NOTIFICATION
Labour and Employment Department,
Sachivalaya, Gandhinagar.
Dated the 31st March, 2021

Code on Wages, 2019.

NO.KHR/2021/29/LVD/10/2020/555709/M(2):—The following draft rules, which the State 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 –

(i) The Payment of Wages (Procedure) Rules, 1937;
(ii) The Gujarat Payment of Wages Rules, 1963;
(iii) The Gujarat Payment of Wages (Unclaimed Amounts) Rules, 1963;
(iv) The Gujarat Payment of Wages (Deductions for National Defence Fund and Defence Savings Scheme) Rules, 1964;
(v) The Payment of Wages (Manner of recovery of excess deductions) Rules, 1967;
(vi) The Gujarat Minimum Wages Rules, 1961;
(vii) The Ease of Compliance to Maintain Registers under various Labour Laws (Gujarat) Rules, 2017 to the extent these rules are made in exercise of the powers conferred by Section 26 of the Payment of Wages Act, 1936 (4 of 1936) and Section 30 of the Minimum Wages Act, 1948 (11 of 1948) and applicable accordingly;

made by the State Government in exercise of the powers conferred under the Payment of Wages Act, 1936 (4 of 1936), the Minimum Wages Act, 1948 (11 of 1948), as the case may be, which are repealed by section 69 of the said Code on Wages, 2019, except as respects things done or omitted to be done before such supersession, are hereby published, as required by sub-section (1) of said section 67 of the said Code, for information of all persons likely to be affected thereby and the notice is hereby given that the said draft rules will be taken into consideration by the Government of Gujarat after the expiry of a period of forty-five days from the date of its publication in the *Official Gazette* ;

Any Objection and suggestion, which may be received by the Deputy Secretary, Government of Gujarat, Labour and Employment Department, Block No.5, 6th Floor, New Sachivalaya, Gandhinagar or by email ds1-led@gujarat.gov.in from any person with respect to said draft rules before the expiry of the aforesaid period will be considered by the State Government.

Draft Notification

Code on Wages, 2019.

NO.KHR/2021/29/LVD/10/2020/555709/M(2):- In exercise of the powers conferred by section 67 of the Code on Wages, 2019 (29 of 2019) hereinafter referred as the said "Code") read with section 24 of the General Clauses Act, 1897 (10 of 1897) and in supersession of,-

(1) The Payment of Wages (Procedure) Rules, 1937;
(2) The Gujarat Payment of Wages Rules, 1963;
(3) The Gujarat Payment of Wages (Unclaimed Amounts) Rules, 1963;
(4) The Gujarat Payment of Wages Deductions for National Defence Fund & Defence Savings Scheme) Rules, 1964;

(5) The Payment of Wages (Manner of recovery of excess deductions) Rules, 1967;

(6) The Gujarat Minimum of Wages Rules, 1961;

(7) The Ease of Compliance to Maintain Registers under various Labour Laws (Gujarat) Rules, 2017 to the extent these rules are made in exercise of the powers conferred by Section 26 of the Payment of Wages Act, 1948 (11 of 1948) and applicable accordingly; the Government of Gujarat hereby makes the following rules namely: -

CHAPTER I
PRELIMINARY

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

(2) They extend to the State of Gujarat.

2. Definitions.- (1) In these rules, unless the subject or context otherwise requires, —

(a) "appeal" means an appeal preferred under sub-section (1) of section 49;

(b) "appellate authority" means the appellate authority appointed by the State Government under sub-section (1) of section 49;

(c) "authority" means the authority appointed by the State Government under sub-section (1) of section 45;

(d) "Board" means the State Advisory Board constituted by the State Government under sub-section (4) of section 42;

(e) "Chairperson" means the chairperson of the Board;

(f) "Code" means the Code on Wages, 2019 (29 of 2019);

(g) "committee" means a committee appointed by the State Government under clause (a) of sub-section (1) of section 8;

(h) "day" means a period of 24 hours beginning at mid-night;

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

(j) "highly skilled occupation" means an occupation which calls in its performance a specific level of perfection and required competence acquired through intensive technical or 2 professional training or practical occupational experience for a considerable period and also requires of an employee to assume full responsibility for his judgement or decision involved in the execution of such occupation;

(k) "Inspector-cum-Facilitator" means a person appointed by the State Government, under sub-section (1) of section 51;

(l) "member" means a member of the Board and includes its Chairperson;

(m) "metropolitan area" means a compact area having a population of forty lakhs or more comprised in one or more districts;

(n) "non-metropolitan area" means a compact area having a population of more than ten lakhs but less than forty lakhs, comprised in one or more districts;

(o) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(p) "registered trade union" means a trade union registered under The Trade Unions Act, 1926 (16 of 1926) or The Industrial Relations Code, 2020 (35 of 2020);

(q) "rural area" means the area which is not the metropolitan area or non-metropolitan area;

(r) "Schedule" means the schedule to these rules;

(s) "section" means a section of the Code;

(t) "semi-skilled occupation" means an occupation which in its performance requires the application of skill gained by the experience on job which is capable of being applied under the supervision or guidance of a skilled employee and includes supervision over the unskilled occupation;

(u) "skilled occupation" means an occupation which involves skill and competence in its performance through experience on the job or through training as an apprentice in a technical or vocational institute and the performance of which calls for initiating and judgement;

(v) "unskilled occupation" means an occupation which in its performance requires the application of simply the operating experience and involves no further skills.

(2) All other words and expressions used herein in these rules and not defined shall have the meanings respectively assigned to them under the Code.

CHAPTER II
Minimum Wages

3. Manner of calculating the minimum rate of wages. – (1) For the purposes of sub-section (5) of section 6, the minimum rate of wages shall be fixed on the day basis keeping in view the following criteria, namely: -

(i) the standard working class family which includes a spouse and two children apart from the earning worker; an equivalent of three adult consumption units;

(ii) a net intake of 2700 calories per day per consumption unit;

(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 to constitute 25 per cent of minimum wages;

(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.- (1) While fixing the minimum rate of wages under section 6, the State Government shall divide the concern geographical area into three categories, that is to say the metropolitan area, non-metropolitan area and the rural area .

(2) The State Government shall constitute a technical committee under clause (a) of sub-section (1) of section 8 for the purpose of advising the State Government in respect of skill categorization, which shall consist of the following members, namely:-

(i) Commissioner of Labour / Director of Labour - Chairperson;

(ii) Joint Secretary / Deputy Secretary to the Government of Gujarat in the Labour and Employment Department dealing with the wages - Member;
(iii) Director of Employment and Training, Department of Labour and Employment, Government of Gujarat - Member;
(iv) four representatives, two each from Employer and Employees in wage determination as nominated by State Government - Member; and
(v) the Assistant Commissioner of Labour, Government of Gujarat - Member Secretary of such technical committee.

(3) The State Government shall, on the advice of the technical committee referred to in sub-rule (2), categorize the occupations of the employees into four categories that is to say unskilled, semiskilled, skilled and highly skilled.

(4) The technical committee referred in sub-rule (2) shall while advising the State Government under sub-rule (3), take into account, to the possible extent, the national classification of occupation or national skills qualification frame work or other similar frame work for the time being formulated to identify occupations.

5. Time Interval for revision of dearness allowance.- Endeavour shall be made so that the cost of living allowance and the cash value of the concession in respect of essential commodities at concession rate shall be computed once before 1st April and then before 1st October in every year to revise the dearness allowance payable to the employees on the minimum wages:

Provided that where immediately before the issue of a notification under section 7, fixing or revising the minimum rates of wages and dearness allowance at a rate higher than the rate so fixed or revised, were payable under this code, or under any law or award or agreement for the time being in force, then notwithstanding anything contained in this code, dearness allowance at such higher rate shall be payable to the employees.

6. Number of Hours of work which shall constitute a normal working day.—(1) The normal working day under clause (a) of sub-section (1) of section 13 shall be comprised of eight hours of work and one or more intervals of rest which in total shall not exceed one hour.

(2) The working day of an employee shall be so arranged that inclusive of the intervals of rest, if any, it shall not spread over more than twelve hours on any day.

(3) The provisions of sub-rules (1) and (2) shall, in the case of an employee employed in agricultural employment, be subject to such modifications as may, from time to time, be determined by the State Government.

(4) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948 (63 of 1948) or as the case may be the Code on Occupation, Safety and Health and the Gujarat Shops and Establishment Act, 2019

7. Weekly day of rest.— (1) Subject to the provisions of this rule, an employee shall be allowed a day of rest every week (hereinafter referred to as "the rest day") which shall ordinarily be Sunday, but the employer may fix any other day of the week as the rest day for any employee or class of employees:

Provided that an employee shall be entitled for the rest day under this sub-rule if he has worked under the same employer for a continuous period of not less than six days:

Provided further that the employee shall be informed of the day fixed as the rest day and of any subsequent change in the rest day before the change is effected, by display of a notice to that effect in the place of employment at the place specified by the Inspector-cum-Facilitator in this behalf.

Explanation.- For the purpose of computation of the continuous period of not less than six days specified in the first proviso to this sub-rule, any day on which an employee is required to attend for work but is given only an allowance for attendance and is not provided with work, a day on which an employee is laid off on payment of compensation under the Industrial Disputes Act, 1947 (14 of 1947) or as the case may be the Industrial Relations Code, 2020 on Industrial Relation and any leave or holiday, with or without pay, granted by the employer to an employee in the period of six days immediately preceding the rest day, shall be deemed to be days on which the employee has worked.

(2) Any such employee shall not be required or allowed to work on the rest day unless he has or will have a substituted rest day for a whole day on one of the five days immediately before or after the rest day:

Provided that no substitution shall be made which will result in the employee working for more than ten days consecutively without a rest day for a whole day.

(3) Where in accordance with the foregoing provisions of this rule, any employee works on a rest day and has been given a substituted rest day on any one of the five days before or after the rest day, the rest day shall, for the purpose of calculating the weekly hours of work, be included in the week in which the substituted rest day occurs.

(4) An employee shall be granted-

(a) for rest day wages calculated at the rate applicable to the next preceding day; and

(b) where he works on the rest day and has been given a substituted rest day, then, he shall be paid wages for the rest day on which he worked, at the overtime rate and wages for the substituted rest day at the rate applicable to the next preceding day:

Provided that where-

(i) the minimum rate of wages of the employee as notified under the Code has been worked out by dividing the minimum monthly rate of wages by twenty- six; or

(ii) the actual daily rate of wages of the employee has been worked out by dividing the monthly rate of wages by twenty-six and such actual daily rate of wages is not less than the notified minimum daily rate of wages of the employee, then, no wages for the rest day shall be payable; and

(iii) the employee works on the rest day and has been given a substituted rest day, then, he shall be paid, only for the rest day on which he worked, an amount equal to the wages payable to him at the overtime rate;

and, if any dispute arises whether the daily rate of wages has been worked out in accordance with the provisions of this proviso, the Director Labour (State) or the Labour Commissioner (State) having territorial jurisdiction may, on application made to him in this behalf, decide the same, after giving an opportunity to the parties concerned to make written representations:

Provided further that in case of an employee governed by a piece-rate system, the wages for the rest day, or the substituted rest day, as the case may be, shall be such as the State Government may, from time to time determine having regard to the minimum rate of wages fixed under the Code, in respect of the employment.

Explanation.- In this sub-rule 'next preceding day' means the last day on which the employee has worked, which precedes the rest day or the substituted rest day, as the case may be; and where the substituted rest day falls on a day immediately after the rest day, the next preceding day means the last day on which the employee has worked, which precedes the rest day.

(5) The provisions of this rule shall not operate to the prejudice of more favourable terms, if any, to which an employee may be, entitled under any other law or under the terms of any award, agreement or contract of service, and in such a case, the employee shall be entitled only to more favourable terms aforesaid.

Explanation.- For the purposes of this rule, 'week' shall mean a period of seven days beginning at midnight on Saturday night.

8. Night shifts.— Where an employee in an employment works on a shift which extends beyond midnight, then, -

(a) a rest day for the whole day for the purposes of rule 7 shall, in this case means a period of twenty-four consecutive hours beginning from the time when his shift ends; and

(b) the following day in such a case shall be deemed to be the period of twenty-four hours beginning from the time when such 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 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 Commissioner of Labour (State) 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 place 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 Commissioner of Labour 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 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 percent 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 State Government, and the interest due in respect thereof shall be, subject to any direction made by the State 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
STATE ADVISORY BOARD

A. The procedure of State 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 State Government representing employers and employees as specified in clauses (a) and (b) of sub-section (6) of section 42 and the independent persons as specified in clause (c) of that sub-section.

(2) The persons representing employers as referred to in clause (a) of sub-section (6) of section 42 shall be four and the persons representing employees referred to in clause (b) of that sub-section shall also be four.

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

(i) the Chairperson;

(ii) One Member of Assembly;

(iii) two member each of whom shall be a professional in the field of wages and labour related issues;

(iv) One member who is or has been a presiding officer of an Industrial Tribunal constituted by the State Government under section 7A of the Industrial Disputes Act, 1947 (14 of 1947) or as the case may be under section 44 of Industrial Relations code, 2020; and

(4) The State 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. Additional function of the Board.- In addition to the functions specified in sub-section (4) of section 42, the Board on reference by the State Government advise that Government on the issue relating to the fixation of minimum wages in respect of-

(i) working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act,1955 (45 of 1955); and

(ii) sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).

21. Meeting of the Board. - The Chairperson may, subject to the provision of rule 23, 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.

22. Notice of meetings. - The Chairperson shall fix the date, time and place of every meeting and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post and electronically at least fifteen days before the date fixed for such meeting:

Provided that in the case of an emergent meeting, notice of seven days only may be given to every member.

23. Function of Chairperson. – The Chairperson shall-

(i) preside at the meetings of the Board: Provided that in the absence of the Chairperson at any meeting, the members shall elect from amongst themselves by a majority of votes, a member who shall preside at such meeting;

(ii) decide agenda of each meeting of the Board;

(iii) during the meeting of the Board, if any issue has to be decided by voting, conduct the voting and count or cause to be counted the secret voting in the meeting.

24. Quorum. - No business shall be transacted at any meeting unless at least one-third of the members and at least one representative member each of both the employers and an employee are present:

Provided that, if at any meeting less than one-third of the members are present, the Chairperson may adjourn the meeting to a date not later than seven days from the date of the

original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present:

Provided further that the date, time and place of such adjourned meeting shall be intimated to all the members electronically or by a Registered post.

25. Disposal of business of the Board. - All business of the Board shall be considered at a meeting of the Board, and shall be decided by a majority of the votes of members present and voting and 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.

26. Method of voting.- 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.

27. Proceedings of the meetings.- (1) The proceedings of each meeting of the Board showing *inter alia* the names of the members present there at shall be forwarded to each member and to the State 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.

28. Summoning of witnesses and production of documents.- (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.

29. Appointment of the committees.- The State Government may constitute as many committee under clause (a) of sub-section (1) of section 8 as it considers necessary for the purposes specified in that clause.

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

30. Term of office of members of the Board. - (1)The term of office of the Chairperson or a member, as the case may be, shall be normally two years commencing from the date of his appointment or nomination, as the case may be, under sub-section (4) of section 42:

Provided that such Chairperson or a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is appointed or nominated, as the case may be.

(2) An independent member of the Board nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

(3) The official members of the Board shall hold office till they are replaced by respective such other official members.
Explanation – The expression "official members" means the Assistant Commissioner of Labour, Gandhinagar.

(4) Notwithstanding anything contained in sub-rules (1), (2), and (3), the members of the Board shall hold office during the pleasure of the State Government.

31. Travelling allowance. – The chairman and every member of the Board shall be entitled to draw travelling and halting allowance for any journey performed by him in connection with his duties as such member at the rates and subject to the conditions applicable to a government servant of the Class -1 of the State Government.

32. Officers and Staff. - The State Government may provide a Secretary not below the rank of Joint / Deputy Secretary to the Government of Gujarat, other officers and staff to the Board, as it may think necessary for the functioning of the Board.

33. Eligibility for re-nomination of the members of the Board. - An outgoing member shall be eligible for re-nomination, reappointment for the membership of the Board.

34. Resignation of the Chairperson and other members of the Board.- (1) A member of the Board, other than the Chairperson, may, by giving notice in writing to the Chairperson, resign his membership and the Chairperson may resign by a letter addressed to the State Government.

(2) A resignation shall take effect from the date of communication of its acceptance or on the expiry of 30 days from the date of resignation, whichever is earlier.

(3) When a vacancy occurs or is likely to occur in the membership of the Board, the Chairperson shall submit a report to the State Government immediately and the State Government shall, then, take steps to fill the vacancy in accordance with the provisions of the Code.

35. Cessation of membership.- If a member of the Board, fails to attend three consecutive meetings, he shall be ceased to be a member thereof.

36. Disqualification. - (1) A person shall be disqualified for being nominated as, and for being a member of the Board–

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an un-discharged insolvent; or

(iii) if before or after the commencement of the Code, he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether a disqualification has been incurred under sub-rule (1), the decision of the State Government thereon shall be final.

CHAPTER V
PAYMENT OF DUES, CLAIMS, etc.

37. Payment under clause (a) of sub-section (1) of section 44.- Where any amount payable to an employee under the Code is due after his death or on account of his whereabouts not being known, and the amount could not be paid to the nominee of the employee until the expiry of three months from the date the amount had become payable, then, such amount shall be deposited by the employer with the Labour Welfare Commissioner/Assistant Commissioner of Labour having jurisdiction, who shall disburse the amount to the person nominated by the employee after ascertaining his identity within two months of the date on which the amount was so deposited with him.

38. Deposit of the undisbursed dues under clause (b) of sub-section (1) of section 44.- (1) Where any amounts payable to an 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 Labour Welfare Commissioner/Assistant Commissioner of Labour having jurisdiction before the expiry of the fifteenth day after the last day of the said period of six months.

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

39. 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 38 (hereinafter in this rule referred to as "the amount") deposited with Labour Welfare Commissioner/Assistant Commissioner of Labour having jurisdiction shall remain with him and be invested in the Central or State Government Securities or deposited as a fixed deposit in a Scheduled bank.

(2) The **Labour Welfare Commissioner/Assistant Commissioner of Labour** having jurisdiction will exhibit, as soon as maybe possible, a notice containing such particulars regarding the amount as the Labour Welfare Commissioner/Assistant Commissioner of Labour 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), if the amount is claimed by the nominee or as the case may be by the other person, the Labour Welfare Commissioner/Assistant Commissioner of Labour having the jurisdiction shall after giving opportunity of being heard and verify the authenticity of the claim, release the amount in favour of such nominee or person.

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

CHAPTER VI
THE FORM, REGISTER AND WAGE SLIP

40. The form of a single application. – A single application may be filed under sub-section (5) of section 45 in Form-II along with documents specified in such Form.

41. Appeal. - Any person aggrieved by an order passed by the authority under sub-section (2) of section 45 may prefer an appeal under sub-section (1) of section 49 in Form III, along with documents specified in such Form, to the appellate authority having jurisdiction.

42. Form of register, etc. - (1) All fines and all realization thereof referred to in sub-section (8) of section 19 shall be recorded in a register to be kept by the employer in Form – I appended to these rules, electronically or otherwise and the authority referred to in said sub-section (8) shall be the Assistant Commissioner of Labour (State) having jurisdiction.

(2) All deductions and all realization referred to in sub-section (3) of section 21 shall be recorded in a register to be kept by the employer in Form- I appended to these rules, electronically or otherwise.

(3) Every employer of an establishment to which the Code applies shall maintain a register under sub-section (1) of section 50 in Form I and Form IV, electronically or otherwise.

43. Wage slip. - Every employer shall issue wage slips, electronically or otherwise to the employees in Form V under sub-section (3) of section 50 on or before payment of wages.

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).

(2) The Gazetted Officer referred to in sub-rule (1), shall, on receipt of such application, hold a meeting with the accused person to 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 to in sub-section (1) 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 of 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. Responsibility for payment of minimum bonus.- Where in an establishment, the employees are employed through contractor and the contractor fails to pay minimum bonus to them under section 26, then, the company or firm or association or other person as referred to in the proviso to section 43 shall, on the written information of such failure, given by the employees or any registered trade union or unions of which the employees are members and on confirming such failure, pay such minimum bonus to the employees.

By order and in the name of the Governor of Gujarat,

(D.M.Pathan)

Deputy Secretary to Government.

To,
The Manager, (By Speed post)
Government Central Press, Vadodara.

With a request to publish this notification in the Extra-Ordinary Part I-L, dated the 31st March, 2021 and the copies of printed notification may please be distributed as under: -

1. The Labour & Employment Department, Sachivalaya, Gandhinagar.	20 copies
2. The Director of Labour, Gandhinagar.	50 copies
3. The Legislative and Parliamentary Affairs Department, Sachivalaya, Gandhinagar.	10 copies

Copy forwarded to:

1. The Director of Labour, Udhyog Bhavan, Gandhinagar.
2. The Director of Information, Gandhinagar - with a request to issue a suitable Press Note immediately in the newspapers.

3. The Legislative and Parliamentary Affairs Department, Sachivalaya, Gandhinagar

...With a request to publish a Gujarati version of this notification in the Gujarat Government Gazette part I-L and instruct the press to distribute the copies as under:

1.	The Labour & Employment Department	20 copies
2.	The Director of Labour, Gandhinagar	50 copies

4. I. T. Cell, Labour & Employment Department, Block No. 5, 6th floor, Sachivalaya, Gandhinagar
5. Dy. S.O. select file.
6. Branch select file.

FORM-I

(see rule-17 and 42(1), (2) and (3))

Register of Wages, Overtime, Fine, Deduction for damage and Loss

Name of the Establishment: Name of the Employer:

Name of the Owner: PAN/TAN of the Employer:

Labour Identification Number (LIN):

Sr. No. in Employee Register	Name of the employee	Designation / Department	Duration of Payment of Wages (Monthly/Fortnightly /Weekly/Daily/Piece rated)	Wage Period From-To	Total no. of days worked during the period	Total overtime (hoursworked or production in case of piece workers)	Rates of wages		
							Basic	DA	Allowances
1	2	3	4	5	6	7	8	9	10

Overtime earning	Nature of acts and omissions for which fine imposed with date	Amount of fine imposed	Damage or loss caused to the employer by neglect or default of the employee	Amount of deduction from wages	Total amount of wages paid	Date of Payment	Attendance	
							Date	Signature
11	12	13	14	15	16	17	18	19

FORM-II

(see rule 40)

[SINGLE APLICATION UNDER SUB-SECTION (5) OF SECTION 45]

BEFORE THE AUTHORITY APPOINTED UNDER SUB- SECTION (1) OF SECTION 45 OF THE CODE ON WAGES, 2019 (29 OF 2019)

FOR..... AREA.....

Application No ..... of 20.....

Between name and (State the number).....other .....Applicant

(Through employees concerned or registered trade union or Inspector- cum- Facilitator

Address.....

And

name.....

Address.....

The application states as follows:

(1) The applicant(s) whose name(s) appear in the attached schedule was/were/has/have been employed from .....to..... as.....(category) in.....(establishment) Shri/M/s.....engaged in .....(nature of work) which is/are covered by the Code on Wages, 2019.

(2) The opponent(s) is/are the employer(s) within the meaning of section 2(l) of the Code on Wages, 2019.

(3) (a)The applicant(s) has/ have been paid wages at less than the minimum rates of wages fixed for their category (categories) of employment(s) under the Code by Rs.... .....Per day for the period(s) from.....to..... .....

(b) The applicant(s) has/ have not been paid wages at Rs..... Per day for the weekly days of rest from ..... to...

(c) The applicant(s) has/ have not been paid wages at overtime rate(s) for the period from.....to....

(d) The applicant(s) has/have not been paid wages for period from .....to.....

(e) Deductions have been made which are in contravention of the Code, from the wage(s) of the applicant(s) as per details specified in the annexure appended with this application.

(f) The applicant(s) has/have not been paid minimum bonus for the accounting year .....

(4) The applicant(s) estimate(s) the value of relief sought by him/ them on each amount as under:

a. Rs.....

b. Rs.....

c. Rs.....

Total Rs.....

(5) The applicant(s), therefore, pray(s) that a direction may be issued under section 45(2) of the Code on Wages, 2019 for;

(a) payment of the difference between the wages payable under the Code and the wages actually paid,

(b) payment of remuneration for the days of rest

(c) payment of wages at the overtime rates,

(d) compensation amounting to Rs.....

(6) The applicant(s) do hereby solemnly declare(s) that the facts stated in this application are true to the best of his/their knowledge, belief and information.

Dated.....

Signature or thumb-impression of the employed person(s), or official of a registered trade union duly authorized or Inspector- cum- Facilitator.

Note: The applicant(s), if required, may append annexures containing details, with this application.

FORM III

(see rule 41)

Appeal under Section 49(1) of the Code on Wages, 2019

Before The Appellate Authority under the Code on Wages, 2019

name

Address .....APPELLANT

Vs.

name

Address .....RESPONDENT

DETAILS OF APPEAL:

1. Particulars of the order against which the appeal is made :

Number and date :

The authority who has passed the impugned order:

Amount awarded:

Compensation awarded , if any :

2. Facts of the case :

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue or fact).

3. Grounds for appeal :

4. Matters not previously filed or pending with any other Court or any Appellate Authority:

The appellant further declares that he had not previously filed any appeal, writ petition or suit regarding the matter in respect of which this appeal has been made, before any Court or any other Authority or Appellate Authority nor any such appeal, writ petition or suit is pending before any of them.

5. Reliefs sought :

In view of the facts mentioned above the appellant prays for the following relief(s) :—

[Specify below the relief(s) sought]

6. List of enclosures:

1.

2.

3.

4.

.....

Date:
Place:

Signature of the appellant.

For office use

Date of Filing

Or
Date of Receipt by post

Registration No.

Authorized Signatory.

FORM IV

(see rule 42(3))

EMPLOYEE REGISTER

Name of the Establishment: Name of the Employer:

Name of the Owner: PAN/TAN of the Employer:

Labour Identification Number (LIN):

Sl. No.	Employee Code	Name	Surname	Gender	Father's / Spouse Name	Date of Birth	Nationality	Education Level	Date of Joining	Desig-nation	Category (HS/S/SS/US)*	Type of Employ-ment
1	2	3	4	5	6	7	8	9	10	11	12	13

Mobile No.	UAN	PAN	ESIC IP No.	AADHAAR	Bank A/c Number	Bank	Branch (IFSC)	Present Address	Permanent Address
14	15	16	17	18	19	20	21	22	23

Service Book No.	Date of Exit	Reason for Exit	Mark of Identification	Photo	Specimen Signature/Thumb Impression	Remarks
24	25	26	27	28	29	30

*(Highly Skilled/Skilled/Semi skilled/Unskilled)

FORM V

(see rule 43)

WAGE SLIP

Date of issue:

Name of the Establishment..... Address..... Period.....

1. Name of employee :
2. Father's /Spouse name :
3. Designation :
4. UAN:
5. Bank Account No.:
6. Wage period:
7. Rate of wages payable: a.) Basic b.)D.A. c.) other allowances
8. Total attendance/unit of work done:
9. Overtime wages:
10. Gross wages payable :
11. Total deductions : a.) PF b). ESI c.) Others
12. Net wages paid:

Employer / Pay-in-charge signature.

FORM VI

(see rule 44)

APPLICATION UNDER SUB-SECTION (4) OF SECTION 56 FOR COMPOSITION OF OFFENCE

1. Name of applicant :
2. Father's / Spouse name :
3. Address of the applicant :
4. Particulars of the offence: .....
   .....
   .....
5. Section of the Code under which the offence is committed : :.....
6. Maximum fine provided for the offence under the Code :.....
7. Whether prosecution against the applicant is pending or not .....
8. Whether the offence is first offence or the applicant had committed any other offence prior to the offence. If yes, then, full details of the prior offence.
   .....
   .....
   .....
9. Any other information which the applicant desires to provide
   .....
   .....
   .....

Date:
Place :

Applicant

(Name and signature)