

## NATIONAL REMUNERATION BOARD

### REVIEW OF CLEANING ENTERPRISES [REMUNERATION ORDER] REGULATIONS 1995

#### PROPOSED RECOMMENDATIONS

#### 1. INTRODUCTION

- 1.1 On 07 August 2007 the Honorable Minister of Labour, Industrial Relations and Employment, acting under Section 94(1) of the former Industrial Relations Act 1973, referred to the National Remuneration Board the Cleaning Enterprises [Remuneration Order] Regulations for review. The regulations set out the terms and conditions of employment of persons employed in enterprises engaged in general cleaning services and in the upkeep of premises, streets and other open places. The Remuneration Order was last revised in 1995.
- 1.2 For the purpose of the present exercise, the Board invited interested parties to submit written proposals. To this end, Notices were published in the Gazette on 23 April 2011 and three dailies: L'Express on 21 April 2011, Le Défi Quotidien on 22 April 2011 and Le Matinal on 23 April 2011. In addition to the publications, the Board also wrote to 31 individual enterprises and 3 unions of employees inviting them to submit written proposals in respect of the sector under review. Written proposals were received from the Confédération des Travailleurs du Secteur Privé (CTSP) and the Cleaning Enterprises Workers Association (CEWA) representing the employees and from the employer's side, written proposals were received from the Mauritius Employers' Federation (MEF) and two individual cleaning enterprises, namely Keep Clean Ltd and Van and Pat Cleaning Ltd.
- 1.3 Public Hearings were held by the Board and parties were invited to depone viva voce to elaborate and to support their written proposals. The Board had the opportunity, in the course of the depositions, to put questions to the parties to seek clarification on specific issues related to the proposals made. During their depositions, the parties were also given the opportunity to raise their concerns and to provide any additional information they had regarding the sector.
- 1.4 Following the Public Hearings, the Board undertook its fact gathering exercise. The technical team of the NRB conducted a survey among a sample of 23 enterprises and it carried out site visits to a number of workplaces such as traffic centres, taxi stands, schools, university campus, beaches, 'home for elderly', offices, business and commercial centers, banks, district court, airport and the dumping ground at la Brasserie and a total of 213 workers, including permanent, contractual, full timers and

part timers were interviewed. The Board, however, wishes to point out that some reluctance was noted on the part of the employers to participate in the survey and out of the 23 sampled enterprises, only 18 submitted feedbacks.

## **2. AN OVERVIEW OF THE SECTOR**

### **2.1 INTRODUCTION**

The Cleaning Enterprises (R.O) Regulations defines a Cleaning Enterprise as an enterprise engaged in '*general cleaning and keeping in an orderly condition premises, streets and other open places*'. Although recommendations concerning the remuneration and working conditions of workers employed in this sector were first made public in 1994, the ensuing regulations became effective only in 1995. Thus the present R.O. was made under the socio-economic conditions prevailing some 17 years back when there were hardly 8 large firms operating in the industry, employing around 2100 workers. Since, the cleaning sector has witnessed an intensification and diversification in the range of services provided by private cleaning contractors to meet the growing demands of economic operators in the Mauritian economy. To-date, the sector provides employment to around 3800 persons, generating a value-added of Rs 956m and thus contributing around 0.33% to the economy.

The Cleaning sector comprises of a wide range of cleaning activities ranging from office cleaning to refuse collection. It also includes industrial cleaning, maintenance of areas around buildings and the cleaning of beaches and streets. Due to the continuous outsourcing of services, contract cleaning has gradually become an integral part of various industrial sectors and it plays an essential role in the daily life of a vast number of workplaces.

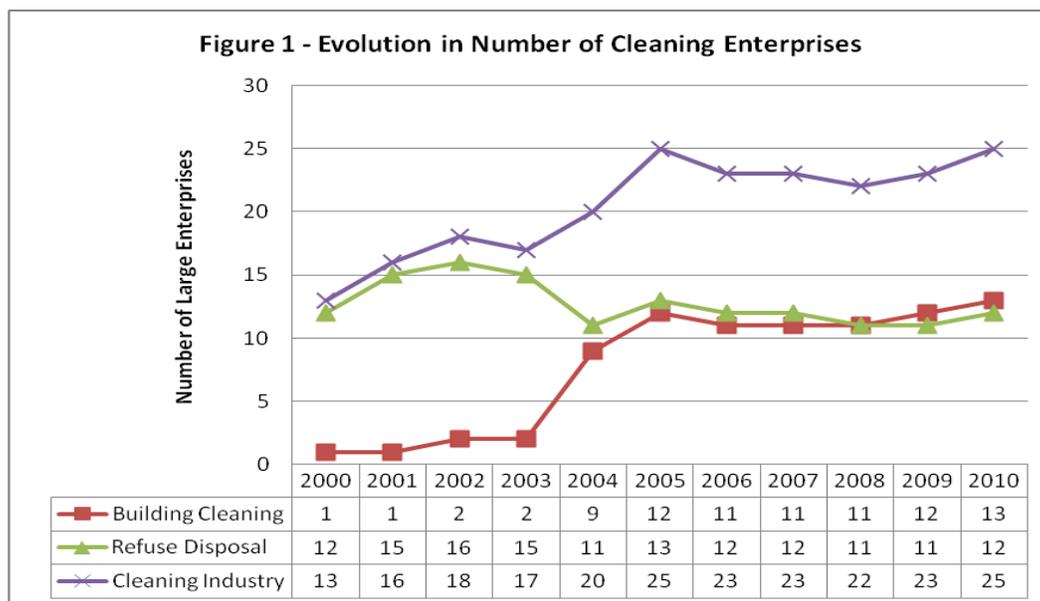
### **2.2 FACTS AND FIGURES**

#### **(A) Operating Units**

The cleaning sector is characterised by a small number of large firms and a large number of small and medium-sized firms operating in a competitive environment. The small operators tend to be self-employed contractors with less than 10 employees, consisting mainly of cleaners and where the administrative tasks are usually done by the owner himself or a family member. Such establishments normally operate from the owner's home and do not have a formal office as such. According to the Statistics Mauritius, there were around 180 such establishments offering cleaning services in 2007.

Large establishments, on the other hand, are normally well-structured organisations which employ at least some administrative, marketing and supervisory staff in addition to the manual workers. Those falling in between these two types of enterprises are medium enterprises employing up to 50 workers and it can be assumed that they are a common feature of the industrial set-up. In this recommendation ‘small establishments’ refer to those employing up to 9 employees and ‘large establishments’ to those employing 10 or more employees, as per classification of Statistics Mauritius.

From the year 1994 to 2001, the number of large establishments in this sector has increased from 8 to 16 and from 2001 to 2010 the number has further increased to reach 25. For analysis purposes, the range of activities in the cleaning sector has been classified into two categories, namely, (a) building cleaning and (b) refuse disposal & other related cleaning activities. It can be noted from figure 1 below that since 2000 the number of firms specialising in building cleaning has remained almost stable till 2003 to pick up sharply in 2004 to reach 12 in 2005. However, it has dropped slightly in 2006 to stabilise at 11 until 2009 when it registered a slight increase. In 2010 there were 13 such large enterprises operating in the sector. Insofar as refuse collection, disposal and other cleaning services is concerned, there were 12 firms providing such services in 2000. Since then it followed an upward trend to peak at 16 in 2002 and then gradually decreased to 11 in 2004. After 2005, it has registered a downward trend to increase slightly to 12 in 2010.



Source: Statistics Mauritius

## (B) Employment

Total employment in the sector has registered an increase of 60% in the past decade although the total number of large enterprises has almost doubled to 25. Table I below shows that the number of workers employed in providing cleaning services has increased from 2,371 in the year 2000 to 3,394 in 2005, representing a 43% increase. However, employment in the sector then declined for two consecutive years to pick up again in 2008 to reach 3,247. In year 2010 total employment in the cleaning sector stood at 3,803.

**Table I - Employment in Cleaning Services in Large Establishments**

Year	Building Cleaning		Refuse Disposal & Other Services		Cleaning Sector	
	Enterprise	Employment	Enterprise	Employment	Total No. of Firms	Total Employment
2000	1	16	12	2,355	13	2,371
2001	1	16	15	2,206	16	2,222
2002	2	118	16	2,843	18	2,961
2003	2	117	15	2,816	17	2,933
2004	9	1,636	11	1,562	20	3,198
2005	12	1,697	13	1,697	25	3,394
2006	11	1,532	12	1,648	23	3,180
2007	11	1,587	12	1,553	23	3,140
2008	11	1,687	11	1,560	22	3,247
2009	12	1,970	11	1,656	23	3,626
2010	13	2,083	12	1,720	25	3,803

*Source: Statistics Mauritius*

Furthermore, it has been observed that an increasing number of female workers have joined this sector from 2000 to 2010. In the year 2000, 620 female workers joined the industry and the number has increased to 1,696 in 2010. Although more or less equally distributed for the whole of the cleaning sector, the tendency seems to be quite distinct for the two types of main activities in this sector. Available data from the Statistics Mauritius indicates that the proportion of female to male workers has increased from 25% to 65% in building cleaning and the trend has been reversed from 26% to 20% in refuse disposal and related activities where workers have been observed to be predominantly male due to the very nature of the work.

### **(C) Future Employment Prospects in the Sector**

Current trend shows that the Building cleaning services has an increasing contribution in providing employment in the sector. Its share has increased from a mere 1% in 2000 and 4% in 2002 to rise sharply to above 50% since 2004. The mushrooming of shopping malls, office spaces and residential buildings and increased outsourcing of such activities to private contractors, is expected to lead to more job opportunities in this category. Thus, this upward trend in employment of cleaners is expected to persist in the coming years as a result of the increasing demand for such services.

It has however been observed that the share of refuse disposal and other related cleaning activities, in terms of employment, has gradually decreased from 99% in 2000, when it was providing jobs to 2,355 workers, to 49% in 2004 and 45% in 2010. Employment had dropped by 44% in 2004 to register a slow increase to 1,720 in 2010. The decrease in employment throughout this period may be attributed to improved technology and the competitive nature of the market environment, leading to non-renewal of existing contracts or winning of insufficient number of contracts to meet operating costs or still inadequate return from investment, forcing firms out of the market leading to negative consequences on employment. Hence, assuming that firms invest in appropriate machinery and equipment, like compactors, which would minimise the recruitment of additional pairs of hands in the process, the level of employment in scavenging activities is not expected to rise by much in the future.

### **(D) Share in GDP**

The value-added of the cleaning sector has increased by more than three-fold from Rs 317m in 1999 to Rs 956m in 2011, contributing 0.33% towards GDP. However, despite its meagre share in the total GDP, its importance in the economy should in no way be underestimated since cleaning is a vital service that enables the smooth running of commercial and business activities in the economy.

### **(E) Local Authorities as Potential/Important Clients**

Investigation in the cleaning sector reveals that most of the local government authorities contract out a large part of their cleaning and refuse collection services to private companies, hence representing a potential market to cleaning enterprises. The main reasons put forward by the local authorities for having recourse to private cleaning and scavenging contractors are lack of manpower, equipment and logistics such as scavenging lorries and compactors. Hence, it was observed that private cleaning enterprises bring considerable help to the local government authorities in resolving

their labour shortage and absenteeism problems and it also helps them reduce cost that they would have incurred in the investment of physical resources and/or the recruitment of in-house cleaners and refuse collectors.

**(F) Trade union membership**

As far as union membership is concerned, the Board has observed that out of 18 enterprises which responded to its survey, 16 had no union representation within their establishments. On the workers' side, out of 213 workers interviewed in this sector in their respective workplaces, only 24, which represent around 11 %, belonged to trade unions.

**3. OBSERVATIONS**

A thorough investigation in this sector has prompted the Board to make the following observations:

**3.1 FIERCE COMPETITION AND ENFORCEMENT OF R.O REGULATIONS**

Cleaning is a cost centre and not an income generator for those who require such services. Hence, clients/businesses looking for cleaning services always emphasise on keeping costs down and as a consequence cleaning firms often have to respond to very competitive calls for tender in order to be selected in a tender bid. Evidence gathered in the course of the investigation reveals that some firms have lost contracts from clients by a very meagre difference of Rs 50 to Rs 500 in the quoted price.

For fear of losing contracts, firms tend to have recourse to certain unfortunate practices such as cutting labour costs through reduction of staff, increasing the working hours of existing workers and paying wages below prescribed rates or still worse paying the basic wage but not effecting any overtime or extra work payments. A pertinent issue that was constantly raised by employers, employees and third parties during their depositions and which was also confirmed by the investigation conducted, is a lack of proper enforcement of the R.O Regulations in this sector. The Board therefore strongly suggests the enforcement branch of the Ministry to closely monitor and to ensure that the R.O Regulations are strictly complied with in the whole of this sector.

**3.2 PROCUREMENT BY PUBLIC BODIES**

In relation to procurement by public bodies, Section 46 of the Public Procurement Act 2006 as amended by Section 70(6) of the Employment Rights Act 2008 provides, among

others, that there shall be included in every procurement contract a clause to ensure that the rates of remuneration and other conditions of work of workers engaged in the execution of the contract are not less favourable than those provided in the R.O Regulations and no contractor shall be entitled to any payment unless he has together with his claim for payment, filed a certificate stating the rates of remuneration and hours of work of various categories of workers employed in the execution of the contracts. The Board strongly suggests public bodies, firstly, to ensure that every contract made with a private cleaning contractor contains the clauses as prescribed and secondly, to ensure that payment is effected by the public body only upon being satisfied that the latter has observed the minimum remuneration and conditions of work in respect of workers engaged by him. Further, the Board also suggests that before retaining the services of a cleaning contractor, a public body should, not only rely on the lowest quote but should also consider and reasonably foresee whether such a quote will allow the private contractor to offer to its workers, the required minimum wage and conditions of work.

#### **4. RECOMMENDATIONS**

After having carefully examined all the information at its disposal and having taken into account the specificities of the cleaning sector and the context and prospect in which it is evolving and bearing in mind (i) the principles enunciated in Section 97 of the Employment Relations Act 2008 and (ii) the spirit of the new labour legislations, the Board has come up with the following recommendations:

##### **4.1 DEFINITION CLAUSE**

###### **I. Driver Grade I**

The Board **recommends that the definition of Driver Grade I be amended as follows:**

**"driver grade I" means "a worker who drives a vehicle of 10 tons or more".**

###### **II. Earnings**

The Board **recommends that the definition of Earnings be amended as follows:**

**"earnings"-**

**(a) means basic wages; and**

**(b) includes –**

**(i) wages earned for extra work under paragraph 2 of the Second Schedule;**

- (ii) remuneration paid under paragraphs 2,5, 6, 10 and 13(1)(a), (2) and (3), 14 and 17 of the Second Schedule; and
- (iii) any productivity payment;

### III. Lavatory Attendant

It was observed during the survey that unlike when the R.O was made in 1995, the range of activities outsourced to private cleaning enterprises has increased and nowadays different cleaning companies are allocated the contract of performing different cleaning activities within the same premises: some exclusively engaged in the cleaning of premises whilst others in the cleaning of toilets. It was observed during the survey that workers exclusively doing the cleaning of toilets in schools, for example, despite doing the work of a lavatory attendant, were still considered as cleaners and were paid wages which were lower than that of a lavatory attendant. It was observed that these workers did not fall within the definition of Lavatory Attendants because school toilets are not considered as public lavatories. **To clear such an anomaly, the Board recommends that the existing definition of lavatory attendant in Section 2 of the Regulations be amended by deleting after the word 'cleans', the word 'public'.**

### IV. Productivity Payment

**The Board recommends that for the purpose of these Regulations, the following definition of productivity payment be added:**

**“productivity payment”**

- (a) means any sum of money, by whatever name called, paid to any worker, in respect of any work performed by him in addition to the basic wages agreed upon between him and his employer and relating to productivity;
- (b) does not include payments such as meal allowance, transport allowance or any other allowances or payments not related to productivity;

### V. Refuse

**The Board recommends that for the purpose of these Regulations, the following definition of refuse be added:**

**“Refuse include household refuse as well as garden or yard refuse, waste whether solid or otherwise including hazardous waste, clinical waste and pharmaceutical waste, litter or anything which is being disposed of”.**

## **VI. Scavenger**

**The Board recommends that the definition of scavenger be amended as follows**

**“Scavenger” means “a worker who cleans streets and other public places and who collects refuse”.**

## **4.2. OTHER TERMS AND CONDITIONS OF EMPLOYMENT (SECOND SCHEDULE)**

### **I. Normal Working Hours**

With regards to the normal working hours, representatives of the unions demanded for a 40 hour week spread on 6 days whereas the representative of the employers argued that the provision of 45 hours as stipulated in the R.O be maintained as it serves the interest of the industry.

The Board finds that a normal working week of 45 hours serves the interest of this industry and **recommends no change to the normal working hours.**

Given that the Public Holiday Act defines Sunday as a Public Holiday, the Board **recommends that sub paragraph 4 of paragraph 1 be deleted and be replaced by the following:**

**“The normal working week for every worker may begin on any day, including a Public Holiday”.**

Insofar as breaks are concerned, **the Board recommends that where workers are called upon to perform long shifts, the lunch break of one hour may be divided into two half hour breaks with an interval of at least two hours in-between. The Board therefore recommends that subparagraph 5 (a) (i) in paragraph 1 in the existing Regulations be amended accordingly as per the Proposed Cleaning Enterprises (Remuneration Order) Regulations in Annex 1.**

### **II. Remuneration for Extra Work and Notional Calculation of Basic Rate**

**The Board recommends that the provision for extra work and notional calculation of basic rate be split in two separate paragraphs where paragraph 2 shall deal with the provision for extra work and paragraph 3 with the notional calculation of basic rate.**

**The Board considers that the provision in relation to extra work is adequate. However, it recommends that the wordings of paragraph 2(1) in the existing regulations be amended as per the new paragraph 2 in Annex 1.**

**The Board recommends no change insofar as the provisions for notional calculation of basic rate is concerned.**

### **III. Payment of Remuneration**

- (a) Given the financial condition of workers in this industry, the Board tends to agree with the representative of the union that a worker should be paid his wages during working hours and not later than the last working day of the pay period and **it recommends accordingly.**
- (b) In relation to the issue of pay slips, one of the unions submitted that the pay slip should make mention of the employee's job title. **The Board finds the demand of the union justified and recommends accordingly.**

**In light of the above, the Board recommends that paragraph 3 of the Regulations be consequentially amended as per paragraph 4 of the Proposed Regulations in Annex 1.**

### **IV. Annual Leave**

- (a) In relation to annual leave, the union representative made the following demands:
  - (i) The total annual leaves be increased to 16 days per year.
  - (ii) 8 days of the annual leave may be taken consecutively with the employer's approval.
  - (iii) All leaves shall be taken at such time as the worker deems fit to apply for.
  - (iv) In the default of the approval of the employer on the application made by a worker for his annual leaves, the employer should not impose on the employee to take his annual leave at his discretion.
  - (v) The remaining annual leaves shall be refunded as a normal day's remuneration not later than the 31<sup>st</sup> of January of the following year and same be considered as earnings in the calculations of the end of year bonus.

**With regards to the union's demand at (i) above, the Board is of the view that the demand is justified and recommends accordingly.**

**The Board has given due consideration to the union's demand at (ii), (iii) and (iv) above and it recommends that where an employer and a worker are unable to agree as to when the proposed 16 days annual leave is to be taken, half of the leave period shall be fixed by the employer and the other half by the worker.**

The Union representative further submitted before the Board that on rainy days employers tend to compel workers not to come to work and they deduct those days out of the annual leaves of the workers.

The Board observes that Section 24 of the Employment Rights Act gives adequate protection to workers where no work can be performed due to climatic conditions. Under the existing legislation, employers do not have the right to deduct annual leaves by compelling workers to stay at home. On the contrary they have to pay the workers remuneration as per the provisions made in Section 24 of the Employment Rights Act and any non-compliance to the said provision should be reported accordingly.

**With regards to the union's demand at (v) above, the Board finds no compelling reason to amend the existing provision the moreso that its very definition in the Regulations, earnings already includes payment for annual leaves.**

(b) **Short Term Contracts**

In view of protecting workers of the cleaning industry whereby contractual employment is the order of the day, the Board **recommends that where an employee has completed an aggregate period of employment of not less than 12 months over a period of not more than two years with the same employer, he be entitled to one day's annual leave and one day's sick leave for each subsequent month of service, so long as there is no break covering one year between two contracts.**

The Board further **recommends that the said annual leave be taken at such time as the worker may, on application made to and approved by the employer, elect.**

In light of the above, the Board recommends that paragraph 4 of the Regulations be consequentially amended as per paragraph 5 of the Proposed Regulations in Annex 1.

**V. Sick Leave**

- (a) In light of paragraph 4(b) above in relation to short term contracts, the Board recommends that necessary provision be made for 1 day's sick leave for workers employed on short term contracts.
- (b) The Board makes no substantive change to the rest of this provision but recommends that the wordings be amended so as to be in line with other more recent Remuneration Order Regulations.

In light of the above, the Board recommends that paragraph 5 of the Regulations be amended as per paragraph 6 of the Proposed Regulations in Annex 1.

**VI. Travelling Benefits**

- (a) The Board recommends that the heading of this paragraph be replaced by "Transport benefits and facilities" and the paragraph be renumbered as paragraph 7.
- (b) In a spirit of fairness and reasonableness, the Board recommends that any reference to gender be removed from this paragraph and every worker be entitled to free transport or, where no free transport is available, be paid the return bus fare if the distance between his residence and the place where he reports for work exceeds 3 km.
- (c) In line with the provision contained in recent Remuneration Order Regulations, the Board recommends that where a worker is required by his employer to attend or cease work at any time when no public bus service is available, the employer shall, irrespective of the distance, provide the worker with appropriate free means of transport from the worker's residence to his place of work or from the worker's place of work to his residence or both, as the case may be.
- (d) The Board makes no change to the existing provision in the R.O which apply to workers who attend work by their own means of transport.
- (e) The existing R.O does not cater for transportation facilities of workers in this sector. Considering the biological hazards and risks to which these workers are exposed to and which are likely to impact on their health, **the Board, after**

having received expert advice on the subject, recommends that no worker shall be transported in any vehicle or any part of any vehicle where he may be exposed to refuse.

- (f) The Board further recommends that the transport provided by the employers to transport workers shall be properly fitted with well-secured seating and back-rest facilities.

In light of the above, the Board recommends that paragraph 6 of the Regulations be amended accordingly as per paragraph 7 of the Proposed Regulations in Annex 1.

#### **VII. Subsistence Allowance**

- (a) The Board recommends that the word “subsistence allowance” be replaced by the word “meal allowance” and the paragraph be renumbered as paragraph 8.
- (b) The Board finds that the present meal allowance of Rs 15 is too low and must be adjusted such that the worker is allowed to a decent meal.
- (c) Given that this sector operates almost on a 24/7 basis where workers work on different shifts, the Board finds that eligibility for subsistence allowance only after 7.00 pm is highly detrimental to the workers.

**The Board thus recommends the followings:**

- (i) the word “subsistence” be deleted wherever it appears and be replaced by the word “meal”.
- (ii) the allowance be increased to Rs 70.
- (iii) where a worker has completed a normal day’s work and is required to remain on duty for an additional period of at least three hours, he shall in addition to any remuneration due, be paid a meal allowance of Rs 70.

In light of the above, the Board recommends that paragraph 7 of the Regulations be amended accordingly as per paragraph 8 of the Proposed Regulations in Annex 1.

#### **VIII. Uniforms and Equipment**

- (a) The Board recommends that the words “uniforms and equipment” in the heading of this paragraph be replaced by the words “protective equipment” and the paragraph be renumbered paragraph 9.

- (b) Given the nature of work performed by workers especially scavengers and lavatory attendants, **the Board recommends the followings:**
- (i) **appropriate gloves should be provided to all workers except accounts clerk, store clerk, clerk and receptionist/telephonist.**
  - (ii) **All workers directly exposed to refuse and/or noxious substances shall be provided with an appropriate respiratory mask.**
  - (iii) **All workers except accounts clerk, store clerk, clerk and receptionist/telephonist shall be provided with a raincoat every two years.**
  - (iv) **Every scavenger, cleaner and lavatory attendant shall be provided with a cap every year.**
  - (v) **All necessary protective equipment as per subparagraphs (i) and (ii) above shall be issued to workers on assumption of duty and shall be renewed as and when they become unserviceable.**

**In light of the above, the Board recommends that paragraph 8 of the Regulations be amended accordingly as per paragraph 9 of the Proposed Regulations in Annex 1.**

#### **IX. Public Holidays**

- (a) **The Board recommends that the heading of this paragraph be amended by adding the words “Extra remuneration for” before the words “public holidays” and the paragraph be renumbered as paragraph 10.**
- (b) From its investigation, the Board observes that with regards to public holidays, there exists a certain malpractice on the part of some employers whereby workers are underpaid for work performed on public holidays. A worker who works on a public holiday, is entitled to his normal day’s wage in addition to the extra remuneration computed twice and/or thrice the normal rate. However, it has been observed that some employers tend to pay workers only the extra remuneration excluding the normal day’s pay already due.

**To avoid such abuses, the Board recommends that appropriate amendments be made to the existing provision and a new subparagraph be introduced to stipulate that a worker shall be remunerated *in addition* to the normal day’s pay in respect of every public holiday he is called upon to work.**

In light of its recommendations above, the Board recommends that paragraph 9 of the Regulations be amended accordingly as per paragraph 10 of the Proposed Regulations in Annex 1.

**X. Death Grant**

The Board recommends that the death grant be increased to Rs 3,500 and paragraph 10 of the Regulations be amended accordingly as per paragraph 11 of the Proposed Regulations in Annex 1.

**XI. End of Year Bonus.**

- (a) The Board recommends that this paragraph be renumbered as paragraph 12.
- (b) The Board recommends no change to the existing provision save and except that in line with other recent R.O Regulations, a new sub-paragraph be added to the existing provisions (as per paragraph 12(4) of the Proposed Regulations in Annex 1), which shall stipulate that a day shall be counted as a working day where a worker:
  - (a) is absent with the employer's authorization;
  - (b) reports for work but is not offered work by the employer; or
  - (c) is absent on grounds of
    - (i) illness and has notified the employer accordingly or
    - (ii) injury arising out of and in the course of his employment.

**XII. Maternity Benefits**

In respect of this paragraph, the Board recommends the followings:

- (a) the paragraph be consequentially amended to read paragraph 13;
- (b) the maternity allowance be increased to Rs 2000;
- (c) that a female employee who remains in continuous employment with the same employer for a period of not less than 12 months and gives birth to a still born child shall be entitled to 12 weeks leave on full pay;
- (d) that a female employee who reckons less than 12 months continuous employment with the same employer and gives birth to a child or a still born child, shall be entitled to 12 weeks leave albeit without pay;

- (e) that appropriate arrangements should be made by the employer for the female worker to nurse her unweaned child for a period of one hour daily or half an hour twice a day at such time as is convenient to her;
- (f) that every female worker who has entered into the seventh month of pregnancy shall be offered, as far as is reasonably practicable and at her request, all appropriate working facilities as recommended by her medical practitioner.

In light of the above, the Board recommends that paragraph 12 of the Regulations be amended accordingly as per paragraph 13 of the Proposed Regulations in Annex 1.

### **XIII. Overseas Leave**

- (a) **The Board recommends that this paragraph be consequentially amended to read paragraph 14.**
- (b) Given the income group to which workers in this sector belong to and the financial restriction faced by the workers to fund overseas holidays, **the Board recommends that the word ‘overseas leave’ be replaced by ‘vacation leave’ wherever it appears.**
- (c) **The Board also recommends that a worker reckoning at least 10 years service with the same employer be entitled to one vacation leave of not less than 2 months to be spent wholly or partly abroad or locally at the employee’s discretion and at least one month of the vacation leave shall be with pay and where the worker intends to spend his vacation either partly or wholly abroad, payment shall be effected at least 7 days before he leaves.**
- (d) **The Board also recommends that a vacation leave shall be deemed to constitute attendance at work.**

In light of the above, the Board recommends that paragraph 13 of the Regulations be amended accordingly as per paragraph 14 of the proposed recommendations at Annex 1.

### **XIV. Gratuity at death or on retirement before 60 on medical grounds**

**The Board recommends that**

- (a) **the present provision be split into two distinct provisions catering for gratuity on retirement before 60 on medical grounds and gratuity at death and the paragraphs be consequentially amended to read paragraphs 15 and 16 respectively;**

- (b) the gratuity be paid on the simpler basis of 15 days basic wages instead of the formula  $N \times W/2$  and that it be computed as from the first day of the period during which the employee has been in continuous employment with the same employer up to his last day of employment;
- (c) that the eligibility period be reduced to 5 years on the ground that this sector has recourse to more contractual rather than permanent employment.

In light of the above, the Board recommends that paragraph 14 of the Regulations be amended as per paragraphs 15 and 16 of the Proposed Regulations in Annex 1.

### **Other items not covered in the Regulations**

#### **XV. Optional Retirement**

It was submitted before the Board by the representatives of the unions that provision should be made in the regulations for optional early retirement. The Board observes that this provision only exists in a few Remuneration Order Regulations and it appears that the determinant factor which has motivated the adoption of such a provision in those regulations is the arduous nature of the work involved in those sectors. In the cleaning sector the Board observes that due to the competitive nature of the market environment, cleaning enterprises are compelled to make more use of improved technology and this in turn, relieves workers from performing strenuous works. **The Board therefore makes no recommendation for optional retirement.**

#### **XVI. Special Leave**

The present Regulations do not provide any special leaves. However, the union representatives made a demand before the Board that such leaves which are granted on special occasions such as the birth of a child or the death of a close relative be provided for in the regulations.

In a spirit of harmonization of such provisions in the recent recommendations, **the Board recommend that a worker who has remained in continuous employment with the same employer for 12 consecutive months be entitled to-**

- (a) 6 working days leave on full pay on the occasion of the celebration of the worker's first religious or civil marriage;
- (b) 3 days special leaves on full pay on the occasion of the first religious or civil marriage of each of the worker's child and

(c) 3 days special leaves on full pay on the death of the worker's spouse, child, father, mother, brother or sister.

In light of the above, the Board recommends the introduction of a new paragraph in the Regulations under the heading "special leave" in terms of paragraph 17 of the Proposed Regulations in Annex 1.

#### **XVII. Medical Facilities**

The Board has heard expert medical evidence in relation to the occupational health hazards triggered by the working environment in this sector and **recommends that every worker who is exposed to refuse, dust and/or noxious substances or emanations shall undergo a complete medical checkup every 6 months at the expense of the employer. The Board further recommends that should a work-related health problem be detected during such check-up, the Medical Practitioner shall refer the worker to a recognized medical institution for appropriate investigation and medical care.**

In light of the above, the Board recommends the introduction of a new paragraph under the heading "medical facilities" in terms of paragraph 18 of the Proposed Regulations in Annex 1.

#### **XVIII. Disturbance Allowance**

One of the unions made demand for a disturbance allowance of 25% of the daily basic of a worker where he is required by his employer to work in a place other than his normal place of work or is called to work at heights.

Firstly, the Board observes that it is a very common practice in this sector for a worker to work in a place other than his normal place of work because cleaning enterprises have different contracts and they have to operate according to the individual needs of their clients. **Given the specificity of the sector, the Board makes no recommendation for a disturbance allowance to a worker who is called upon to work in a place other than his normal place of work.**

Secondly, **the Board finds no justification in the union's demand for a disturbance allowance to workers working at heights and makes no recommendation in relation to same.**

## **XIX. Tools**

From its investigation, the Board has noticed that in some cases workers have to bring their own tools to carry out works. Given the very nature of the work which workers are required to perform in this sector, the Board considers non-provision of appropriate tools and/or materials to be a very serious issue. Hence, as minimum protection to the workers, **the Board recommends that every worker be provided with appropriate tools and/or cleaning materials to perform work and the tools be replaced as soon as it becomes unserviceable.**

**Consequentially the Board recommends that a new paragraph under the heading “tools” be introduced as per paragraph 19 of the Proposed Regulations in Annex 1.**

## **XX. Attendance Bonus**

The Board considers that the question of attendance bonus should be left as a management tool to the employer who may wish to use it as an incentive according to specific situations to boost productivity. **The Board therefore makes no recommendation in respect of same.**

## **XXI. Compensation**

Investigation conducted by the Board reveals that there are many contractual workers employed in this sector and to provide minimum protection to those workers **the Board recommends that upon termination of their contract of employment, every employee be entitled to a compensation of one day’s wage for each completed month of service where –**

- (a) he has worked for the same employer for more than one month;**
- (b) his service is terminated before the expiry of 12 months for any cause other than misconduct or his short term contract has come to an end; and**
- (c) his attendance has averaged not less than 20 days per month during his employment.**

**Consequentially the Board recommends that a new paragraph under the heading “compensation” be introduced as per paragraph 20 of the Proposed Regulations in Annex 1.**

## **XXII. Certificate of employment**

Investigation in this sector reveals that workers do not stay for a long period of time with the same employer and they tend to look for better offers with other enterprises in the sector. In light of same, **the Board recommends that when a worker leaves the employment of an employer, he be issued with a certificate of employment stating his length of service with the employer, the post held by him and if he so desires, his rate of remuneration and the certificate shall not contain anything unfavorable to the worker.**

**Consequentially the Board recommends that a new paragraph under the heading “certificate of employment” be introduced in terms of paragraph 21 of the Proposed Regulations in Annex 1.**

### **4.3. WAGES**

Bearing in mind the principles laid down in Section 97 of the Employment Relations Act 2008 and after having carefully analysed the proposals made by immediate stakeholders, the conditions prevailing in the Sector, the nature of work performed and the need to preserve employment, **the Board has come up with recommendations regarding wages, which it considers fair, just and reasonable and which is transposed in the First Schedule of the Proposed Regulations at Annex 1.**

## **5. ACKNOWLEDGEMENT**

The Board extends its thanks to:

- (i) all parties and other institutions or persons who, through their representations, depositions and cooperation, have greatly contributed to help the Board reach the present recommendations;
- (ii) the members of the staff for their invaluable collaboration characterized by their relentless effort, praiseworthy commitment and professional approach; and
- (iii) the members of the supporting staff for their contribution in the recording of minutes of proceedings and making same available for reference.

**5 March 2012**