

Government Notice No. 213 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 Factory Employees (Remuneration) Regulations 2019.
2. In these regulations –
 - “clerk” –
 - (a) means an employee employed for the purpose of performing clerical or similar duties; but
 - (b) does not include a telephonist, a receptionist or a word processing operator;
 - “employee” –
 - (a) means a person employed in a factory;
 - (b) includes an employee specified in the Second Schedule; but
 - (c) 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;

“factory” –

- (a) has the same meaning as in the Occupational Safety and Health Act; and
- (b) includes any premises where –
 - (i) a lime kiln is operated;
 - (ii) aloe fibre leaves or thread are processed or treated;
 - (iii) articles are adapted for sale;

“factory attendant” –

- (a) means a person who performs manual tasks involving physical effort but no particular skill, in a factory; and
- (b) includes a cleaner and a gardener employed in a factory and who may also be required to perform therein manual tasks involving physical effort but no particular skill;

“factory operator” means –

- (a) an employee, other than a factory attendant, who performs manual tasks involving a particular skill; and
- (b) includes a person who is required to attend to or operate a machine;

“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;

“receptionist or telephonist” means an employee who performs one or more of the following duties –

- (a) operating a telephone switchboard;
- (b) receiving, recording and passing telephone messages;
- (c) supplying information to callers and directing them to persons called upon;
- (d) keeping records of callers;

“unskilled employee” means a person who performs manual tasks of a routine or semi-routine nature and who has not reached the skill required of a factory operator;

“word processing operator” means a person who performs one or more of the following duties –

- (a) typing and collating letters, memoranda and similar matter according to written, dictated or other information;
- (b) performing word processing and simple computer/data processing work; and
- (c) operating a telefax and email services.

3. (1) Subject to the other provisions of this regulation and to regulation 7, every 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 rate 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 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) Where a scale of wages applies to an employee, he shall be entitled to –

- (a) the initial wages prescribed in the scale which applies to him; and
- (b) one increment in respect of every year of service he reckons with his employer in the category in which he is employed.

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 paragraph 1(1) and (3) of Part I of the First Schedule, for the period ending 31 December 2019 –

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- (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
 - (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 Factory Employees (Remuneration Order) Regulations 2001 are revoked.
9. Subject to paragraph 4(2)(b) of the First Schedule, these regulations shall come into operation on 24 October 2019.

Made by the Minister on 25 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. Piece work

(1) Every employee may be required to perform piece work by his employer at such rates, to be agreed upon between them, which shall be so determined that the employee shall earn not less than 10 per cent over and above the relevant rate specified in the Second Schedule.

(2) Where an employee is required to perform piece work –

(a) in excess of a normal day's work on a week day, he shall be paid –

(i) at a rate which shall not be less than one and a half times the normal basic rate for every additional hour; and

(ii) 10 per cent of the pay under sub subparagraph (i);

(b) on a public holiday –

- (i) during normal working hours, he shall be paid at not less than twice the rate at which the work is remunerated when performed during the normal hours on a week day;
- (ii) after normal working hours, he shall be paid at not less than 3 times the rate at which the work is remunerated when performed during the normal hours on a week day,

and 10 per cent of the pay under sub sub subparagraph (i) or (ii), as the case may be.

3. Attendance bonus

(1) Every employee who, during a period of one month, does not absent himself from work on any day on which he is required to work, shall be entitled at the end of that month to an attendance bonus of not less than 5 per cent of the basic wages he has earned for that month.

(2) For the purpose of subparagraph (1), absence on annual leave and injury leave following injury arising out of and in the course of employment shall not be reckoned as absence from work.

4. Shift work

(1) An employer may request an employee to work on shift work.

(2) (a) Where work is performed on night shift, an employer shall not require the employee to work –

- (i) on more than 6 consecutive nights; and
- (ii) except with the written consent of the employee, for more than 8 hours a day.

(b) Notwithstanding sub subparagraph (a)(ii), where shift work of more than 8 hours a day was being performed before 24 October 2019, the shift system of more than 8 hours a day shall continue until 31 January 2020.

(3) For the purpose of subparagraph (2)(a) –

“night work” means any period during which an employee 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.

(4) Where a female employee 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.

(5) 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.

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

(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.

(7) Where an employee 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 (2)(a) and (3).

5. 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 overseas leave under the revoked Factory Employees (Remuneration Order) Regulations 2001 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 subparagraph (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.

PART II – HEALTH AND SAFETY CONDITIONS

6. Uniforms and protective equipment

- (1) Every employer shall provide –
 - (a) a pair of rubber gloves, a plastic apron and a pair of mini rubber boots to every employee required to handle corrosive chemical agents;
 - (b) a pair of leather gloves, a plastic apron and a pair of mini rubber boots to every employee who handles aloe fibre or aloe fibre leaves, or feeds leaves in fibre extractors;
 - (c) a pair of rubber boots and a pair of rubber gloves to every employee working in a lime kiln;

- (d) a pair of rubber boots and a pair of rubber gloves to every employee who, by the nature of his work, is required to work in water;
- (e) one raincoat every 2 years and a serviceable flashlight for night work to every watchperson; and
- (f) 2 overalls or uniforms yearly to every factory operator, factory attendant and unskilled employee.

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

- (a) remain the property of the employer; and
 - (b) subject to subparagraph (1)(e), be renewed as soon as it becomes unserviceable.
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SECOND SCHEDULE

[Regulations 2, 3 and 7]

PART I – MONTHLY WAGES

Category of employee	Year of service	Monthly wages (Rs)
Chief Clerk	1st year	12,340
	2nd year	12,565
	3rd year	12,802
	4th year	13,081
	5th year	13,295
	6th year	13,596
	7th year	13,843
	8th year & thereafter	14,100
Accounts Clerk, Cashier, Storekeeper }	1st year	11,280
	2nd year	11,546
	3rd year	11,803
	4th year	12,018
	5th year	12,232
	6th year	12,458
	7th year	12,684
	8th year & thereafter	12,930
Clerk, Assistant Storekeeper	1st year	10,385
	2nd year	10,554
	3rd year	10,738
	4th year	10,967
	5th year	11,183
	6th year	11,335
	7th year	11,653

	8th year & thereafter	11,953
Word Processing Operator	1st year	10,087
	2nd year	10,264
	3rd year	10,440
	4th year	10,657
	5th year	10,875
	6th year	11,108
	7th year	11,235
	8th year & thereafter	11,524
Telephonist, Receptionist	1st year	9,856
	2nd year	10,032
	3rd year	10,209
	4th year	10,418
	5th year	10,634
	6th year	10,853
	7th year	11,086
	8th year & thereafter	11,159
Foreman, Forewoman	1st year	9,856
	2nd year	10,032
	3rd year	10,209
	4th year	10,418
	5th year	10,634
	6th year	10,853
	7th year	11,064
	8th year & thereafter	11,159

PART II – DAILY RATE

Category of employee	Year of service	Monthly wages (Rs)	Daily rate for an employee on a 5-day week (Rs cs)	Daily rate for an employee on a 6-day week (Rs cs)
Factory Operator	1st year	9,228	419.45	354.92
	2nd year	9,315	423.41	358.27
	3rd year	9,398	427.18	361.46
	4th year	9,479	430.86	364.58
	5th year	9,572	435.09	368.15
	6th year	9,645	438.41	370.96
	7th year	9,715	441.59	373.65
	8th year & thereafter	9,787	444.86	376.42
Factory Attendant	1st year	8,900	404.55	342.31
	2nd year	8,923	405.59	343.19
	3rd year	9,010	409.55	346.54
	4th year	9,112	414.18	350.46
	5th year	9,199	418.14	353.81
	6th year	9,286	422.09	357.15
	7th year	9,370	425.91	360.38
	8th year & thereafter	9,452	429.64	363.54
Unskilled Employee	1st year	8,900	404.55	342.31
	2nd year	8,900	404.55	342.31
	3rd year	8,900	404.55	342.31
	4th year	8,900	404.55	342.31
	5th year & thereafter	8,900	404.55	342.31
Watchperson		9,910		381.15