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

PART III

Laws, Regulations and Rules passed thereunder.

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GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIATô LABOUR AND EMPLOYMENT
DEPARTMENT

Notification

Jammu, the 15th of January, 2021.

SO-16.ôôThe following draft rules, which the Jammu and Kashmir Government proposes to make in exercise of the powers conferred by section 67 of the Code on Wages, 2019 (29 of 2019) read with section 24 of the General Clauses Act, 1897 (10 of 1897) and in supersession of the :ô

- (i) The Jammu and Kashmir Payment of Wages Rules, 1972 ;
- (ii) The Jammu and Kashmir Minimum Wages Rules, 1972 ;

made by the Jammu and Kashmir Government in exercise of the powers conferred by the Payment of Wages Act, 1936 (4 of 1936), the minimum

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Wages Act, 1948 (11 of 1948), as the case may be, which are repealed
by section 69 of the Code on Wages, 2019, except as respective things
done or omitted to be done before such supersession, are hereby notified,
as required by sub-section (1) of section 67, for information of all persons
likely to be affected thereby and notice is hereby given that the draft
notification will be taken into consideration after the expiry of a period
of forty-five days from the date on which the copies of the Official
Gazette in which this notification is published are made available to the
public ;

Objections and suggestions, if any, may be addressed to Commissioner
Secretary, Labour and Employment (secyledjk@gmail.com) and Additional
Secretary, Labour and Employment Department, Civil Secretariat, J&K.

Objections and suggestions, which may be received from any person
with respect to the said draft notification before expiry of the period
specified above, will be considered by the Jammu and Kashmir
Government.

CHAPTER I

Preliminary

1. **Short title, extent and commencement.** (1) These rules may
be called the Code on Wages Jammu and Kashmir Rules, 2021.

(2) These rules may extend to the territorial jurisdiction of Jammu
and Kashmir.

(3) They shall come into force after the date of their final
publication in the Official Gazette, on the date of the commencement
of the Code on Wages, 2019 (29 of 2019).

2. **Definitions.** In these rules, unless the subject or context
otherwise requires,

- (a) "authority" means the authority appointed by the Jammu and
Kashmir Government under sub-section (1) of section 45 ;
- (b) "appellate authority" means the appellate authority appointed
by the Jammu and Kashmir Government under sub-
section (1) of section 49 ;

- (III) 66 meters cloth per year per standard working class family ;
- (IV) Housing rent expenditure to constitute 10 per cent of food and clothing expenditure ;
- (V) Fuel, electricity and other miscellaneous items of expenditure to constitute 20 per cent of minimum wage ; and
- (VI) Expenditure for children education, medical requirement, recreation and expenditure on contingencies.

Note :ô The provisions of the rule 3 are based on the criteria declared in the judgment in Workmen Represented by Secretary vs. Management of Reptakos Brett. and Co. Ltd. and Anr., 1992 AIR 504 pronounced by the Honøble Supreme Court and on the recommendations of the 15th Indian Labour Conference (ILC) to constitute 25 per cent of minimum wage ;

(2) when the rate of wages for a day is fixed, then, such amount shall be divided by eight for fixing the rate of wages for an hour and multiplied by twenty-six for fixing the rate of wages for a month and in such division and multiplication the factors of one-half and more than one-half shall be rounded as next figure and the factors less than one-half shall be ignored.

4. Norms for fixation of minimum rate of wages.ô (1) While fixing the minimum rate of wages under section 6, the Jammu and Kashmir Government shall divide the concerned geographical area into three categories, that is to say area under Municipal Corporations area under Municipal Committees/Municipal Councils and Rural area.

(2) The Jammu and Kashmir Government shall constitute a technical committee for the purpose of advising the Jammu and Kashmir Government in respect of skill categorization, which shall consist of the following members, namely :ô

- (i) Commissioner/Secretary to Government, Labour and Employment (Jammu and Kashmir)-Chairperson ;

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shift ends, and the hours after midnight during which such
employee was engaged in work shall be counted towards the
previous day.

9. The extent and conditions for the purposes of sub-section (2) of section 13. In case of employees,

- (a) engaged in any emergency which could not have been foreseen or prevented ;
- (b) engaged in work of the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned ;
- (c) whose employment is essentially intermittent ;
- (d) engaged in any work which for technical reasons has to be completed before the duty is over ; and
- (e) engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces ; the provisions of rules 6, 7 and 8 shall apply subject to the condition that,
 - (i) the spread over of the hours of work of the employee shall not exceed 16 hours in any day ; and
 - (ii) the actual hours of work excluding the intervals of rest and the periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attendance shall not exceed 9 hours in any day.

10. Longer wage period. The longer wage period for the purposes of minimum rate of wages under section 14 shall be by the month.

CHAPTER III

Payment of Wages

11. Recovery under sub-section (4) of section 18. Where the total deductions authorized under sub-section (2) of section 18 exceed fifty per cent of the wages of an employee, the excess shall be carried

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forward and recovered from the wages of succeeding wage period or
wage periods, as the case may be, in such instalments so that the recovery
in any month shall not exceed the fifty per cent of the wages of the
employee in that month.

12. The authority under sub-section (1) of section 19. The Assistant Labour Commissioner having jurisdiction over the place of work of the employee concerned shall be the authority for the purposes of sub-section (1) of section 19.

13. The manner of exhibiting the notice under sub-section (2) of section 19. A notice referred to in sub-section (2) of section 19 shall be displayed at the conspicuous places in the premises of the work place in which the employment is carried on, so that every concerned employee would be able easily to read the contents of the notice and a copy of the notice shall be sent to the Inspector-cum-Facilitator having jurisdiction.

14. The procedure under sub-section (3) of section 19. The employer shall give an intimation in writing specifying therein the detailed particulars for obtaining the approval of the imposition of fine to the Assistant Labour Commissioner referred to in rule 12 who shall, before granting or refusing the approval, give opportunity of being heard to the employee and the employer concerned.

15. Intimation of deduction. (1) Where an employer makes any deduction in pursuance of the proviso to sub-section (2) of section 20, he shall make intimation of such deduction to the Inspector-cum-Facilitator having jurisdiction within 10 days from the date of such deduction explaining therein the reason of such deduction.

(2) The Inspector-cum-Facilitator shall, after receiving intimation under sub-rule (1), examine such intimation and if he finds that the explanation given therein is in contravention of any provision of the Code or the rules made thereunder, he shall initiate appropriate action under the Code against the employer.

16. Procedure for deduction under sub-section (2) of section 21. Any employer desiring to make deduction for damages or loss under sub-section (1) of section 21 from the wages of an employee shall,

- (i) explain to the employee personally and also in writing the damage or loss of goods expressly entrusted to the employee

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for custody or for loss of money for which he is required to
account and how such damages or loss is directly attributable
to the neglect or default of the employee ; and

- (ii) thereafter, give the employee an opportunity to offer any explanation and deduction for any damages or loss, if made, shall be intimated to the employee within fifteen days from the date of such deduction.

17. Conditions regarding recovery of advance under section 23. The recovery, as the case may be of,

- (i) advances of money given to an employee after the employment begins under clause (b) of section 23 ; or
- (ii) advances of wages to an employee not already earned under clause (c) of section 23, shall be made by the employer from the wages of the concerned employee in instalments determined by the employer, so as any or all instalments in a wage period shall not exceed fifty per cent of the wages of the employee in that wage period and the particulars of such recovery shall be recorded in the register maintained in Form-I.

18. Deduction under section 24. Deductions for recovery of loans granted for house building or other purposes approved by the Jammu and Kashmir Government, and the interest due in respect thereof shall be, subject to any direction made or circular issued by the Jammu and Kashmir Government from time to time regulating the extent to which such loans may be granted and the rate of interest shall be payable thereon.

CHAPTER IV

Jammu and Kashmir Advisory Board

A. Procedure of Jammu and Kashmir Advisory Board under sub-section (10) of section 42.

19. Constitution of the Board. (1) The Board shall consist of the persons to be nominated by the Jammu and Kashmir Government representing employers and employees as specified in clauses (a)

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and (b) of sub-section (6) of section 42 and the independent persons
of that sub-section as specified in clause (c).

(2) The persons representing employers as referred to in clause (a) of sub-section (6) of section 42 shall not be less than eight and the persons representing employees referred to in clause (b) of that sub-section shall also not be less than eight.

(3) The independent persons specified in clause (c) of sub-section (6) of section 42 to be nominated by the Jammu and Kashmir Government shall consist of the following, namely :

- (i) The Chairperson ;
- (ii) Two Members of State Legislature ;
- (iii) Adm. Secretary, Labour and Employment Department, J&K (Member) ;
- (iv) Labour Commissioner, J&K (Member-cum-Secretary) ;
- (v) Two members each of whom, shall be a professional in the field of wages and labour related issues ;
- (vi) one member who is or has been a presiding officer of an Industrial Tribunal constituted by the Jammu and Kashmir Government under section 7-A of the Industrial Disputes Act, 1947 (14 of 1947) ; and

(4) The Jammu and Kashmir Government shall, while nominating the members of the Board, take into account that the independent members under sub-rule (2) shall not exceed one-third of the total members of the Board and one-third of the members of the Board shall be women.

20. Meeting of the Board. The Chairperson may, subject to the provisions of rule 22, call a meeting of the Board, at any time he thinks fit :

Provided that on requisition in writing from not less than one-half of the members, the Chairperson shall call a meeting within thirty days from the date of the receipt of such requisition.

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in the event of an equality of votes, the Chairperson shall have a casting vote :

Provided that the Chairperson may, if he thinks fit, direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members :

Provided further that no decision on any matter under the preceding proviso shall be taken, unless supported by not less than two-thirds majority of the members.

25. **Method of voting.**ô Voting in the Board shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairperson so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairperson may decide.

26. **Proceedings of the meetings.**ô (1) The proceedings of each meeting of the Board showing *inter alia* the names of the members present thereat shall be forwarded to each member and to the Jammu and Kashmir Government as soon after the meeting as possible, and in any case, not less than seven days before the next meeting.

(2) The proceedings of each meeting of the Board shall be confirmed with such modification, if any, as may be considered necessary at the next meeting.

27. **Summoning of witnesses and production of documents.**ô (1) The Chairperson may summon any person to appear as a witness if required in the course of the discharge of his duty and require any person to produce any document.

(2) Every person who is summoned and appears as a witness before the Board shall be entitled to an allowance for expenses by him in accordance with the scale for the time being in force for payment of such allowance to witnesses appearing before a civil court.

28. **Appointment of the committees.**ô The Jammu and Kashmir Government may constitute as many committees under clause (a) of sub-section (1) of section 8 as it considers necessary for the purposes specified in that clause.

B. Terms of office of members of the Board under sub-section (11) of section 42.

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employee under this Code remains undisbursed because either no nomination has been made by such employee or for any other reason, such amounts could not be paid to the nominee of employee until the expiry of six months from the date the amount had become payable, all such amounts shall be deposited by the employer with the Assistant Labour Commissioner having jurisdiction before the expiry of the fifteenth day after the last day of the said period of six months.

(2) The amount referred to in sub-rule (1) shall be deposited by the employer with the Assistant Labour Commissioner having jurisdiction through bank transfer or through a crossed demand draft obtained from any scheduled bank in India drawn in favour of such Assistant Labour Commissioner.

38. Manner of dealing with the undisbursed dues under clause (b) of sub-section (1) of section 44. (1) The amount referred to in sub-rule (1) of rule 37 (hereinafter in this rule referred to as the amount) deposited with the Assistant Labour Commissioner having jurisdiction shall remain with him and be invested in the Jammu and Kashmir or State Government Securities or deposited as a fixed deposit in a scheduled bank.

(2) The Assistant Labour Commissioner having jurisdiction will exhibit, as soon as may be possible, a notice containing such particulars regarding the amount as the Assistant Labour Commissioner considers sufficient for information at least for fifteen days on the notice board and also publish such notice in any two newspapers being circulating in the language commonly understood in the area in which undisbursed wages were earned.

(3) Subject to the provision of sub-rule (4), the Assistant Labour Commissioner having jurisdiction shall release the amount to the nominee or to that person who has claimed such amount, as the case may be, in whose favour such Assistant Labour Commissioner has decided, after giving the opportunity of being heard, the amount to be paid.

(4) If the undisbursed amount remains unclaimed for a period of seven years, the same shall be dealt within the manner as directed by the Jammu and Kashmir Government from time to time in this behalf.

been committed, shall issue summons to the offender on the address specified in the complaint fixing a date for his appearance.

(2) If the offender to whom the summons has been issued under sub-rule (1) appears or is produced before the officer, he shall explain the offence complained against him and if the offender pleads guilty, the officer shall impose penalty on him in accordance with the provisions of the Code and when the offender does not plead guilty, the officer shall take evidence of the witnesses produced by the complainant on oath and provide opportunity of cross-examination of the witnesses so produced. The officer shall record the statement of the witnesses on oath and in cross-examination in writing and take the documentary evidence on record.

(3) The officer shall, after the complainant's evidence is complete, provide opportunity of defense to the accused person and the witnesses produced by the accused shall be cross-examined after their statements on oath by the complainant and documentary evidence in defense shall be taken on record by the officer.

(4) The officer shall after hearing the parties and considering the evidences both oral and documentary decide the complaint in accordance with the provisions of the Code.

44. The manner of imposing fine under sub-section (1) of section 56. (1) An accused person desirous of making composition of offence under sub-section (1) of section 56 may make an application in Form-VI electronically or otherwise to the Gazetted Officer notified under said sub-section (1) of section 56.

(2) The Gazetted Officer referred to in sub-rule (1), shall, on receipt of such application, satisfy himself as to whether the offence is compoundable or not under the Code and if the offence is compoundable and the accused person agrees for the composition, compromise the offence for a sum of fifty per cent of the maximum fine provided for such offence under the Code, to be paid by the accused within the time specified in the order of composition issued by such officer.

(3) Where the offence has been compromised under sub-rule (2) after the institution of the prosecution, then, the officer shall send a copy of such order made by him for intimation to the officer referred

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to in sub-section (1) of section 53 for needful action under sub-
section (6) of section 56.

CHAPTER VII

Miscellaneous

45. **Timely payment of wages.** Where the employees are employed in an establishment through contractor, then, the company or firm or association or any other person who is the proprietor of the establishment shall pay to the contractor the amount payable to him or it, as the case may be, before the date of payment of wages so that payment of wages to the employees shall be made positively in accordance with the provisions of section 17.

Explanation : For the purpose of this rule, the expression "firm" shall have the meaning as assigned to it in the Indian Partnership Act, 1932 (9 of 1932).

46. **Inspection scheme.** (1) For the purposes of the Code and these rules, there shall be formulated an inspection scheme by the Labour Commissioner (Jammu and Kashmir) with the approval of the Jammu and Kashmir Government.

(2) In the inspection scheme referred to in sub-rule (1), apart from other structural facts, a number shall be specified in the scheme for each Inspector-cum-Facilitator and establishment.

(Sd.)

Commissioner/Secretary to Government,
Labour and Employment J&K.

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90 Assistant Driller

91 Oilman/Oiler

92 Chowkidar/Watchman

93 Helper (Mason, Carpenter, Blacksmith)

94 Tindals

95 Topas

96 Topkar (Big Stone Breaker)

97 Trolly Jamadar

98 Winchman

99 Attendance-keeper

100 Assistant Wireman

101 Mate

102 Mate (Blacksmith, Road, Carpenter)

103 Engine Driver and/or Feeder

104 Fitter

105 Gang

106 Mazdoor Mason

107 Permanent Way

108 Pump-Driver, Turner

109 Mazdoor (Heavy-weight)

110 Chargeman

111 Mistri (Head)

112 Muccadam

- 41 Sprayer (Ashalt) Station Master
- 42 Surveyor (Silt)
- 43 Trades-Man
- 44 Train Examiner
- 45 Turner/Miller
- 46 Tyre Vulcaniser
- 47 Sawyer
- 48 Sawyer (Selection Grade Class-II) Serang
- 49 Serangpile
- 50 Driving Pantooms with Boiler
- 51 Shapesman
- 52 Shift-incharge
- 53 Sprayman
- 54 Sprayman (Roads)
- 55 Stone Cutter
- 56 Stone Cutter (Selection Grade, Grade-II, Class-II)
- 57 Stone Chisler
- 58 Stone Chisler (Class-II)
- 59 Stone Blasterer
- 60 Sub-Overseer (Unqualified)
- 61 Surveyors
- 62 Pump Driver
- 63 Pump Driver (Selection Grade), Grade-II and III, Class-II)

- 87 Transprayer
- 88 Tarman
- 89 Line Man
- 90 Tiler Class-II
- 91 Wall (Floor Root)
- 92 Tiler (Selection Grade)
- 93 Tin-Smith
- 94 Tin Smith(Selection Grade Grade-II and III, Class-II) Tinker
- 95 Well Sinker
- 96 Assistant Mistry
- 97 Armature Winder Grade-II and III
- 98 Bhandari
- 99 Blacksmith
- 100 Blacksmith (Selection Grade, Grade-II, III, Class-II and III)
- 101 Boilerman
- 102 Boilerman Grade-II and III
- 103 Boiler Foreman Grade-II
- 104 Work (Assistant)
- 105 Brick Layer
- 106 Bricklayer (Selection Grade, Class-II)
- 107 Blaster
- 108 Chowkidar (Head)
- 109 Security Guard (without arms)

171 Plasterer (Mason Grade-II)

172 Plumber (Selection Grade, Class-II, Assistant Senior, Junior,
Mistry Grade-II)

173 Plumbing Mistry

174 Plumber-cum-Fitter

175 Polisher

176 Polisher (Floor)

177 Sirdhar Lathe Man

178 Geologist

179 Trailors

180 Turner

181 Upholsterer

182 Upholsterer (Grade-II and III)

183 Painter Spray (Class-II)

184 Wood Cutter

185 Wood Cutter Section Grade

186 Wood Cutter Class-II

187 Work Sircar

188 Welder

189 Airwineh Haulage Operator

190 Auto-electrician

191 Painter

192 Blacksmith

193 Tailor

- 23 Welder-cum-Fitter and Air Conditioning Mechanic
- 24 Welder (Gas) Class-I
- 25 White Washer Class-I
- 26 Wireman Grade-I, Class-I
- 27 Wood Cutter Class-I
- 28 Grinder (Tool) Grade-I
- 29 Operator (Batching Plant Grade-I)
- 30 Leader Grade-I
- 31 Pile Driving Grade-I
- 32 Pump Grade
- 33 Scrapper Grade-I
- 34 Screening Plant Grade-I
- 35 Pump Grade-I
- 36 Scrapper Grade-I
- 37 Security Guards (with arms)
- 38 Armature Winder Grade-I
- 39 Blacksmith Grade-I and Class-I
- 40 Boilerman Grade-I
- 41 Boilerman Foreman Grade-I
- 42 Brick Layer Class-I
- 43 Cable Joiner Grade-I
- 44 Carpenter Grade-I and Class-I
- 45 Celo Cutter and Decorator

- 68 Rigger Grade-I
- 69 Rigger Grade-II
- 70 Charper/Sletter Grade-I
- 71 Shovel and Dragline Tractor Grade-I
- 72 Tradesman Class-I
- 73 Turner/Miller Grade-I
- 74 Work (Assistant) Grade-I
- 75 Compounder
- 76 Surveyor
- 77 Winding Engine Driver
- 78 Operator (Heavy Earth Moving Shovel and Bulldozer)
- 79 Head Mistry
- 80 Staff Nurse with Diploma
- 81 Drill Operator other than Jack Hammer
- 82 Electrical Supervisor with Competency Certificate
- 83 Underground Shift Boss
- 84 Head Mechanic
- 85 Qualified and Experienced Welder
- 86 Machine Tool Mechanic
- 87 Mechanical/Plant Foreman
- 88 Mining Supervisor
- 89 Vocational Training Instructor/Teacher
- 90 Head Electrician

