

THE WORKERS' RIGHTS ACT 2019

Regulations made by the Minister under section 124 of the Workers' Rights Act 2019

1. These regulations may be cited as the Workers' Rights (Portable Retirement Gratuity Fund) Regulations 2020.

2. In these regulations –

“Act” means the Workers' Rights Act 2019;

“administrator” means the administrator of the Portable Retirement Gratuity Fund;

“allied health professional” has the same meaning as in the Allied Health Professionals Council Act 2017;

“annual turnover”, in relation to an SME specified in Part I of the First Schedule, means its turnover for the 12 months ending on the date it closes its accounts and which falls –

(a) where the SME is a company, on any date between 1 January and 31 December 2019, 1 January and 31 December 2020 or 1 January and 31 December 2021, as the case may be; or

(b) where the SME is a business entity other than a company, on 30 June 2019, 30 June 2020 or 30 June 2021, as the case may be;

“company” has the same meaning as in the Income Tax Act;

“monthly remuneration” has the same meaning as in section 87 of the Act;

“worker” has the same meaning as in section 87 of the Act.

3. (1) For the purpose of section 94 of the Act –

(a) the rate of contribution to be paid –

(i) by the employer, in respect of a worker employed in an SME referred to in Part I of the First Schedule, shall be as specified in that Part of the Schedule;

- (ii) by an employer in respect of a worker employed in an SME referred to in Part II of the First Schedule shall be as specified in that Part of the Schedule;
 - (iii) by any other employer in respect of a worker referred to in Part III of the First Schedule shall be as specified in that Part of the Schedule;
- (b) the amount of contribution to be made by a self-employed shall be as specified in Part IV of the First Schedule.

(2) A partial payment of contributions in respect of a worker referred to in Part I of the First Schedule for the period starting on 1 January 2020 and ending on 31 December 2022 shall be made from the seed capital.

4. An application by a worker, or the legal heirs of a worker, for the payment of gratuity under section 98(2)(a) of the Act shall be made in the form set out in the Second Schedule.

5. (1) Every employer shall –

- (a) pay, on a monthly basis, the contributions specified in section 94 of the Act;
- (b) where the employment of a worker is terminated, pay the contributions specified in section 95(2)(a)(i) of the Act;
- (c) where he opts to pay the contributions payable under section 95(2)(b) of the Act to the Director-General, pay the contributions; and
- (d) submit the returns specified in section 102(1), (2) or (3) of the Act,

electronically through such computer system as the Director-General or the administrator, as the case may be, may approve.

(2) A self-employed who pays contributions under section 94(4) of the Act shall pay the contributions electronically through such computer system as the Director-General may approve.

(3) Every employer shall, where applicable, pay contributions equivalent to the amount representing the difference between the value of the accumulated fund and the lump sum referred to in section 96 of the Act, into the Portable Retirement Gratuity Fund electronically through such computer system as the Director-General may approve.

6. For the purpose of section 102(3) of the Act, an employer shall, where –

- (a) a worker's employment is terminated; or
- (b) a worker dies before the retirement age,

submit to the administrator a return setting out the following additional details in respect of the worker –

- (i) the National Identity Card number of the worker;
- (ii) the date the worker took up employment with the employer;
- (iii) the date of termination of employment or death of the worker, as the case may be;
- (iv) whether the worker was employed on a full-time or part-time basis; and
- (v) such other particulars as may be required.

7. The contribution due by an enterprise which is insolvent shall, pending the recovery of any unpaid contribution referred to under section 101(2) of the Act, be funded from the amount of seed capital specified in the third column of the Schedule to the Workers' Rights (Amount of Seed Capital) Regulations 2019.

8. Where, on or after 24 October 2019 but before 1 January 2020 –

- (a) a worker retires in circumstances specified in section 109 of the Act, the worker shall be paid a gratuity in accordance with section 49 of the repealed Employment Rights Act as if the said section 49 has not been repealed;
- (b) a worker who has been in continuous employment with the same employer for a period of not less than 12 months dies, the employer shall pay to the spouse or dependents of the deceased worker, as the case may be, a gratuity in accordance with section 49A of the repealed Employment Rights Act as if the said section 49A has not been repealed;
- (c) the employment of a worker is terminated on grounds other than those specified in section 70(1) of the Act, the termination shall be dealt with in accordance with Parts IX and X of the repealed Employment Rights Act as if the said Parts IX and X have not been repealed.

9. (1) Subject to paragraph (2), these regulations shall be deemed to have come into operation on 1 January 2020.

(2) Regulation 8 shall be deemed to have come into operation on 24 October 2019.

Made by the Minister on 19 February 2020.

FIRST SCHEDULE

[Regulation 3]

PORTABLE RETIREMENT GRATUITY FUND

MONTHLY CONTRIBUTION PAYABLE

PART I – IN RESPECT OF A WORKER EMPLOYED IN AN SME, OTHER THAN AN SME SPECIFIED IN PART II

FOR PERIOD 1 JANUARY 2020 TO 31 DECEMBER 2022

Amount of annual turnover of SME	Period of contribution	Rate of contribution payable (% of monthly remuneration)	
		From seed capital	By employer
1. Not more than 2 million rupees for 12 months ending, in the case of –			
(a) a company, between 1 January and 31 December 2019	1 January to 31 December 2020	2.4	2.1
(b) a business entity other than a company, on 30 June 2019			
(c) a company, between 1 January and 31 December 2020	1 January to 31 December 2021	1.6	2.9
(d) a business entity other than a company, on 30 June 2020			

(e) a company, between 1 January and 31 December 2021	}	1 January to 31 December 2022	0.8	3.7
(f) a business entity other than a company, on 30 June 2021				

2. More than 2 million rupees and up to 10 million rupees for 12 months ending, in the case of –

(a) a company, between 1 January and 31 December 2019; or	}	1 January to 31 December 2020	1.0	3.5
(b) a business entity other than a company, on 30 June 2019				

(c) a company, between 1 January and 31 December 2020; or	}	1 January to 31 December 2021	0.8	3.7
(d) a business entity other than a company, on 30 June 2020				

(e) a company, between 1 January and 31 December 2021; or	}	1 January to 31 December 2022	0.3	4.2
(f) a business entity other than a company, on 30 June 2021				

3. More than 10 million rupees and up to 50 million rupees for 12 months ending, in the case of –

(a) a company, between 1 January and 31 December 2019; or	}	1 January to 31 December 2020	1	3.5
(b) a business entity other than a company, on 30 June 2019				
(c) a company, between 1 January and 31 December 2020; or	}	1 January to 31 December 2021	0.5	4.0
(d) a business entity other than a company, on 30 June 2020				
(e) a company, between 1 January and 31 December 2021; or	}	1 January to 31 December 2022	0.3	4.2
(f) a business entity other than a company, on 30 June 2021				

FOR PERIOD 1 JANUARY 2023 AND THEREAFTER

Any SME under this Part

Rate of contribution by employer

4.5% of monthly remuneration

PART II – IN RESPECT OF A WORKER EMPLOYED IN AN SME PROVIDING SERVICES AS ACCOUNTANT OR ACCOUNTING FIRMS, ACTUARIES, ARCHITECTS, ATTORNEYS, BARRISTERS, SOLICITORS, ENGINEERS, LAND SURVEYORS, LEGAL CONSULTANTS, MEDICAL OR ALLIED HEALTH PROFESSIONALS, PROJECT MANAGERS IN THE CONSTRUCTION INDUSTRY, PROPERTY VALUERS, QUANTITY SURVEYORS AND TAX ADVISERS, OR THEIR REPRESENTATIVES

Rate of contribution by employer 4.5% of monthly remuneration

PART III – IN RESPECT OF A WORKER EMPLOYED BY ANY OTHER EMPLOYER OTHER THAN AN SME SPECIFIED IN PARTS I AND II

Rate of contribution by employer 4.5% of monthly remuneration

PART IV – BY SELF-EMPLOYED

Amount of contribution payable by a self employed Not less than 500 nor more than 2,500 rupees per month

SECOND SCHEDULE
[Regulation 4]

PORTABLE RETIREMENT GRATUITY FUND
APPLICATION FOR PAYMENT OF GRATUITY

PART I

Sub-Part A – IN CASE OF RETIREMENT OF A WORKER

PARTICULARS OF WORKER

Title (Mr./Mrs./Miss.)*

Surname

Other name(s)

Maiden name (where applicable)

Address

Telephone no. Mobile no.

Email address (if any):.....

National Identity Card no.

Date of retirement

Ground of retirement

Sub-Part B – IN CASE OF DEATH OF A WORKER

PARTICULARS OF APPLICANT

Title (Mr./Mrs./Miss.)*

Surname

Other name(s).....

Maiden name (where applicable)

Relationship with deceased worker

Address

Telephone no. Mobile no.

Email address (if any):.....

National Identity Card number:.....

Please attach a photocopy of the affidavit of succession
[The original of the affidavit of succession should be produced for verification]

PART II – PARTICULARS OF EMPLOYER(S)

SN	Name of employer	Address	Period of employment	
			From (date/month/year)	To (date/month/year)
1.				
2.				
3.				

PART III – PAYMENT DETAILS

Please provide the following bank account details for payment

Name of bank

Address of bank

Bank Account no.

Name of account holder:.....

I declare that the information given by me in this form is correct and accurate. I understand that if any of the information is incorrect or misleading, or if I fail to disclose any relevant information, my application may be delayed or I may be required to submit a fresh application.

.....
Date

.....
Signature/thumbprint of worker/applicant*

FOR OFFICIAL USE

I certify having checked the correctness of the details provided and documents submitted by the worker/applicant/heirs*.

.....
Name of officer

.....
Signature of officer

.....
Designation of officer

.....
Date

**Delete as appropriate*
