

NATIONAL REMUNERATION BOARD

REVIEW OF OFFICE ATTENDANT [REMUNERATION ORDER] REGULATIONS

PROPOSED RECOMMENDATIONS

1. INTRODUCTION

On 16 February 2011 the Honourable Minister of Labour, Industrial Relations and Employment, acting under a provision of the then Industrial Relations Act, now reproduced by Section 91 of the Employment Relations Act [ERA], referred to the National Remuneration Board the Office Attendants [Remuneration Order] Regulations for review. The Remuneration Order was last revised in 2000.

The Board invited interested parties to submit written proposals through notices which were published in the Gazette on 05 November 2011 and in three dailies, namely: Le Matinal on 03 November 2011, Le Défi Quotidien on 04 November 2011. and Le Mauricien on 05 November 2011. Written proposals were received solely from the Confédération des Travailleurs du Secteur Privé (CTSP).

Given the fact that no written representations whatsoever were received on the employers' side, the Board deemed it fit to write to some fifteen individual enterprises cutting across all sectors of the economy inviting them to submit written proposals in respect of the Remuneration Order under review. However, the Board notes with much concern that no response followed further to this exercise.

Public Hearings were thereafter held by the Board and the CTSP deponed *viva voce* to elaborate cum support their written proposals. The Board had the opportunity, in the course of the depositions, to put questions to seek clarification on specific issues related to the proposals made whilst at the same time representatives of the aforesaid union were able to provide additional information they had about the

Remuneration Order under review. They were also given the opportunity to reiterate their concerns before the Board.

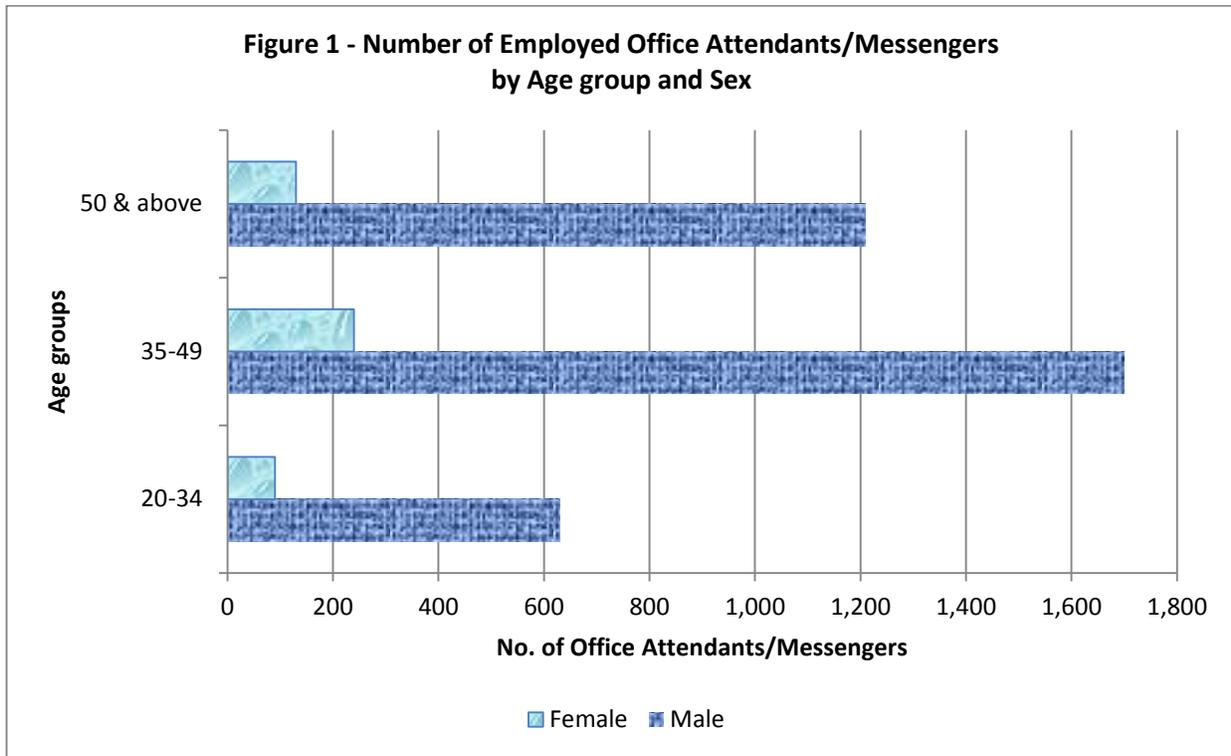
Following the Public Hearing, the Board undertook its fact gathering exercise in the form of site visits and investigations through surveys questionnaires. The Board, wishes to point out that some reluctance was noted on the part of some very well known employers.

2. OBSERVATIONS:

2.1 Facts and figures

The Board considers it appropriate at this stage to point out that contrary to all other Remuneration Orders, the present one under review does not cover a sector or an economic activity but instead provides for a specific occupational coverage, i.e. Office Attendants and Head Office Attendants cutting across all sectors of the economy, with employers ranging from high net worth companies to small and medium enterprises, with different realities and economic potential. The only exclusion pertains to those working in the Sugar and Tea industries.

According to Statistics Mauritius, there are around 4,000 persons working as Office Attendant/messengers, with hardly 12% of female workers. Given that one of the main duties of Office Attendants is running errands and dispatching of documents/mails, more frequently on foot than by other means, workers in this occupation tend to be predominantly male, representing a ratio of around 7:1 across the age-groups, except for those above 50 years where the proportion of male workers increases to 90.3%. Most probably, a few decades earlier, women were neither interested in nor recruited for such tasks by economic operators.



2.2 Employment

The trend in employment in the surveyed establishments over the last 3 years shows that the number of Office Attendants and Head Office Attendants did not vary much during this period, with the exception of new recruits by those starting operations during the year and non-replacement of retired officers dragging the figure downwards. Thus, compared to year 2009, the number of Office Attendants increased from 93 to 106 while the number of Head Office Attendants decreased from 20 to 17. Hence, the survey covers approximately 64.2% of messengers engaged in the selected establishments.

Figure 1 above shows the number of Office Attendants employed by age group and sex.

2.3 Trade Union membership

Around sixty four percent of the 79 workers interviewed did not have any form of representation, but 38 of them nevertheless claimed to have the possibility to

bargain individually with their respective management or management representative. Among the latter seven were of the view that their respective employers practised an open door policy.

The visiting team was also given to understand that the Mauritius Private Banks Employees Union is one of the main unions to which Office Attendants employed in some major banks are affiliated:

Otherwise, leading banking institutions have their own staff unions which bargain at enterprise level. It was also brought to our attention that due to the requirements of the Employment Relations Act concerning membership to form a union, the Staff Union at one of the banks is unable to get recognition and indulge in negotiations with their management. Even the management of two major banks, do not approve of negotiations between the bank's representative and the union, and insist that negotiations take place strictly with those working at the Bank. The members, not having the required bargaining strength, are compelled to accept whatever is imposed by their management as 'collective agreements'.

Other unions present in establishments visited were the FTU and the CTSP, whose membership were negligible in the surveyed establishments.

Among 6 establishments which reported having no trade union representation at their workplace had no other forum for communication and consultation either. Others claim to have meetings/consultations with their employees to sort out matters while one leading enterprise sends email to the Head Office Attendant and relies on him for the information to be cascaded accordingly.

2.4 Enforcement

A pertinent issue that was constantly raised by employees during their depositions and which was also confirmed by the investigation conducted is a lack of proper enforcement of the Remuneration Order Regulations in this sector. The Board therefore strongly suggests the enforcement branch of the Ministry to closely monitor and to ensure that the Remuneration Order Regulations are complied with.

2.5 Other Remarks

The Board also '*analysed*' the need to have a Remuneration Order for a category of workers contrary to all other ROs which cover an economic activity. The rationale for the existence of such an RO could not be really found and the Board was of the view that a more pragmatic approach would be to cater for this category of workers in the future review of all Remuneration Orders.

The Board also reflected on the fate of this category of workers in sectors which are not covered by Remuneration Order Regulations. Survey results have shown that this category of workers in more formal sectors are deriving more than the minimum prescribed in the Remuneration Order, hence the Board is of the view this shall not pose any technical or procedural difficulty nor cause any undue prejudice to any concerned party.

3. RECOMMENDATIONS:

After a thorough analysis of:

1. all pertinent and relevant information gathered;
 2. taking into account the principles enunciated in Section 97 of the Employment Relations Act 2008; and
 3. in line with the spirit of the new labour legislations,
- the Board has come up with the following recommendations:

3.1 Definition Clause

The Board recommends that the meaning of:

1. **Earnings** be amended to include any other regularly paid allowances or any productivity payment.
2. **Head Office Attendant** be amended by deleting the words '*and performing such other duties as may be required of him by his employer.*'

3. **Office Attendant** be amended by removing the words *'and doing other similar duties'*

The rationale behind these deletions follow from the findings of the investigation which has revealed that the inclusion of these terms have given much latitude to employers to resort to abuses regarding the tasks attributed to Office Attendants which range from clerical duties to driving around relatives and friends, including opening and closing of offices and providing first aid to patient if need arises when driving an ambulance.

4. **Productivity payment** be added as follows:

- (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.

3.2 OTHER TERMS AND CONDITIONS OF EMPLOYMENT

3.2.1 Appointment of a Head Office Attendant

The Board notes the inconsistency of Paragraph 1, especially the incompatibility of its sub-section 1 with subsection 4 which read as follows:

Paragraph 1(1) An employer who employs more than 5 Office Attendants shall employ one Head Office Attendant for every 5 Office Attendants.

Paragraph 1(4) Head Office Attendant shall not be required to supervise more than 5 Office Attendants.

An application of subsection 1 in practice would render impossible an occurrence as per subsection 4.

The Board therefore recommends that this paragraph be re-phrased as per paragraph 1 of the Proposed Regulations set out in Annex 1.

3.2.2 Appointment of Temporary Office Attendant

The Board recommends no change in this paragraph and maintains the status quo.

3.2.3 Normal Working Hours

With regards to the normal working hours, representatives of the union demanded for a 40 hour week spread on 6 days and survey findings have revealed that the majority [81%] of employees work on a 5-day basis with Saturday as a normal working day for the remaining 19 %. It has also been noted that there is a preference for Office Attendants to do general cleaning on week-ends so as not to disturb the operations of office staff during normal week days. As regards normal working hours per day, these tend to vary between 6.5 hrs to 9.5 hrs with 48% of enterprises requiring their Office Attendants to put in 8 hrs per day.

The Board therefore sees no reason to review that part except that:

1. the words '*5 days of 8 hrs*' in subsection 1 of paragraph 3 be replaced by the words '*5 days of not more than 8 hrs*'.

The rationale behind the above amendment is to avoid non-payment of overtime by employers in cases extra hours are done.

2. the words '*except on the five-hour day*' and '*in the afternoon*' be removed from subsection 2 of the same paragraph.

Paragraph 2 is therefore amended as per paragraph 2 of the Proposed Office Attendants Remuneration order Regulations in Annex 1.

3.2.4 Extra Work

In so far as extra work is concerned, **the Board recommends that heading of paragraph 4 of the existing Regulations be amended and restyled as “Extra Work and Meal Allowance” to reflect the provisions therein.**

Additionally, in a perspective of accounting for:

- (i) work performed on a weekly rest day and
- (ii) time spent at the service of the employer outside normal working hours and outside the normal site of work-which is a very prominent feature of the duties of an Office Attendant,

the Board recommends the inclusion of specific provisions thereto.

The Board also notes that the present meal allowance of Rs 25 is too low and that same should be adjusted to allow the Office Attendant a decent meal and that the eligibility for such a benefit be reviewed so as to remove the 7 pm criteria which is quite detrimental to workers in general.

The Board therefore recommends that paragraph 4 in the existing Regulations be amended accordingly as per paragraph 4 the Proposed Office Attendants (Remuneration Order) Regulations in Annex 1.

3.2.5 Notional Calculation of Basic Rate

The Board makes no change as to the notional calculation of basic rate.

3.2.6 Sharing Services of Office Attendants

The Board makes no change to this provision and maintains the status quo.

3.2.7 Payment of Wages

The Board recommends that the heading paragraph of 7 of the existing Regulations be reworded as Payment of Remuneration and be amended to read as new paragraph 7 in the Proposed Office Attendants (Remuneration Order) Regulations in Annex 1.

- (a) The Board in its wisdom has not retained the demand of the sole union which deponed on the subject matter in as much as same was less favourable than

the existing condition which already prevailed in the present Remuneration Order Regulations.

- (b) In relation to the issue of pay slips, the union submitted that the pay slip should make mention of, *inter alia* 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 7 of the Regulations be consequentially amended as per paragraph 7 of the Proposed Regulations in Annex 1.

3.2.8 Travelling benefits

The demand of the representative of the trade union that every worker shall be entitled to free transport or be paid the return bus fare irrespective of the distance between his residence and place where he reports for work seems to be justified in the present context. The nature of work of the Office Attendant is such that he is called upon to run errands and surveys results have shown that some workers happen to be walking all day round in the discharge of their duties with very little time being spent at the office.

Given these circumstances the Board deems it fit to remove the distance limit criteria in paragraph 8 of the existing regulations and read as new paragraph 8 of the Proposed Regulations in Annex 1.

3.2.9 Outfitting

In so far as outfitting is concerned, the Board recommends that the heading of paragraph 9 of the existing regulation be amended to read as 'Protective equipment in line with recent Remuneration Orders'. The Board further recommends the following:

- (a) 3 uniforms per year
- (b) 1 raincoat or jacket every 2 years
- (c) 2 pairs of shoes and /or boots where appropriate

- (d) a pair of gloves which shall be replaced as and when they become serviceable
- (e) 1 head gear every year which may be retained by the Office Attendant when a fresh issue is made.

The above protective equipment shall be issued immediately on assumption of duty.

In line with the above, the Board recommends that paragraph 9 of the present regulations be consequentially amended to read as new paragraph 9 of the Proposed Regulations in Annex 1.

3.2.10 Annual Leave

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) the remaining leaves shall be taken at such time as the worker and the employer may agree.
- (iv) any annual leaves not availed of shall be refunded as a normal day's remuneration at corresponding rate in accordance with contractual obligation.
- (v) inclusion in the law of a provision to cater for leaves of workers employed on contracts of determinate duration.

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 the said annual leave be taken at such time as the worker may, elect and 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.

With respect to the demand at (v) above, the survey team hardly came across Office Attendants on short term contracts. Very few who were previously on contract were employed on a permanent basis shortly after the end of the first contract which was often considered as a probationary period, the maximum duration of which extended up to 2 years. Hence the Board finds no compelling reason to cater for contractual workers for this particular category of workers.

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

3.2.11 Sick Leave

The Board makes no substantive change to existing conditions but recommends that provision be made to cater for a worker who has been admitted in a private or public hospital in so far as notification of absence is concerned.

In light of the above, the Board recommends that paragraph 11 of the Regulations be amended as per paragraph 11 of the Proposed Regulations in Annex 1.

3.2.12 Special Leaves

In a spirit of harmonization of such provisions with the recent recommendations, the Board recommends 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 working days leave on full pay on the occasion of the first religious or civil marriage of each of the worker's child; and
- (c) 3 working days leave 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 that amendments are carried out in terms of paragraph 12 of the Proposed Regulations in Annex 1.

3.2.13 Death Grant

The Board recommends that the heading of paragraph 13 in the present regulations be reworded as '*Death Grant*' which is the current appellation used in recent Remuneration Orders and that same be increased to Rs 3,500. Consequentially, paragraph 13 of the Regulations is amended as per paragraph 13 of the Proposed Regulations in Annex 1

3.2.14 End of Year Bonus

The Board recommends no change to the existing provision save and except that in line with other recent Remuneration Order 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

3.2.15 Allowances

The Board notes that the schedule of duties of an Office Attendant presently is very broad due to the definition attributed by the present legislation. Based on the information gathered during the survey, one can safely venture to conclude that in practice the duties extend far beyond those indicated and vary from making and serving tea, cleaning of sanitary conveniences to painting of buildings. Some of the

questions raised by the Office Attendants as regards their duties need to be given some reflection:

- Does the following form part of their schedule of duties?
 - (i) Preparing and serving tea.
 - (ii) Opening and closing of office.
 - (iii) Collecting and leaving key in the custody of the police station.

The Board would certainly not be in a position to exclude certain tasks from the schedule of duties of Office Attendants which are essential for the smooth running of an institution/enterprise. **The Board therefore deems it fit that an allowance be paid for certain specific duties and recommends that paragraph 15 of the present regulations be restyled as 'Allowances' and be amended accordingly as per paragraph 15 of the Proposed Regulations in Annex 1 This would ultimately entail in the deletion of subsequent paragraph 16 which would already be catered for in new paragraph 15.**

3.2.16 Medical Expenses

The Board herewith recommends the renumbering of this paragraph as paragraph 16.

The Board has given due consideration to the demand of the union regarding the provision for medical expenses and grant for spectacles and does acknowledge that the sum of Rs 300 for medical expenses as per the present Regulations is ridiculously low compared to the fees charged by medical practitioners . **Hence the Board considers it fair that a sum of Rs 3000 be attributed to all employees reckoning 12 months continuous service with the same employer, as medical expenses and/or spectacles grant, as the case may be.**

3.2.17 Maternity Benefits

In respect of this provision, **the Board recommends the following:**

- (a) **that the paragraph be renumbered to read as paragraph 17;**

- (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 18 of the existing Regulations be amended accordingly as per paragraph 17 of the Proposed Regulations in Annex 1.

3.2.18 Overseas Leave

During its investigation exercise, the Board has come across the fact that the majority of employees interviewed were not aware of the existence of such leaves whereas, the rest, even though aware, preferred not to avail of same due to the significant financial costs related to an overseas trip. Given the financial restriction, very often faced by the employees to fund a holiday abroad, **the Board recommends the following:**

- (i) that this paragraph be consequentially amended to read as paragraph 18;
- (ii) that the word “*overseas leave*” be replaced by “*vacation leave*” wherever it appears.

The Board, being also satisfied that the majority of workers concerned by this review are permanent employees who reckon significant number of years of service, with some even exceeding 30 years recommends that for every 10 years service with the same employer, an employee be entitled to a vacation leave of at least one month with pay, which may either be spent partly or wholly abroad or locally at the employee's discretion.

In light of the above, the Board recommends that paragraph 19 of the existing regulations be amended accordingly as per paragraph 18 of the Proposed Regulations at Annex 1.

3.2.19 Gratuity at death or on retirement before 60 on medical grounds

In line with recent recommendations made by the Board, it is deemed fit that:

- (a) the present provision be split into two distinct sub paragraphs catering for gratuity on retirement before 60 on medical grounds and gratuity at death and the paragraph be consequentially amended to read as paragraphs 19A and 19B of the Proposed Regulations in Annex 1;
- (b) the gratuity be paid on the simpler basis of 15 days remuneration 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) a definition for '*remuneration*' for the purposes of the above mentioned calculation be introduced.

In light of the above, the Board recommends that paragraph 20 of the existing Regulations be amended as per paragraphs 19A and 19B of the Proposed Regulations in Annex 1.

3.3 OTHER ITEMS NOT COVERED IN THE PRESENT REGULATIONS:

3.3.1 Extra Remuneration on Public Holidays

It was submitted before the Board by the representative of the union that with regards to public holidays, there is a certain malpractice on the part of some employers whereby workers are underpaid for work performed on public holidays which has been confirmed during the investigation of the Board. A worker who works on a public holiday is entitled to a normal day's pay in addition to any other remuneration due for extra work performed under paragraph 4. 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 Boards recommends the introduction of a new paragraph to bring in this element of clarification as per paragraph 20 of the Proposed Regulations in Annex 1.

3.3.2 Certificate of Employment

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. 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.

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