the grant of an exemption under Section 28 of the Act shall be entertained unless received by <sup>11</sup>[Labour Commissioner] within one month before the date of commencement of the period in respect of which the exemption is required.]

(2) <sup>12</sup>[Any exemption to be granted under Section 28 of the Act shall be subject to the following conditions, namely:-

(i)	the total number of hours of work in any establishment shall not exceed ten on any one day;
(ii)	the spread-over inclusive of intervals for rest in any establishment shall not exceed twelve hours on any one day;
(iii)	the total number of hours of over-time work shall not exceed sixty in any one quarter and the person employed for over-time work shall be paid remuneration at double the rate of normal wages, payable to him, calculated by the hours; and
(iv)	no woman shall be required or allowed to work whether as an employee or otherwise in any establishment during the hours from 8.00 p.m. to 6.00 a.m.

<sup>13</sup>[Provided that nothing contained in clause (iv) shall be applicable to a woman working in Information Technology establishments, Information Technology enabled establishments, Banking establishments <sup>14</sup>[, Three star or above hotels] and hundred percent exports oriented establishments.]

**Explanation:-** For the purposes of this rule 'Quarter' means a period of three consecutive months beginning on the 1st day of January , the 1st day of April , the 1st day of July or the 1st day of October.]

## 16. Health

(1) The premises of every establishment shall be-

(i)	kept clean and free from accumulation of dirt and refuse;
(ii)	kept sufficiently lighted during all working hours;
(iii)	properly ventilated so as to permit sufficient air and light into the premises;
(iv)	white washed and varnished at least once in a year and notice indicating the date of last white-washing and varnishing shall be exhibited in the premises.

- (2) Where the floor of the premises of an establishment is liable to become wet in the course of any manufacturing process effective means of drainage shall be provided and maintained.
- (3) In every establishment proper arrangements shall be made for providing sufficient supply of drinking water to the persons employed in the establishment. The water so supplied shall be fit for human consumption and shall be stored in a sheltered place and kept properly covered.
- (4) The employer of every establishment will provide and maintain at a convenient place at least one spittoon in a clean and hygienic condition with a disinfectant in it which may be liquid or sand covered with lime. The disinfectant shall be replaced daily.
- (5) In every establishment which is a workshop or in which articles are produced, adapted or manufactured with a view to their use, transport or sale, adequate washing facilities shall be provided and maintained for the use of employees such as soap, towel, nail brush, etc.
- (6) In every establishment in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such nature and to such an extent as is likely to be injurious or offensive to the persons working therein or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in the premises and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.
- (7) No stationary internal combustion engine shall be operated in any establishment unless exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the employees working in the establishment.

## **17. Safety**

- (1) Every dangerous part of a machinery in an establishment shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use.
- (2) In every establishment, where manufacturing process is carried on with the aid of electric power, suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained.
- (3) No employee with loose fitting clothes on shall be allowed or made to work near the moving machinery or belt and the tight clothes for the purpose will be provided by the employer.

**15[17a. Protection of eyes**

The employer shall provide suitable goggles for the protection of eyes of the employees engaged on or in the immediate vicinity of, the manufacturing process which is in any way open to -

(a)	risk of injury to the eyes from particles or fragments thrown off in the course of the process;
(b)	risk to the eyes by reason of exposure to excessive light.]

**18. Precautions in case of fire**

- (1) Every establishment shall be provided with adequate means of escape in case of fire.
- (2) In every establishment the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from inside while any person is within the room.
- (3) In every establishment buckets and/or chemical fire extinguishers shall be provided in suitable number and at suitable sites according to the nature of work carried on and the size of the premises.

**19. Welfare**

- (1) In every establishment a first-aid box with the following contents shall be maintained

(i)	six medium sterilized dressings;
(ii)	six 2-1/2" bandages;
(iii)	one ounce bottle containing 2 per cent alcoholic iodine;
(iv)	one ounce bottle containing selvolatile having the dose and mode of administration indicated on the label;
(v)	one pair of scissors;
(vi)	one tube of burnol;
(vii)	one ounce olive oil to be used as eye drops;
(viii)	one role of sticking plaster;
(ix)	one copy of the first-aid leaflet issued by the Chief Inspector.

- (2) The employer of every establishment, where smoke is produced in the course of carrying out its business, will take effective measures to exhaust out the smoke in order to safeguard the health of the persons employed in the premises.
- (3) The employer of every establishment where food, drink and beverage is served to the customers will have all the persons employed in connection with the business



of the establishment including the employer, medically examined at least once in a year by certifying surgeon or by doctor in-charge of civil dispensary ,where certifying surgeon is not available. A certificate in Form I to the effect that the person so examined is free from communicable diseases shall be obtained and produced before the Inspector on demand:

- (4) Provided that if an employee shifts to another concern before the expiry of one year from the date of medical examination, it will not be necessary for him to get a fresh medical certificate and a copy of the certificate already issued will be considered sufficient for the purposes of these rules.

**20. Application of rules 16, 17, <sup>1</sup> [17-a,] 18 and 19**

Rules 16, 17, <sup>16</sup>[17-A], 18 and 19 shall apply to those establishments only in which persons are employed by the employer.

**21. Power of chief inspector to decide the adequacy of measures**

- (1) If any dispute arises with regard to the adequacy of the measures adopted in accordance with rules 16, 17, <sup>17</sup>[17-A,] 18 and 19 it shall be referred to the Chief Inspector whose decision shall, subject to the provision of sub-rule (2), be final.
- (2) An appeal shall lie against the decision of the Chief Inspector in respect of matters specified in sub-rules (6) and (7) of rule 16 and sub-rule (1) of rule 17 to the Labour Commissioner, <sup>18</sup>[Haryana,] within a period of one month from the date on which decision of the Chief Inspector is received by the employer.

<sup>19</sup>[**Explanation:-** 'Dispute' means any difference of opinion between an employer or an employee and the Inspector under the Act.

**22. Period for supplying information required by inspector**

Any information or document required by the Inspector for carrying out the purposes of the Act and these rules shall be furnished to him by the employer of every establishment within one week from the date on which such requisition is received by the employer

### **TERMS & CONDITIONS FOR EXEMPTION UNDER SECTION 30**

The management of the company shall comply with the following terms and conditions within a period of 30 days (**from the grant of temporary exemption/ Exemption**), under Sec 30 of the Punjab shops and commercial establishment Act, 1958.

1. Management will provide adequate security and proper transport facility to the women workers during the evening night shift. The management will strictly all here to the security transport facility guidelines issued by the labour department from time to time.

#### **Private Security Management Terms & Conditions:-**

- (a) The management shall furnish the security contract executed by the company with an appropriately licensed/ Registered security agency under the Shops & Commercial Establishment Act, 1958. The copy of the contract along with License Details of the security agent shall be submitted within 7 days from any change in the arrangement.
- (b) The management will conduct an annual self-defense Training workshop for the women employees.
- (c) The management shall maintain the Daily Attendance Register as prescribed under the Shops and Commercial Establishments Act, 1958.
- (d) The security guards on duty will ensure that the women employees board the transport facility in their presence. The Security Incharge/ Management shall maintain the Boarding Register/ Digitally Signed Computerized Record. The register should clearly mention the Date, Name of the Model & Manufacturer of the Vehicle, Vehicle Registration No., Name of the Driver, Address of the Driver, Phone Contact No. of the Driver/ Vehicle, Time of pickup of the Women Employees from the Establishment/ Destination, Details of Women & Male employees Traveling in the Vehicle & Name of the Security Guard in the Vehicle & Time of reporting back to the establishment after dropping all the women employees/ Pick up from the destination.
- (e) Adequate Security will be provided in the transport facility vehicle.
- (f) The attendance Register of the security guard/s will be maintained by the management/ Security In-charge.
- (g) The management will provide for a separate "Women Room" with attached toilet / bathroom.

#### **Transport Facility conditions**

- (a) If case the management has executed a contract with private transporter, the copy of the Contract shall be submitted to the Labour Department.
- (b) The drivers will carry the photo identity cards clearly bearing the Name of the Driver, Father's Name of the Driver, Temporary Address of the Driver, Permanent

Address of the Driver, Phone Contact No. of the Driver, Date of Issuance of ID & Driving License No., issued by the Management.

- (c) The transport vehicle in-charge/ Security In-charge/ Management will maintain a Movement Register, which shall include Name of Women Employee, Time of pickup of Women Employees, Place of Drop-Back of women employee, Time of Drop-Back of Women Employees, Signature of Women employees at the time of drop-up.
  - (d) The driver shall wear proper dress and his name is clearly displayed at his shirt.
  - (e) A Pepper spray (self-defence spray) & mobile phone shall be placed at the disposal of the women employees in every Vehicle.
  - (f) The employer of the driver shall ensure that no driver has any criminal record.
  - (g) The management will ensure that no vehicle has black or tinted glasses.
  - (h) The emergency calls nos. should be displayed inside the vehicle.
  - (i) The drivers will not to leave the dropping point before the employee enters into his/her accommodation.
2. The management shall ensure protection of women from sexual harassment at work place in terms of the direction of Hon'ble Supreme Court in the case of Vishaka & others v/s state of Rajasthan vide Judgement dated 13.08.1997 (AIR 1997) Supreme Court 3011).

The guidelines and norms pre-scribed herein are as under:-

Having regard to the definition of 'human rights' in Section 2(d) of the Protection of Human Rights Act, 1993,

Taking note of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

**1. Duty of the Employer or other responsible persons in work places and other institutions**

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

**2. Definition**

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

### **3. Preventive Steps**

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

### **4. Criminal Proceedings**

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

#### **5. Disciplinary Action**

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

#### **6. Complaint Mechanism**

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

#### **7. Complaints Committee**

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

#### **8. Workers' Initiative**

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

#### **9. Awareness**

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

#### **10. Third Party Harassment**

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary

and reasonable to assist the affected person in terms of support and preventive action.

**11. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.**

Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field.

12. The management will submit the complete list of Women Employee/s working in the establishment, to the Labour Department within 30 days from the grant of the exemption. The management will submit the details of any Women Employee to the Labour Department within 15 days of her joining/ relieving from the establishment.
13. The Management will maintain a Record Register of Women Employees working in the Establishment on Monthly Basis and it will include the Name of the Women Employee, Age, Father's Name/ Mother's Name, Husband's/ Guardian's Name, Designation, Temporary Address & Phone Info., Permanent Address & Phone Info., Date of Joining the Establishment, Date of Relieving the Establishment, No. of days worked in the previous Month during the Evening/ Night Shifts in the Previous Month & No. of days worked during the Day Shifts in the Previous Month.
14. The management will issue photo identity cards to all the women employees. The identity cards shall clearly bear the Name of the employee, Father's Name, Age, Temporary & Permanent Address, Phone Contact No. of the Employee, Distress Call No. of the Establishment & All Emergency Service Nos.
15. The no. of women employees should not less than 10% of the male employees in the evening/ night shifts. In any case the management will not employ a Woman Employee alone, during the night shift in the establishment.
16. The management will conduct an annual workshop for all the women employees making terms aware of the assessment and harassment policy of the company.
17. The guidelines framed by the Company/ Management for the harassment policy shall be displayed on the Notice Board of the establishment.
18. The above exemption shall be further subject to the condition that the management will continue to have a valid registration certificate issued under Section 13 of the Punjab shops and commercial establishment Act, 1958, and rules made there under.
19. Any other conditions as may be subjected in this regard by the Labour Department from time to time.

- 1 Substituted for the word "Punjab" by Haryana Government, Labour Department Notification No. GSR-14/PA-15/58/S.34/Amd (1)74, dated 19.4.1974
- 2 Substituted vide Haryana Government Notification No. GSR 18/PA-15/58/S.34/72, dated 28.2.1972
- 3 Sub-rule (3) added by Haryana Government Notification, ibid.
- 4 Substituted for the words "two years" by Haryana Government Notification, ibid.
- 5 Omitted by Punjab Government Notification No. 251/PA.15/58/S.34/Amd(2)/ 64, dated 16-11-1964.
- 6 Substituted by Haryana Government Notification No. GSR.18/PA.15/58/S.34/72, dated 28-02-1972.
- 7 Substituted for sub-rule (1) by Haryana Government, Labour Department Notification No. 1/32/83- 1Lab, dated 28-02-1997.
- 8 Added by Punjab Government Notification No. GSR.257/PA.15/58/ S.34/Amd(2)/64, dated 16.11.1964.
- 9 Substituted for the word "Punjab" by Haryana Government Notification No. GSR.18/ PA15/58 /S.34/72, dated 28.02.1972.
- 10 Rule 15 re-numbered as sub-rule (1) and sub-rule (2) alongwith Clauses (i) to (iv) and explanation added vide Haryana Government Notification No. GSR.14/PA.15/ 58/S.34/Amd(1)74, dated 19.4.1974.
- 11 Substituted for the words "Chief Inspector" by Haryana Government, Labour Department Notification No. 6/35/2002-1Lab, dated 27.08.2003.
- 12 Rule 15 re-numbered as sub-rule (1) and sub-rule (2) alongwith Clauses (i) to (iv) and explanation added vide Haryana Government Notification No. GSR.14/PA.15/ 58/S.34/Amd(1)74, dated 19.4.1974.
- 13 Proviso added by Haryana Government, Labour Department Notification No. 6/35/2002-1-Lab, dated 27.08.2003.
- 14 Inserted by Haryana Government, Labour Department Notification No. 6/3/2002-1Lab, dated 1.12.2004.
- 15 Inserted vide Haryana Government Notification No. 1550-2 Lab-67/4439, dated 8th March 1967.
- 16 Added by Haryana Government Notification No. 1550-2Lab-67/4489, dated 08-03-1967.
- 17 Added by Haryana Government Notification No. 1550-2Lab-67/4489, dated 08-03-1967.
- 18 Substituted for the word "Punjab" by Haryana Government Notification No. GSR-14/PA.15/58/S.34/Amd(1)/74, dated 19-04-1974".
- 19 Added vide Punjab Government Notification No. GSR-257/PA-15/58/S. 34/Amd(2)/64 dated 16 Nov., 1964.