

## SIKKIM PAYMENT OF GRATUITY RULES, 2002

### Short title and commencement

1. (1) These rules may be called the Sikkim Payment of Gratuity Rules, 2002.
- (2) They shall be deemed to have come into force with effect from the date the Payment of Gratuity Act, 1972 was enforced in Sikkim i.e. 01.11.1995.

### Definition

2. (1) In these rules, unless there is anything repugnant in the subject or context,-
  - (a) "Act" means the Payment of Gratuity Act, 1972 (39 of 1972);
  - (b) "Appellate Authority" means the State Government or any authority specified by it under subsection (7) of section 7;
  - (c) "Controlling Authority" means an authority appointed by the State Government under section 23 of the Act.
  - (d) "Form" means the form appended to these rules;
  - (e) "nomination" means the nomination made under section 6; and
  - (f) "section" means a section of the Act.
- (2) Words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

### Notice of applicability, change of particulars or closure

3. (1) A notice in Form A shall be served by the employer concerned on the controlling authority of the area within thirty days of these rules becoming applicable to a factory, shop, establishment or plantation, as the case may be:

Provided that in the case of a factory, shop, establishment or plantation, to which these rules are applicable with effect from the enforcement of these rules, such notice may be served on the controlling authority within such longer period as may be specified by the State Government by a notification in this behalf.
- (2) In case of any change taking place with regard to any information furnished in Form A, the employer concerned shall serve a notice of such change to the controlling authority of the area in form B.
- (3) Where an employer intends to close down his business, he shall serve a notice of such intended closure in Form C on the controlling authority of the area at least sixty days before the date of intended closure.
- (4) All notices to be served under these rules shall be served either personally on a person specified for the purpose by the controlling authority with receipt therefor or by registered post with acknowledgement due.

### Display of notice and abstract of the Acts and the rules

4. (1) Every employer shall display conspicuously a notice at or near the main entrance of the factory, plantation, shop or establishment, as the case may be, in bold letters in English, Nepali and in a language understood by the majority of the employees specifying the name of the Officer with designation authorized by the employer to receive on his behalf notices or applications under the Act or these rules.
- (2) Every employer shall display an abstract of the Act and these rules in English, Nepali and in a language understood by the majority of a employees at a conspicuous place at or near about the main entrance of the factory, plantation, shop or establishment, as the case may be.
- (3) a fresh notice or abstract of the Act or the rules as the case may be, shall be displayed immediately after the notice or abstract of the Act or the rules, as the case may be, referred to in sub-rules (1) and (2) becomes illegible or requires an amendment.

## **Nomination**

5. (1) The nomination under sub-section (1) of section 6 shall be in duplicate in Form D and submitted by personal service, after taking receipt, either to the employer concerned, or if so directed, to an Officer authorized in this behalf by the employer concerned-
- (i) in the case of an employee, who is already in employment for a year or more on the date of commencement of these rules, ordinarily, within ninety days from such date, and
  - (ii) in the case of an employee, who completes one year of service after the date of commencement of these rules, ordinarily, within thirty days of the completion of one year of service after such date:
- Provided that nomination in Form D shall be accepted by the employer concerned also after the specified period, if filed with reasonable grounds for the delay, and no nomination shall be invalid merely because it was filed after the specified period.
- (2) Within thirty days of the receipt of a nomination in form D under sub-rule (1), the employer concerned shall get the service particulars of the employee, as mentioned in the nomination, verified with reference to the records of the factory, plantation, shop or establishment, as the case may be, and return to the employee concerned, after obtaining a receipt therefore, the duplicate copy of the nomination in Form D duly attested either by the employer concerned or an Officer authorized in this behalf by him, as a token of recording of the nomination by the employer concerned and the other copy of the nomination shall be recorded and preserved permanently by the employer for future reference.
- (3) If an employee had no family at the time of making a nomination under sub-rule (1) or if a nominee predeceases the employee, the employee concerned shall, within thirty days of acquiring a family or death of the nominee, as the case may be, file a fresh nomination, as required under sub-section (4) of section 6, in duplicate in Form E to the employer concerned, or if so directed by him, to an officer authorized in this behalf by the employer concerned and thereafter the provisions of sub-rule (2) shall apply mutatis mutandis as if it was filed under sub-rule (1).
- (4) A notice for modification of any nomination made under sub-rules (1) and (3) shall be submitted in duplicate in Form F to the employer concerned, or if so directed by him, to an officer authorised in this behalf by the employer concerned, and thereafter, the provisions of sub-rule (2) shall apply mutatis mutandis as if it was filed under sub-rule (1).
- (5) A nomination or a fresh nomination or a notice of modification of nomination shall be signed or, if the person making the nomination is illiterate, thumb impressed in the presence of two witnesses, who shall also sign a declaration to that effect in the nomination, fresh nomination or notice of modification of nomination, as the case may be, and such nomination, fresh nomination or notice of modification of nomination shall be filled by personal service, after taking receipt and take effect from the date of receipt thereof by the employer.

## **Application for gratuity**

6. (1) An employee, who is eligible for payment of gratuity under the Act, shall apply, Ordinarily within one hundred and twenty days from the date the gratuity became payable, in Form G to the employer concerned:
- Provided that where the date of superannuation, retirement or resignation of an employee is known, the employee concerned, may apply in form G to the employer concerned before thirty days of the date of superannuation, retirement or resignation, as the case may be.
- (2) a nominee of an employee, who is eligible for payment of gratuity under the second proviso to subsection (1) of section 4, shall apply ordinarily within one hundred and eighty days from the date the gratuity became payable to him, in Form H to the employer concerned:

Provided that an application in plain paper with sufficient particulars shall also be accepted and the employer concerned may obtain such other particulars as may be deemed necessary by him.

- (3) An heir of an employee, who is eligible for payment of gratuity under the second proviso to subsection (1) of section 4, shall apply ordinarily within one year from the date the gratuity became payable to him, in Form I to the employer concerned.
- (4) In case gratuity became payable under the Act before the date of commencement of these rules, the periods of limitation specified in sub-rules (1), (2) and (3) shall be deemed to be operative from the date of commencement of these rules.
- (5) an application for payment of gratuity filed after the expiry of the periods specified in these rules shall also be entertained by the employer concerned, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Act shall be invalid merely because the claimant failed to present his application within the specified period and any dispute in this regard shall be referred to the controlling authority and his decision thereon shall be final.
- (6) An application under these rules for payment of gratuity shall be presented to the employer concerned, or if so directed by him, to an officer authorized in this behalf by the employer either by personal service or by registered post with acknowledgement due.

#### **Notice for payment of gratuity**

7. (1) Within thirty days of receipt of an application under rule 7 for payment of gratuity, the employer concerned shall-
  - (i) if the claim is found admissible on verification, issue a notice in duplicate in Form J to the applicant employee, nominee or heir, as the case may be, specifying the amount of gratuity payable and fixing a date not being later than forty-fifth day after the date of receipt of the application, for payment thereof; or
  - (ii) If the claim for gratuity is not found admissible, issue a notice in duplicate in Form K to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible.  
Explanation.- In either case a copy of the notice shall be endorsed to the controlling authority.
- (2) In case payment of gratuity is due to be made in the employer's office, the date fixed for purpose in the notice in Form J under clause (i) of sub-rule (1) shall be re-fixed by the employer, if a written application on this behalf is made by the payee explaining why it is not possible for him to be present in person on the date specified.
- (3) If the claimant for gratuity is a nominee or an heir, the employer concerned may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim and in that case the time-limit specified for issuance of notices under sub-rule (1) shall be operative with effect from the date such witness or evidence as called for by the employer, is furnished to the later:  
Provided that issuance of an appropriate notice under sub-rule (1) shall not be delayed beyond ninety days from the date of receipt of an application under rule 6, except with the consent of the applicant or approval of the controlling authority in writing.
- (4) A notice in form J or K shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due.

#### **Mode of payment of gratuity**

8. (1) The gratuity payable under the Act shall ordinarily be paid in cash or, if so desired by the payee in Demand Draft or bank cheque personally to the eligible employee, nominee or heir, as the case may be:  
Provided that in case the eligible employee, nominee or heir, as the case may be, so desires and the amount of gratuity payable is less than one thousand rupees, payment

may be made by postal money order after deducting the postal money order commission therefor from the amount payable:

Provided further that the employer concerned and the eligible employee, nominee or heir, as the case may be, may devise between them any other mode of payment mutually acceptable to both the sides.

- (2) The employer shall maintain a register recording details of payment made on account of gratuity and shall intimate to the controlling authority of the area the details of payment made in each case.

#### **Application to Controlling Authority for direction**

- 9 (1) If any employer=
  - (i) refuses to accept nomination or entertain an application sought to be filed under rule 6, or
  - (ii) issues a notice under sub-rule (1) of rule 7 either specifying an amount of gratuity, which is considered by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or
  - (iii) having received an application under rule 6, fails to issue any notice, as required under rule 7, within the time limit specified therein, and if there is any other dispute in any matter under the Act, the claimant employee, nominee or heir, as the case may be, within ninety days of the occurrence of the cause or the application, apply in triplicate in Form L to the Controlling Authority for issuing a direction under sub-section (4) of section 7:

Provided that the controlling authority may accept an application under this sub-rule, on sufficient cause being shown by the applicant, after the expiry of the specified period.

- (2) Application under sub-rule (1) and other documents relevant to such an application shall be presented in person to the controlling authority at any time during hours fixed by him or the purpose or shall be sent to the controlling authority by registered post and controlling authority shall at once endorse or cause to be endorsed on each and such application or other document the date of presentation or receipt thereof, as the case may be.

#### **Procedure for dealing with application for direction**

10. (1) Within thirty days of the receipt of an application under rule 9 or as soon thereafter as may be possible, the controlling authority shall by issuing a notice in Form M, call upon the applicant as well as the employer concerned to appear before him on a specified date, not being earlier than fourteen days after the date of service of the notice, either by himself or through his authorized representative together with all relevant documents and witnesses, if any:

Provided that the date fixed for hearing may be extended by the controlling authority either suo moto or on application by either of the parties.

- (2) any person desiring to act on behalf of an employer or employee, nominee or heir, as the case may be, shall present to the controlling authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act and the controlling authority shall record thereon an order either according his approval or specifying, in the case of refusal, grant the permission prayed for the reasons for the refusal.
- (3) A party appearing by an authorized representative shall be bound by the acts of the representative.
- (4) After completion of hearing on the date fixed under sub-rule (1), or after such further evidence examination of documents or witnesses and hearing, as may be deemed necessary, the controlling authority shall record his finding as to whether any amount is payable to the applicant under the Act and a copy of the finding shall be given to each of the parties.

- (5) If the employer concerned fails to appear on the specified date of hearing without sufficient ground, the controlling authority may proceed to hear and determine the application ex-parte and if the applicant fails to appear on the specified date of hearing without sufficient ground, the controlling authority may dismiss the application:  
Provided that an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application re-heard after giving not less than fourteen days' notice to the opposite party of the date fixed for re-hearing of the application.

#### **Place and time of hearing**

11. The sittings of the controlling authority shall be held at such times and at such places as he may fix and he shall inform the parties of the same in such manner as he thinks fit.

#### **Administration of oath**

12. The controlling authority may authorize a clerk of his office to administer oaths for the purpose of making affidavits.

#### **Summoning and attendance of witnesses**

13. The controlling authority may, at any stage of the proceedings before him, either upon or without an application by any of the parties involved in the proceedings before him, and on such terms as may appear to the controlling authority just, issue summons to any person in form N either to give evidence or to produce documents or for both purposes on a specified date, time and place.

#### **Service of summons or notice**

14. (1) Subject to the provisions of sub-rule (2), any notice, summons, process or order issued by the controlling authority may be served either personally or by registered post with acknowledgement due or in any other manner, as prescribed under the Code of Civil Procedure, 1908 (Act 5 of 1908).  
(2) Where there are numerous persons as parties to any proceeding before the controlling authority and such persons are members of any organization or association or are represented by an authorized person, the service of notice on the Secretary, or where there is no Secretary, on the principal officer of the organization or associations, or on the authorized person, as the case may be, shall be deemed to be served on such persons.

#### **Maintenance of records of cases by the Controlling Authority**

15. (1) The controlling authority shall record the particulars of each case under section 7, in Form O and at the time of passing orders shall sign and date the particulars so recorded  
(2) The controlling authority shall, while passing order in each case also record the findings on the merits of the case and file it together with the memoranda of evidence with the Order Sheet.  
(3) Any record, other than a record of any order or direction, which is required by these rules to be signed by the controlling authority, may be signed on behalf of and under direction of the controlling authority by any subordinate officer appointed in writing for this purpose by the controlling authority.

#### **Direction for payment of gratuity**

16. If a finding is recorded under sub-rule (4) of rule 10 that the applicant is entitled to payment of gratuity under the Act, the Controlling Authority shall issue a notice to the employer concerned in Form P specifying the amount payable and directing payment thereof to the applicant under intimation to the controlling authority within thirty days from the date of receipt of the notice and a copy of the notice shall be endorsed to the applicant employee, nominee or heir, as the case may be.

### **Appeal from the orders of Controlling Authority**

17. (1) The appeal under sub-section (7) of section 7 shall be in the form of a memorandum setting forth concisely the facts of the case, grounds of objection to the order or direction against which the appeal is preferred and the relief sought for, and every such memorandum of appeal shall be accompanied by a certified copy of the controlling authority's order or directions, which is the subject matter of the appeal.
- (2) The memorandum of appeal under sub-rule (1) shall be submitted to the appellate authority and a copy thereof shall be served on all the opposite parties, including the controlling authority, either by personal service after obtaining receipt or by registered post with acknowledgement due.
- (3) Within fourteen days of the receipt of a copy of the memorandum of appeal-
- (a) the controlling authority shall forward all the records of the case against which the appeal has been preferred;
- (b) the opposite party shall submit his written statement containing comments on each paragraph of the memorandum of appeal and additional pleas, if any, to the appellate authority and the opposite party shall serve a copy of the written statement on the appellant either by personal service after obtaining receipt or by registered post with acknowledgement cue.
- (4) The appellate authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard and shall forward a copy of the decision to the parties concerned and the Controlling Authority and the records of the controlling authority recorded under sub-rule (3) shall be returned to him by the appellate authority while forwarding a copy of the decision to him under this rule, if the appeal be disposed to ex-parte or struck out or dismissed for default the appellate authority can, within 60 (sixty) days from the date of the order, restore it to file if sufficient cause be shown for the appellant's non-appearance on the date of hearing of the appeal.
- (5) The controlling authority shall on receipt of the decision of the appellate authority, make necessary entry in the records of the case maintained in Form Q under sub-rule (1) of rule 15.
- (6) On receipt of the decision of the appellate authority, the controlling authority shall, if required under that decision, modify his direction for payment of gratuity and issue a notice to the employer concerned in form 0 specifying the modified amount payable and directing payment thereof to the applicant, under intimation to the controlling authority within fifteen days of the receipt of the notice by the employer and a copy of the notice shall be endorsed to the applicant employee, nominee, heir, as the case may be, and to the appellate authority.

### **Application for recovery of gratuity**

18. In case an employer fails to pay the gratuity due under the Act in accordance with the notice of the controlling authority under rule 16 or sub-rule (6) of rule 17, the employee concerned, his nominee or heir, as the case may be, to whom the gratuity is payable, may apply to the controlling authority in duplicate in Form A for the recovery thereof under section 8.

**FORM A**  
[See sub-rule (1) of rule 3]  
**Notice of opening**

To  
The Controlling Authority .....

(give here the address)

Take notice that the Sikkim Payment of Gratuity Rules, 2002 are applicable to my factory/plantation/shops/establishment, with effect from ..... (date here).

Necessary particulars regarding my factory/plantation/shops/establishment are given in the statement below:

**Statement**

1. Name or description of the factory/plantation/shops/establishment with full address.
2. Address for communication.
3. If a proprietary undertaking, names and full residential address of the owners/partners.
4. If a joint stock company-
  - (a) Name and full residential address of every director,
  - (b) Names and full residential address of every person owning or controlling twenty per centum or more of the shares.
5. Number of persons employed.
6. Maximum number of persons employed on any day during the preceding twelve months with date.
7. Number of employee covered by the Act.
8. Whether a factory or a plantation or a shop or an establishment.
9. Articles produced or dealt with or services rendered. If so, the details.
10. Whether seasonal (in case of factory).
11. Date of opening.

I declare that the particulars mentioned in the above statement are true and correct to the best of my knowledge and belief.

Place .....

Date .....

Signature of the employer with name  
and designation or rubber stamp

Copy to Labour Department, Government of Sikkim.

**Note: Strike out the words not applicable.**

**FORM B**  
[See sub-rule (2) of rule 3]  
**Notice of change**

From .....

(Name and address of the factory/plantation/shops/establishment).

Take notice that the following changes have occurred in the particulars furnished by me in the notice dated ..... in Form A with effect from .....

(Here specify the details of the changes)

Place

Date

Signature of the employer with name  
and designation or rubber stamp.

To,

The Controlling Authority,

Copy to the Labour Department, Government of Sikkim.



**FORM C**  
[See sub-rule (3) of rule 3]  
**Notice of closure**

From .....

(Here give the full name of the person (s) signing the notice with description of the position he holds, the name of the factory/plantation/shops/establishment and full postal address thereof)

To :

The Controlling Authority  
(Address here)

As required under sub-rule (3) of rule 3, I/we hereby give notice on behalf of the hereinbefore mentioned factory/plantation/shops/establishment that a final decision has been taken to close that factory/plantation/shops/establishment with effect from ..... (Here insert the date)

The reasons for such closure and other relevant details are given in the statement below:

**Statement**

1. Name and description of the factory/plantation/shops/establishment with full address.
2. Address for communication.
3. If a proprietary undertaking, names and full residential address of the owners/partners.
4. If a joint stock company-
  - (a) Name and full residential address of every employer.
  - (b) Names and full residential address of every person owning or controlling twenty per centum or more of the shares.
5. Number of persons employed on the date of notice.
6. Number of persons entitled to gratuity.
7. Amount of gratuity involved.
8. Date on which closure will be effective.
9. Reasons of closure.
10. Date for payment of gratuity.

I hereby declare that the particulars mentioned in the above statement are true and correct to the best of my knowledge and belief.

Place

Date

Signature with official seal or description  
of the post or position held.

Copy to Labour Department, Government of Sikkim.

**FORM D**  
[See sub-rule (1) of rule 5]  
**Nomination**

To .....

(Give here the name or description of the factory/plantation/shop/establishment with full address).

1. I, Shri/Shrimati/Kumari ..... (Name in full here)

whose particulars are given in the statement below, hereby nominate the person (s) mentioned below to receive the gratuity payable after my death as also the gratuity standing to my credit in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount or gratuity shall be paid in proportion indicated against the names (s) of the nominee (s)

2. I hereby certify that the person (s) nominated is a/are members (s) of my family within the meaning of clause (h) of section 2 of the Payment of Gratuity Act, 1972 (Act 39 of 1972).

3. I hereby declare that I have no family within the meaning of clause (h) of section 2 of the said Act.

4. (a) My husband' father/mother/parents is/ are not dependant on my father.

(b) My husband's father/mother/parents is/are not dependent on my husband.

I have excluded my husband from my family by a notice dated, the ..... to the Controlling Authority in terms of the proviso to clause (h) of section 2 of the said Act.

5. Nomination made herein invalidates my previous nomination.

Name in full with full address of the nominee (s)	Nominee (s) Relationship with the employee	Age of nominee	Proportion by which the gratuity will be shared
1	2	3	4
1.			
2.			
3.			
So on			

1. Name of employee in full:
2. Sex:
3. Religion:

4. Whether unmarried/married/widow/widower:
5. Department/Branch/Section where employed:
6. Post held with Ticket No. or serial No., if any:
7. Date of appointment:
8. Permanent address:

Village Post Office      Thana    District Sub-division      State

Place .....

Date .....

Signature/Thumb impression  
of the employee.

### Declaration by witnesses

Nomination signed/thumb impressed before me.

Name in full and full address of witnesses	Signature of witnesses
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1.	1.
----	----

2.	2.
----	----

Place .....

Date .....

### Certificate of employer

Certified that the particulars of the above nomination have been verified and recorded in this factory/plantatation/shop/establishment.

Employer's Reference No. .... if any.

Signature of the    employer/Officer  
authorized

Dated .....

Designation .....

Name and address of the  
factory/plantatation/shop/establishment or  
rubber stamp thereof.

### Acknowledgement of the employee

Received the duplicate copy of nomination in Form D filed by me on .....  
duly certified by the employer.

Date .....

Signature of the employee

Note: Strike out the words/paragraph not applicable.

**FORM E**  
[See sub-rule (3) of rule 5]  
**Fresh Nomination**

To .....

(Give here the name or description of the factory/plantation/shop/establishment with full address).

1. I, Shri/Shrimat/Kumari .....

(Name in full here)

whose particulars are given in the statement below –

a) have acquired a family within the meaning of clause (h) of section 2 of the Payment of Gratuity Act, 1972 (39 of 1972), with effect from the .....(date here) in the manner indicated below.

b) hereby inform that ..... (Name in full here) ..... whom I declare as a nominee in my nomination in Form D recorded by you on the .....(date here) ..... died on ..... and therefore., I nominate afresh the p[erson (s) mentioned below to receive the gratuity payable after my death as also the gratuity standing to my credit in the event of my death before that amount has become payable or having become payable had not been paid and direct that the said amount of gratuity shall be paid in proportion indicated against the name (s) of the nominee (s)

2. I hereby certify the person (s) nominated is/are member (s) of my family within the meaning of clause (h) of section 2 of the said Act.

3. (a) My father/mother/parents is/are not dependant on me.

(b) My husband's father/mother/parents is/are not dependant on my husband.

4. I have excluded my husband from my family by a notice dated the ... (date here) ..... to the controlling authority in terms of the proviso to clause (h) of section 2 of the said Act.

Nominee (s)

Name in full with full Address of nominee (s)	Relationship With the employee	Age of Nominee	Proportion by Which the Gratuity will Be shared
1	2	3	4
1. 2. 3. so on			

Manner of acquiring a family

(Here give details as to how a family was acquired i.e., whether by marriage or parents being rendered dependant or through other process like adoption)

**Statement**

1. Name of employee in full:
2. Sex:
3. Religion:
4. Whether unmarried/married/widow/widower:
5. Department/Branch/Section where employed:
6. Post held with Ticket No. or serial No., if any:
7. Permanent address:

Village      Post office      Thana    District              Sub-division      State

Place .....

Date .....

Signature/thumb impression of the employee

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**Declaration by witnesses**

Fresh Nomination signed/thumb impressed before me.

Name in full and full address of witnesses

Signature of witnesses

1.

1.

2.

2.

Place .....

Date .....

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**Certificate by the employer**

Certified that the particulars of the above nomination have been verified and recorded in this factory/plantation/shop/establishment.

Employer's Reference No., if any.

Signature of the employer/Officer authorized

Date .....

Designation .....

Name and address of the factory/plantation/shop  
/establishment or rubber stamp thereof.

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**Acknowledgement of the employee**

Received the duplicate copy of nomination in Form E filed by me on ..... duly certified by the employer.

Date .....

Signature of the employee

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Note : Strike out the words/paragraph not applicable.

**FORM F**

[See sub-rule (4) of Rule 5]  
**Modification of Nomination**

To .....  
(Give here the name or description of the factory/plantation/shop/establishment with full address)

1. I, Shri/Shrimat/Kumari .....

(Name in full here)

whose particulars are given in the statement below, hereby give notice that the nomination filed by me on .....(date)..... and recorder under your reference No. .... date ..... shall be modified in the following manner :-

(Here give details of the modifications intended)

**Statement**

1. Name of employee in full:
2. Sex:
3. Religion:
4. Whether unmarried/married/widow/widower:
5. Department/Branch/Section where employed:
6. Post held with Ticket No. or serial No., if any:
7. Date of appointment:
8. Address in full:

Place .....

Date .....

Signature/thumb impression  
of the employee

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**Declaration by witnesses**

Modification of the nomination signed/thumb impressed before me.

Name in full and full address of witnesses

Signature of witnesses

1.

1.

2.

2.

Place .....

Date .....

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**Certificate by the employer**

Certified that the above modification have been recorded.

Employer's Reference No., if any.

Signature of the employer/Officer authorized

Date .....

Designation .....

Name and address of the  
factory/plantatation/shop/establishment or  
rubber stamp thereof.

---

**Acknowledgement of the employee**

Received the duplicate copy of notice for modification filed by me on ..... duly  
certified by the employer.

Date .....

Signature of the employee

---

Note : Strike out the words not applicable.

**FORM G**  
**[see sub-rule (1) of rule 6]**  
**Application for gratuity by an employee**

To .....

(Give here the name or description of the factory/plantation/shop/establishment with full address)

Sir/Gentleman.

1. I beg to apply for payment of gratuity to which I am entitled under sub-section (1) of section 4 of the Payment of Gratuity Act, 1972 (39 of 1972), on account of superannuation/retirement/resignation after completion of not less than five years of continuous service/total disablement due to disease with effect from the ..... Necessary particulars relating to my appointment in the factory/plantation/shop/establishment are given in the statement below.

**Statement**

1. Name of employee in full:
  2. Address in full:
  3. Department/Branch/Section where last employed:
  4. Post held with Ticket No. or serial No., if any:
  5. Date of appointment:
  6. Date and cause of termination of service:
  7. Total period of service:
  8. Amount of wages last drawn:
  9. Amount of gratuity claimed:
2. I was rendered totally disabled as a result of (Here give the details of the nature of disease or accident) The evidences/witness in support of my total disablement are as follows:-
- (here give details)
3. Payment may please be made in cash/open or crossed bank cheque/Bank Draft.
  4. As the amount of gratuity payable is less than rupees one thousand, I shall request you to arrange for payment of the sum due to me by postal Money Order at the address mentioned above after deducting postal money order commission therefrom.

Yours faithfully,

Place  
Date

Signature/thumb impression  
of the applicant employee

- 
- Note: 1. Strike out the words not applicable.  
2. Strike out paragraph or paragraphs not applicable.



**FORM H**

(See sub-rule (2) of rule 6)

**Application for gratuity by an employee**

To .....  
(Give here the name or description of the factory/plantation/shop/establishment with full address)

Sir/Gentlemen,

1. I beg to apply for payment of gratuity to which I am entitled under sub-section (1) of section 4 of the Payment of Gratuity Act, 1972 (39 of 1972), as a nominee of late ..... who was an employee of your factory/(Name of employee) Plantation/shop/establishment and died on the .....  
The gratuity is payable on account of the death of the aforesaid employee while in service/superannuation of the aforesaid employee on after completion of year of service total disablement of the aforesaid employee due to an accident or disease while in service with effect from the .....  
Necessary particulars relating to my claim are given in the statement below:

**Statement**

1. Name of applicant nominee:
  2. Address in full of the applicant nominee
  3. Marital status of the applicant  
(unmarried/married/widow/widower):
  4. Name in full of the employee:
  5. Marital status of the employee
  6. Relationship of the nominee with the employee:
  7. Relationship of the nominee with the employee:
  8. Date of appointment of the employee
  9. Date and cause of termination of service of the employee
  10. Department/Branch/Section where the employee last worked:
  11. Post last held by the employee with Ticket No. or serial No., if any:
  12. Total wages last drawn by the employee
  13. Date of death and evidence/witness as proof of death of the employee:
  14. Reference No. or recorded nomination, if available:
  15. Total gratuity payable to the employee:
  16. Share of gratuity claimed:
2. I declare that the particulars mentioned in the above statement are true and correct to the best of my knowledge and belief.
  3. Payment may please be made in cash/crossed or open bank cheque.
  4. As the amount payable is less than rupees one thousand, I shall request you to arrange for payment of the sum due to me by Postal Money Order at the address mentioned above after deducting postal money order commission therefrom.

Your's faithfully,

Place

Date

Signature/Thumb impression of the applicant nominee.

---

**Note:** 1. Strike out the words not applicable.  
2. Strike out paragraph or paragraphs not applicable.

**FORM I**

(See sub-rule (3) of rule 6)

**Application for gratuity by an heir**

To

.....  
(Give here the name or description of the factory/plantation/shop/establishment with full address)

Sir/Gentlemen,

1. I beg to apply for payment of gratuity to which am entitled under sub-section (1) of section 4 of the Payment of Gratuity Act, 1972 (39 of 1972), as a heir of late ..... who was an employee of your factory/(Name of employee) Plantation/shop/establishment and died on the ..... without making any nomination.

The gratuity is payable on account of the death of the aforesaid employee while in service/superannuation of the aforesaid employee on the after completion of year of service total disablement of the aforesaid employee due to an accident or disease while in service with effect from the Necessary particulars relating to my claim are given in the statement below:

**Statement**

1. Name of applicant heir:
2. Address in full of the applicant legal heir:
3. Marital status of the applicant heir (unmarried/married/widow/widower):
4. Name in full of the employee:
5. Relationship of he applicant with the employee:
6. Relationship of the applicant with the employee:
7. Date of appointment and total period of service of the employee:
8. Department/Branch/Section where the employee last worked:
9. Post last held by the employee with Ticket No. or serial No., if any:
10. Total wages last drawn by the employee
11. Date and cause of termination of service
12. Date of death of the employee and evidence/witness in support thereof:
13. Total gratuity payable to the employee:
14. Percentage of the gratuity claimed:
15. Basis of the claim and evidence/witness I support thereof:

2. I declare that the particulars mentioned in the above statement are true and correct to the best of my knowledge and belief.
3. Payment may please be made in cash/crossed or open bank cheque/bank Draft.
4. As the amount payable is less then rupees one thousand, I shall request you to arrange for payment of the sum due to me by Postal Money Order at the address mentioned above after deducting postal money order commission therefrom.

Yours faithfully,

Place .....

Date .....

Signature/Thumb impression of the applicant legal heir.

**Note: Strike out the words not applicable.**

**FORM J**  
(See clause (i) of sub-rule (1) of rule 7)  
**Notice for Payment of Gratuity**

To

.....  
(Name and address of the applicant employee/nominee/heir.)

You are hereby informed as required under clause (i) of sub-rule (1) of rule 7 of the Sikkim Payment of Gratuity Rule, 2002 that a sum of Rs ..... (Rupees ..... ) is payable to you as gratuity/as your share of gratuity in terms of nomination made by on and recorded in this factory/plantation/shop/establishment as an heir of an employee of this factory/plantation/shop/establishment.

2. Please call at ..... (here specify place) on .....(date) at ..... (time) for collecting your payment in cash/open or crossed cheque/demand draft.
3. Crossed Cheque/Demand Draft for amount due shall be sent to you on receiving back the enclosed clearance certificate fully signed by you and attested by a Gazetted Officer.
4. Amount payable shall be sent to you by Postal Money Order at the address given in your application after deducting the postal money order commission as desired by you by

Brief statement of calculation.

1. Total period of service of the employee concerned ..... years ..... months.
2. Wages last drawn.
3. Proportion of the admissible gratuity payable in terms of nomination/as an heir.
4. amount payable.

Place .....

Date .....

Name or description of factory/  
plantation/shop/establishment or  
rubber stamp thereof.

Signature of the employer/Authorized Officer

Copy to the Controlling Authority.

Note: Strike out the words not applicable.

**Clearance Certificate**

Received a sum of Rs ..... from ..... (Name of shop/establishment/factory/plantation) as being the gratuity due to me under the Payment of Gratuity Act, 1972 in full and final settlement of my claims on that account.

Signature/Thumb impression of the payee

Attestation

The payee is known to me and signed before me.

Date .....

Place .....

Signature of a Gazetted Officer  
Official seal.

**FORM K**  
(See clause (ii) of sub-rule (1) of rule 7)  
**Notice rejecting Payment of Gratuity**

To

.....  
(Name and address of the applicant employee/nominee/heir.)

You are hereby informed as required under clause (i) of sub-rule (1) of rule 7 of the Sikkim Payment of Gratuity Rules 2002 that your claim for payment of gratuity as indicated in your application in Form under the said rules is not admissible for the reasons stated below.

Reasons  
(Here specify the reasons)

Signature of the  
employer/Authorised Officer

Place .....

Date .....

Name or description of  
factory/Plantation/shop/  
establishment  
or Rubber stamp thereof.

Copy to Controlling Authority.

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**Note: Strike out the words not applicable.**

**FORM L**  
(See sub-rule of rule 9)  
**Application for Direction**

Before the Controlling Authority under the Payment of Gratuity  
Act, 1972 (39 of 1972).

Application No. .... Dated .....

Between

(Name in full of the applicant with full address)

And

(Name in full of the employer concerned with full address)

The applicant is an employee of the abovementioned employer! a nominee of late an employee of the above mentioned employer/an heir of late ..... and employee of the abovementioned employer, and is entitled to payment of gratuity under section 4 of the Payment of Gratuity Act, 1972 (39 of 1972), on account of his own/aforesaid employee's superannuation on ..... /his own retirement/aforesaid employee's resignation on .....(date) after completion of .....years of continuous service/his ..... due to accident/disease, death of the aforesaid employee on .....

2. The applicant submitted an application under rule 6 of the Sikkim Payment of Gratuity Rules, 2002 on the ..... but the above mentioned employer refused to entertain it/issued a notice dated the..... under clause (i) of sub-rule (1) of rule 7 of offering an amount of gratuity which is less than my due/issued a notice dated the ..... under clause (ii) of sub-rule (1) of rule 7 rejecting my eligibility to payment of gratuity. The duplicate copy of the said notice is enclosed.
3. The applicant submits that there is a dispute on the matter.  
(Here specify the disputes).
4. The applicant furnished the necessary particulars in the annexure hereto and prays that the Controlling Authority may be pleased to determine the amount of gratuity payable to the petitioner and direct the above mentioned employer to pay the same to the petitioner.
5. The applicant declares that the particulars furnished in the annexure hereto are true and correct to the best of his knowledge and belief.

Signature! Thumb impression  
of the applicant.

Date .....

**ANNEXURE**

1. Name in full of applicant with full address:
2. Basis of claim:  
(Death/Superannuation/Retirement/Resignation/Disablement of employee).
3. Name and address in full of the employee:
4. Marital status of the employee (unmarried/married/widow/widower):
5. Name and address in full of the employer:
6. Department/Branch/Section where the employee was last employed (if known):
7. Post held by the employee with Ticket or Serial No. if any (if known):
8. Date of appointment of the employee (if known)
9. Date and cause of termination of service of the employee (Superannuation/  
retirement! resignation! disablement! death):
10. Total period of service by the employee:
11. Wages last drawn by the employee:
12. If the employee is dead, date and cause thereof:
13. Evidence! witness in support of death of the employee:
14. If a nominee, No. and date of recording of nomination with the employer:
15. Evidence! witness in support of being an heir, if a legal heir:
16. Total gratuity payable to the employee (if known)
17. Percentage of gratuity payable to the applicant as a nominee/heir:
18. Amount of gratuity claimed by the applicant.

Signature/Thumb impression of the  
applicant

Place .....

Date .....

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**Note: Strike out the words not applicable.**

**FORM M**  
(See sub-rule (1) of rule 10)  
**Notice for appearance before the Controlling Authority**

From: The Controlling authority under the Payment of Gratuity Act, 1972 (39 of 1972)

To .....

(Name and address of the employer/applicant)

Whereas Shri ..... an employee under you/nominee (s)/an heir (s) of Shri ..... employer has/have filed an application under sub-rule (1) of rule 9 of the Sikkim Payment of Gratuity Rules, 2002 alleging that

(A copy of the said application is enclosed).

Now, therefore, you are hereby called upon to appear before me at either personally or (place) through a person duly authorized in this behalf for the purposes of answering all materials questions relating to the application on the ..... day of ..... at ..... O'clock in the forenoon/afternoon in support of to answer the allegation; and as the day fixed for your appearance is appointed for final disposal of the application, you must be prepared to produce on that day all the witness upon whose evidence, and the documents upon which you intend to reply in support of your allegation/defense.

Take notice that in default of your appearance on the day before mentioned the application will be dismissed/heard and determined in your absence.

Given under my hand and seal, this ..... day of .....

Controlling Authority.

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**Note: Strike out the words and paragraph not applicable.**

**FORM N**  
(See rule 13)  
**Summons**

Before the Controlling Authority under the Payment of  
Gratuity Act, 1972 (39 of 1972)

To

.....  
(Name and address)

Whereas your attendance is required to give evidence, you are required to produce the documents mentioned in the list below, on behalf of ..... in the case arising out of the claim for gratuity by ..... from and referred to this authority by an application under rule 9 of the Sikkim Payment of Gratuity rules, 2002, you are hereby summoned to appear personally before this Authority on the ..... day of ..... at ..... O'clock in the forenoon/afternoon and to bring with you (or to send to this Authority) the said documents.

List of documents

- 1.
- 2.
- 3.

So on

Dated this ..... day of .....

Controlling Authority

- Note:
- (1) The portion not applicable to be deleted.
  - (2) The summons shall be issued in duplicate. The duplicate is to be signed and returned by the person served before the date fixed.
  - (3) In case the summons is issued only for producing a document and not to give evidence, it will be sufficient compliance to the summons if the documents are caused to be produced before the Controlling Authority on the day and hour fixed for the purpose.



**FORM 0**  
(See sub-rule (1) of the 15)  
**Particulars of Application under section 7**

1. Serial No.
2. Date of application
3. Name and address of the applicant
4. Name and address of the employer
5. Amount of gratuity claimed.
6. Plea of the employer and his examination, if any.
7. Finding, and a brief statement of reasons therefore (to be enclosed on a separate sheet of paper, if necessary.)
8. Amount awarded
9. Cost, if any awarded to witnesses' expenses

Date .....

Signed.....

Attached on a separate sheet the substance of the evidence.

**FORM P**  
(See rule 16)  
**Notice for Payment of Gratuity**

To

.....  
(Name and address of the employer)

Whereas Shri/Shrimati/Kumari ..... of .....(address) an employee under you! a nominee (s)! an heir(s) of late ..... an employee under you filed an application under rule 9 of Sikkim Payment of Gratuity Rules, 2002 before me;

And whereas the application was heard in your presence on ..... and after the .....(date) hearing I have come to the finding that the said Shri!Shrimati/Kumari ..... is entitled to a payment of Rs. .... as gratuity under the Payment of Gratuity Act, 1972 (39 of 1972);

Now, therefore, I hereby direct to pay the said sum of Rs ..... to Shri!Shrimati! Kumari ..... within thirty days of receipt of this notice with an intimation thereof to me.

Given under my hand and seal, this .....day of .....

Controlling Authority

Copy to .....

(Applicant under rule 7)

He is advised to contact the employer for collecting payment.

**Note: the portion not applicable to be deleted.**

**FORM Q**

[See sub-rule (5) of rule 17]

**Notice for Payment of Gratuity as determined by Appellate Authority.**

To

.....  
(Name and address of the employer)

Whereas a notice was given to you on ..... in Form P requiring you to make a payment of Rs ..... (Rupees .....) only to Shri/Shrimati/Kumari .....(name) as gratuity under the Payment of Gratuity Act, 1972)

And whereas you/the applicant preferred an appeal before the Appellate Authority and the appellate authority ha decided that an amount of Rs ..... (Rupees ..... ) only is payable Shri/Shrimati/Kumari .....(name here) as gratuity under the Payment of Gratuity Act, 1972;

Now, therefore, I hereby direct you to pay the said sum of Rs ..... (Rupees .....) only to Shri/Shrimati/Kumari .....(name here) within thirty days of there receipt of this notice with an intimation thereof to me.

Given under my hand and seal this ..... day of .....

Controlling Authority

Copy to:

1. Applicant. He is advised to contact the employer for collecting payment.
2. Appellate Authority.

---

**Note: The portion not applicable to be deleted.**

**FORM R**  
(See rule 18)  
**Application for Recovery of Gratuity**

Before the Controlling Authority under the Payment of Gratuity  
Act, 1972 (39 of 1972)

Application No ..... dated .....

Between

(Name in full of the applicant with full address)

And

(Name in full of the employer concerned with full address)

1. The applicant is an employee of the abovementioned employer/an employee of late ..... an employee of the above mentioned employer and you were pleased to direct the said employer in your notice dated the ..... under rule 16/17 of the Sikkim Payment of Gratuity Rules, 2002 for payment of a sum of Rs ..... as gratuity payable under the Payment of Gratuity Act, 1972 (39 of 1972).
2. The applicant submits that the said employer failed to pay the said amount of gratuity to me as directed by you, although approached him for payment.
3. The applicant therefore, prays that a certificate may be issued under section 8 of the said Act for recovery of the said sum of Rs due to me as gratuity in terms of your direction.

Place .....

Dated .....

Signature/Thumb impression  
of the applicant

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**Note: Strike out the words not applicable.**