

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 Banks Fishermen and Frigo-workers Remuneration Regulations 2016.

2. In these regulations –

"banks fisherman" means a fisherman who is employed on a fishing vessel;

"earnings" –

(a) means basic wages; and

(b) includes –

(i) remuneration earned according to catch, as specified in the First Schedule; and

(ii) any allowance paid under paragraphs 1, 11 and 12 of the Second Schedule;

"fishing trip" means the journey of the fishing vessel from the port of departure to the banks, and from the banks back to the same port;

"fishing vessel" means a vessel engaged in fishing on the banks within –

(a) the territorial waters of Mauritius;

(b) the exclusive economic zone of Mauritius;

(c) the continental shelf of Mauritius; and

(d) the areas where Mauritius has traditional or historic rights under the Maritime Zones Act;

"frigo-worker" means a worker employed on a fishing vessel and responsible for the gutting, storing and freezing of fish on the vessel;

"medical officer" means a nursing officer or a medical practitioner;

"*patron pêcheur*" means the banks fisherman who is responsible for a dory;

"spouse" means the person with whom the deceased worker had contracted a civil or religious marriage and with whom the deceased worker was living under a common roof before proceeding on the fishing trip;

"worker" means a banks fisherman or a frigo-worker.

3. (1) Subject to regulation 4, every worker shall be –
 - (a) remunerated at the rates specified in the First Schedule; and
 - (b) governed by the conditions of employment specified in the Second Schedule.
- (2) The rates specified in the First Schedule are inclusive of the additional remuneration payable under the Additional Remuneration (2016) Act 2015.
4. Nothing in these regulations shall –
 - (a) prevent an employer from –
 - (i) remunerating a worker at a rate higher than that specified in the First Schedule; or
 - (ii) providing the worker with conditions of employment more favourable than those specified in the Second Schedule;
 - (b) authorise an employer –
 - (i) to reduce the remuneration of a worker; or
 - (ii) subject to section 57 of the Employment Relations Act, to alter the conditions of employment of a worker so as to make them less favourable.
5. The Banks Fisherman and Frigo-workers (Remuneration Order) Regulations 1997 are revoked.
6. These regulations shall be deemed to have come into operation on 1 February 2016.

Made by the Minister on 12 February 2016.

FIRST SCHEDULE

[Regulations 2(b)(i), 3(1)(a), (2) and 4(a)(i)]

| Category of worker | Remuneration (Catch per dory of 3 fishermen) | Rate per kilogramme (Rs cs) |
|---------------------------|---|--|
| Banks Fisherman | Up to 125 kilogrammes | 20.50 |
| | Above 125 kilogrammes | 27.12 |
| | | Rate per day (Rs cs) |
| Frigo-worker | | 450.77 |

SECOND SCHEDULE

[Regulations 2(b)(ii), 3(1)(b) and 4(a)(ii)]

1. Allowances

- (1) Every employer shall pay to a frigo-worker –
 - (a) a fish bonus of 49.20 rupees for every tonne of fish caught by the banks fishermen; and
 - (b) a sum of 450.77 rupees for every day the employer is not able to provide work during the period the fishing vessel leaves its port of departure to the day it returns to the same port.
- (2) Every employer shall pay to a *patron pêcheur* an allowance of 1,230 rupees for every fishing trip.
- (3) Every employer shall pay to every banks fisherman a sum of 305.45 rupees daily –
 - (a) during the period it takes the fishing vessel to travel from its port of departure to the banks and return from the banks to the same port; and
 - (b) for every day on which the shipmaster is of the opinion that fishing cannot be undertaken due to climatic conditions.
- (4) Where a banks fisherman also performs the duties of a frigo-worker, the banks fisherman shall, in addition to his remuneration or allowance, be entitled to the fish bonus specified in subparagraph (1)(a).

2. Pay interval

- (1) Subject to subparagraph (2), every employer shall grant to a worker an advance on his remuneration as follows –
 - (a) 500 rupees on the date of the signature of the contract;
 - (b) 3,000 rupees to the worker's named representative 15 days after the sailing of the vessel;
 - (c) 3,000 rupees to the worker's named representative 30 days after the sailing of the vessel;
 - (d) 3,000 rupees to the worker's named representative 45 days after the sailing of the vessel;

- (e) 3,000 rupees to the worker's named representative 60 days after the sailing of the vessel;
- (f) 3,000 rupees to the worker's named representative 75 days after the sailing of the vessel; and
- (g) 1,000 rupees to the worker at the end of the fishing trip.

(2) Every worker shall be paid the balance due on his remuneration within 4 working days of the end of the fishing trip.

(3) The payment referred to in this paragraph may be made through the bank account of the named representative of the worker or as otherwise agreed at the time of the signature of the contract of employment.

3. Contract of employment

(1) Every employer shall provide to a worker a copy of his contract of employment at least one week before the departure of the fishing vessel on a fishing trip.

(2) The contract shall contain, inter alia, the following –

- (a) the duration of the contract, date of the coming into operation and the date of termination of the contract;
- (b) the hours of work to be mutually agreed by the employer and the worker;
- (c) the agreed remuneration;
- (d) the intervals at which remuneration shall be paid and the name of the worker's representative, if any, as specified in paragraph 2;
- (e) the allowance payable on public holidays as specified in paragraph 12;
- (f) the allowance payable for days on which fishing cannot be undertaken as specified in paragraphs 1(1)(b) and (3)(b);
- (g) the allowance payable on days where the worker is on sick leave as specified in paragraph 11;
- (h) the date of the payment of the end of year bonus; and
- (i) fringe benefits granted by the employer.

(3) The duration of a contract of employment shall not exceed 75 days.

4. Issue of payslip

Every employer shall issue to a worker, at the time of paying his wages, a payslip stating inter alia –

- (a) the name and the National Pension Registration number of the employer;
- (b) the name, National Identity Card number, category and date of signature of the contract of employment;
- (c) the total catch;
- (d) the wages and every item of allowance and bonus, by whatever name called;
- (e) the total number of days on which he was present at work and details of leave taken, if any;
- (f) every deduction made and reasons thereof; and
- (g) the total earnings and net pay.

5. Articles sold on vessels

(1) Every employer shall attach to the worker's contract of employment, a list of articles to be sold on board the fishing vessel and their corresponding prices.

(2) A copy of the list referred to in subparagraph (1) shall be conspicuously displayed on the fishing vessel.

(3) The employer shall make soft drinks, snacks and other similar items readily available on board the fishing vessel.

(4) No employer shall allow credit facilities exceeding 4,800 rupees to a worker for articles purchased on board the fishing vessel during a fishing trip.

6. Alcoholic beverages

(1) No worker shall bring or consume any alcoholic beverage on board the fishing vessel.

(2) The shipmaster may confiscate any alcoholic beverage found in possession of a worker.

7. Repatriation in case of illness or injury

(1) Where repatriation of a worker becomes necessary due to illness or injury, the employer shall cause the worker to be transported to –

- (a) the State owned infirmary in Agalega or Saint Brandon, whichever is the nearer; or
- (b) any convenient vessel making way to Mauritius.

(2) Repatriation through transfer to another vessel or through any port in Madagascar, Seychelles or Diego Garcia shall take place in such conditions as to meet all reasonable requirements with regard to comfort and the employer shall be liable for the cost of maintaining the worker ashore until repatriation takes place.

(3) Every worker shall, at his employer's expense, be entitled to repatriation to the place of his original engagement or home, whichever place is more convenient to the worker.

(4) Every employer shall advise the family of the worker of the date of the arrival of the worker in Mauritius.

8. Equipment and related items

(1) An employer shall provide, free of charge to the workers –

- (a) every tool and equipment for fishing, except hooks and lines;
- (b) life jackets;
- (c) cutlery;
- (d) accommodation of adequate size and standards, including bedding and one mattress for every worker;
- (e) a dory for every group of 3 banks fishermen;
- (f) one plastic container for fresh water to every worker; and
- (g) 3 kilogrammes of sinkers per day to every bank fisherman.

(2) The dory provided to the workers shall be fitted with an outboard motor and equipped with other safety equipment, including a radio communicator and one flare gun for every worker.

9. Meals, tea and water

Every employer shall provide a worker, free of charge on a daily basis, with –

- (a) an adequate breakfast comprising bread, butter, jam, cheese, and tea or coffee;
- (b) adequate midday and evening meals comprising the following cooked ingredients according to the weekly menu affixed in advance on the notice board of the fishing vessel –
 - (i) rice other than *du riz ration* and rice sweepings;
 - (ii) meat, chicken or fish; and
 - (iii) at least one vegetable and/or pulses per meal;
- (c) bread with butter, jam, cheese and tea, as appropriate; and
- (d) not less than 3 litres of potable water.

10. Insurance

Every employer shall subscribe to a non-contributory insurance policy in the sum of not less than 150,000 rupees for the benefit of a worker to cover death or injury by accident arising out of and in the course of the worker's employment.

11. Sick leave

(1) Where a worker is unable to work and has been certified to be sick by a medical officer who is on board, or in his absence by the shipmaster, the employer shall, in lieu of remuneration, pay a daily allowance of –

- (a) 305.45 rupees to a banks fisherman; and
- (b) 450.77 rupees to a frigo-worker.

(2) Where a worker is disembarked at any port or transferred to any other vessel at sea due to sickness, he shall be paid his allowance as specified in subparagraph (1) until he has been repatriated at the employer's expense to his home or to the place of his original engagement, whichever place is the more convenient to the worker.

(3) On repatriation of a worker due to sickness, the employer shall pay the allowance specified in subparagraph (1) within a delay of 24 hours of the disembarkation of the worker.

12. Work on public holidays

Where a worker performs work on a public holiday, the employer shall pay to the worker, in addition to his remuneration, an allowance of –

- (a) 305.45 rupees to a banks fisherman; and
- (b) 450.77 rupees to a frigo-worker.

13. End of year bonus

(1) An employer shall pay an end of year bonus to a worker within 4 working days of the end of the fishing trip.

(2) The end of year bonus shall be equivalent to one-twelfth of the worker's earnings for the period of his employment during the trip, irrespective of whether he is in employment with the employer as at 31 December or not.

14. Allocation of frozen fish

Every worker shall opt to receive a minimum of 10 kilogrammes of frozen fish, free of charge, or an allowance of 1,000 rupees at the end of the fishing trip.

15. Death grant

Where a worker dies –

- (a) in the execution of his functions during a fishing trip; or
- (b) while he is travelling by another vessel or by air, for the purpose of repatriation under paragraph 7(1) and (2), or as a result of any marine or other similar peril,

the employer shall pay a death grant of 3,500 rupees –

- (i) to the surviving spouse of the deceased worker; or
 - (ii) where the deceased worker leaves no spouse, to the person who satisfies the employer that he has borne the funeral expenses of the deceased worker.
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