

Mr. Sumeel Kumar  
11/3/2020  
(Authoritative English Text of this department Notification No. Shram (A) 3-5/2012-Part-II dated 07.03.2020 as required under Clause (3) of article 348 of the Constitution of India.)

Government of Himachal Pradesh  
Department of Labour & Employment

Notification

No. Shram (A)3-5/2012-Part-II

Dated Shimla-2,

09.03.2020

In exercise of the powers conferred by Section 15 of the Industrial Employment ( Standing Orders ) Act, 1946 ( 20 of 1946) read with section 2(b) of the Act *ibid*, the Governor of Himachal Pradesh proposes to make the following rules further to amend the Industrial Employment ( Standing Orders) Himachal Pradesh Rules, 1973 published in the Rajpatra, Himachal Pradesh on dated 06.09.1973 vide this Department Notification No.10/17/71-SI-Vol-II and the same hereby published in the Rajpatra, Himachal Pradesh for the information of general public;

Any interested person who has any Objection(s) or Suggestion(s) with regard to these rules, may send the same to the Labour Commissioner, Himachal Pradesh, Himrus Bhawan, Shimla-1 within a period of thirty days from the date of publication of the said draft rules in the Rajpatra (e-Gazette), Himachal Pradesh or;

The Objection(s) or suggestion(s), if any, received within the period specified above shall be taken into the consideration by the State Government before finalizing the said draft rules, namely :-

- |                              |    |   |
|------------------------------|----|---|
| Short title and Commencement | 1. | (1) These rules may be called the Industrial Employment (Standing Orders) Himachal Pradesh (Amendment) Rules, 2019.<br>(2) They shall come into force from the date of publication in Rajpatra (e-Gazette), Himachal Pradesh.   |
| Insertion of rule 3A         | 2. | After rule 3 of the Industrial Employment ( Standing Orders) Himachal Pradesh Rules, 1973 (hereinafter referred to as the said rule), the new rule 3A shall be inserted, namely :-<br>“(3A) No employer of an industrial establishment shall convert the posts of the permanent workmen existing in his industrial establishment on the date of commencement of the Industrial Employment (Standing Orders) Himachal Pradesh (Amendment) Rules, 2019, as fixed term employment thereafter.” |
| Amendment of rule 5          | 3. | In rule 5 of the said rules, after item (7), the following item shall be inserted, namely:-<br>“(7A) Number of fixed term employment workmen”;  |
| Substitution of SCHEDULE I   | 4. | For SCHEDULE I, appended to the said rules, the following shall be substituted, namely:-  |



**"SCHEDULE 1"**

**(See rule 3)**

**MODEL STANDING ORDERS**

1. These orders shall come into force on .....

2. Classification of workmen:- (a) Workmen shall be classified as-

(1) Permanent,

(2) probationers,

(3) badlis,

(4) temporary,

(5) casual,

(6) apprentices,

(7) fixed term employment workmen,

(b) A "permanent" workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his previous permanent post.

(d) A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary" workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished with a limited period.

(f) A "casual" workman is a workman whose employment is of casual nature.

(g) A "apprentice" is a learner who is paid an allowance during the period of his training.

**(h) A "fixed term employment" is a workman who has been engaged on the basis of a written contract of employment for a fixed period :**

**Provided that –**

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent workman; and

(b) He shall be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute.

**3. Tickets-** (1) every workman shall be given a permanent ticket unless he is a probationer, badli, temporary, casual worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorised by the manager to inspect it.

(3) Every badli shall be provided with the badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a "temporary" ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a casual card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with a 'apprentice' card which shall be surrendered if he obtains permanent employment.

**4. Publication of working time.-** The periods and hours for all cases of workers in each shift shall be exhibited in English and in Hindi on notice boards maintained at or near the main entrance of the establishment and at time-keeper's office, if any.


**5. Publication of holidays and pay days.-** Notices specifying (a) the days observed by the establishment as holidays, and (b) pay days shall be posted on the said notice boards.

**6. Publication of wage rates.-** notices specifying the rates or wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

**7. Shift working.-** More than one shift may be worked in a department or department or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without two months' notice being given in writing to the workmen prior to such discontinuance:

Provided that no such notice shall be necessary if the closing of the shift is under an agreement with the workmen affected. If as result of the discontinuance of the shift working any workmen are to be retrenched, such retrenchment shall be effected in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947) and the rules made there under. If shift working is restarted, the workmen shall be given notice and re-employed in accordance with the provisions of the said Act and the said rules.

**8. Notice of Changes in shift working.-** Any notice of discontinuance or of restarting of a shift working required by Standing Order 7 shall be in the form appended to these orders and shall be served in the following manner, namely:-

 The notice shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment and in the manager's office:

Provided that where any registered trade union of workman exists, a copy of the notice shall also be served by registered post on the Secretary of such union.

**9. Attendance and late coming.**- All workman shall be at work at the establishment at the time fixed and notified under Paragraph 4 .Workman attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936 (Act No. 4 of 1936).

**10. Leave-(1)** Holidays with pay will be allowed as provided for the Chapter IV-A of the Factories Act, 1948 (63 of 1948) and other holidays in accordance with law, contract, custom and usage.


(2) A workman who desires to obtain leave of absence shall apply to the manager who shall issue order on the application within week of its submission or two days prior to the commencement of the leave applied for, whichever, is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issue to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reason therefore shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof, he shall apply to the manager who shall send written reply either granting or refusing and if such reply is likely to reach his address is available of the leave originally granted to him.

(3) if the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless (a) returns within 8 days of the expiry of the leave and (b) explain to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the badli list.

**11. Casual and sick leave-** Every workman shall be allowed casual and sick leave in accordance with the Himachal Pradesh Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Act (Act No. 7 of 1970) and rules framed thereunder.

**12. National Festival holidays** -Every workman shall be allowed National and Festival Holidays in accordance with the Himachal Pradesh Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act (Act No. 7 of 1970) and rules framed thereunder.

**13. Payment of wages-(1)** Any wages, due to the workmen but not paid on the usual payday on account of their being unclaimed, shall be paid by the employer on an unclaimed wages pay day in each week, which shall be notified on the notice board as aforesaid.

 (2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wage are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

**14. Stoppage of work.**-(1) The employer may, at any time in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the department concerned, or at the office of the manager, as soon as practicable, when work will be resumed and whether they are to remain or leave their place for work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of the piece rate workers, the average daily earning for the previous month shall be taken to be the daily wages. No other compensation will be admissible in case of such stoppage. Whenever practicable reasonable notice shall be given of resumption of normal work.

(3) In case where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of un-employment shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

**15. Termination of employment.** (1) For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workman one month's notice in the case of monthly rated workmen and two week's notice in the case of the other workmen. One month's 'or two weeks 'pay as the case may be, may be paid in lieu of notice.

**(2) Subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947),-**

(i) no notice of termination of employment shall be necessary in the case of temporary workman whether monthly rated, weekly rated or piece rated and probationers or badly workmen; and

(ii) no workman employed on fixed term employment basis as a result of non-renewal of contract or employment or on the expiry of such contract period without it being renewed, shall be entitled to any notice or pay in lieu thereof, if his services are terminated :

**Provided that the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the matter prescribed in paragraph 16."**

(3) Where the employment of any workman is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the date on which his employment is terminated.

**16. Disciplinary Action for misconduct.-** (1) A workman may be fined upto two per cent of his wages in a month for the following acts and commissions namely:-

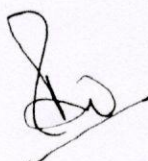
.....  
Note- Specify the acts and omissions which the employer may notify with the previous approval ..... of the prescribed authority in pursuance of section 8 of the Payment of Wages Act, 1936 (4 to 1936).

(2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct:-

- (a) wilful insubordinate or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) theft, fraud or dishonesty in connection with the employer's business or property;
- (c) wilful damage to or loss of employer's good or property;
- (d) taking or giving bribes or any illegal gratification;
- (e) habitual absence without leave or absence without leave for more than 10 days;
- (f) habitual late attendance;
- (g) habitual breach of any law applicable to the establishment;
- (h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline;
- (i) habitual negligence or neglect of work;
- (j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 percent, of the wages in a month; and
- (k) Striking work or inciting others to strike work in contravention of the provisions of the any law or rule having the force of law.

(4) (a) Where disciplinary proceeding against a workman is contemplated or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the employer is satisfied that it is necessary or desirable to place the workman under suspension, he may by order in writing suspend him with effect from such date as may be specified in the order. A statement setting out in detail the reasons for such suspension shall be supplied to the workmen within a week from the date of suspension.



(b) A workman who is placed under suspension under clause (a) shall, during the period of such suspension, be paid a subsistence allowance at the following rates, namely:-

(i) Where the enquiry contemplated or pending is departmental the subsistence allowance shall, for the first ninety days from the date of suspension be equal to one-half of the basic wages, dearness allowance and other compensation allowance to which the workman would have been entitled if he were on leave with wages. If the departmental enquiry gets prolonged and the workman continues to be under suspension for a period exceeding ninety days the subsistence allowance shall for such period be equal to three fourths of such basic wages, dearness allowance and other compensatory allowance:

Provided that where such enquiry is prolonged beyond a period of ninety days for reasons directly attributable to the workman, the subsistence allowance shall, for the period exceeding ninety days, be reduced to one-fourth of such basic wages, dearness allowance and other compensatory allowance.

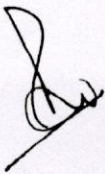
(ii) Where the enquiry is by an outside agency or, as the case may be, where criminal proceedings against the workman are under investigations or trial the subsistence allowance shall, for the first one hundred and eighty days from the date of suspension, be equal to one-half on his basic wages, dearness allowance and other compensatory allowances to which the workman would have been entitled to if he were on leave. If such enquiry or criminal proceedings gets prolonged and the workman continues to be under suspension for a period exceeding one hundred and eighty days, the subsistence allowance shall for such period be equal to three-fourths of such wages:

Provided that where such enquiry or criminal proceedings is prolonged beyond a period of one hundred and eighty days for reasons directly attributable to the workman, the subsistence allowance shall, for the period exceeding one hundred and eighty days, be reduced to one fourth of such wages.

(c) If on the conclusion of the enquiry or, as the case may be, of the criminal proceedings, the workman has been found guilty of the charges framed against him and it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed, that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall pass an order accordingly:

Provided that when an order of dismissal is passed under this clause, the workman shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period and the subsistence allowance already paid to him shall not be recovered:

Provided further that where the period between the date on which the workman was suspended from duty pending the enquiry or investigation or trial and the date on which an order of suspension was passed under this clause exceeds four days, the workman shall be deemed to have been suspended only for four days or for such shorter period as is specified in the said order of suspension and for the remaining period he shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting subsistence allowance paid to him for such period:



Provided also that where an order imposing fine or stoppage of annual increment or reduction of rank is passed under this clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period:

Provided also that in the case of a workman to whom the provision of clause (2) of Article 311 of the Constitution apply, the provisions of that Article shall be complied with.

(d) If on the conclusion of the inquiry, or as the case may be, of the criminal proceedings, the workman has been found to be not guilty of any of the charges framed against him, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period.

(e) The payment of subsistence allowance under this standing order shall be subject to the workman concerned not taking up any employment during the period of suspension.

(5) In awarding punishment under this standing order, the manager shall take into account any gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the manager shall be supplied to the workman concerned.

**17. Complaints-** All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer.

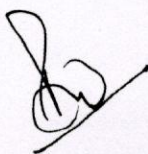
**18. Certificate on termination of service.-** Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

**19. Liability of Manager.-** The manager of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

**20. (1)** Any person desiring to prefer an appeal in pursuance of sub-section (1) of section 6 of the Act shall draw up a memorandum of appeal setting out the ground of appeal and forward it in quintuplicate to the appellate authority accompanied by a certified copy of the standing orders, amendments or modifications, as the case may be.

(2) The appellate authority shall, after giving the appellant an opportunity of being heard, confirm the standing orders, amendments or modifications as certified by the certifying officer unless it considers that there are reasons for giving the other parties to the proceedings a hearing before a final decision is made in the appeal.

(3) Where the appellate authority does not confirm the standing orders, amendments or modification 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 or a workman to trade unions of the workman of the industrial establishments, and where there are no such trade unions to representatives of workmen elected under clause (b) of rule 6, or as the case may be to the employer;

(b) Where the appeal is filled by a trade union to the employer and all other trade unions of the workmen of industrial establishment;

(c) Where the appeal is filed by the representative of the workmen, to the employer and any other workman whom the appellate authority joins as a party to the appeal.

(4) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(5) The appellate authority may at any stage call for any evidence it considers necessary for the disposal of the appeal.

(6) On the date fixed under sub-rule (3) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called for or consider to be relevant.

**21. Exhibition of standing orders.-** A copy of these orders in English and in Hindi shall be posted at the manager's office and on a notice board maintained at or near the main entrance to the establishment and shall be kept in a legible condition.

**By Order**

**Addl. Chief Secretary (Lab. & Emp.) to the  
Government of Himachal Pradesh**

No. Shram (A)3-5/2012-Part-II  
Endst. No. as above. Dated

Dated Shimla-2,

**09.03.2020**  
Shimla-2

Copy for information and necessary action to:-

1. The Pr. PS-cum-Spl.Secy to the Hon'ble Chief Minister, HP, Shimla-2
2. The Sr. PS to the Hon'ble Industries and Labour & Employment Minister, HP, Shimla-2.
3. The PS to Chief Secretary H.P.
4. All the Administrative Secretaries, Govt. of H.P.
- ✓ 5. The Labour Commissioner-cum-Director of Employment, Himachal Pradesh, Shimla
6. The Director, Labour Bureau Indian Government, Shimla-4
7. All the Heads of Departments, Himachal Pradesh.
8. All Deputy Commissioners in HP.
9. The Controller, Printing & Stationery, Himachal Pradesh, Shimla-171005.
10. Guard File.



**(Paramjeet Singh)**

**Deputy Secretary (Lab. & Emp.) to the  
Government of Himachal Pradesh.**