

*Government Notice No. 232 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 Information and Communication Technologies and Other Related Services (Remuneration) Regulations 2019.

2. In these regulations –

“business process services” includes services such as finance and accounting, human resources, customer services, procurement, supply chain, insurance, banking and financial services, knowledge process outsourcing and legal process outsourcing;

“employee” –

(a) means any person employed in information and communication technologies services and other related services; 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 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 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;

“information and communication technologies services” includes any entity –

- (a) carrying on a business or engaged in any commercial activity involving the use of information, communication, telecommunications, computers and other electronic equipment and software, storage and audiovisual systems, which enable users to access, store, transmit and manipulate information electronically; or
- (b) engaged in business process services which involve the contracting of the operations and responsibilities of specific business functions of an organisation to a third party service provider;

“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;

“shift work” means work organised in 2 or more shifts during a period of 24 hours;

“watchperson” means an employee who –

- (a) keeps watch over premises and property; and
- (b) carries out periodic inspection tours within the premises and keep records;

3. (1) Subject to paragraph (2) and to regulations 4 and 5, an employee shall be –

- (a) governed by the conditions of employment specified in –
  - (i) the Workers' Rights Act 2019; and
  - (ii) the Schedule;
- (b) remunerated at the rate which shall include –
  - (i) the appropriate national minimum wage payable under the National Minimum Wage Regulations 2017; and
  - (ii) the additional remunerations payable under the Additional Remuneration and Other Allowances (2018) Act 2017 and the Additional Remuneration and Other Allowances (2019) Act 2018.

(2) Where the conditions of employment in the Workers' Rights Act 2019 are different from those in the Schedule, the conditions specified in the Schedule shall prevail.

4. Every employee shall be entitled to a rest day of 11 consecutive hours.
5. Where an employer employs more than one watchperson, the conditions of employment of the watchpersons shall be governed by the Private Services Employees (Remuneration) Regulations.
6. Notwithstanding paragraphs 1(5) and 2(2) of the 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 12 hours' work on any day;
  - (b) the watchperson 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.

7. 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 Schedule; or
    - (ii) remunerating the employee at a rate higher than the rate specified in regulation 3(1)(b);
  - (b) authorise an employer –
    - (i) to reduce the wages of an employee; or
    - (ii) subject to section 57 of the Employment Relations Act, to alter conditions of employment of the employee so as to make them less favourable.
8. Subject to paragraph 5(3)(b) of the First Schedule, these regulations shall come into operation on 24 October 2019.

Made by the Minister on 25 October 2019.

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**SCHEDULE**

[Regulations 3, 6 and 7]

**CONDITIONS OF EMPLOYMENT****1. Normal working hours**

(1) The normal working week for every employee, other than a watchperson, may begin on any day, whether or not a Sunday or public holiday which is not a Sunday and shall consist of 45 hours' work, excluding time allowed for meal and tea breaks.

(2) Every employee shall be entitled, on every working day, to a meal break of at least 30 minutes and 2 tea breaks of 15 minutes each.

(3) Except where his services are required in special circumstances, an employee shall be entitled to one rest day in any working week, and the rest day shall, at least twice a month, be a Sunday.

(4) An employee shall not be required, whether on shift or otherwise, to work continuously for a period exceeding 12 hours.

(5) The normal working week for a watchperson shall consist of 48 hours' work, made up of 8 hours' work on any working day, whether or not a public holiday.

**2. Payment of remuneration for extra work**

(1) Subject to paragraph 3, an employee, other than a watchperson, who –

(a) works on a public holiday or a weekly rest day shall be remunerated –

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

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- (ii) thereafter, at 3 times the basic rate,  
for every hour of work;
  - (b) performs more than 45 hours' work 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.
- (2) Subject to paragraph 3, a watchperson who –
- (a) works on a public holiday or weekly rest day shall be remunerated –
    - (i) for the first 8 hours, at twice the basic rate; and
    - (ii) thereafter, at 3 times the basic rate,  
for every hour of work;
  - (b) performs more than 48 hours' work 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.

### **3. Payment of remuneration for public holiday**

(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 paragraph 2.

(3) Any agreement by an employee to relinquish his right to a paid public holiday or to forego such leave shall be null and void.

#### **4. Notional calculation of basic rate**

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

- (a) a month shall be deemed to consist of 26 days; and
- (b) a day shall be deemed to consist of 8 hours.

#### **5. Shift work**

(1) An employer may request an employee to work on shift work.

(2) Shift work shall be scheduled on a weekly basis.

(3) (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.

(4) 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

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least 6 consecutive hours between 6 p.m. and 6 a.m. the following day.

(5) 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.

(6) (a) A copy of the weekly 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 weekly 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 performs on night shift, he shall, in addition to his normal day's wage, be paid an allowance of 15 per cent of his basic wage in respect of each number of hours of work performed from 10 p.m to 6 a.m the following day.

## **6. Vacation leave**

(1) Subject to subparagraphs (2) and (3), 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.

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