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NOTIFICATION

No. C. 14012/12/2006-L&E, the 4th June, 2013. The Governor of Mizoram is pleased to Notify the Mizoram Industrial Employment (Standing Orders) Rules, 2013.

By order etc.

Esther Lal Ruatkimi,
Secretary to the Govt. of Mizoram,
Labour, Employment & Industrial Training Deptt.

In exercise of the powers conferred by Section 15 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) the Governor of Mizoram is pleased to make the following rules, namely :-

1. Short title, extent and commencement:-

- (1) These Rules may be called the Mizoram Industrial Employment (Standing Orders) Rules, 2013.
- (2) They shall extend to the whole State of Mizoram.
- (3) These Rules shall come into force from the date of their publication in the Official Gazette.

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

- (a) "Act" means the Industrial Employment (Standing Orders) Act, 1946(20 of 1946);
- (b) "Form" means a form set out in the Schedule appended to these Rules;
- (c) "Words and expressions" used in these Rules but not defined shall have the meaning assigned to them in the Act.

3. The model standing orders for the purpose of the Act for application to the industrial establishments shall be those set out in Schedule I.

4. Application for certification of Standing Orders shall be in Form 'A'.

5. The draft standing orders submitted to the Certifying Officer shall be accompanied by a statement in Form 'B' giving the following particulars in respect of the workman employed in the industrial establishment:-

- (1) Number of workmen (classified into men, women and children) employed under the following categories:-
 - (a) Skilled
 - (b) Unskilled
 - (c) Clerical
 - (d) Others, if any
 - (e) Total
 - (2) Number of workmen classified into
 - (a) Permanent
 - (b) Temporary
 - (c) Casual
 - (d) 'Badli' or substitute
6.
 - (a) Five copies of the Draft Standing Order which an employer proposes to adopt for his industrial establishment shall be forwarded by registered post to the certifying officer.
 - (b) A group of employers in similar industrial establishment may submit a joint draft of standing orders, provided that five times as many copies of the drafts shall be made as the number of industrial establishments to which the joint draft is to apply.
 - (c) Such joint drafts shall be accompanied by statements prescribed by Rule 5 in respect of each of the industrial establishments.
 7. On receipt of the standing orders submitted by an employer the certifying officer, shall, as soon as practicable-
 - (i) Cause copies thereof together with notice in Form 'C' to be affixed on the notice board of the Industrial establishment concerned for the information of the workmen of the said establishment and
 - (ii) Shall forward by registered post copies of the draft standing orders and of the notice in Form together with notice in Form 'D' to the trade union or unions named by the employer in the statement submitted by him in Form 'C' and to any other trade union or unions which in the opinion of the Certifying Officer are concerned with the establishment.
 8.
 - (1) Where there is no trade union in an industrial establishment, the Certifying Officer shall cause a meeting of the workmen to be held on a date fixed by him for the purpose, for the election of four representatives of the workmen concerned from among themselves.
 - (2) The Certifying Officer may require the employer or an officer of the industrial establishment to display a notice of the date, time and place of the meeting in a prominent place at or near the main gate of the establishment.
 - (3) The meeting shall be convened, and presided over by the certifying officer or such person as the certifying officer may by special or general Order specify for the purpose.
 - (4) The workmen declared elected at the meeting by the person presiding shall be the representatives of the workmen for the purpose of the Act and these rules to whom the certifying Officer shall forward a copy of the draft standing orders and of the notice in Form 'C' together with notice in Form 'D'.
 9. The standing orders certified by the certifying officer or the appellate authority shall be authenticated by affixing thereto the signature and the seal of the certifying officer or the appellate authority as the case may be. The standing orders shall be forwarded by registered letter post.
 10. The register of standing orders required to be maintained under Section 8 shall be in Form 'E'
 11. A copy of the certified Standing Orders under Section 8 of the Act may be obtained by any person from the Certifying Officer by presenting an application affixing a Court Fee stamp of Rupees Fifty and furnishing copy stamped papers of Rupees Ten for every hundred words or fraction thereof.

- 12.(1) Any person desiring to prefer an appeal against an order of the Certifying Officer shall draw up a Memorandum of Appeal setting out the grounds of appeal and forward it to the Appellate Authority in quadruplicate, accompanied by a certified copy of the standing orders.
- (2) The Appellate Authority shall, after giving the appellant an opportunity of being heard, unless it comes to the conclusion that the decision of Certifying Officer is contrary to law or otherwise erroneous, confirm the standing orders as certified by him.
- (3) Where the Appellate Authority does not confirm the standing orders it shall fix a date for the hearing of the appeal and direct notice thereof to be given:-
- (a) Where the appeal is filed by the employer of workman, to trade unions of the industrial establishment and where there are no such trade unions to the representatives of workman elected in accordance with the provisions of Rule 8, or
 - (b) Where the appeal is filed by a trade union, to the employer and all other trade unions of the establishment or
 - (c) Where the appeal is filed by the representatives of workmen to the employer.
 - (d) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.
- (4) The Appellate Authority may at any stage call for any evidence it considers necessary of the appeal.
- (5) On the date fixed under Rule 12 (3) for the hearing of the appeal, the authority shall take such evidence as it may have called for and considers to be relevant.

- 13.(1) Files relating to the appeals preferred under the Act shall be preserved for three years.
- (2) After the expiry of the said period of three years, the records may be destroyed either by treating or by burning in the presence of the Labour Officer provided, however, that records of secret or confidential nature shall be destroyed only by burning. The records destroyed by tearing may be sold or otherwise disposed of in such manner as the Certifying Officer thinks fit.

14. Guidelines for Prevention of Sexual Harassment of Women in Work places :

- (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 procedure 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 unwelcomed sexually determined behavior (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 whereunder 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 women 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 consequence might be visited if the victim does not consent to the conduct in question or raise any objection thereto.

(3) Preventive steps:

All employers or persons in charge of work places 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 places 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 regard 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 woman employee 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 victim, 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. If the alleged harassment is found guilty, the complainant - victim is not forced to work with / under such harassment and where appropriate and possible the alleged harasser should be transferred. Harassment and intimidation of witness and the complainants shall be met with severe disciplinary action.

(5) Discipline 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) Complaint Committee:

The complaint mechanism, referred to in Rule 14(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 members 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 Complaint Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

The employers and persons-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 issue 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 regards 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.

FORMA
(See Rule 4)

The Industrial Employment (Standing Orders) Act, 1946

To

Dated

The Certifying Officer, Mizoram

(Area)
(Place)

Under the provisions of Section 3 of the Industrial Employment (Standing Order) Act, 1946, I am enclosing five copies of the draft standing orders proposed by me for adoption in

(Place)

Name
(Postal address)

Industrial establishment owned and controlled by me with the request that these orders may be certified under the terms of the Act. I also enclose a statement in Form B giving the particulars prescribed in Rule 5 of the Mizoram Industrial Employment (Standing Orders) Rules, 2013.

(Signature)
Employer/Manager.

**STATEMENT
FORM B
(See Rule 5)
Particulars of Workmen**

Name of the Industrial Establishment:
Address:

Number of the workmen employed	Men	Women	Children	Total
(1)	(2)	(3)	(4)	(5)
1. (1) Skilled				
(2) Unskilled				
(3) Clerical				
(4) Others, if any				
Total				

II. Classification and number of workmen:

- (1) Permanent
- (2) Temporary
- (3) Casual
- (4) 'Badli' or substitutes
- (5) Probationers
- (6) Apprentice
- (7) Part-time
- Total

III. Names of trade unions, if any, to which the workers belong with the number of workers in each such union.

IV. The date from which 100 and more persons were employed in the establishment.

V. Date on which draft standing orders are sent for certification.

**FORM C
(See Rule 7)
Form of Notice**

Standing orders having been submitted by the.....

any objection of the workmen thereto should be submitted to me within fifteen days from the date of this notice.

Date:

**Commissioner of Labour
(Certifying Officer)**

*Enter name of the industrial establishment.

Employer's Signature.

**FORM D
(See Rule 7)
Notice to Trade Union**

Address

A copy of the standing orders submitted by

under Section 3 of the Industrial Employment (Standing Orders) Act 1946 is enclosed.

You are hereby required, within 15 days of this notice to intimate to the undersigned in writing your objections, if any, to the draft standing orders.

If no objections are received within the period mentioned above it will be assumed that you do not desire to submit any.

Date:

**Commissioner of Labour
(Certifying officer)**

**FORM E
(See Rule 10)
REGISTER OF STANDING ORDERS**

1. SI. No.
2. Name of Industrial Establishment
3. Date of receipt of the Draft Standing Orders
4. Date of issue of notice under section 5 by the Union or workmen
5. Date of receipt of the under section 5 by the Union or workmen
6. Date of Certification of the Standing Orders by the certifying Officer
7. Date of dispatch of authenticated copies of the standing orders
8. Signature of the certifying Officer
9. Whether standing orders were appealed against
10. Whether standing orders were confirmed or modified in appeal
11. Date of dispatch of authenticated copies of the standing orders as confirmed or modified by the appellate court.
12. Remarks

SCHEDULE I
Model Standing Orders
(See Rule 3)

1. In these Standing Orders, unless there is anything repugnant in the subject or content-
 - (a) **"Habitual"** means involving repetition of an act for a minimum of 4 times within a period of 12 months.
 - (b) **"Ticket"** includes a card, pass or a token.

2. Workman may be classified as:
 - (a) permanent workmen;
 - (b) probationers;
 - (c) "badlies" or substitutes;
 - (d) temporary workmen;
 - (e) casual workmen;
 - (f) apprentices; and
 - (g) seasonal workmen,

"Permanent workman" means a workman appointed in a permanent vacancy and whose appointment has been confirmed in writing by the employer, and includes a workman who has completed a satisfactory probation of 6 months in the aggregate in the same or another occupation.