




The Orissa Gazette

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 Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART III.

Regulations, Orders, Notifications, Rules, etc., issued by the Governor and by Heads of Departments.

HOME, REVENUE AND FINANCE DEPARTMENTS.

NOTIFICATIONS.

The 17th February 1937.

No. 662—La-19-R.—Whereas it appears to the Government of Orissa that land is required to be taken by Government at the public expense for a public purpose, viz., for retired line of the Kapali right embankment no. 4-A in the villages of Andhaipali and Kalahandia, pargana Randia-orgada, zila Balasore, it is hereby notified that for the above purpose two pieces of land measuring, more or less, 3.75 acres bounded on the—

Block A—area 0.99 acre—mauza Andhaipali.

North—By part of plots nos. 64 and 65 and plot no. 20 Irrigation Department land and boundary of mauza Kalahandia,

East—By the boundary of mauza Kalahandia acquired in Block "B",

South—By part of plots nos. 56, 64, 65, 66, 67 and 74,

West—By plot no. 20 Irrigation Department land;

Block B—area 2.76 acres mauza Kalahandia.

North—By part of plots nos. 701, 699, 765, 768, 772, 774, 776, 783, 784, 782, 787 and 789,

East—By plot no. 679 Irrigation Department land,

South—By part of plots nos. 702, 700, 704, 765, 764, 763, 768, 769, 770, 771, 772, 773, 784, 785, 787 and 789 and boundary of mauza Andhaipali,

West—By the boundary of mauza Andhaipali acquired in Block "A";

are required within the aforesaid villages of Andhaipali and Kalahandia.

This notification is made, under the provisions of section 4 of Act I of 1894, to all whom it may concern.

A plan of the land may be inspected in the office of the Land Acquisition Deputy Collector, Irrigation Branch, Cuttack, or in that of the Executive Engineer, Northern Division, Cuttack.

Objections to the acquisition, if any, filed under section 5-A by any person interested within the meaning of that section on or before the 21st March 1937, before the Collector of Balasore, will be considered.

P. T. MANSFIELD,
Chief Secretary to Government.

The 19th February 1937.

No. 705-R.—The Governor is pleased to direct that the following amendment shall be made in the Home, Revenue and Finance Departments' notification no. 11, dated the 1st April 1936 published at page 2, Part III of the *Orissa Gazette*, dated the 1st April 1936.

AMENDMENT.

For the words "Parlakimedi, the Bodo-khimidi and the Surangi Maliahs", the words "Parlakimedi, Bodokhimidi, Surangi, Mandasa, Jarada, Jalantra and the Budarasingi Maliahs" shall be substituted, with effect from the 1st April 1936.

The 20th February 1937.

No. 713—S-19/37-R.—Whereas the Collector appointed for the preparation of a Record-of-rights in respect of the following villages of the Surangi and Bodokhemidi Estates in the district of Ganjam, has published the Record-of-rights in respect of the said villages on the dates noted against them, the Governor of Orissa, in exercise of the powers vested in him under sub-section (2) of section 167 of the Madras Estates Land Act, 1908 (Madras Act I of 1908), hereby declares that a Record-of-rights has been finally published for each of the said villages:—

Name of the Estate.	Names of villages.	Date of publication.
Surangi	1. Turubudi	12th December 1936.
	2. Purnatentulia	
	3. Bahuliya	13th December 1936.
	4. Ullama	
	5. Nandini (hamlet of Santrapur)	14th December 1936.
	6. Nuvagodo	
		7. Podadigi
Bodokhemidi	8. Gowdogam	12th December 1936.
	9. Sannodumula	13th December 1936.

By order of the Governor,
P. T. MANSFIELD,
Chief Secretary to Government.

**EDUCATION, HEALTH AND LOCAL
SELF-GOVT. DEPARTMENT.**

NOTIFICATION.

The 23rd February 1937.

No. 1111-E.—The Government of Orissa are pleased to approve the following amendments in the syllabus for primary schools published with notification no. 2469-E.,

dated the 10th July 1934, issued by the Government of Bihar and Orissa:—

(1) GEOGRAPHY—CLASS IV.

For the second sentence substitute "More detailed knowledge about the natural area in which the school is situated, i.e., the Coastal Plains (Puri, Cuttack and Balasore districts and part of Ganjam), the dissected plateau (Sambalpur and Angul districts, some of the

Orissa States) or the Highlands (Koraput and Ganjam Agency tracts including the Khondmals, other Orissa States)".

(2) GEOGRAPHY—CLASS V.

Substitute for the first sentence "Study of the three natural areas making up the province as specified in the syllabus for class IV. These areas comprise also the Orissa States the geography of which should be studied along with that of the province".

(3) BOOKS REQUIRED BY TEACHERS—No. 4.

Omit the words "Bihar and".

By order of Governor,

M. HAMID,

Secretary to Government.

LAW AND COMMERCE
DEPARTMENT.

NOTIFICATIONS.

The 19th February 1937.

No. 1243—111-L-4/37-Com.—In exercise of the power conferred by clause (b) of rule 2 of the Workmen's Compensation (Transfer of Money) Rules, 1935, the Government of Orissa are pleased to designate the Director of Development, Orissa, for the purpose of performing the functions of "authorised Officer" under the said rules, in the province of Orissa.

By order of the Governor,

C. G. NAIR,

Secretary to Government.

The 19th February 1937.

No. 1254-Com.—Intimation having been received of the outbreak of plague at Karachi, it is hereby notified for general information that Karachi is declared to be an infected port and that the existing regulations for the prevention of the introduction of plague by sea will be enforced in the ports of Orissa against vessels arriving from Karachi.

C. G. NAIR,

Secretary to Government.

The 24th February 1937.

No. 1321—111-L-15/36-Com.—In exercise of the powers conferred by sub-section (2) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of the General Clauses Act, 1897 (X of 1897),

the Government of Orissa are pleased to make the following rules :—

RULES UNDER SUB-SECTIONS (3) AND
(4) OF SECTION 26.

1. *Title.*—These rules may be called the Orissa Payment of Wages Rules, 1936.

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

(a) "the Act" means the Payment of Wages Act (IV of 1936);

(b) "the Authority" means the authority appointed under the 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 10 of the Factories Act (XXV of 1934);

(d) "the Court" means the court mentioned in sub-section (1) of section 17 of the Act;

(e) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

(f) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;

(g) "Form" means a form appended to these rules;

(h) "Inspector" means the inspector authorized by or under section 14 of the Act;

(i) "person employed" excludes all persons to the payment of whose wages the Act does not apply;

(j) "section" means a section of the Act;

(k) "paymaster" means an employer or other person responsible under section 3 of the Act for the payment of wages;

(l) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

Section 26 (3) (a).

3. *Register of Fines.*—(1) In any factory 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 I.

(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, a deduct 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 has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. *Register of deductions for damage or loss.*—In every factory 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.

5. *Register of Wages.*—A Register of Wages shall be maintained in every factory and may be kept in such form as the paymaster finds convenient but shall include the following particulars:—

- (a) the gross wages earned by each person employed for each wage period;
- (b) 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;
- (c) the wages actually paid to each person employed for each wage period.

6. *Maintenance of Registers.*—The registers required by rules 3, 4, 5 and 17 shall be preserved for twelve months after the date of the last entry made in them.

Section 26 (3) (e).

7. *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 shall be examined at least biennially 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 Weights and Measures of Capacity Act (XXXI of 1871), or the Indian Penal Code (XIV 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.

Section 26 (3) (d).

8. *Notice of dates of payment.*—The paymaster shall display, in a conspicuous place at or near the main entrance of the factory, a notice, in English and in the language of the majority of the persons employed therein, giving for not less than two months in advance, the days on which wages are to be paid

Section 26 (3) (e), (f) and (h).

9. *Prescribed authority.*—The Chief Inspector of Factories shall be the authority competent 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 in which the proceeds of fines shall be expended.

10. *Application in respect of fines.*—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories—

- (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 of which the incumbents may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

11. *Approval of list of acts and omissions.*—The authority appointed under rule 9 on receipt of the list prescribed in clause (a) of the preceding rule 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 the approved list,

provided that no order disapproving or amending any list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing why the list as submitted by him should be approved.

12. *Posting of list.*—The employer shall display at or near the main entrance of the factory a copy in English, together with a literal translation thereof, in the language of the majority of the persons employed therein, of the list approved under rule 11.

13. *Persons authorized to impose fines.*—No fine may be imposed by any person other than an employer, or a person holding an appointment named in a list submitted under rule 10.

14. *Procedure in imposing fines and deductions.*—Any person 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 is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation in the presence of at least one other person.

15. *Information 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 3 or Rule 4 may be duly completed.

Section 26 (3) (g).

16. *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 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 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, 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 person 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.

Section 26 (3) (i).

17. *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, twice the wages he is likely to earn during the two subsequent calendar months.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than twelve months. No instalment 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 amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

Section 26 (3) (a).

18. *Annual Return.*—In respect of every factory in which during the calendar year any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, a return shall be sent in Form IV so as to reach the Chief Inspector of Factories not later than the 15th of February following the end of the calendar year to which it relates.

Section 26 (3) (i).

19. *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-fees;

(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 engages more pleaders than one to defend a case, he shall be allowed one set of costs only.

20. 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.

Section 26 (3) (k).

21. *Fees.*—The fee payable in respect of proceedings under the Act shall be:—

- | | |
|---|---|
| (i) For every application to summon a witness. | Four annas in respect of each witness. |
| (ii) For every other application made by or on behalf of an individual person before the Authority. | Eight annas. |
| (iii) For every other application made by or on behalf of an unpaid group before the Authority. | Four annas for each member of the group, subject to a maximum of five rupees. |

- (iv) 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.

Section 26 (3) (l).

22. *Abstracts.*—The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form V.

Section 26 (4).

23. *Penalties.*—Any breach of rules 3, 4, 5, 6, 8, 12, 15 and 18 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM IV.

DEDUCTIONS FROM WAGES.

Return for the year ending 31st December 19 .

1. Name of factory and postal address.....
2. Total number of persons employed { Adults.....
Children.....
3. Total wages paid.....
4. Number of cases and amounts realized as—

	No. of cases.	Amounts.
(a) fines 		
(b) deductions for damage or loss 		
(c) deductions for breach of contract 		

5. Disbursements from fine fund—

	Amount.	Purpose.
	Rs.	

Signature.....

Dated.....19 .

Designation

FORM V.

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 receiving less than Rs. 200 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 fulfilment 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 Governor General in Council or the Local Government;
- (b) the employer's contribution to a pension or provident fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment;
- (d) any gratuity payable on discharge.

Responsibility for and method of payment.

4. The manager of the factory 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 day within 7 days of the end of the wage period (or within 10 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 authorised under the Act (*see* paragraphs 9—15 below).

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

(2) Fines—

- (a) shall not exceed half-an-anna 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;
- (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 and without due notice, the deduction for absence can 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 15 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.
- (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.
- (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 person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) 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 authorised by order of Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of over-payment 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 advances given for travelling 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 an Inspector.

These advances can be recovered by instalments, spread over not more than 12 months and the instalments must not exceed $\frac{1}{3}$ rd, or if the wages are not more than Rs. 20, $\frac{1}{4}$ th of the wages for any wage-period.

14. Deductions can be made for subscription to and for re-payment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Local Government or to the postal insurance, subject to any conditions imposed by the Local Government.

Inspections.

16. 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.

17. (1) 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 6 months to the Authority appointed by the Local Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) 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.

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

Action by the Authority.

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund 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.

19. An appeal in the prescribed form against a direction made by the Authority may be preferred, within 30 days 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 withheld 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.

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

21. 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 this Abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules 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.

By order of the Governor,
C. G. NAIR,
Secretary to Government.