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*Government Notice No. 37 of 2019*

**THE EMPLOYMENT RIGHTS ACT**

**Regulations made by the Minister under section 68 of  
the Employment Rights Act**

1. These regulations may be cited as the Employment Rights (Working from Home) Regulations 2019.

2. In these regulations –

“Act” means the Employment Rights Act;

“earnings” –

(a) means basic wage or salary; and

(b) includes –

(i) wages earned for work performed during the hours specified in paragraphs 2(1) and (2) and 3(3) and (4) of the First Schedule;

(ii) paid leave entitlement paid in accordance with paragraphs 4(1), (2), (3) and (5), 5(1) and (2), 6(1), (2), (3), (4) and (5) and 7(1) and (2) of the First Schedule; and

(iii) any sum of money, excluding commission, by whatever name called, paid to a worker, in respect of any work performed by him, in addition to the basic wage agreed upon between him and the employer and which is related to productivity;

“home”, in relation to a worker –

(a) means the worker’s residence; and

(b) includes such other place as may be agreed upon by the worker and his employer;

“reasonable business grounds” includes –

- (a) the burden of additional costs for the employer;
- (b) inability or impracticability to reorganise working arrangements of existing workers;
- (c) a detrimental impact on quality of work or service;
- (d) a detrimental impact on performance of workers;
- (e) a detrimental effect on the ability to meet customers’ demand;
- (f) unsuitability of the job to homework arrangements;
- (g) unsuitability of the proposed working environment at the worker’s residence;

“work from home” includes –

- (a) work performed on full-time or part-time basis;
- (b) work performed on permanent, temporary or occasional basis;
- (c) work split between home, office or clients’ place of business;
- (d) work performed on an hourly rate, a weekly rate, a fortnightly rate, a monthly rate, piece rate or a task basis.

3. (1) Where a worker is in the employment of an employer –
- (a) the worker may make a request to the employer to work from home; or
  - (b) the employer may request that worker to work from home.

(2) (a) Where the worker makes a request under paragraph (1)(a), the employer may, unless there are reasonable business grounds to refuse the request, accede to that request.

(b) Where the employer makes a request under paragraph (1)(b), the worker may accede to that request.

(3) (a) Where any request is acceded to under paragraph (2), the worker shall inform his employer of the proposed place where work is to be performed.

(b) The employer shall, where appropriate, conduct a suitable and sufficient assessment at the proposed place where work is to be performed so as to ensure that the proposed place is free from any risk to the safety and health of the homeworker and members of his family.

(4) (a) Where an agreement is reached for the worker to work from home, the employer shall enter into a contract, in the form set out in the Second Schedule, with the worker.

(b) The employer shall, within 14 days of entering into the contract, submit a copy of that contract to the Permanent Secretary.

(5) For the purpose of section 5(6) of the Act, where a homeworker is in an employment relationship, the terms and conditions of employment of the homeworker shall be those specified in the First Schedule.

4. Where an employer remunerates a worker in accordance with these regulations, he shall issue to that homeworker a payslip in the form set out in the Third Schedule.

5. Nothing in these regulations shall –

(a) prevent an employer from –

(i) remunerating a homeworker at a rate higher than that specified in the appropriate Remuneration Regulations or in the National Minimum Wage Regulations 2017;

- (ii) providing the homeworker with conditions of employment more favourable than those specified in the First Schedule;
  - (b) authorise an employer to –
    - (i) reduce the wages of a homeworker; or
    - (ii) subject to section 57 of the Employment Relations Act, alter the conditions of employment of a homeworker so as to make them less favourable.
6. Any agreement by a homeworker to relinquish his right under these regulations shall be void.
7. These regulations shall come into operation on 1 March 2019.

Made by the Minister on 15 February 2019.

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**FIRST SCHEDULE**

[Regulations 2, 3(5) and 5]

**1. Normal working hours**

(1) Subject to subparagraph (2), no employer shall, except with the written consent of a homeworker, require the worker to work more than 45 hours in a week which are to be performed between Mondays to Saturdays.

(2) The hours of work of a homeworker –

- (a) shall not be less favourable than the hours of work prescribed in any enactment or specified in an agreement, as the case may be, applicable to the trade or business in which the homeworker is in employment; or
- (b) shall be as agreed between the employer and the homeworker where the homeworker is required to work lesser number of hours.

(3) Where a homeworker is required to work on flexible hours –

- (a) the work allocated to him shall be performed and completed within a bandwidth to be agreed with his employer;
- (b) the homeworker shall be available during the core hours of work to be agreed with his employer for work-related communication.

(4) The hours of work of a homeworker shall include time spent –

- (a) to collect work and materials;

- (b) to deliver completed work;
- (c) waiting at home for working tools and equipment to be repaired or maintained;
- (d) waiting at home for work to be delivered or otherwise assigned;
- (e) waiting for the employer to provide work;
- (f) waiting for instructions to be given over the phone or otherwise;
- (g) to attend meetings with the employer or his clients for business-related purpose.

(5) A homeworker shall, after completion of his normal day's work, be entitled to a rest period of not less than 11 consecutive hours before resuming work.

(6) A homeworker shall, in every working day, be entitled to an in-work rest break of one hour without pay to be taken at his discretion where he performs not less than 4 consecutive hours of work.

## **2. Remuneration for public holidays**

(1) Where the day on which a homeworker is scheduled to work falls on a public holiday, other than a Sunday, the homeworker shall be entitled to a normal day's pay where he is not required to work on that day.

(2) Where a homeworker is required to work on a public holiday, other than a Sunday, he shall be paid, in addition to his normal wage, any remuneration payable under paragraph 3.

**3. Payment of remuneration**

- (1) An employer shall pay a homeworker –
  - (a) wages at a rate which shall not be less than the rate specified in any enactment or agreement, as the case may be, applicable to the trade or business in which he is employed;
  - (b) wages which shall not be less than that earned by a comparable worker who performs the same hours of work and the same or similar duties on the premises of his employer.
  
- (2) Where an employer requires a homeworker to work on piece rate or task basis –
  - (a) the task allocated shall be mutually agreed between the homeworker and the employer;
  - (b) the homeworker shall be deemed to have performed a normal day's work if he completes the number of pieces or the task allotted to him before the end of his stipulated normal day's work.
  
- (3) Subject to subparagraphs (4), (5) and (6), where an employer requires a homeworker to work on a weekday, beyond –
  - (a) the hours of work specified in paragraph 1(2) of this Schedule; or
  - (b) such lesser hours as may be specified in an agreement,the employer shall pay him remuneration in respect of the extra hours performed at not less than one and a half times the rate at which the work is remunerated when performed during the hours stipulated in paragraph 1(2) of this Schedule or the agreement, as the case may be.

(4) (a) Where a homeworker is required, with his consent, to work on unsocial hours, his employer shall remunerate him for the extra work at 3 times the basic hourly rate determined in accordance with subparagraph (6).

(b) In this subparagraph –

“unsocial hours” means hours of work performed –

(a) from 1 p.m. on Saturday up to 6 a.m. on Monday; or

(b) on any public holiday, other than a Sunday.

(5) For the purpose of determining the basic hourly rate payable to a homeworker for extra work or for any other reason, the number of hours of work per month shall be notionally calculated on the basis of 195 hours or such lesser number of hours as may be agreed.

(6) Every employer shall pay remuneration to a homeworker –

(a) at monthly intervals unless the parties agree in writing to payment at shorter intervals;

(b) not later than on the last working day of the pay period.

#### **4. Annual leave**

(1) Every homeworker, other than a part-time homeworker, who remains in continuous employment with the same employer for a period of 12 consecutive months shall be entitled, during each subsequent period of 12 months while he remains in continuous employment, to 20 working days’ annual leave or such similar leave, by whatever name called.



(2) Every homeworker shall, in addition to the leave specified in subparagraph (1), be entitled to 2 days' leave in every year.

(3) Where a part-time homeworker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled, during each subsequent period of 12 months, to the number of days of annual leave or similar leave by whatever name called on full pay computed in accordance with the following formula –

$N/W \times Y$ , where –

“N” means the number of days of work the part-time homeworker is required to perform in a week

“W” means the number of working days in a week of a comparable full-time homeworker

“Y” means the number of days of leave to which a homeworker is entitled under subparagraph (1)

(4) Where an employer and a homeworker are unable to agree as to when the leave under this paragraph is to be taken, half of the leave period shall be determined by the employer and the other half determined by the homeworker.

(5) Where a homeworker has not taken or been granted all the leave to which he is entitled under this paragraph, he shall be paid a normal day's wage in respect of each day's leave not taken or due at the end of the period of 12 consecutive months.

(6) Any agreement by a homeworker to relinquish his annual leave entitlement under this paragraph shall be null and void.

(7) Notwithstanding any other enactment which may be applicable to the business or trade in which a homeworker is employed, this paragraph shall apply to every homeworker.

## **5. Sick leave**

(1) Every homeworker, other than a part-time homeworker, who remains in continuous employment with the same employer for a period of 12 consecutive months shall be entitled, during each subsequent period of 12 months while he remains in continuous employment, to 15 working days' sick leave on full pay.

(2) Where a part-time homeworker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled, during each subsequent period of 12 months, to the number of days of sick leave on full pay computed in accordance with the following formula –

$N/W \times Y$ , where –

“N” means the number of days of work a part-time homeworker is required to perform in a week

“W” means the number of working days in a week of a comparable full-time homeworker

“Y” means the number of days of sick leave to which a homeworker is entitled under paragraph (1).

(3) Where a homeworker absents himself from work on ground of illness, he shall, except where the employer is aware of the nature of the illness, notify his employer of his illness on the first day of absence.

(4) Where a homeworker referred to in subparagraph (3) remains ill for more than 3 consecutive working days, he shall forward to his employer a medical certificate –

(a) on the fourth day of absence; or

(b) where the homeworker is admitted to a hospital, public or private, within 3 days following his discharge.

(5) A medical certificate referred to in subparagraph (4) shall not be valid in respect of any period exceeding 3 days before the day on which the medical certificate was issued.

(6) Every employer may, at his own expense, cause a homeworker who is absent from work on ground of illness to be examined by any other medical practitioner.

(7) Notwithstanding any other enactment which may be applicable to the business or trade in which a homeworker is employed, this paragraph shall apply to every homeworker.

## **6. Maternity leave and benefits**

(1) A female homeworker shall, on production of a medical certificate, be entitled to 14 weeks' maternity leave on full pay to be taken either –

(a) before confinement, provided that at least 7 weeks' maternity leave shall be taken immediately following the confinement; or

(b) after confinement.

(2) Where a female homeworker who remains in continuous employment with the same employer for a period of 12 consecutive months gives birth to a child, she shall, on production of a medical certificate, be paid within 7 days of her confinement an allowance of 3,000 rupees.

(3) Where a part-time female homeworker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave referred to in subparagraph (1), she shall, on production of a medical certificate, be entitled to an allowance computed in accordance with the following formula –

N/W x 3,000 rupees, where –

“N” means the number of days of work the part-time female homemaker is required to perform in a week

“W” means the number of working days in a week of a comparable full-time female homemaker.

(4) Where a female homemaker suffers a miscarriage which is certified by a medical practitioner, she shall be entitled to 2 weeks’ leave on full pay immediately after the miscarriage.

(5) Where a female homemaker gives birth to a stillborn child, she shall, on production of a medical certificate, be entitled to 14 weeks’ leave on full pay.

(6) A female homemaker who is nursing her unweaned child shall, for that purpose, be entitled as appropriate every day at a time convenient to her and having regard to the needs of the child to at least –

- (a) 2 breaks of half-hour; or
- (b) one break of one hour.

(7) The break specified in subparagraph (6) shall –

- (a) be for a period of 6 months from the date of confinement or such longer period as a medical practitioner may recommend; and
- (b) not be deducted from the number of hours of work of the female homemaker.

(8) An employer shall not, 2 months before the confinement of a female homemaker, require her to perform work in excess of a normal day’s work.

(9) Subject to medical recommendation, a female homeworker who is pregnant shall not be required to perform work that may be detrimental to her health and that of her baby.

(10) An employer shall not, for any reason whatsoever, give to a female homeworker who is on maternity leave, notice of termination of employment –

- (a) during such leave; or
- (b) that shall expire during such leave,

except where the grounds of termination relate to the economic, technological, structural or similar nature affecting the employer's activities.

## **7. Paternity leave**

(1) A male homeworker, other than a male part-time homeworker, shall be entitled to 5 continuous working days' leave, to be known as paternity leave.

(2) A male part-time homeworker shall be entitled to the number of days of paternity leave in accordance with the following formula –

$N/W \times 5$  working days, where –

“N” means the number of days of work the part-time homeworker is required to perform in a week

“W” means the number of working days in a week of a comparable full-time homeworker

(3) The entitlement of paternity leave under subparagraph (1) or (2) shall be subject to the production by the homeworker of –

- (a) a medical certificate certifying that his spouse has given birth to his child; and

(b) a written statement signed by him that he is living with his spouse under a common roof.

(4) Subject to subparagraphs (1) and (2), the paternity leave shall –

(a) begin within one week from the birth of the child; and

(b) be on full pay where the homeworker has been in continuous employment with the same employer for a period of at least 12 months prior to the date of birth of the child.

(5) In this paragraph –

“spouse” means the person with whom the homeworker had contracted civil or religious marriage.

## **8. End of year bonus**

(1) Where a homeworker remains in continuous employment with the same employer in a year, the homeworker shall be entitled, at the end of that year, to a bonus equivalent to one twelfth of his earnings for that year.

(2) Every homeworker who –

(a) takes employment during the course of a year; and

(b) is still in employment as at 31 December in that year,

shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.

(3) A sum amounting to 75 per cent of the expected bonus referred to in subparagraphs (1) and (2) shall be paid to the homeworker not later than 5 clear working days before 25 December

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of that year, and the remaining balance shall be paid to him not later than on the last working day of the same year.

## **9. Payment of work related expenses**

An employer shall refund to a homeworker –

- (a) any costs incurred for the use of electricity, water, telecommunication or such other facilities in connection with work performed at home;
- (b) expenses incurred for maintenance of tools and equipment provided to the homeworker for the performance of his work;
- (c) the equivalent of the return bus fare for travel –
  - (i) to and from his employer’s business premises;
  - (ii) to meet customers or any other persons in relation to his work; or
  - (iii) for any other purpose in relation to his work as may be agreed with his employer;
- (d) any other expenses incurred as may be agreed between the homeworker and his employer; and
- (e) any other costs or expenses incurred in relation to his work.

## **10. Access to homeworker’s residence**

Where work is performed at the homeworker’s residence, his employer may, with the authorisation of the homeworker and subject to prior notice, have access to his residence at a reasonable time agreed with him to –

- (a) install, repair and maintain or retrieve any working tools and equipment provided by the employer;

- (b) deliver working materials or collect finished products;
- (c) carry out any risk assessment in connection with safety and health issues; or
- (d) undertake periodic safety and health inspections.

### **11. Injury at work**

(1) Where a homemaker sustains any work-related injury out of and in the course of employment, he shall, as soon as reasonable and practicable, notify the injury to his employer.

(2) Subject to any other enactment, work-related injury sustained pursuant to subparagraph (1) shall be deemed to be injury at work.

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**SECOND SCHEDULE**

[Regulation 3(4)]

**CONTRACT**

The following constitutes an agreement on the terms and conditions of employment between ....., hereinafter referred as the homeworker and ....., hereinafter referred as the employer.

Homeworker’s name .....

National Identity Card no. ....

Address .....

Telephone/mobile number .....

Email address .....

**Contract dates**

Indeterminate contract

Commencement date .....

Determinate contract

Commencement date ..... Expiry date .....

Position ..... Wages ..... per week/fortnight/month

Work location .....

Designated work area .....

Assignment and work schedule.....

.....  
.....  
.....  
.....  
.....

I, the undersigned, agree that my terms and conditions of employment will be governed by the Employment Rights (Working from Home) Regulations 2019 and I further agree to the other terms specified in this contract.

### 1. Terms and conditions

The terms and conditions of employment of every homemaker shall not be less favourable than the terms and conditions of employment specified in the Employment Rights (Working from Home) Regulations 2019.

### 2. Hours of work

(1) The hours of work of a homemaker shall be within the normal working hours of the business or within the bandwidth agreed between the homemaker and his employer.

Hours of work

.....

.....

(2) The homemaker agrees to maintain and update record of hours and days worked at his home-based site.

### 3. Working tools and equipment

(1) The following installations, working tools and equipment are being provided by the employer –

| SN | Quantity of item provided | Description of item | Serial/identification number |
|----|---------------------------|---------------------|------------------------------|
|    |                           |                     |                              |
|    |                           |                     |                              |
|    |                           |                     |                              |
|    |                           |                     |                              |

(2) The working tools and equipment shall remain the property of the employer and shall be returned to the employer on request or on the termination of the contract of employment of the homemaker.

(3) The homemaker shall use the working tools and equipment exclusively for official use.

(4) Where the homeworker is provided with any information technology (IT) equipment, he shall not install or download any software without the written approval of his employer.

(5) The homeworker shall take all reasonable precautions to maintain in good conditions all tools and equipment provided by his employer and any installation thereof.

(6) Work-related consumable materials shall be provided by the employer to the homeworker as agreed.

#### **4. Communication**

(1) The homeworker shall be available, during such core working hours as may be agreed between the homeworker and his employer, for work-related communication, including receiving instructions, collecting and returning assignments and for reporting.

(2) Any change to the agreed schedule shall be discussed and approved in writing by the homeworker and his employer.

#### **5. Performance**

The employer and the homeworker shall agree to establish and implement an appropriate procedure to monitor and assess work progress.

#### **6. Confidentiality, data protection and intellectual property**

(1) The homeworker shall not divulge, or use for any other purpose, any confidential information obtained in the course of his work, except with the consent of his employer.

(2) The homeworker shall abide to his employer's policy and the Data Protection Act 2017 in respect of security of confidential information including, but not limited to, technical data, trade data,

trade secrets, know-how and confidential information relating to the businesses, finances, accounts, dealings, transactions, methods of operation, assets or affairs of the employer, obtained during the course of his employment.

(3) The homeworker shall comply with legislation regarding the protection of intellectual property rights, including –

- (a) the Patent, Industrial Designs and Trademark Act;
- (b) the Protection against Unfair Practices (Industrial Property Rights) Act; and
- (c) the Copyright Act.

(4) Any product invention or discovery made in the course of the employment of the homeworker shall be deemed to be the property of the employer.

**7. Safety and health**

The homeworker and his employer shall comply with the Occupational Safety and Health Act.

**8. Worker’s acceptance**

I have read and understood the terms and conditions specified in this contract and I accept these terms and conditions by signing below.

|                           |               |                             |
|---------------------------|---------------|-----------------------------|
| .....<br>Name of employer | .....<br>Date | .....<br>Name of homeworker |
|---------------------------|---------------|-----------------------------|

|   |                       |                                  |
|---|-----------------------|----------------------------------|
| .....<br>Signature of employer/<br>representative of employer | .....<br>Office stamp | .....<br>Signature of homeworker |
|---|-----------------------|----------------------------------|

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**THIRD SCHEDULE**

[Regulation 4]

**PAYSLIP**

Pay period .....

Name of employer .....

National Pension Fund Registration no. of employer .....

Name of homeworker .....

National Identity Card number of homeworker .....

Date of entry .....

Category .....

Basic rate of pay .....

Total number of days present at work .....

Number of day(s) of leave taken (to specify) .....

Number of hours of extra work performed and the corresponding  
extra payment –

1.5 x .....

2 x .....

3 x .....

Allowance(s) paid (please specify) .....

Piece rate/task work earnings .....

Total remuneration .....

Deduction(s) made and the reasons therefor .....

Net pay .....

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