THE ADDITIONAL REMUNERATION ACT 1997

Act No. 10 of 1997

I assent

28th July 1997

C. UTEEM
President of the Republic

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Payment of additional remuneration
4. Employees paid otherwise than on a monthly basis
5. Powers of authorized officers
6. Jurisdiction
7. Offences
8. Regulations
9. Application of Act
10. Consequential amendment
11. Saving
12. Commencement

An Act

To provide for the payment of an additional remuneration to all employees of the private sector to compensate them for an increase in the cost of living

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Additional Remuneration Act 1997.

2. Interpretation

In this Act -

"appointed day" means 1 July 1997;

"additional remuneration", in relation to an- employee, means the appropriate amount determined in accordance with, or specified in, the second column of the Schedule and corresponding to the basic wage or salary payable to the employee and specified in the first column of that Schedule;

"authorised officer", in relation to an employee, means the Permanent Secretary of the Ministry of Labour and Industrial Relations or any public officer authorised by him;

"basic wage or salary

(a) means

(i) in relation to an employee whose basic wage or salary is prescribed, such basic wage or salary, whether or not the employee's actual wage or salary exceeds the prescribed wage or salary or the employee is remunerated on a piece rate basis or employed on task work;

(ii) in relation to an employee in respect of whom no wage or salary is prescribed or agreed upon in his contract of service, the total, amount, by whatever name called, earned by him as from the appointed day;

(iii) in every other case, the basic wage or salary agreed upon in his contract of service, whether or not the employee's actual wage or salary exceeds the agreed wage or salary or the employee is remunerated on a piece rate basis or employed on task work; and

(b) includes any previous additional remuneration granted by law; but

(c) does not include any allowance, commission or other benefit not forming part of an employee's wage or salary but given to him in addition to his wage or salary;

"employee" -

(a) means any person who works or has worked under a full time contract of service or apprenticeship, whether the contract is express or implied, oral or in writing, and whether the person is paid daily, weekly, monthly or otherwise; but

(b) does not include a public officer;

"Minister" means the Minister to whom responsibility for the subject of labour and industrial relations is assigned;

"part-time employee" means any person who works or has worked under a part-time contract of service or apprenticeship, whether the contract is express or implied, whether the person is paid daily, weekly, monthly or otherwise and whose normal hours of work are -

(a) not less than one nor more than 5 hours daily;

(b) not less than 6 nor more than 24 hours weekly.

3. Payment of additional remuneration

(1) Subject to subsection (4) and to section 9, every employer shall as from the appointed day, pay -

(a) to every employee other than a part-time employee in his employment, in addition to the basic wage or salary payable to the employee, the additional remuneration

(b) (i) to every part-time employee whose basic wage or salary is 2500 rupees per month or less, in addition to the basic wage or salary payable to him, an additional remuneration equivalent to not less than 8 per cent of his basic wage or

salary payable rounded up to the next rupee;

(ii) to every other part-time employee, in addition to the basic wage or salary payable to him, the additional remuneration payable to an employee.

(2) Where the wage or salary of an employee is paid partly by one employer and partly by another, each employer shall pay that part of the additional remuneration which bears the same proportion to the additional remuneration as the part of the wage or salary paid by him bears to the total wage or salary.

(3) Where an employer has paid during the period 1 July 1996 to 30 June 1997 an increase in wage or salary otherwise than by virtue of the Additional Remuneration Act 1996 or an award of the Permanent Arbitration Tribunal or by way of an increment or increase on promotion, and such increase was specified in writing, or agreed upon by the employee, as being an increase in wage or salary designed specifically to compensate the employee for an increase in the cost of living in respect of the above-mentioned period, there shall be sufficient compliance with subsection (1), in case such increase is less than the additional remuneration specified in subsection (1), if the employer pays the difference.

(4) Subject to subsection (5), where an employee is remunerated on a piece rate basis at rates prescribed in -

(a) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983;

(b) the Baking Industry (Remuneration Order) Regulations 1993;

(c) the Cinema Workers (Remuneration Order) Regulations 1987;

(d) the Tea Industry Workers (Remuneration Order) Regulations 1984; or

(e) in any other enactment,

such rates shall, as from the appointed day, be increased by 8 per cent.

(5) The piece rates prescribed in the enactments specified in subsection (4) or in any other enactment shall include any previous additional remuneration granted by law.

(6) Where civil or criminal proceedings are instituted against an employer under this Act in relation to an employee first employed by him on or alter the appointed day, it shall be a defence for the employer to prove that the wage or salary paid to the employee is not less favourable than all the pecuniary payments made to any other employee of the same grade.

4. Employees paid otherwise than on a monthly basis

Where an employee is remunerated otherwise than on a monthly basis, it shall be deemed, for the purpose of determining the appropriate additional remuneration, that a month, a fortnight or a week shall consist of such number of days as are prescribed in any other enactment or agreed upon in relation to that employee.

5. Powers of authorised officers

Notwithstanding any other enactment, an authorised officer, may for the purpose of ensuring compliance with this Act -

(a) enter any work premises or office of an employer;

(b) inspect any book or record kept by an employer in relation to his employees;

(c) request an employer to furnish him with any information or document which he may require;

(d) prosecute a person who commits an offence;

(e) enter any action on behalf of an employee.

6. Jurisdiction

Notwithstanding any other enactment

(a) in the Island of Mauritius, the Industrial Court;

(b) in Rodrigues, the Magistrate of Rodrigues;

(c) in the other islands under the jurisdiction of the State of Mauritius, the Magistrate visiting those islands,

shall have exclusive jurisdiction to hear and determine any civil or criminal proceedings under this Act.

7. Offences

Any person who-

(a) contravenes section 3 or any subsidiary enactment made under this Act;

(b) obstructs an authorised officer in the exercise of his powers under section 5;

(c) fails to comply with a request under section 5 (c) or, in complying with the request, furnishes any information or document which he knows or should have known to be false or misleading in a material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

8. Regulations

The Minister may make such regulations as he thinks fit for the purpose of this Act.

9. Application of Act

(1) This Act shall cease to apply in relation to any employee who is governed by an enactment where the enactment is amended after the commencement

of this Act to include specifically the increase provided by this Act, except where the actual wage or salary earned by an employee immediately before the appointed day exceeds the wage or salary prescribed for him under any enactment.

(2) Any reference to an employee in the definitions of "authorised officer" and "basic wage or salary" in sections 2 and in sections 3(2), 3(3), 3(4), 3(6), 4, 5 and subsection (1) of this section shall include a reference to a part-time employee.

10. Consequential amendment

The Industrial Relations Act is amended by adding, after section 96, the following new section -

96A. Power to make regulations to reflect payment of additional remuneration

(1) Notwithstanding sections 94 to 96, the Minister may, following the enactment of any law providing for the payment of additional remuneration, make such regulations as are necessary in order to reflect any such additional remuneration in the salary, wage or other remuneration payable under any regulations implementing any Remuneration Order governing any category of employees, to whom the additional remuneration is payable.

(2) Regulations made under subsection (1) may be by way of regulations amending regulations made to implement any Remuneration Order.

11. Saving

This Act shall be in addition to, and not in derogation of, any other enactment.

12. Commencement

This Act shall be deemed to have come into operation on the appointed day.

Passed by the National Assembly on the fifteenth day of July one thousand nine hundred and ninety-seven.

ANDRÉ POMPON
Clerk of the National Assembly

SCHEDULE
(section 2)

Monthly wage or salary	Rs / month
In respect of employees whose basic wage or salary is Rs 2,500 per month or less	8% rounded up to the next rupee or Rs 125 which ever is the higher
Above Rs 2500 up to Rs 3000	200
Above Rs 3000 up to Rs 4000	215

Above Rs 4000 up to Rs 5000	225
Above Rs 5000 up to Rs 6000	240
Above Rs 6000 up to Rs 7000	255
Above Rs 7000 up to Rs 8000	270
Above Rs 8000	285