

THE INDUSTRIAL RELATIONS ACT

Regulations made by the Minister under section 96 of the Industrial Relations Act

1. These regulations may be cited as the Cinema Employees (Remuneration Order) Regulations 2005.

2. In these regulations -

"assistant projectionist" means an employee who assists the projectionist in his duties and is able, in the absence of the projectionist, to operate a projection equipment and its sound producing equipment;

"box-office attendant" means an employee who sells or delivers tickets, receives cash from the public and is accountable therefor to his employer;

"café" means a space in a cinema lobby where soft drinks, ice-cream, lollies, nibbles and the like are sold;

"café assistant" means an employee who performs the following duties –

- (a) fills the selling tray with articles collected from the café;
- (b) sells ice-cream, lollies, nibbles and the like inside viewing halls;
- (c) receives cash and is accountable therefor to the café keeper; and
- (d) returns any unsold articles to the café;

"café keeper" means an employee who is in charge of a café and who, for the purposes of running it, -

- (a) displays and sells soft drinks, ice-cream, lollies, nibbles and the like;
- (b) replenishes stock as and when required;
- (c) records items issued to the café assistant; and
- (d) is responsible for cash sales, keeps relevant records and is accountable therefor to his employer;

"caretaker/cleaner" means an employee who watches over the premises of a cinema after an evening performance and, before going off-duty, cleans the viewing halls;

"casual employee" means an employee engaged occasionally;

"cinema" means a theatre which consists of one or more viewing halls used for the projection of films and accommodation of viewers;

"cleaner" means an employee who cleans the premises of a cinema and who may be required to stick bills and perform other cognate duties;

"continuous employment", for the purposes of paragraphs 2,7, 8 and 9 of Part II of the Second Schedule, means –

- (a) in respect of employees specified in Part I of the First Schedule, 195 days' work in any period of 12 consecutive months including Sundays and other public holidays;
- (b) in respect of employees specified in Part II of the First Schedule, 312 shows in any period of 12 consecutive months;

"driver" means an employee who –

- (a) drives a motor vehicle used in the transport of equipment, material and personnel;
- (b) is responsible for keeping the motor vehicle clean and in good running order; and
- (c) may be required to effect minor repairs to the motor vehicle;

"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) in the case of an employee specified in Part II of the First Schedule, any amount earned for additional shows;
 - (iii) remuneration paid under paragraphs 2, 3, 7(1), 8, 10, and 11(1) (a), (2) and (4) of Part II of the Second Schedule; and
 - (iv) any productivity payment;

"employee" –

- (a) means a person who is employed by an employer in the cinema industry;
- (b) does not include a person governed by any other (Remuneration Order) Regulations;

"employer" means an employer in the cinema industry;

"good and sufficient cause" includes –

- (a) illness or injury certified by a medical practitioner;

(b) absence authorized by an employer;

"helper" means an employee who accompanies a driver in a motor vehicle for the purpose of carrying, loading and unloading of equipment and material to be conveyed, or which has been conveyed;

"Minister" means the Minister to whom responsibility for the subject of Labour and Industrial Relations is assigned;

"officer" means the Permanent Secretary of the Ministry responsible for the subject of Labour and Industrial Relations or any public officer duly authorised by him;

"productivity payment" -

(a) means all sums of money, by whatever name called, paid to any employee, in respect of any work performed by him, in addition to the basic wages agreed upon between him and his employer, or prescribed, as the case may be, and exclusively related to productivity;

(b) does not include payments such as meal allowance, transport allowance or any other allowances or payments not related to productivity;

"projectionist" means an employee who may be required to perform one or more of the following duties -

(a) operate projection equipment and the corresponding sound producing equipment during a show from one projection booth;

(b) stick films together and un-stick them later after projection as per instructions from the employer or his representative;

(c) attend to film breakages and effect necessary repairs;

(d) rewind projected films;

(e) maintain the projection and sound producing equipment clean and effect minor repairs to the said equipment;

(f) cut and re-adjust a film reel in accordance with the instructions given by, or on behalf of, his employer;

(g) keep a record of films entrusted to him for projection purposes;

"prolonged illness" means the period of illness of an employee which is -

(a) wholly spent in a clinic or hospital; or

(b) spent at home for the recuperation of his health, on the recommendation of a medical practitioner of a clinic or hospital or of a panel of doctors agreed upon between the employer and the employee or the employee's trade union representative;

"show" means the projection of -

- (a) one or more films within a viewing hall at one session; or
- (b) one film in more than one viewing hall within a cinema simultaneously or successively, provided that in the latter case the time lag between the start of the projection in one viewing hall and the start of the projection in the second or more viewing halls, does not exceed half an hour;

"store assistant" means an employee who -

- (a) delivers from, and receives at, the premises of the cinema or any other place held by the employer, film reels and other equipment;
- (b) repairs films which are in his custody; and
- (c) is responsible for recording and controlling the stock;

"ticket controller" means an employee who -

- (a) controls admittance to viewing halls;
- (b) is responsible for receiving and checking admission tickets; and
- (c) is accountable therefor to his employer;

"usher" means an employee who is responsible for ushering viewers to their seats.

3. For the purpose of computing an employee's continuous employment -

- (a) every day on which an employee is absent on approved leave including annual leave, sick leave, prolonged illness and maternity leave,
- (b) every day on which an employer is unable to provide work,
- (c) every day on which a cyclone warning Class III or IV is in force, or
- (d) every day on which an employee is absent on injury leave, following injury arising out of and in the course of his employment,

shall be deemed -

- (i) in respect of an employee specified in Part I of the First Schedule, to be a day on which he has worked;
- (ii) in respect of an employee specified in Part II of the First Schedule, to be a day on which he has worked for one show.

4. Every employee specified in Part II of the First Schedule may be required -

- (a) to report for duty not later than one hour before the time scheduled for the start of a show; and
 - (b) to stay at the place of employment for half an hour after the show.
- 5. The post of box-office attendant, ticket controller and usher may, at the employer's discretion, be interchangeable and filled by two or more persons.
- 6. (1) Subject to regulation 12, every employee 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 include the appropriate additional remuneration payable under the Additional Remuneration Act 2005.
- 7. Subject to paragraph 3 of Part II of the Second Schedule, no projectionist shall be required to operate more than 3 projection equipment and their corresponding sound producing equipment during a show.
- 8. Where an assistant projectionist replaces a projectionist, he shall be paid the remuneration payable to the projectionist.
- 9. Every employee, other than a casual employee, shall be remunerated on a monthly basis.
- 10. (1) Every employer shall –
 - (a) keep a Wages Book and an Attendance Book, in the form set out in the Third and Fourth Schedules respectively;
 - (b) display a copy of these regulations in a conspicuous place in every cinema where he has employees.
- (2) The records specified in paragraph (1)(a) shall be produced by the employer for inspection on request made by the Minister or an officer.
- 11. Any agreement by an employee to relinquish his right to a paid holiday or to forego leave to which he is entitled shall be void.
- 12. Nothing in these regulations shall -
 - (a) prevent an employer from paying an employee remuneration at a rate higher than that specified in the First Schedule or from providing him with conditions of employment more favourable than those specified in the Second Schedule;
 - (b) authorise an employer to reduce an employee's remuneration or to alter his conditions of employment so as to make them less favourable.

13. The Cinema Workers (Remuneration Order) Regulations 1987 are revoked.
14. These regulations shall come into operation on 01 October 2005.

Made by the Minister on 12 September 2005.

FIRST SCHEDULE
(regulation 6)

PART I

<i>Category of Employee</i>				<i>Monthly Basic Wages</i>
				Rs
Driver	...	...	...	4726
Store Assistant	...	...	...	4091
Caretaker/Cleaner	...	...	...	4091
Cleaner	...	...	...	3146
Helper	...	...	...	3183

PART II

<i>Category of Employee</i>				<i>Basic Wages for up to 28 shows per month</i>	<i>Rates per show above 28 shows and for casual employees</i>
				Rs	Rs
Projectionist	...	...	...	4543	202.98
Assistant Projectionist	...	...	...	3560	158.89
Box-Office Attendant	...	...	...	3464	154.58
Ticket Controller	...	...	...	3464	154.58
Usher	...	...	...	3464	154.58
Café Keeper	...	...	...	3464	154.58
Café Assistant	...	...	...	2335	101.57

SECOND SCHEDULE

(regulation 6)

Part I

Work schedule

Sub-Part A

Provisions specifically applicable to employees of Part I of the First Schedule

- (1) The normal working week for every employee shall consist of 45 hours, made up of -
 - (a) 8 hours' work on each of 5 days of the week, excluding a meal break of one hour;
 - (b) 5 hours' work on one day which shall be the same day every week.
- (2) Subject to subparagraph (3) of this sub-part, where an employee -
 - (a) works on a public holiday, he shall be remunerated -
 - (i) for the first 8 hours at twice the basic rate per hour;
 - (ii) thereafter, at 3 times the basic rate per hour;
 - (b) performs more than a normal day's work on any day, other than a public holiday, he shall be remunerated in respect of the extra hours at one and a half times the basic rate per hour.
- (3)
 - (a) Subject to sub subparagraph (b), where an employee is required to perform extra work immediately after a normal day's work, he shall be granted a rest-period of 15 minutes after the normal day's work, or at a time to be mutually agreed between the employer and the employee.
 - (b) Such rest period shall not be reckoned as falling within working hours.
- (4) Every employee shall be entitled to be off on at least one Sunday in a month.

Sub-Part B

Provisions specifically applicable to employees of Part II of the First Schedule

- (1) Every employee, other than a casual employee, shall be provided with work for up to 28 shows a month and shall be remunerated at the appropriate rate specified in the second column of Part II of the First Schedule, unless he absents himself without good and sufficient cause.
- (2) Where an employee referred to in subparagraph (1) of this sub-part works for more than 28 shows in a month, he shall be remunerated for each additional show at the appropriate rate specified in the third column of Part II of the First Schedule.

- (3) A show performed on a public holiday shall be deemed to be two shows -
 - (a) for the purposes of subparagraphs (1) and (2) of this sub-part; and
 - (b) for the determination of continuous employment.
- (4) Casual employees shall be remunerated at the rate per show specified in the third column of Part II of the First Schedule.
- (5) Where a casual employee is required to work on a public holiday, he shall be remunerated for each show at twice the appropriate rate referred to in subparagraph (4) of this sub-part.
- (6) Every employee, other than a casual employee, shall be entitled to be off on at least one Sunday in a month.

Part II

Other Conditions of Employment

1. Notional calculation of basic rate

For the purpose of determining remuneration due -

- (a) for extra work or any other reason in respect of an employee referred to in Part I of the First Schedule -
 - (i) a month shall be deemed to consist of 26 days;
 - (ii) a day shall be deemed to consist of 8 hours;
- (b) in respect of an employee referred to in Part II of the First Schedule, a normal day's remuneration shall be equivalent to 1/28th of his remuneration specified in the second column of that Part.

2. Extra remuneration for public holidays

(1) Where an employee, other than a monthly paid employee or an employee specified in Part II of the First Schedule, has remained in the continuous employment of an employer, he shall be entitled 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.

(2) Where an employee specified in subparagraph (1) is called upon to work on a public holiday, other than a Sunday, he shall be paid at the end of the next pay period, in addition to the normal day's pay provided under subparagraph (1), any remuneration due under subparagraph (2)(a) of sub-part A of Part I of the Second Schedule.

(3) Where a monthly paid employee, other than an employee specified in Part II of the First Schedule, is called upon to work on a public holiday, other than a Sunday, he shall be paid at the end of the next pay period, in addition to his normal wage, any remuneration due under subparagraph (2)(a) of sub-part A of Part I of the Second Schedule.

3. Allowance to projectionist

Subject to regulation 7, where a projectionist is required to operate more than one projection equipment during a show, he shall be entitled to an allowance equivalent to 5% of his normal day's remuneration in respect of each additional projection equipment operated by him.

4. Payment of remuneration

- (1) Every employee shall be paid his wages during working hours -
 - (a) in the case of an employee, other than a casual employee, not later than the second working day in the following month;
 - (b) in the case of a casual employee, not later than the day following the day on which he has worked.
- (2) Every employer shall, at the time of paying the wages of an employee, issue to him a payslip stating *inter alia* -
 - (a) the employee's name, national identity card number, category and rates of pay;
 - (b) the total number of days/shows, as the case may be, on which he was present at work during the relevant pay-period;
 - (c) the number of hours of extra work or additional shows performed by him and the corresponding extra payment;
 - (d) his total wages and each item of allowance including any productivity payment;
 - (e) every deduction made and the reasons thereof.

5. Transport benefits and facilities

(1) Subject to subparagraph (3), where the distance between an employee's residence and his place of work exceeds 3 kilometres, his employer shall either provide him with free transport to and from his place of work, or pay him the equivalent of the return bus fare.

(2) Subject to subparagraph (3), where the distance between an employee's residence and his place of work exceeds 3 kilometres and where the employee attends work by his own means of transport, he shall be entitled to an allowance equivalent to the corresponding return bus fare.

(3) Where an employee 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 between the place of residence and the place of work, provide appropriate free means of transport –

(a) from the employee's residence to his place of work; or

(b) from the employee's place of work to his residence,

such transport being provided from, or up to, the nearest practicable place from the employee's residence.

(4) Where an employer provides transport for his employees, the said transport shall be properly fitted with well-secured seating and back-rest facilities.

6. Uniforms & protective equipment

(1) Every employer shall provide –

(a) 2 sets of uniform to every employee ; and

(b) 2 pairs of rubber gloves to every cleaner and caretaker/cleaner.

(2) The items provided under subparagraph (1) shall be first issued on assumption of duty by the employee and be renewed, in respect of the uniforms, not later than 31 March in every year, and in respect of the gloves, as and when they become unserviceable.

(3) An employee shall not be entitled to the re-issue to him of the uniforms and protective equipment referred to in subparagraph (1) by 31 March where he has assumed duty within a period of 6 months prior to that date.

(4) The uniforms and protective equipment provided under subparagraph (1) shall remain the property of the employer.

(5) Notwithstanding the provisions of subparagraph (1), the employer shall abide by the provisions of the Occupational, Safety, Health and Welfare Act.

7. Annual leave

(1) Subject to subparagraph (2), where an employee, other than a casual employee, has remained in the continuous employment of an employer, he shall be entitled to 16 working days' leave on full pay during the following 12 months.

(2) (a) Subject to sub subparagraph (b), 8 days of the leave may be taken either consecutively or otherwise, at the employee's discretion, provided he has given reasonable notice to his employer;

- (b) the employer shall not, without reasonable cause, withhold the granting of leave under sub subparagraph (a);
- (c) the remaining 8 days' leave shall be taken at such time as the employer and the employee may agree or, in default of agreement, at such time as the employer shall determine.

(3) Subject to subparagraph (4), where an employee has not taken or been granted all the leave to which he is entitled under subparagraph (1), he shall be paid a normal day's pay in respect of each day's annual leave still due at the end of the period of 12 months.

(4) Subparagraph (3) shall not apply where an employee is, before the expiry of the period of 12 months, dismissed for misconduct.

8. Sick leave

(1) Subject to subparagraph (2), where an employee, other than a casual employee, has remained in the continuous employment of an employer is sick, he shall, during the following twelve months be entitled to -

- (a) 21 days' sick leave on full pay; and
- (b) a further period of 25 days' sick leave on half pay for prolonged illness.

(2) (a) Where an employee absents himself on grounds of illness, he shall notify his employer of the fact not later than one hour before the start of the first show on the first day of absence, unless he is genuinely unable to do so, in which case he shall effect the notification on the second day of absence at latest.

(b) Where an employee referred to in sub subparagraph (a) remains ill for more than four consecutive days, he shall, in addition, forward to his employer a medical certificate -

- (i) where the employee was admitted to a hospital or similar institution, within 3 days following his discharge;
- (ii) in every other case, not later than the fifth day of absence.

(3) An employer may, with the employee's consent and at his own expense, cause a medical practitioner to examine an employee who is absent owing to illness.

9. Medical expenses

Where an employee, other than a casual employee, has remained in the continuous employment of an employer, he shall be entitled to the refund of expenses for a sum not exceeding Rs.1000 per year for his medical treatment and for any dental extraction.

10. Special leave

(1) Subject to subparagraph (2), every employee shall be entitled to 5 continuous working days' leave on full pay on the occasion of his marriage.

(2) No employee shall claim the leave specified in subparagraph (1) more than once.

11. Maternity protection

(1) Subject to subparagraph (3), where a female employee has remained in the continuous employment of an employer for 12 months immediately preceding her confinement, she shall, on production of a medical certificate, be entitled to -

- (a) 12 weeks' leave on full pay to be taken at her discretion either –
 - (i) before or after confinement, provided that at least 6 weeks' leave shall be taken immediately following the confinement; or
 - (ii) after confinement; and
 - (b) an allowance of Rs 2,000 payable within 7 days of her confinement.
- (2) (a) Where a female employee who has remained in the continuous employment of an employer for 12 months gives birth to a still-born child and such stillbirth is duly certified by a medical practitioner, she shall be entitled, upon the advice of her medical practitioner, to opt either for 2 weeks' leave on full pay or for 12 weeks' leave on full pay.
- (b) Where a female employee opts to take 12 weeks' leave, the leave shall be deductible from the 3 confinements as provided for under subparagraph (3).

(3) Where a female employee who has, at any time, had 3 confinements or reckons less than 12 months continuous employment is pregnant, she shall not be entitled to the benefits specified in subparagraph (1)(b) but she shall be entitled to the leave specified in subparagraph (1)(a) or (2), as the case may be, without pay.

(4) Where a female employee 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.

(5) Every female employee who has entered the seventh month of pregnancy shall be offered, as far as is reasonably practicable and at her request, all appropriate working facilities as may be recommended by her medical practitioner.

(6) Subject to subparagraph (7), where a female employee is nursing her unweaned child, she may require her employer to allow her at such time as is convenient to her -

- (a) a break of one hour daily ;or
- (b) a break of half an hour twice daily,

for the purpose of nursing her unweaned child.

(7) The employer may require a break referred to in subparagraph (6) to be taken immediately before or after a meal or tea break.

(8) No break under subparagraph (6) shall be deducted from the number of hours of work of the employee.

12. End of year bonus

(1) Every employee, including a casual employee, who has remained in the continuous employment of an employer for one year, shall be entitled at the end of that year to a bonus equivalent to 1/12th of his earnings for that year.

(2) Every employee, including a casual employee, 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 on which, or shows for which, he has been called upon to work by his employer in that year,

shall be entitled at the end of that year to a bonus equivalent to 1/12th of his earnings for that year.

(3) The employer shall pay 75% of the expected bonus specified in subparagraphs (1) and (2) not later than 5 clear working days before 25 December and the balance not later than on the last working day of the same year.

13. Overseas leave

(1) Every employer shall grant to every employee, other than a casual employee, reckoning continuous employment with him for a period of at least 15 years one overseas leave of at least two months to be spent wholly abroad.

(2) At least one month of the leave specified in subparagraph (1) shall be with pay, such pay being effected in advance and at least 7 days before the employee proceeds abroad.

(3) Such overseas leave shall be deemed to constitute attendance at work.

14. Gratuity on retirement before 60 on medical grounds

(1) Where an employee, other than a casual employee, who has been in the continuous employment of an employer for not less than 10 years retires before the age of 60 on the ground of permanent incapacity to perform his work duly certified by a Government Medical Practitioner, the employer shall pay a gratuity to the employee.

(2) The gratuity referred to in subparagraph (1) shall be paid in a lump sum calculated on the basis of 15 days' basic wages per year of service, irrespective of any benefits the employee may be entitled to under the National Pensions Act.

(3) For the purpose of subparagraph (2) -

(a) "the employee's years of service" shall be computed as from the first day of the period during which he has been in continuous employment with the same employer up to his last day of employment;

(b) "basic wages" means the employee's last drawn basic wages.

15. Death Grant

(1) Where an employee who has remained in the continuous employment of an employer for not less than 12 consecutive months dies, the employer shall pay an amount of 3500 rupees to –

(a) his spouse; or

(b) if he leaves no spouse, the person who satisfies the employer that he has borne the funeral expenses.

(2) For the purpose of subparagraph (1), "spouse" means the person with whom the employee had contracted a civil or religious marriage and with whom he was living under a common roof at the time of his death.

16. Gratuity at death

(1) Where an employee, other than a casual employee, who has been in the continuous employment of an employer for not less than 10 years dies, the employer shall pay a gratuity in the manner specified in subparagraph (2).

(2) The gratuity specified in subparagraph (1) shall be paid –

(a) in a lump sum calculated on the basis of 15 days' basic wages per year of service;

(b) to the deceased employee's spouse or, where he leaves no spouse, in equal proportions to his dependants; and

(c) irrespective of any benefits the deceased employee's spouse or the dependants may be entitled to under the National Pensions Act.

- (3) For the purpose of subparagraph (2) –
 - (a) the deceased employee's years of service shall be computed as from the first day of the period during which he had been in continuous employment with the same employer up to his last day of employment;
 - (b) "basic wages" means the deceased employee's last drawn basic wages.

- (4) For the purpose of subparagraph (2) –
 - (a) "spouse" means the person with whom the employee had contracted a civil or religious marriage and with whom he lived under a common roof at the time of his death; and
 - (b) "dependant" means any person who was living in the deceased employee's household and was wholly or partly dependent on his earnings at the time of his death.

THIRD SCHEDULE
(regulation 10)

WAGES BOOK – YEAR.....

Name of Employee : National Identity Card No.
.....

Category :

Date of Entry in Employment :

<i>Month</i>	<i>No of days worked/ No of shows performed</i>	<i>Wages</i>	<i>Remuneration for Overtime/ Extra Shows</i>	<i>Allowances or Other payment</i>	<i>Total</i>	<i>Deductions</i>	<i>Net Wages Paid</i>	<i>Signature of employee</i>

FOURTH SCHEDULE
(regulation 10)

ATTENDANCE BOOK – YEAR

Name of Employee : National Identity Card No.
.....

Category :

Date of Entry in Employment :

<i>Date</i>	<i>Time of arrival</i>	<i>Time of departure</i>	<i>No. of shows performed (where applicable)</i>	<i>Signature of employer</i>	<i>Signature of employee</i>