

*Government Notice No. 214 of 2019***THE EMPLOYMENT RELATIONS ACT****Regulations made by the Minister under section 93
of the Employment Relations Act**

1. These regulations may be cited as the Field-crop and Orchard Workers (Remuneration) Regulations 2019.
2. In these regulations –
 - “employee” –
 - (a) means a person employed in the cultivation of field crop, including flowers, fruits or vegetables; but
 - (b) does not include an employee –
 - (i) whose basic wage or salary is at a rate exceeding 600,000 rupees in a year, except in relation to –
 - (A) Part II of the First Schedule; and
 - (B) sections 5, 26, 32, 33, 34, 49, 50, 52, 53, 54 and Parts VI, VII, VIII and XI of the Workers’ Rights Act 2019;
 - (ii) whose conditions of employment are governed by any other Remuneration Regulations;
 - (iii) employed by a statutory body or a local authority, as the case may be, whose conditions of employment are governed by the recommendations made by the Pay Research Bureau, or a salary commission, by whatever name called;
 - “field labourer grade I” means –

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- (a) an employee who does skilled or semi-skilled field work; and
 - (b) includes an employee who is engaged in weeding, cleaning or watering of gardens or similar duties;

“field labourer grade II” means an employee who does unskilled field work;

“reasonable business grounds” means –

- (a) inability or impracticability to reorganise working arrangements of existing employees;
- (b) a detrimental effect on the ability to meet customers’ demand;

“surveillant” means an employee who is responsible for supervising the work of other employees and who may be required to record –

- (a) the attendance of every employee under his supervision;
- (b) the task set to every employee;
- (c) the amount of work done by every employee during each day; or
- (d) the amount earned by every employee;

“watchperson” means an employee who –

- (a) keeps watch over premises and property; and
- (b) carries out periodic inspection tours within the premises and property and keeps appropriate records.

3. (1) Subject to the other provisions of this regulation and regulation 7, an employee shall be –

- (a) governed by the conditions of employment specified in –

(i) the Workers' Rights Act 2019; and

(ii) the First Schedule;

(b) remunerated at the rates specified in the Second Schedule.

(2) Where the conditions of employment in the Workers' Rights Act 2019 are different from those in the First Schedule, the conditions of employment specified in the First Schedule shall prevail.

(3) The rates specified in the Second Schedule shall include –

(a) the appropriate national minimum wage payable under the National Minimum Wage Regulations 2017; and

(b) the additional remunerations payable under the Additional Remuneration and Other Allowances (2018) Act 2017 and the Additional Remuneration and Other Allowances (2019) Act 2018.

4. Every employee shall be entitled to a rest of not less than 11 consecutive hours in any day.

5. Where an employer employs more than one watchperson, the terms and conditions of employment of the watchpersons shall be governed by the Private Security Services Employees (Remuneration) Regulations 2019.

6. Notwithstanding paragraphs 1(1) and (3) of the First Schedule, for the period ending 31 December 2019 –

(a) the normal working week for a watchperson, shall consist of 72 hours' work, made up of 6 days of 12 hours, including time allowed for meal and tea breaks; and

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- (b) the watchperson referred to in paragraph (a) shall be remunerated at one and a half times the basic rate for every additional hour of work after the performance of 12 hours' work in every day.
7. Nothing in these regulations shall –
- (a) prevent an employer from –
- (i) providing an employee with conditions of employment which are more favourable than those specified in the First Schedule; or
- (ii) remunerating the employee at a rate higher than that specified in the Second Schedule;
- (b) authorise an employer to –
- (i) reduce the wages of an employee; or
- (ii) subject to section 57 of the Employment Relations Act, alter the conditions of employment of the employee so as to make them less favourable.
8. The Field-crop and Orchard Workers (Remuneration Order) Regulations 2008 are revoked.
9. These regulations shall come into operation on 24 October 2019.

Made by the Minister on 11 October 2019.

FIRST SCHEDULE

[Regulations 2, 3, 6 and 7]

CONDITIONS OF EMPLOYMENT**PART I – GENERAL CONDITIONS****1. Provisions applicable specifically to watchperson**

(1) The normal working week for a watchperson shall consist of 48 hours' work, made up of 6 days of 8 hours on any working day, whether or not a public holiday, including time allowed for meal and tea breaks.

(2) Except where his services are required in special circumstances, a watchperson shall be entitled to one rest day in any working week, and the rest day shall, at least twice a month, be a Sunday.

(3) Subject to subparagraph (4), a watchperson who –

(a) works on a public holiday, shall be remunerated –

(i) for the first 8 hours, at twice the basic rate; and

(ii) thereafter, at 3 times the basic rate,

for each hour of work;

(b) performs more than 48 hours or such lesser stipulated number of hours in any week, not being hours of work referred to in subparagraph (a), shall be remunerated at one and a half times the basic rate for every additional hour of work.

(4) For the purpose of computation of extra work, any authorised leave, including injury leave shall be deemed to constitute attendance at work.

(5) (a) Every watchperson shall be entitled to a normal day's pay in respect of every public holiday, other than a Sunday, that occurs on any of his normal working days.

(b) Where a watchperson is required to work on a public holiday, other than a Sunday, he shall be paid, in addition to the normal day's pay provided for under sub subparagraph (a), any remuneration due under subparagraph (3).

(c) Any agreement by a watchperson, other than a collective agreement under section 57 of the Employment Relations Act, to relinquish his right to a paid public holiday or to forego such leave shall be null and void.

2. Task work

(1) Where an employee, other than a watchperson, is employed on task work, he shall be deemed to have performed a normal day's work if he –

- (a) works diligently for 5 hours on any Saturday or 6 hours on any other day which is not a public holiday, excluding any time allowed for a meal break; or
- (b) completes the task allotted to him.

(2) Subject to subparagraph (1), where an employee is employed on task work on any Saturday, that task work shall be equivalent to five sixth of the task allotted to him on any other working day.

3. Limitation on assignment of work

(1) A female employee or a young person shall not be required to do –

- (a) holing;

- (b) forking;
- (c) crowbar work;
- (d) loading;
- (e) heavy cleaning or clearing;
- (f) digging of drains;
- (g) any work involving the carrying of a load of more than 18 kilogrammes; or
- (h) *epierrage*.

(2) A female employee shall not be required to lift or carry any material or equipment after she has entered into her seventh month of pregnancy.

(3) Where a female employee is required to carry a basket of scum, sand, manure or fertilizers, her employer shall cause a male employee to be present to help her lift the basket.

4. Work with alternative employer

(1) An employee may be required by his employer to work for an alternative employer.

(2) (a) Where an employee accepts employment under subparagraph (1), the alternative employer shall –

- (i) provide the employee with free transport from his residence to his place of work and his place of work to his residence or pay him the equivalent of the return bus fare where no free transport is available;

- (ii) pay the employee such sum as may be agreed between them to compensate for time lost in travelling to and from his place of work; and
- (iii) pay the employee a daily allowance equivalent to not less than 10 per cent of his daily basic wages on each day he works for the alternative employer.

(b) In the absence of any agreement between an employee and an alternative employer as to the sum to be paid under subparagraph (2)(a)(ii), the sum shall be determined by the Permanent Secretary of the Ministry or such other officer designated by the Permanent Secretary.

(3) An employee who, without reasonable cause, refuses employment with an alternative employer on any day shall be deemed to have refused employment with his own employer on that day but shall not be otherwise penalised.

(4) For the purpose of continuous employment and paragraph 5, the period of employment with an alternative employer shall be deemed to be continuous employment with a substantive employer.

5. End of year bonus

(1) An employee who works for the same employer in a year shall be entitled, at the end of that year to a bonus equivalent to –

- (a) 12 per cent of his earnings for that year if he has performed a number of normal days' work which is not less than 62 per cent and not more than 75 per cent of the number of working days in that year; or
- (b) 14 per cent of his earnings for that year if he has performed a number of normal days' work which is

more than 75 per cent but not more than 85 per cent of the number of working days in that year; or

- (c) 16 per cent of his earnings for that year if he has performed a number of normal days' work which is more than 85 per cent of the number of working days in that year.

(2) An employee who does not qualify for a bonus specified in subparagraph (1) shall be entitled to a bonus equivalent to 8.4 per cent of his earnings for that year.

(3) Where an employee remains in continuous employment with the same employer for only part of the year and –

- (a) his employment is terminated in the course of the year for any reason;
- (b) he retires in the course of the year in accordance with any agreement; or
- (c) he resigns in the course of the year on or after having been in continuous employment for at least 8 months,

the employee shall be paid, not later than the last working day of the month in which his employment is terminated, he retires or resigns, as the case may be, a bonus equivalent to one-twelfth of his earnings for that year.

(4) An employer shall pay 75 per cent of the expected bonus referred to in subparagraph (1) or (2) not later than 5 clear working days before 25 December and the remaining bonus shall be paid not later than the last working day of the same year.

(5) In this paragraph, a day on which an employee –

- (a) is absent with the employer's authorisation;
- (b) reports for work but is not offered work by his employer;
- (c) is engaged in work for an alternative employer under paragraph 4; or
- (d) is absent on the ground of illness after notification to his employer,

shall count as a working day.

6. Shift work for watchperson

(1) Where work is performed on night shift, an employer shall not, without the watchperson's consent, require the watchperson to work –

- (a) on more than 6 consecutive nights; and
- (b) for more than 12 hours a day.

(2) For the purpose of subparagraph (1) –

“night work” means any period during which a watchperson is required to work or to remain at his workplace for at least 6 consecutive hours between 6 p.m. and 6 a.m. the following day.

(3) Where a female watchperson who may be required to perform night shift work produces a medical certificate certifying that she is pregnant, her employer shall not require her to perform night shift work during a period of at least 8 weeks before confinement.

(4) Shift work shall be scheduled –

- (a) on a monthly basis; and

(b) organised in 2 or more shifts during a period of 24 consecutive hours.

(5) (a) A copy of the monthly schedule of duty worked out on a roster basis indicating the date and time at which a watchperson shall attend duty shall be handed over to the watchperson.

(b) The monthly schedule of duty shall be posted up in a conspicuous place at the place of work at least one week before the schedule is due to take effect.

(6) Where a watchperson is employed on shift work, he shall be paid an allowance of 15 per cent of his basic wage in addition to his normal day's wage for work performed during night shift as specified at subparagraphs (1)(a) and (2).

7. Vacation leave

(1) Subject to subparagraphs (2) and (3), an employee, other than a migrant employee, who remains in continuous employment with the same employer for a period of at least 5 consecutive years shall be entitled to a vacation leave of not more than 30 days, whether taken consecutively or otherwise, for every period of 5 consecutive years, to be spent abroad, locally or partly abroad and partly locally.

(2) Subject to subparagraph (8), any subsequent eligibility period of 5 consecutive years shall be computed after the employee resumes work after the vacation leave under subparagraph (1).

(3) Where an employee would have been eligible to take vacation leave under the revoked Field-crop and Orchard Workers (Remuneration Order) Regulations 2008 prior to, or within a period of less than 5 years from, 24 October 2019, the employee shall, on completion of the prescribed period in the revoked regulations, be entitled to the vacation leave under paragraph (1).

(4) The vacation leave shall be –

- (a) for a period of not less than 6 consecutive days; and
- (b) with pay and such pay shall, in case the employee opts to spend the leave wholly or partly abroad, be effected at least 7 working days before the employee proceeds abroad.

(5) The vacation leave shall be deemed to constitute attendance at work and shall not be cumulative.

(6) An employee shall, except in special circumstances, give not less than 3 months' notice when applying for the vacation leave and the leave shall, subject to reasonable business grounds, be acceded to by the employer.

(7) Where an employer cannot, on reasonable business grounds, accede to the request of an employee under subparagraph (6) –

- (a) the employee and the employer may agree on another period when the vacation leave is to be taken; or
- (b) in default of an agreement, the employer shall pay to the employee a normal day's wage in respect of each day's leave applied for and such payment shall be effected in the month in which the leave was due to start.

(8) Where an employee is paid wages in lieu of the vacation leave under subparagraph (7), any subsequent eligibility period of 5 consecutive years shall be computed as from the date of payment of the leave.

8. Communication facilities

A watchperson shall be entitled to an allowance of 300 rupees monthly where he uses his cellular phone in the course of his duty.

PART II – HEALTH AND SAFETY CONDITIONS

9. Tools and equipment

(1) An employer shall provide to an employee all the tools and equipment used in the performance of his work.

(2) Any tools and equipment provided under subparagraph (1) shall –

(a) remain the property of the employer; and

(b) be replaced as and when they become unserviceable.

(3) A watchperson shall be provided with a torch by his employer in the course of his duty.

10. Uniforms and protective equipment

(1) An employer shall provide to –

(a) an employee with a pair of rubber gloves which shall be replaced as and when it becomes unserviceable; and

(b) an employee who is in continuous employment with his employer for a period of at least 12 months, with –

(i) 2 uniforms every year;

(ii) 2 pairs of rubber boots simultaneously every 2 years; and

(iii) a plastic raincoat with a hood every 2 years.

(2) The uniforms and protective equipment specified in subparagraph (1) shall remain the property of the employer.

(3) The protective equipment specified in subparagraph (1) shall be provided in addition to any protective equipment under the Occupational Safety and Health Act.

SECOND SCHEDULE
[Regulations 3 and 7]

Category of employee	Monthly basic wages (Rs)	Daily basic wages (Rs)
Field labourer grade I	9,511	365.81
Field labourer grade II	8,900	342.31
Surveillant	10,300	396.15
Watchperson	9,405	361.73
