

## THE INDUSTRIAL RELATIONS ACT

### Regulations made by the Minister under section 96 of the Industrial Relations Act

1. These regulations may be cited as the Field-crop and Orchard Workers (Remuneration Order) Regulations 2008.

2. In these regulations –

“barns operator” means a worker who has acquired experience in, and is required to attend to, the installation in racks of tobacco leaves and curing of tobacco leaves;

“continuous employment” means the employment of a worker under an agreement or under more than one agreement where the interval between an agreement and the next does not exceed 28 days;

“crop season” means the period during which a worker is engaged in the cultivation of tobacco and the harvesting and curing of tobacco leaves;

“earnings” –

(a) means basic wages; and

(b) includes –

(i) remuneration paid under paragraphs 2, 5, 6, 7, 8, 9, 10(1)(a), 10(2), 10(5) and 12 of the Second Schedule; or

(ii) any productivity payment;

“field labourer grade I” means a worker who does skilled or semi-skilled field work and includes a worker who is engaged on weeding, cleaning or watering of gardens or similar duties;

“field labourer grade II” means a worker who does unskilled field work;

“grader” means a worker who grades tobacco leaves by type or quality according to their colour, texture and size;

“intercrop season” means the interval between 2 successive crop seasons;

“productivity payment” means all sums of money, by whatever name called, paid to a worker in respect of any work performed by him in addition to the basic wages prescribed or agreed upon between him and his employer, and relating to productivity;

“public holiday” has the same meaning as in the Public Holidays Act;

“surveillant” means a worker who is responsible for supervising the work of other workers and who may be required to record –

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

“watchperson” means a worker who –

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

“worker” –

- (a) means a person employed in the cultivation of field crop including flowers, fruits or tobacco; and
- (b) does not include a person governed by any other Remuneration Order Regulations;

“young person” means a worker who has attained the age of 16 years but is under the age of 18 years.

**3.** (1) Subject to the other provisions of this regulation and regulation 5, a worker shall be –

- (a) remunerated at the rates specified in the First Schedule; and
- (b) governed by the conditions of employment specified in the Second Schedule.

(2) The rates specified in the First Schedule are inclusive of the appropriate additional remuneration payable under the Additional Remuneration Act 2007.

(3) Where a worker who is engaged in the cultivation of tobacco and curing of tobacco leaves is required during the intercrop season to work in orchards or to perform some other agricultural work such as the cultivation of field crop, he shall be remunerated as specified in subparagraph (1).

**4.** An agreement by a worker to relinquish his right to a paid holiday or to forego such leave shall be void.

**5.** Nothing in these regulations shall –

- (a) prevent an employer from paying a worker remuneration at a rate higher than those specified in the First Schedule or from providing him

with conditions of employment more favourable than those specified in the Second Schedule; or

- (b) authorise an employer to reduce a worker's remuneration or to alter his conditions of employment so as to make them less favourable.

**6.** The Field-crop and Orchard Workers (Remuneration Order) Regulations 1991 are repealed.

**7.** These regulations shall come into operation on 1 April 2008.

**8.** Made by the Minister on 11 March 2008.

**FIRST SCHEDULE**  
*(regulation 3(1)(a))*

<b>Category of worker</b>	<b>Monthly basic wages Rs</b>	<b>Daily basic wages Rs</b>
Field labourer grade I	5,760	221.54
Field labourer grade II	4,580	176.15
Surveillant	6,470	248.85
Barns operator	6,585	253.27
Grader	5,095	195.96
Watchperson	5,670	218.08

-----

## **SECOND SCHEDULE**

*(regulation 3(1)(b))*

### **1. Normal working hours**

(1) A normal day's work of a –

(a) worker, other than a barns operator or a watchperson, shall consist of –

(i) 8 hours of work on any day, other than a Saturday or public holiday; or

(ii) 5 hours of work on any Saturday other than a public holiday;

(b) barns operator or a watchperson shall consist of 12 hours of work on any day, other than a public holiday.

(2) A normal week's work of a worker, other than a barns operator or a watchperson, shall consist of 45 hours of work excluding time allowed for meal breaks and shall be made up of –

(a) 8 hours of work a day during 5 days of a week other than a Saturday or public holiday; and

(b) 5 hours of work on any Saturday other than a public holiday.

(3) A barns operator or a watchperson shall be entitled to a rest day in every period of 7 days and the rest day shall, at least twice a month, be a Sunday.

(4) Where a worker, other than a watchperson or a barns operator, 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.

(5) Subject to subparagraph (4), where a worker 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.

### **2. Remuneration for extra work**

(1) Subject to paragraph 5, where a worker, other than a barns operator or a watchperson –

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

- (i) for the first 8 hours of work, at twice the basic rate per hour; and
    - (ii) thereafter, at thrice the basic rate per hour; or
  - (b) performs more than a normal day's work on any day, other than a public holiday, he shall be remunerated at one and a half times the basic rate per hour.
- (2) Where a barns operator or a watchperson –
- (a) works on a public holiday, he shall be remunerated –
    - (i) for the first 12 hours of work, at twice the basic rate per hour; and
    - (ii) thereafter, at thrice the basic rate per hour; or
  - (b) performs more than a normal day's work on any day, other than a public holiday, he shall be remunerated at one and a half times the basic rate per hour.

### **3. Notional calculation of basic rate**

For the purposes of determining remuneration due for extra work or for any other reasons –

- (a) a month shall be deemed to consist of 26 days; and
- (b) a day shall be deemed to consist of –
  - (i) 12 hours of work in the case of a watchperson or a barns operator; or
  - (ii) 8 hours of work in any other case.

### **4. Payment of wages**

(1) A worker shall be paid his wages during working hours not later than the last working day of the –

- (a) month, in the case of a monthly paid worker; or
- (b) week, in any other case.

(2) An employer shall, when paying the wages of a worker, issue to the worker a payslip stating, *inter alia* –

- (a) his name, national identity card number, category, grade and basic wages;
- (b) his total wages and each item of allowance;

- (c) each deduction made and the reason thereof;
- (d) the number of days on which he was present at work; and
- (e) the number of hours of extra work performed by him and the corresponding extra payment.

## **5. Extra remuneration for public holidays**

(1) Where a worker, other than a monthly paid worker, remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled during the next period of 12 months while he remains in the continuous employment of the same employer to a normal day's pay in respect of any public holiday, other than a Sunday, on which he is not required to work.

(2) Where a worker referred to in subparagraph (1) is required to work on a public holiday, other than a Sunday, he shall be paid at the end of the next pay period, in addition to the normal day's pay provided under subparagraph (1), any remuneration due under paragraph 2.

(3) Where a monthly paid worker is required to work on a public holiday, other than a Sunday, he shall be paid at the end of the next pay period, in addition to his normal wage, any remuneration due under paragraph 2.

## **6. Annual leave**

(1) Subject to subparagraph (3), where a worker who is engaged in the cultivation of tobacco works for the same employer for not less than 80 per cent of the number of working days during the preceding crop season, he shall be entitled to 8 working days' annual leave on full pay in the following crop season.

(2) Where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled during the next period of 12 months while he remains in the continuous employment of the same employer, to 14 working days' annual leave on full pay.

(3) Where a worker is eligible for annual leave specified in subparagraph (2), he shall not be entitled to the annual leave specified in subparagraph (1).

(4) (a) Subject to sub subparagraph (b), half of the number of days of the annual leave specified in subparagraphs (1) and (2) may be taken consecutively or otherwise, provided the worker gives reasonable notice to his employer.

(b) The remaining days' annual leave shall be taken at such time as the employer and the worker may agree or, in default of any agreement, at such time as the employer shall determine.

(5) An employer shall not, without reasonable cause, withhold the granting of annual leave referred to in this paragraph.

(6) Subject to subparagraph (7), where a worker has not taken or been granted all the annual leave to which he is entitled to in this paragraph, he shall be paid a normal day's pay in respect of each day's annual leave still due at the end of that period.

(7) Subparagraph (6) shall not apply where a worker is dismissed for misconduct.

## **7. Sick leave**

(1) Subject to subparagraphs (3) and (4), where a worker who is engaged in the cultivation of tobacco works for the same employer for not less than 80 per cent of the number of working days during the preceding crop season, he shall be entitled to 10 days' sick leave on full pay in the following crop season.

(2) Subject to subparagraph (4), where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled during the next period of 12 months while he remains in the continuous employment of the same employer, to –

- (a) 21 days' sick leave on full pay; and
- (b) a further period of 15 days' sick leave on half pay provided that –
  - (i) he is admitted to a clinic or hospital; or
  - (ii) a medical practitioner of a clinic or hospital certifies that he needs time for the recuperation of his health after his discharge from the clinic or hospital.

(3) Where a worker is eligible for sick leave specified in subparagraph (2), he shall not be entitled to sick leave specified in subparagraph (1).

- (4) (a) Where a worker is absent on the ground of illness, he shall notify his employer of his illness not later than the second day of his absence.
- (b) Where a worker referred to in sub subparagraph (a) is ill for more than 4 consecutive days, he shall forward to his employer a medical certificate –
  - (i) within 3 days following his discharge, where the worker was admitted to a clinic or hospital; or
  - (ii) not later than 10 a.m. on the fifth day of absence, in any other case.

## **8. Special leave**

Where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled to –

- (a) 6 days' special leave on full pay on the occasion of the celebration of his first religious or civil marriage;
- (b) 4 days' special leave on full pay on the occasion of the religious or civil marriage of his son or daughter; or
- (c) 4 days' special leave on full pay on the death of his spouse, child, father, mother, brother or sister.

## **9. Vacation leave**

(1) A worker who remains in continuous employment with the same employer for a period of at least 10 years shall be entitled to a vacation leave of 2 months to be spent wholly or partly abroad, or locally, at the worker's discretion.

(2) Subject to subparagraph (1), at least one month of the vacation leave shall be with pay, and such pay shall, in case a worker intends to spend his vacation abroad, be effected in advance and at least 7 days before he proceeds abroad.

(3) A vacation leave shall be deemed to constitute attendance at work.

## **10. Maternity benefits**

(1) A female worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding her confinement shall, on production of a medical certificate, be entitled to –

- (a) 12 weeks' maternity leave on full pay to be taken either –
  - (i) before confinement, provided that at least 6 weeks' maternity leave shall be taken immediately following the confinement; or
  - (ii) after confinement; and
- (b) an allowance of Rs2,000, payable within 7 days of her confinement.

(2) Where a female worker, who remains in continuous employment with the same employer for a period of 12 consecutive months, gives birth to a still-born child and the still-birth is duly certified by a medical practitioner, she shall be entitled, upon the recommendation of her medical practitioner, to opt either for –

- (a) 2 weeks' maternity leave on full pay; or
- (b) 12 weeks' maternity leave on full pay.

(3) Where a female worker opts for 12 weeks' maternity leave on full pay under subparagraph (2)(b), it shall be deemed that she has taken paid leave due for one confinement.

(4) A female worker who has at any time had 3 confinements or reckons less than 12 months' continuous employment shall not be entitled to the benefits specified in subparagraph (1)(b) but shall be entitled to the maternity leave specified in subparagraphs (1)(a) or (2)(b) as the case may be, without pay.

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

(6) Where a female worker enters into her seventh month of pregnancy, she shall be offered, as far as is reasonably practicable and at her request, all appropriate working facilities as recommended by a medical practitioner.

(7) An employer shall allow a female worker to nurse her unweaned child for a period of one hour daily or half an hour twice daily at such time as is convenient to her.

(8) The time taken by a female worker referred to in subparagraph (7) shall not be deducted from the number of hours of work of the female worker.

## **11. Limitation on assignment of work**

(1) A female worker 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 kilograms; or
- (h) epierrage.

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

## **12. Work with alternative employer**

(1) A worker may be required by his employer to work for an alternative employer.

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

(i) provide the worker 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 worker 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 worker 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 a worker 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 to whom the responsibility for labour and industrial relations has been assigned or such other officer of the said Ministry designated by the Permanent Secretary.

(3) A worker 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 purposes of continuous employment and paragraph 20, the period of employment with an alternative employer shall be deemed to be continuous employment with a substantive employer.

## **13. Transport benefits and facilities**

(1) An employer shall, where the distance between a worker's residence and his place of work exceeds 3 kilometres, provide a worker with free transport from the worker's residence to his place of work and from the worker's place of work to his residence, or pay him the equivalent of the return bus fare.

(2) An employer shall, irrespective of the distance between a worker's residence and his place of work, provide a worker with free transport from the worker's residence to his place of work and/or from the worker's place of work to his residence, where the worker is required by his employer to attend or cease work at any time when no public service bus is available.

(3) Where an employer provides transport to his workers, the transport shall be –

- (a) provided from, or up to, the nearest practicable place from the worker's residence; and
- (b) properly fitted with well secured seating and backrest facilities.

#### **14. Tools and equipment**

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

(2) All the 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 and shall be entitled to an allowance of Rs 300 monthly where he uses his cellular phone in the course of his duty.

#### **15. Uniforms and protective equipment**

(1) An employer shall provide to –

- (a) a worker with a pair of rubber gloves which shall be replaced as and when it becomes unserviceable; and
- (b) a worker 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
  - (ii) a plastic raincoat with a hood every 2 years.

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

(3) Notwithstanding all the uniforms and protective equipment referred to in this paragraph, an employer shall abide by the provisions of the Occupational Safety and Health Act 2005.

#### **16. Terms of employment of a worker engaged in the cultivation of tobacco**

(1) Subject to subparagraph (3), an employer shall provide work to a worker in the following crop season where the worker has worked for not less than 80 per cent of the number of working days during the preceding crop season.

(2) Where a worker has worked for not less than 80 per cent of the number of working days during the preceding crop season, he shall be entitled at the end of the crop season to a bonus of not less than one week's basic wages.

(3) A worker referred to in this paragraph shall be a worker who is engaged in the cultivation of tobacco.

#### **17. Gratuity on retirement before the age of 60 on medical grounds**

(1) Subject to subparagraph (2), an employer shall pay a gratuity to a worker where the worker retires before the age of 60 on the ground of permanent incapacity to perform his work and where such incapacity is duly certified by a government medical practitioner, irrespective of any benefits the worker may be entitled to under the National Pensions Act.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of not less than 10 years.

(3) The gratuity referred to in subparagraph (1) shall be –

(a) calculated on the basis of 15 days' basic wages per year of service of the worker; and

(b) paid in a lump sum.

(4) In this paragraph –

(a) years of service shall be computed as from the first day of the period during which a worker has been in continuous employment with the same employer up to his last day of employment; and

(b) "basic wages" means a worker's last drawn basic wages.

#### **18. Gratuity at death**

(1) Subject to subparagraph (2), where a worker dies, an employer shall pay a gratuity to the spouse of the deceased worker or, where there is no surviving spouse, in equal proportions to the dependants of the deceased worker, irrespective of any benefits the spouse or the dependants of the deceased worker may be entitled to under the National Pensions Act.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of not less than 10 years.

(3) The gratuity referred to in subparagraph (1) shall be –

(a) calculated on the basis of 15 days' basic wages per year of service of the deceased worker; and

(b) paid in a lump sum.

(4) In this paragraph –

(a) years of service shall be computed as from the first day of the period during which a deceased worker has been in continuous

employment with the same employer up to his last day of employment;

- (b) "basic wages" means a deceased worker's last drawn basic wages;
- (c) "spouse" means the person with whom a deceased worker had contracted a civil or religious marriage and with whom he was living under a common roof at the time of his death; and
- (d) "dependant" means any person who was living in a deceased worker's household and was wholly or partly dependent on his earnings at the time of his death.

## **19. Death grant**

(1) Subject to subparagraph (2), where a worker dies, his employer shall pay a gratuity of Rs3,500 to the –

- (a) surviving spouse of the deceased worker for funeral purposes; or
- (b) person, where the deceased worker leaves no surviving spouse, who satisfies the employer that he has borne the funeral expenses.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of 12 consecutive months.

(3) In this paragraph, "spouse" means the person with whom a deceased worker had contracted a civil or religious marriage and with whom he was living under a common roof at the time of his death.

## **20. End of year bonus**

(1) A worker 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) A worker 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) A worker shall be entitled to a bonus equivalent to one twelfth of his earnings for that year, where he –

- (a) takes employment during the course of that year;
- (b) is still in employment as at 31 December; and
- (c) has performed a number of normal days' work equivalent to not less than 80 per cent of the working days during his employment in that year.

(4) An employer shall pay 75 per cent of the expected bonus referred to in this paragraph 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 a worker –

- (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 12; or
- (d) is absent on the ground of illness after notification to his employer under paragraph 7,

shall count as a working day.

-----