

*Government Notice No. 212 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 Export Enterprises (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 typist;
 - “driver grade I” means a driver who drives a vehicle of over 10 tonnes;
 - “driver grade II” means a driver who drives a vehicle of more than 5 tonnes but not more than 10 tonnes;
 - “driver grade III” means a driver other than a driver grade I or a driver grade II;
 - “electrician” means an employee who –
 - (a) attends to electrical apparatus; and
 - (b) does simple electrical installation and repairs ;
 - “employee” –
 - (a) means any person employed by an export enterprise; 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;

“export enterprise” has the same meaning as in the Export Processing Zones Act;

“factory employee” –

- (a) means an employee who performs manual tasks requiring a particular skill or aptitude; and
- (b) includes a person who is required to attend to or operate a machine;

“mechanic” means an employee who –

- (a) attends to, and services machinery; and
- (b) does simple mechanical installation and repairs;

“packer” –

- (a) means an employee who –
 - (i) ties products or bundles of products by means of a machine;
 - (ii) marks products with a manually operated stamping machine;

(iii) burns identifying data on wooden boxes or box parts; and

(b) includes a labeller and any other employee who performs similar duties;

“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;

“trainee” means an employee who is employed for the purpose of being trained in a job;

“unskilled employee” –

(a) means a person who performs manual tasks requiring physical effort but no particular skill or aptitude; and

(b) includes a cleaner, a packer and an employee, other than a trainee, who does not have the required skill and is employed to assist other employees.

3. (1) Subject to the other provisions of this regulation and regulation 8, 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 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 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) (a) Where a scale of wages applies to an employee, his entry point in the scale shall be determined having regard to the number of completed years' service he reckons with his employer in the category, and every employee shall receive one increment for every completed year of service.

(b) Any training period shall not be reckoned for the purpose of this regulation.

(5) (a) Where a trainee is undergoing training, he shall be remunerated at three-fourths of the relevant rate specified in the Second Schedule provided the remuneration is not less than the amount specified in the National Minimum Wage Regulations.

(b) The period of training shall not exceed 3 months.

(c) Where, at the end of the training period, the employee continues to be employed, he shall be employed in the appropriate category.

(d) No employee shall be employed as a trainee more than once by the same employer.

4. For the purpose of paragraphs 2, 6 and 7 of Part I of the First Schedule, the rates specified in the first column of the Second Schedule at which an employee is remunerated or the wage agreed between an employee and his employer, whichever is higher as at 31 December 2017, plus the additional remuneration granted under the Additional Remuneration and Other Allowances (2018) Act 2017 and the Additional Remuneration and Other Allowances (2019) Act 2018, shall be the basic wage of the employee.

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

6. 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.

7. Notwithstanding paragraph 4(1) and (2) 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

(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 72 hours' work in every week.

8. 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.

9. The Export Enterprises (Remuneration Order) Regulations 1984 are revoked.

10. Subject to paragraph 8(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, 4, 7 and 8]

CONDITIONS OF EMPLOYMENT**PART I – GENERAL CONDITIONS****1. Normal working hours**

(1) The normal working week for every employee shall consist of 45 hours' work, excluding time allowed for meal and tea breaks.

(2) Subject to subparagraph (3), every employee shall be entitled on every working day to –

(a) a lunch break of one hour to be taken between 10 a.m. and noon on or off the factory premises; and

(b) 2 tea breaks of 10 minutes each, the first to be taken not earlier than 2 hours before lunch and the second not later than 2 hours after lunch.

(3) Where a shift system is in operation, the time of the breaks for meals and tea shall be mutually agreed upon between the employer and the employee.

2. Extra work

(1) An employee may be required to perform extra hours of work for up to 10 hours per week.

(2) No employee shall, except with his consent, be required to perform extra hours of work in excess of 10 hours per week.

(3) No employer shall require an employee to perform extra hours of work unless he has given notice to the employee of the extra work to be performed and its duration at least 24 hours in advance.

(4) Subject to paragraphs 5 and 6, an employee, other than a watchperson who –

- (a) works on a public holiday shall be remunerated –
 - (i) for the first 8 hours, at twice the basic rate;
 - (ii) thereafter, at 3 times the basic rate,
for each hour of work;
- (b) performs more than 45 hours' work in any week, shall, except for work performed on a public holiday, be remunerated, in respect of the additional hours of work which he performs –
 - (i) for the first 10 hours, at one and a half times the basic rate per hour;
 - (ii) for the next 5 hours, at twice the basic rate per hour; and
 - (iii) thereafter, at 3 times the basic rate per hour.

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

3. Notional calculation of basic rate

For the purpose of determining remuneration due for extra work or any other cause –

- (a) the weekly basic rate of a monthly paid employee, other than a watchperson, shall be deemed to be three thirteenths of the monthly basic rate;
- (b) the basic rate per hour shall be deemed to be one forty fifth of the weekly basic rate, in the case of an employee, other than a watchperson.

4. Provisions applicable specifically to watchperson

(1) The remuneration specified in the Second Schedule in relation to a watchperson represents payment in respect of 45 hours' work and 3 additional hours.

(2) Subject to paragraph 5, a watchperson who –

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

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

(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 sub subparagraph (a), shall be remunerated at one and a half times the basic rate for every additional hour of work.

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

5. Payment of remuneration for work performed on public holidays

(1) Every employee 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.

(2) Where an employee 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 subparagraph (1), any remuneration due under paragraphs 2 and 4, as the case may be.

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

6. Piece rate work

(1) Subject to subparagraph (2), an employee may be required to perform piece work by his employer at such rates, to be agreed upon between them, which shall not be less than a sum exceeding the appropriate rates specified in the Second Schedule by 10 per cent.

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

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

7. Attendance bonus

(1) Every employee specified in the Second Schedule and every factory employee or unskilled 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), absences on annual leave and injury leave following injury arising out of and in the course of employment shall not be deemed to be absence from work.

8. 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).

9. Vacation leave

(1) Subject to subparagraph (2), 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 (7), any subsequent eligibility period of 5 consecutive years shall be computed after the employee resumes work after the vacation leave under subparagraph (1).

(3) 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.

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

(5) 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.

(6) Where an employer cannot, on reasonable business grounds, accede to the request of an employee under subparagraph (5) –

- (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 the leave was due to start.

(7) Where an employee is paid wages in lieu of the vacation leave under subparagraph (6), 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

10. Protective equipment

- (1) Every employer shall provide –
 - (a) a pair of rubber boots and a pair of rubber gloves to every employee who, by nature of his work, is required to work in water; and
 - (b) to every watchperson –
 - (i) one raincoat every 2 years; and
 - (ii) serviceable flash lights, whenever necessary.
- (2) (a) Every employer shall provide –
 - (i) 2 aprons to every factory employee; and
 - (ii) 2 overalls or uniforms to every mechanic and electrician.

(b) The items specified in this subparagraph shall be issued not later than 31 May in every year.

- (3) Any protective equipment provided under subparagraphs (1) and (2) shall –
 - (a) remain the property of the employer; and
 - (b) except for the raincoat and the items specified in subparagraph (2)(a), be renewed as soon as they become unserviceable.
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SECOND SCHEDULE

[Regulations 3, 4 and 8]

PART I – MONTHLY WAGES

Category of employee	Year of service	Column I Monthly wages as at December 2017 plus additional remuneration for 2018 and 2019 (Rs)	Column II National minimum wage plus additional remuneration for 2019 (Rs)
Chief Clerk	1st year	9,115	
	2nd year	9,320	
	3rd year	9,511	
	4th year	9,729	
	5th year & thereafter	9,901	
Accounts Clerk, Cashier, Storekeeper	1st year	8,666	
	2nd year	8,844	
	3rd year	9,038	
	4th year	9,182	
	5th year	9,332	
	6th year	9,500	
	7th year & thereafter	9,661	
Clerk, Assistant Storekeeper	1st year	7,495	8,540
	2nd year	7,783	8,540
	3rd year	8,045	8,540

Clerk, Assistant Storekeeper	4th year	8,481	8,540
	5th year	8,744	
	6th year	8,915	
	7th year	9,072	
	8th year	9,238	
	9th year & thereafter	9,382	
Foreman/ Forewoman, Typist, Timekeeper	1st year	7,566	8,540
	2nd year	7,890	8,540
	3rd year	8,233	8,540
	4th year	8,447	8,540
	5th year & thereafter	8,592	
Telephonist, Receptionist	1st year	7,566	8,540
	2nd year	7,890	8,540
	3rd year & thereafter	8,233	8,540
Mechanic, Electrician	1st year	7,495	8,540
	2nd year	7,783	8,540
	3rd year	8,045	8,540
	4th year	8,352	8,540
	5th year	8,481	8,540
	6th year	8,646	
	7th year	8,744	
	8th year	8,836	
	9th year & thereafter	8,915	
Driver grade I	8,848		
Driver grade II	8,671		
Driver grade III	8,517	8,540	

PART II – WEEKLY WAGES

Category of employee	Year of service	Weekly wages as at December 2017 plus additional remuneration for 2018 and 2019	Monthly wages as at December 2017 plus additional remuneration for 2018 and 2019	National minimum wage plus additional remuneration for 2019
		(Rs cs)	(Rs cs)	(Rs)
Watchperson		1,602.38	6,943.62	8,540
Factory Employee	1st year	1,401.81	6,074.49	8,540
	Thereafter	1,426.26	6,180.48	8,540
Unskilled Employee	1st year	1,314.48	5,696.10	8,540
	Thereafter	1,376.47	5,964.72	8,540