

Domestic Workers (Remuneration) Regulations 2010

GN No. 223 of 2010

THE EMPLOYMENT RELATIONS ACT 2008

Regulations made by the Minister under section 93 of the Employment Relations Act 2008

- 1. These regulations may be cited as the Domestic Workers (Remuneration) Regulations 2010.**
- 2. In these regulations -**

"caretaker" means a worker who is employed in an apartment house and is required to perform one or more of the following duties -

- (a) clean and maintain the yard of an apartment house;
- (b) clean and maintain the common parts of the apartment house, including staircases;
- (c) check all the lights of the apartment house and replace fused bulbs;
- (d) clean and maintain all drain pipes, outlets, manholes, grease traps, gullies and other related equipment;
- (e) clean and disinfect all water tanks and garbage dumps;
- (f) operate electric water pumps;
- (g) any other cognate duties;

"cook" means a worker who is required to perform one or more of the following duties -

- (a) prepare and cook food for the household members and guests;

- (b) serve food to the household members and guests;
- (c) be responsible for -
 - (i) the cleanliness of the place of work; and
 - (ii) the cleanliness of the crockeries, cutleries, plates and utensils under his care;
- (d) perform any other cognate duties;

"domestic worker" means a worker listed in the first column of the First Schedule;

"driver" means a worker who holds a driving licence and who is required to perform one or more of the following duties -

- (a) drive a car for the transport of members of the household or any other person at the request of the employer;
- (b) run errands;
- (c) be responsible for the daily maintenance and cleanliness of the car;

"earnings" -

- (a) means basic wages; and
- (b) includes -
 - (i) wages for work done in excess of a normal day's work or on a public holiday;
 - (ii) remuneration paid under paragraphs 2, 5, 6, 7(1)(a), (3) and (6), 8 and 13 of the Second Schedule;

"gardener" means a worker who is required to perform one or more of the following duties -

- (a) plant, treat and cultivate flowers, shrubs, trees and vegetables;
- (b) mow lawns;
- (c) trim hedges;
- (d) maintain paths and gardens;

“garde-malade” means a worker who is employed for the purpose of looking after a sick or a disabled person;

“house” -

- (a) means a private dwelling or a bungalow; and
- (b) includes the land attached to the private dwelling or bungalow;

"household worker" means a worker who is required to perform one or more of the following duties -

- (a) undertake manual work in a house;
- (b) run errands;
- (c) baby-sit;

"household worker/cook" means a worker who is required to perform one or more of the duties of a cook and of a household worker;

"part-time worker" means a domestic worker whose normal weekly working hours are less than those specified at paragraph 1 of the Second Schedule.

- 3.** (1) Subject to the other provisions of these regulations, every domestic 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 appropriate additional remuneration payable under the Additional Remuneration (No. 2) Act 2009.
- 4. An agreement by a domestic worker to relinquish his right to a paid holiday or to forego such leave shall be void.
- 5. (1) Nothing in these regulations shall prevent an employer from -
 - (a) paying a domestic worker remuneration at a rate higher than that specified in the First Schedule; or
 - (b) providing him conditions of employment more favourable than those specified in the Second Schedule.
- (2) No employer shall -
 - (a) pay a domestic worker remuneration at a rate lower than that specified in the First Schedule;
 - (b) alter a domestic worker's conditions of employment so as to make them less favourable than those specified in the Second Schedule.
- 6. The Domestic Workers (Remuneration Order) Regulations 1983 are revoked.
- 7. These regulations shall come into operation on 1 December 2010.

Made by the Minister on 23 November 2010.

FIRST SCHEDULE

[Regulation 3(1)(a)]

Category of worker	Monthly basic wages (Rs)	Hourly rate (Rs)
Cook	4,225	20
Driver	6,150	30
Gardener	5,000	24
Garde-malade	5,100	16
Household worker	4,025	19
Watchperson	5,500	18
Household worker/cook	4,600	22
Caretaker	5,000	24

SECOND SCHEDULE

[Regulation 3(1)(b)]

1. Normal working hours

- (1) A normal working week for a domestic worker, other than a watchperson and a garde-malade, shall be of 48 hours.
- (2) A normal working day for every domestic worker, other than a watchperson and a garde-malade, shall be of 8 hours to be performed between 6 a.m. and 10 p.m.
- (3)
 - (a) The normal working day for a watchperson and a garde-malade shall consist of 12 hours.
 - (b) A watchperson or a garde-malade who works regularly on Sundays shall be entitled to 3 days' leave without pay in every month, one of the days being a Sunday.
- (4) Every domestic worker shall be entitled on every working day to a lunch break of one hour.

2. Extra work

- (1) A domestic worker, other than a watchperson or a garde-malade, shall be remunerated at –
 - (a) one and a half times the basic rate for work done in excess of 8 hours or after 10 p.m. on any day other than a public holiday;
 - (b) twice the basic rate for the first 8 hours' work performed on a public holiday before 10 p.m.;
 - (c) 3 times the basic rate for work done in excess of 8 hours or after 10 p.m. on a public holiday.
- (2) A watchperson or a garde-malade who -

- (a) performs more than a normal day's work on any day, other than a public holiday, shall be remunerated at one and a half times the basic rate;
- (b) works on a public holiday shall be remunerated -
 - (i) for the first 12 hours, at twice the basic rate;
 - (ii) thereafter, at three times the basic rate.

3. Notional calculation of basic rate

In calculating the remuneration payable to a domestic worker -

- (a) a month shall be deemed to consist of 26 days;
- (b) the basic hourly rate shall be the appropriate rate specified in the First Schedule or the rate actually paid to the domestic worker, whichever is the higher.

4. Payment of wages

- (1) Every employer shall pay the wages due to a domestic worker during working hours, not later than the last working day of the pay period.
- (2) Every employer shall cause every domestic worker, to whom remuneration is paid, to sign or affix his thumbprint to a remuneration book stating the particulars of the remuneration paid.

5. Extra remuneration for public holidays

- (1) Where a domestic worker, other than a monthly paid worker, remains in continuous employment with the same employer for a period of 12 consecutive months, that worker shall be entitled, in the following 12 months, to a normal day's pay in respect of every public holiday, other than a Sunday, that occurs while he is in the service of the employer and on which he is not required to work.
- (2) Where a domestic worker who would otherwise have been entitled to a normal

day's pay under subparagraph (1) or a monthly paid domestic worker is required to work on a public holiday, other than a Sunday, that domestic worker shall be paid at the end of the next pay period one normal day's pay in addition to any remuneration due under paragraph 2.

6. Annual and sick leaves

- (1) Where a domestic worker is required to work not less than 6 days in a week and has been in continuous employment with the same employer for 12 consecutive months, that worker shall be entitled during the following 12 months to -

- (a) 14 days' annual leave; and
- (b) 21 days' sick leave, on full pay.

- (2) Where a part-time worker is required to work less than 6 days in a week; that domestic worker shall be entitled to leave computed in accordance with the following formula -

$$N/W \times \text{number of days of leave granted under subparagraph (1), where "N" means the number of days that worker is required to work in a week, and "W" means the number of working days in a week of a comparable full-time worker.}$$

- (3) Where a domestic worker absents himself on grounds of sickness, that worker shall notify his employer on the first day of absence, and if he remains sick for more than 3 consecutive working days, he shall forward to his employer a medical certificate -

- (a) on the fourth day of absence; or
- (b) where the domestic worker is admitted to a hospital, public or private, within 3 days following his discharge.

- (4) An employer may, at his own expense, cause a medical practitioner to examine a domestic worker who is absent owing to sickness.

7. Maternity benefits

- (1) A female domestic worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding her confinement shall, on production of a medical certificate, be entitled to -
 - (a) 12 weeks' maternity leave on full pay to be taken either -
 - (i) before confinement, provided that at least 6 weeks' maternity leave shall be taken immediately following the confinement; or
 - (ii) after confinement; and
 - (b) an allowance of 2,000 rupees payable within 7 days of her confinement.
- (2) Where a female part-time worker remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave, she shall, on production of a medical certificate, be entitled to an allowance computed in accordance with the following formula -

$N/W \times \text{amount specified in subparagraph (1)(b)}$, where "N" means the number of days of work she is required to perform in a week and "W" means the number of working days in a week of a comparable full-time worker.
- (3) Where a female domestic worker who remains in continuous employment with the same employer for a period of 12 consecutive months gives birth to a still-born child and the still-birth is duly certified by a medical practitioner, she shall be entitled, upon the recommendation of her medical practitioner, to opt either for -
 - (a) 2 weeks' maternity leave on full pay; or
 - (b) 12 weeks' maternity leave on full pay.
- (4) Where a female domestic worker opts for 12 weeks' maternity leave on full pay under subparagraph (3)(b), it shall be deemed that she has taken paid leave due for one confinement.

- (5) A female domestic worker who has, at any time, had 3 confinements or reckons less than 12 months' continuous employment shall not be entitled to the benefits specified in subparagraph (1)(b) but shall be entitled to the maternity leave specified in subparagraphs (1)(a) or (3) as the case may be, without pay.
- (6) Where a female domestic worker suffers a miscarriage, which is duly certified by a medical practitioner, she shall be entitled to 2 weeks' leave on full pay immediately after the miscarriage.
- (7) (a) A female domestic worker who is nursing her unweaned child shall, for that purpose, be entitled every day at a time convenient to her and having regard to the needs of the child to at least -
 - (i) 2 breaks of half-hour; or
 - (ii) one break of one hour.
- (b) The break specified in subparagraph (a) shall -
 - (i) be for a period of 6 months from the date of confinement or such longer period as may be recommended by a medical practitioner; and
 - (ii) not be deducted from the number of hours of work of the female worker.

8. Wedding leave

Where a domestic worker remains in continuous employment with the same employer for a period of 12 consecutive months, that domestic worker shall be entitled to 3 days' wedding leave on full pay on the occasion of the celebration of the worker's first religious or civil marriage.

9. Protective clothing and equipment

- (1) Every employer shall provide -
 - (a) 2 aprons every year to every household worker, cook or household

worker/cook;

- (b) one pair of boots and 3 pairs of gloves every year to every gardener working under not less than a 5-day week contract; and
 - (c) a serviceable flashlight to every watchperson performing night duties.
- (2) The protective clothing and equipment provided under subparagraph (1) shall remain the property of the employer.

10. Travelling benefits and facilities

- (1) An employer shall, where the distance between a domestic worker's residence and his place of work exceeds 3 kilometres, provide him with free transport from the residence to the place of work and from the place of work to his residence, or pay him the equivalent of the return bus fare.
- (2) An employer shall, irrespective of the distance between a domestic worker's residence and the place of work, provide him with free transport from his residence to the place of work and from the place of work to his residence, where the worker is required by his employer to attend or cease work at any time when no public service bus is available.
- (3) Subject to subparagraph (2), where the distance between a domestic worker's residence and his place of work exceeds 3 kilometres and where he attends work by his own means of transport, he shall be entitled to an allowance equivalent to the corresponding return bus fare.

11. Meal Allowance

- (1) Where a domestic worker is required to work -
 - (a) beyond 6.00 p.m. after the completion of a normal day's work;
 - (b) at a place other than his normal place of work,
- that worker shall, in addition to any payment due under paragraph 2, be provided

with an adequate free meal or a meal allowance of 50 rupees.

- (2) Every employer shall make necessary arrangement for the provision of an adequate free meal in circumstances in which the domestic worker may otherwise be deprived of a meal.
- (3) The meal allowance shall be paid to the domestic worker before the performance of the extra work.

12. Disturbance Allowance

- (1) A domestic worker who is required by his employer to work at a place other than his normal working place shall be entitled to an allowance of not less than 50 rupees daily.
- (2) No domestic worker shall be compelled by his employer to work in and stay outside his normal place of employment for a period exceeding 3 consecutive days.

13. Vacation Leave

- (1) A domestic worker who remains in continuous employment with the same employer for a period of at least 10 years, shall be entitled to a vacation leave of not less than 2 months to be spent wholly or partly abroad, or locally, at the worker's discretion.
- (2) Subject to subparagraph (1), at least one month of the vacation leave shall be with pay, and such pay shall, in case the domestic worker intends to spend the vacation wholly or partly abroad, be effected in advance and at least 7 days before he proceeds abroad.
- (3) A vacation leave shall be deemed to constitute attendance at work.

14. Gratuity at death

- (1) Subject to subparagraph (2), where a domestic worker dies, an employer shall pay a gratuity to the spouse of the deceased worker or, where there is no

surviving spouse, in equal proportions to the dependants of the deceased worker, irrespective of any benefits the spouse or the dependants of the deceased worker may be entitled to under the National Pensions Act.

(2) A domestic worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of not less than 10 years.

(3) The gratuity referred to in subparagraph (1) shall be -

(a) calculated on the basis of 15 days' remuneration for every period of 12 months' continuous service of the deceased worker; and

(b) paid in a lump sum.

(4) In this paragraph -

"continuous service" shall be computed as from the first day of the period during which a deceased worker has been in continuous employment with the same employer up to his last day of employment;

"remuneration" -

(a) means all emoluments, in cash or in kind, earned by a domestic worker under an agreement;

(b) includes any sum paid by an employer to a domestic worker to cover expenses incurred in relation to the special nature of his work;

"spouse" means the person with whom a deceased worker had contracted a civil or religious marriage and with whom he or she was living under a common roof at the time of the worker's death; and

"dependant" means any person who was living in a deceased worker's household and was wholly or partly dependent on his earnings at the time of his death.

15. End of year bonus

- (1) Where a domestic worker remains in continuous employment with the same employer in a year, the worker shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.
 - (2) Every domestic worker who -
 - (a) takes employment during the course of the year;
 - (b) is still in employment as at 31 December; and
 - (c) has performed a number of normal days' work equivalent to not less than 80 per cent of the working days during his employment in that year,shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.
 - (3) Seventy-five per cent of the expected bonus specified in subparagraphs (1) and (2) shall be paid not later than 5 clear working days before 25 December and the remaining balance not later than on the last working day of the same year.
 - (4) For the purpose of this paragraph, a day where a domestic worker -
 - (a) is absent with the employer's authorisation;
 - (b) reports for work but is not offered work by the employer; or
 - (c) is absent on grounds of -
 - (i) illness after notification to the employer under paragraph 6(3); or
 - (ii) injury arising out of and in the course of his employment,shall count as a working day.
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