



Government of Goa
Inspectorate of Factories and Boilers
Altinho, Panaji, Goa – 403 001

Ph no. 0832-2404852

Website: www.ifbgoa.goa.gov.in

Email: ifb.goa@nic.in / ci-ifb.goa@nic.in

Ref. No. VI/BLR/(2)/A-117/(e)/IFB-2024/1256 **Dated: 07.06.2024 (Jyaistha 17, 1946)**

NOTIFICATION

The following draft rules which the Government of Goa proposes to make in exercise of the powers conferred by section 29 read with sections 26A and 26B of the Boilers Act, 1923 (Act No. 5 of 1923) are hereby pre-published as required by section 31 of the said Act, for information of all the persons likely to be affected thereby and notice is hereby given that the said draft Rules will be taken into consideration by the Government after expiry of a period of thirty days from the date of publication of this Notification in the Official Gazette.

All objections and / or suggestions to the said draft Rules may be forwarded to the Secretary (Factories and Boilers), Government of Goa, Secretariat, Porvorim, before the expiry of the said period of thirty days so that they may be taken into consideration at the time of finalization of the said draft Rules.

DRAFT RULES

In exercise of the powers conferred by section 29 of the Boilers Act, 1923 (Act 5 of 1923) and all other powers enabling it in this behalf, the Government of Goa hereby makes the following rules, namely: -

- 1. Short title and commencement.** – (1) These rules may be called the Goa Boilers (Penalty Adjudication and Appeal) Rules, 2024.
(2) They shall come into force on the date of their final publication in the Official Gazette.
- 2. Definitions.** – (1) In these rules, unless the context otherwise requires, -
 - (a) "Act" means the Boilers Act, 1923 (Act 5 of 1923);

- (b) "Adjudicating Officer" means a person authorized as the Adjudicating Officer under sub- section (1) of section 26A of the Act;
 - (c) "Appellate Authority" means a person authorized as the Appellate Authority under sub- section (1) of section 26B of the Act;
 - (d) " Form" means a form appended to these rules;
 - (e) "Inquiry" means the inquiry under section 26A of the Act;
 - (f) "Inspector" means a person appointed to be an Inspector under the Act;
- (2) Words and expressions used and not defined in these rules, but defined in the Act shall have the same meanings respectively assigned to them in that Act.

3. Adjudication proceedings under section 26A. – (1) On receipt of a report from the Inspector, the Chief Inspector shall examine the case according to the provisions of the Act, rules and regulations made thereunder under which the owner has been charged as to whether the contraventions are punishable with penalty under sections 22, 23, sub-section (1) of section 25 or section 30 of the Act or no contravention is established.

(2) If the Chief Inspector decides that such contravention is punishable with penalty under sections 22, 23, sub-section (1) of section 25 or section 30 of the Act, he shall cause and authorize the Inspector to file with the Adjudicating Officer, an application for adjudication of the offence alleged to have been committed by the person in respect of which the report has been received.

(3) On receipt of the communication from the Chief Inspector authorizing the filing of the adjudication application, the Inspector shall file the application for adjudication with the Adjudicating Officer for adjudication of the contravention alleged to have been committed.

(4) On receipt of the application for adjudication from the Inspector, the Adjudicating Officer shall commence the inquiry proceedings under section 26A of the Act.

(5) For holding an inquiry for the purpose of adjudication under section 26A of the Act as to whether any owner has committed contravention of any of the provisions of sections 22, 23, sub-section (1) of section 25 or section 30 the Act in respect of which the contravention is alleged to have been committed, the Adjudicating Officer shall, in



the first instance, issue a notice to such owner giving him an opportunity for hearing in the matter within a period of thirty days from the date of receipt of application.

(6) Such notice shall indicate the nature of offence alleged to have been committed, the sections of the Act alleged to have been contravened, and the date of hearing of the matter. A copy of the report of the Inspector shall also be annexed to such notice.

(7) On the date fixed for hearing, the Adjudicating Officer shall explain to the owner or to his authorized representative, the offence alleged to have been committed by such person, indicating the provision of the Act in respect of which the contravention is alleged to have taken place.

(8) The Adjudicating Officer shall then give an opportunity to such owner to produce such documents or evidence as he may consider relevant to the inquiry and if necessary, the hearing may be adjourned to a future date:

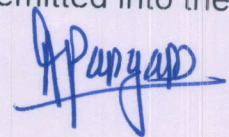
Provided that the Adjudicating Officer shall pass the final order within 180 days from the date of first hearing.

(9) If any person fails, neglects or refuses to appear as required by sub-rule (5) and (6) before the Adjudicating Officer, the Adjudicating Officer may proceed with the inquiry in the absence of such person, after recording the reasons for doing so.

(10) If upon consideration of the evidence produced before the Adjudicating Officer, the Adjudicating Officer is satisfied that the owner against whom the Inquiry has been conducted, is liable to penalty under any of the provisions of sections 22, 23, sub-section (1) of section 25 or section 30 the Act, he may, by order in writing, impose such penalty as he thinks fit, in accordance with the provisions of the relevant section or sections of the Act.

(11) If, however, the Adjudicating Officer is satisfied that the owner against whom the inquiry has been conducted for the contravention of provisions of the Act, has not been proved beyond doubt, the Adjudicating Officer shall dismiss the case.

(12) Every order made under sub-rule (10) shall specify the provisions of the Act in respect of which the contravention has taken place and shall contain brief reasons for such decision. While imposing penalty, the Adjudicating Officer shall have due regard to the provisions of section 26A of the Act. Such penalty shall be remitted into the local



treasury under the head of account "59 – Factories and Boilers, 0230 – Labour and Employment, 103 – Fees for Inspection of Steam Boilers, 01 – Fees for Inspection of Steam Boilers".

(13) Every such order shall be dated and signed by the Adjudicating Officer.

(14) The Adjudicating Officer shall send a copy of the order made under sub-rules (10) or (11) to the owner against whom the inquiry was conducted and the inspector who has filed the application for adjudication.

(15) A notice or an order issued under these rules shall be served on the owner against whom the adjudication proceedings were held or inquiry has been conducted, in any of the following manner:-

(i) by delivering or tendering it to that owner or his duly authorized representative; or

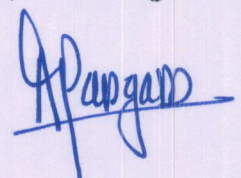
(ii) by sending it to the owner by registered post or speed post to the address of his place of residence or his last known place of residence or the place where he carried on or last carried on, business or personally works or last worked for gain; or

(iii) if it cannot be served in the manner specified under sub-rule (i) or (ii), by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided or carried on business or personally works or has worked for gain and written report thereof should be witnessed by two persons.

4. Manner of preferring Appeal under section 26B of the Act. – (1) An appeal under section 26B of the Act, arising out of a decision of the Adjudicating Officer appointed under section 26A of the Act, shall be filed with the Appellate Authority in Form 'A' hereto within a period of sixty days from the date on which the copy of the order against which the appeal is filed, is received by the appellant.

(2) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be accompanied by a copy of order of Adjudicating Officer issued under sub-rule (10) of rule 3 and a clear statement of facts appealed against, the grounds for appeal and the relevant sections of the Act.



- (4) The appeal shall be presented in triplicate by the appellant in person or by his duly authorized agent in writing or by an advocate duly appointed in this behalf or by registered post or speed post and shall be accompanied by fee of five hundred rupees paid in the form of Court Fee Stamp affixed on the Memorandum of appeal.
- (5) The appeal sent by post shall be deemed to have been presented to the Appellate Authority on the day it is received.
- (6) If on scrutiny, the appeal is found to be in order, it shall be duly registered and given a registration number.
- (7) If on scrutiny, the appeal is found to be defective, the same shall, after notice to the party, be returned for compliance and if within 21 days of receipt of such notice or within such extended time as may be granted, the defect is not rectified, the Appellate Authority, may, for reasons to be recorded in writing, decline to register the appeal.
- (8) A copy of the Appeal shall be served by the Appellate Authority to the Respondent as soon as it is registered, by hand delivery or by Registered post or speed post.
- (9) On admission of the appeal, the Appellate Authority may call for the records relating to the proceedings from the respective Adjudicating Officer.
- (10) The Respondent shall within thirty days of service of notice of appeal, file reply on the appeal to the Appellate Authority.
- (11) The Appellate Authority may, after giving the parties to the appeal an opportunity of being heard, pass such orders as he may think fit, confirming or setting aside the order appealed against.
- (12) The order of the Appellate Authority shall be signed and dated. The Appellate Authority shall have powers to pass interim orders or injunction, subject to reasons to be recorded in writing, which he considers necessary in the interest of justice.
- (13) A certified copy of every order passed by the Appellate Authority shall be communicated to the Adjudicating Officer and to the parties, as the case may be.
- (14) The order passed by the Appellate Authority under sub-rule (11) shall be final and binding.



FORM 'A'

(see rule 4(1))

Memorandum of Appeal

BEFORE THE APPELLATE AUTHORITY

In the matter of The Boilers Act, 1923

AND

In the matter of Appeal against the Order dated _____ passed by the

Adjudicating Officer, _____ (Place)

APPEAL NO. _____ of _____

...Appellant

Vs

...Respondent

For use in Appellate Authority's office

Date of presentation of Appeal

Date of receipt by Post

Registration No.

Signature

INDEX

(Specimen Index)

Sr. No.	EXHIBIT PARTICULARS NO.	Page
1.	Appeal Memo	
2.	Copy of the Show Cause Notice dated _____ issued by the Adjudicating Officer	
3.	Copy of the Reply dated _____ submitted by the Appellant to the Show Cause Notice.	
4.	Copy of the Impugned Order dated _____	

[Handwritten Signature]

APPEAL MEMO

1. Particulars of the Appellant

- (i) Name of the Appellant:
- (ii) Address of the Appellant:
- (iii) Address for service of all notices:
- (iv) Mobile No. of the Appellant:
- (v) Email address:

2. Particulars of the Respondent

- (i) Name of the Respondent:
- (ii) Address of the Respondent:
- (iii) Address for service of all notices

3. Jurisdiction of the Appellate Authority

The Appellant declares that the matter of Appeal falls within the jurisdiction of the Appellate Authority.

4. Limitation

The Appellant further declares that the Appeal is within the limitation as specified in section 26B of The Boilers Act, 1923.

5. Facts of the case

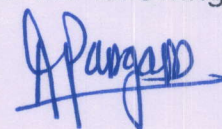
Here give a concise statement of facts of the case and grounds of Appeal against the specified order, in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise. The facts of the case shall be presented in reference to the documents enclosed at Sr.No. 10 of Appeal memo.

6. Relief(s) sought

In view of the facts mentioned in paragraph 5 and the grounds on which the impugned order is challenged, the Appellant prays for the following relief(s) (Here specify the interim relief(s) sought and the legal provision, if any, relied upon)

7. Interim relief(s) sought (if prayed for)

Pending the final decision in the Appeal, the Appellant seeks the following interim relief(s).



(Here specify the interim relief(s) prayed for and the reasons therefore)

8. Matters not pending with any other court

The Appellant further declares that the matter regarding which this Appeal has been filed, is not pending before any court of law or any other authority or any Tribunal.

9. Details of Index

An index containing the details of the documents relied upon is enclosed.

10. List of enclosures

(Signature of the Appellant)

VERIFICATION

I, _____ son /wife / daughter of Mr. _____ being the Appellant do hereby verify that the contents of paragraphs 1 to 10 are true to my personal knowledge and belief and that I have not suppressed any material fact.

(Signature of the Appellant)

Place:

Date:



By Order and in the name of
the Governor of Goa

(Anant S. Pangam)

Chief Inspector of Factories and Boilers
and Ex-Officio Joint Secretary

Copy to:
The Director,
Department of Printing Press and Stationery,
Panaji Goa

with a request to publish the
same in the next issue of the
Official Gazette.