

Seychelles

Employment Act

Employment (Stevedore Conditions of Employment) Regulations, 2019

Statutory Instrument 55 of 2019

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Employment (Stevedore Conditions of Employment) Regulations, 2019

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Statutory Instrument 55 of 2019

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In exercise of the powers conferred by section 40 read with section 71 of the Employment Act, the Minister of Employment, Immigration and Civil Status after consultation with the unions, the employers of stevedores and representatives of stevedores, hereby makes the following Regulations—

1. Citation

These Regulations may be cited as the Employment (Stevedore Conditions of Employment) Regulations, 2019, and its provisions shall, save where otherwise provided herein, come into operation on 1st October, 2019.

2. Exemption

For the purpose of these Regulations, a stevedore shall, in accordance with section 25(4) of the Act, be exempt from the provisions of section 25 (2) and (3) of the Act.

3. Non-applicability

- (1) The Employment (National Minimum Wage) Regulations, 2007, as amended, shall not apply to stevedores.
- (2) These regulations shall not apply to a stevedore employed by an employer under a contract of continuous employment, a contract for a fixed term or a contract for part time employment.
- (3) Regulations 6 and 9(7) of the Employment (Conditions of Employment) Regulations, 1991 shall not apply to a stevedore.

4. Application of Employment Act, Employment (Conditions of Employment) Regulations, 1991 and the Regulations

Subject to Regulations 2 and 3, the provisions of the Act and the Employment (Conditions of Employment) Regulations, 1991 applicable to a casual worker, shall apply to a stevedore in so far as their provisions are not inconsistent with these regulations and where there is any inconsistency between any provision of the Act, the Employment (Conditions of Employment) Regulations, 1991, and these Regulations, the provisions of these Regulations shall prevail.

5. Interpretation

In these regulations, unless the context otherwise requires—

- (a) "Act" means the Employment Act, ([Cap 69](#));

- (b) "**annual wage**" means the aggregate gross amount of wages that a stevedore has earned from, or is entitled to be paid by, an employer for dock work performed for the employer during the relevant period;
- (c) "**committee**" means the Consultative Committee on Conditions of Employment of Stevedores constituted under regulation 11;
- (d) "**competent officer**" means a competent officer appointed under section 74 of the Employment Act, ([Cap 69](#));
- (e) "**dock work**" means the loading, unloading, handling, checking and inspecting of cargo directly into or from a ship within the confines of a port, ship bunkering, storing and other activities authorised by the Seychelles Ports Authority including the embarking, disembarking, tending mooring, checking ship draught and checking cargo;
- (f) "**employer**" means a person who employs a stevedore;
- (g) "**gratuity**" means gratuity referred to under regulation 7;
- (h) "**member**" means a member of the committee including the chairperson;
- (i) "**minimum annual wage**" means a sum not less than SCR 40,000/- as annual wage;
- (j) "**minister**" means the minister responsible for employment;
- (k) "**relevant period**" means the period of 12 months starting from 1st June and ending on 31st May of the following year;
- (l) "**stevedore**" means a dock worker engaged by the day and from day to day by an employer and who is paid on a daily or weekly basis who handles goods carried in and out by seagoing ship or vessels and who provides the ancillary services relating to those goods within Seychelles in transit vessels, in the harbour and in areas engaged in importation and exportation;
- (m) "**stevedore eligible for gratuity**" means a stevedore that has earned or is entitled to be paid the minimum annual wage as annual wage;
- (o) "**waiting time**" in relation to a stevedore, means a period not being working time where a stevedore is engaged by, and is at the disposal of, an employer at the dock to perform dock work; and
[Please note: numbering as in original.]
- (p) "**working time**" in relation to a stevedore, means any period during which the stevedore performs dock work for the employer.

6. Record

- (1) An employer of a stevedore shall keep in respect of that stevedore, a written record with the following information—
 - (a) his or her full name and surname;
 - (b) his or her national identity number;
 - (c) his or her residential address;
 - (d) his or her telephone number, if applicable;
 - (e) the name, contact details and address, whether residential or professional, of his or her next of kin;
 - (f) the date that the stevedore performs work for the employer;
 - (g) the working time, waiting time, or the tonnage achieved, as applicable;

- (h) the wages due to the stevedore;
 - (i) the deductions made from the wages of the stevedores and the amount actually paid to the stevedore; and
 - (j) the details of the dock work of the stevedore or the nature of the dock work performed by the stevedore.
- (2) The record required to be kept under subregulation (1) shall be kept in a manner and at such place acceptable to the competent officer.
- (3) The record shall be kept up-to-date and shall be available for inspection by the competent officer or other relevant public authority.

7. Gratuity

- (1) With effect from 1st June, 2019, an employer shall pay a stevedore eligible for gratuity, a gratuity equal to 4.5 percent of the annual wage.
- (2) The gratuity under subsection (1) shall be paid between the 1st June and 30th June of every year.
- (3) Notwithstanding subregulation (2), where a stevedore eligible for gratuity dies during the relevant period, the gratuity shall be due and payable within 30 days of a claim received by the employer from the surviving spouse, if the gratuity is money that the surviving spouse is entitled to under the law as personal chattels of the deceased stevedore, heirs, executors or legatees of the deceased stevedore, as applicable.
- (4) Where a stevedore has performed dock work for an employer during the period starting from the 1st of June, 2018, to the 31st of May, 2019, the employer shall pay the stevedore a gratuity equal to 3.5 percent of the gross amount of wages earned by the stevedore during that period.
- (5) The gratuity under subsection (4) shall be paid within 30 days of the commencement of these regulations.
- (6) The gratuity paid under subsection (1) shall be paid in lieu of the retainer fee and compensation that would have been payable to a stevedore for the said period under regulations 8 and 9 respectively of the Employment (Stevedore Conditions of Employment) Regulations, 2018.

[S.I. 36 of 2018]

8. Employment by several employers and eligibility to gratuity from each employer

A stevedore may be employed by one or more employer and may be eligible for a gratuity under regulation 7 from every employer that employs the stevedore and from whom the stevedore has earned or is entitled to be paid the minimum annual wage.

9. Health and safety

An employer that employs a stevedore shall adhere to the provisions of the Occupational Safety and Health Regulations, 1991 issued under the Occupational Safety and Health Decree.

[Cap. 151]

10. Grievance procedure

A stevedore who is aggrieved by a decision in respect of the payment or non-payment of gratuity or his or her right to gratuity under these regulations may register a grievance in accordance with section 64 read with Part II Schedule I of the Employment Act.

[Cap. 69]

11. The Consultative Committee on Conditions of Employment of Stevedores

- (1) The Minister may constitute a committee that shall be known as the Consultative Committee on Conditions of Employment of Stevedores.
- (2) The members of the committee shall be appointed by the Minister and shall consist of—
 - (a) a chairperson;
 - (b) a representative of the Seychelles Ports Authority;
 - (c) a representative of the Seychelles Fishing Authority;
 - (d) a representative of the department or ministry responsible for Finance;
 - (e) a representative of the department or ministry responsible for employment;
 - (f) a representative of each employer;
 - (g) a representative of unions for stevedores in consultation with the relevant unions; and
 - (h) a number of stevedores equal to the number of representatives of the employers in consultation with the unions representing stevedores.
- (3) The Minister shall publish the names of the members of the committee in the *Gazette*.
- (4) The Minister may consult with the committee on all matters relating to these regulations and any special conditions of work for stevedores including minimum wages for dock work.
- (5) The committee shall report on any matter referred to the committee by the Minister for consultation within a reasonable time.
- (6) A member shall hold office for a period of 2 years and shall be eligible to be re-appointed.
- (7) The committee shall meet as and when the Minister directs or as and when the Minister shall refer a matter to the committee.
- (8) The committee may invite experts or advisors to a meeting of the committee to give their expert views and opinions on matters referred to, or under consideration by, the committee.
- (9) Notwithstanding subregulation (4) and (7), the committee may, of its own motion or at the request of an employer or the member representing the unions for stevedores, convene a meeting to consider any matter relating to these regulations and any special conditions of work for stevedores or request the Minister to consult with the committee on the matter.
- (10) The provisions of regulations 6(2) to 6(5) of the Employment (National Consultative Committee on Employment) Regulations, 2010, shall apply *mutatis mutandis* in relation to the tenure of office of a member.

[S.I. 19/2010]

12. Minimum wage

- (1) An employer shall pay to a stevedore not less than the gross wage for the dock work specified in column 2 of the Schedule for every hour of working time or tonnage achieved during working time in the sum specified in the corresponding column 3 of the Schedule on the day and, where specified therein, at the time specified in column 4 of the Schedule.
- (2) An employer shall pay to a stevedore not less than the gross wage of SCR 40.30 for every hour of waiting time.
- (3) The minimum gross wage of a stevedore for loading and unloading of brine frozen fish specified in the corresponding column 2 of the Schedule shall be reviewed at the expiration of 12 months of the commencement of these regulations in consultation with the committee.

- (4) An employer shall not, by individual or collective agreement, pay a stevedore less than the minimum gross wage specified for waiting time under subregulation 2 and for the dock work specified in the Schedule.

13. Repeal of S.I. 36 of 2018

The Employment (Stevedore Conditions of Employment) Regulations, 2018, are hereby repealed.

Schedule

Column 1	Column 2	Column 3	Column 4
	Dock work	Minimum gross wage per hour or ton	Applicable days, and where applicable, time
1.	Cargo handling of dry bulk	SCR 44.10 for every hour of working time	Monday to Sunday
2.	Loading and unloading of containers	SCR 44.10 for every hour of working time	Monday to Sunday
3.	Loading and unloading of dry frozen fish	SCR 7.00 for every metric ton	Monday to Saturday until 5 p.m. on each day
4.	Loading and unloading of dry frozen fish	SCR 7.00 for every metric ton plus SCR 100.00 per hour of working time	After 5 p.m. on Monday to Saturday
5.	Loading and unloading of dry frozen fish	SCR 7.00 for every metric ton plus SCR 123.00* per day or part thereof	Sunday and public holiday until 4 p.m. on each day
6.	Loading and unloading of dry frozen fish	SCR 7.00 for every metric ton plus SCR 123.00* per day or part thereof plus SCR 100.00 per hour of working time	After 4 p.m. on Sunday and public holiday
7.	Loading and unloading of brine frozen fish	SCR 3.75 for every ton	Monday to Saturday until 5 p.m. on each day
8.	Loading and unloading of brine frozen fish	SCR 3.75 for every metric ton plus SCR 100.00 per hour of working time	After 5 p.m. on Monday to Saturday
9.	Loading and unloading of brine frozen fish	SCR 3.75 for every metric ton plus SCR 123.00* for every day or part thereof	Sunday and public holiday until 4 p.m. on each day
10.	Loading and unloading of brine frozen fish	SCR 3.75 for every metric ton plus SCR	After 4 p.m. on Sunday and public holiday

		123.00* for every day or part thereof plus SCR 100.00 per hour of working time	
11.	Loading and unloading of salt	SCR 2.40 for every metric ton	Monday to Saturday
12.	Loading and unloading of salt	SCR 2.40 for every metric ton plus SCR 123.00 for every day or part thereof	Sunday from and public holiday

NOTE: The rate of SCR 123 payable to a stevedore in rows 5, 6, 9 or 10 shall only be paid once for that day regardless of the number of times that he or she reports to work on that day.

MADE this 20th day of September, 2019.

Myriam Telemaque

Minister of Employment, Immigration and Civil Status