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LEGAL NOTICE NO. 149 OF 2002

THE WAGES ACT, 1964
(Act No.16 of 1964)

THE REGULATION OF WAGES (MANUFACTURING AND PROCESSING INDUSTRY)
ORDER, 2002

(Under Section 11)

In exercise of the powers conferred on him by Section 11 of the Wages Act, 1964 the Minister for Enterprise and Employment hereby makes the following Order: -

Citation and Commencement.

1. This Order may be cited as the Regulation of Wages (Manufacturing and Processing Industry) Order 2002 and shall come into effect on the 1st December, 2002.

Application.

2. This Order shall apply to all persons employed in the Manufacturing and Processing Industries including the Manufacture of Bricks, Dry Cleaning and Laundry, Garment making, Knitting, Shoe Manufacture, Timber Processing, Printing and Weaving who are engaged in the occupations specified in the First Schedule.

Interpretation.

3. In this Order, unless the context otherwise requires -

“aligner” means an employee who aligns a finished product before final inspection with the aid of electronic test equipment;

“a.j.s Operator” means an employee who operates an automatic junior stitcher sewing machine;

“artisan” means an employee who is in possession of a Trade Test Certificate signed by a Trade Testing Officer appointed by the Government;

“assembler soldering” means an employee who solders and assembles components by hand;

“assembler-bottom components” means an employee who assembles good quality bottom components such as soles and insoles into specific batches according to the box loading plan;

“assembler-socks” means an employee who assembles good quality socks into batches according to article and size;

“assembler-upper components” means an employee who assembles good quality upper components such as vamps, quarters, etc into specific batches according to the box loading plan;

“assistant foreman baker” means an employee who is capable of manufacturing bread, adjusting bakery machinery and supervising the workers under his control;

"assistant foreman confectioner" means an employee who is capable of manufacturing and decorating several lines of confectionery, adjusting bakery machinery and supervising the workers under his control;

"bagger" means an employee who puts folded garment in the provided plastic bag;

"baker assistant" means an employee who assists a baker;

"backseam-reducer" means an employee who reduces the Beckom, join on leather quarters by means of a machine;

"binder assistant" means an employee who receives plain or printed matter from the machine for collating, stitching, padding, rounding corners, punching, folding, counting, numbering perforating, stapling, binding and basic guillotining, (although not essential)

"boiler operator" means an employee who operates a boiler;

"box folder" means an employee who folds and erects boxes ready for use;

"box labeller" means an employee who labels boxes with the information required to identify the contents thereof;

"box preparer" means an employee who collects and prepares boxes accordingly;

"blower" means an employee who carries out blowing duties in the manufacture of glassware according to specification;

"cabinet fitter" means an employee who fits accessories to a television cabinet;

"canteen assistant" means an employee who assists the canteen supervisor in preparing , cooking and dishing - up food in the employees canteen;

"canteen cashier" means an employee who assists the canteen supervisor in the control of cash receipts and also assists in the preparing, cooking and dishing-up of food in the employee's canteen;

"carder" means an employee who operates a carder machine and carries out simple lubrication on it;

"carton sealer" means an employee who seals cartons of finished goods for despatch to customers;

"casual labourer" mean an employee who is not employed for more than twenty four hours at a time;

"cattle buyer" means an employee who buys livestock for his employer;

"charge hand" means an employee who assists a supervisor to supervise employees;

"chassis fitter" means an employee who fits chassis components to television sets;

"cementer" means an employee who applies adhesives to a surface by means of either a brush or machine;

“chef “ means an employee who is responsible for the cooking of food for the employee’s canteen;

“checker” means an employee who checks and records outgoing and incoming goods;

“cleaner” means an employee who is responsible for the cleaning of a factory, offices, toilets and canteen and /or tea-making duties;

“clerk/storeman (with Senior Certificate)” means an employee engaged in general clerical duties, or storekeeping who holds a Senior Certificate of education;

“clerk/storeman (printing)” means an employee engaged in storekeeping duties who at least holds a junior certificate of education and has knowledge of printing materials and sundries;

“clerk/storeman assistant” means an employee engaged in general clerical duties or storekeeping duties who holds a Junior Certificate of education;

“clicker-high frequency” means an employee who cuts high frequency welds components;

“clicker-insoles/toepuffs/counters” means an employee who cuts insoles, toepuffs or counters by means of a clicking press;

“clicker-linings/trim/socks/Velcro” means an employee who cuts linings, trims, or velcro by means of a clicking press;

“clicker-textile” means an employee who cuts suede split by means of a clicking press;

“clicker-textile” means an employee who cuts textile by means of a clicking press;

“coilwinder” means an employee mainly engaged in winding coils;

“components-assembler” means an employee engaged in fitting electronic components on PC boards and includes an employee engaged in pre-assembly work;

“compositor” means an employee engaged in the setting of type including the operation of typesetting and typesetting machines and putting into position for printing and the make up of formes;

“confectioner assistant” means an employee who assists a confectioner;

“cook” means an employee who is engaged in cooking and issuing food to other employees;

“copy-typist” means an employee who is engaged in typing and is capable of typing a minimum of 25 words per minute, filing, checking and recording incoming mail;

“counter inserter” means an employee who dips and inserts the counter stiffener into the pocket at the heel of a machine;

“continuous service” means service in the employment of an employer interrupted only by death, retirement, or discharge of the employee concerned, an employee who is re-engaged within two months of the employee’s discharge shall be deemed to be in the continuous service of that employer;

“counter moulder” means an employee who moulds the newly inserted counter stiffener over a mould by means of a machine;

"darkroom attendant" means an employee who makes negatives, positives, contacts, spotting and obliteration of all marks and pinholes and including enlarging and reductions on the camera;

"de-boner" means an employee engaged in dissecting carcass;

"d-ring inserter" means an employee who inserts D-Rings into the shoe facing prior to being stitched;

"design draughtsman's assistant" means an employee who assists a draughtsman to design mechanical layouts;

"despatch clerk" means an employee who selects and packs goods according to customers' orders;

"despatch clerk (printing)" means an employee who selects, checks and packs goods according to instructions from job cards or any other source and assist with deliveries;

"digital/duplicator (operator)" means an employee engaged in operating a risograph or equivalent digital printer or duplicator;

"divider operator" means an employee who operates a divider machine and who checks the weight of dough pieces;

"dough mixer" means an employee who operates a dough mixer, including the adding of ingredients into the dough;

"dough panner" means an employee who places dough pieces into pans;

"driver (Heavy Duty Vehicle)" means an employee in possession of a current heavy duty driving licence who is in charge of a vehicle of over one and one half tons tare weight whose duties include handling cargo to and from the tailboard, and the daily maintenance and cleaning of such vehicle;

"driver (Light Duty Vehicle)" means an employee in possession of a current driving license who is in charge of a motor vehicle of less than one and one half tons tare weight whose duties include handling cargo to and from the tailboard, and the daily maintenance and cleaning of such vehicle;

"driver messenger" means an employee who is mainly engaged in carrying messages, who delivers and collects goods and/ or mail by vehicle or motor cycle and performs simple routine tasks in an office;

"driver salesman" means an employee in possession of a current driving license who sells and delivers bread, confectionery or other articles by motor vehicle and who is responsible for accepting written orders for goods and the collection and safe custody of cash for C.O.D Sales, and also canvass for orders;

"D. T. P. operator" means an employee engaged in typesetting and designing of documents on the computer and being able to operate lazer printers, scanners and allied equipment;

"driver salesman assistant" means an employee who marks components to assist closing department by means of a marking machine;

"electrical maintenance assistant" means an employee who assists an electrician in improving and repairing electrical installation;

"engraver" means an employee who engraves, smoothens, polishes the finished glassware, and carries out duties related thereto;

"engraver assistant" means an employee who engraves, smoothens, polishes the finished glass ware and carries out duties given by the engraver;

"entrepreneur assistant grade I" means an employee who is capable of performing the work of an entrepreneur without the assistance of such an entrepreneur;

"entrepreneur assistant grade II" means an employee who assists a person who is capable of carrying out the work of the entrepreneur's workshop;

"final aligner and tester" means an employee mainly engaged in the final alignment and testing of finished products, using electronic test equipment;

"final inspector/final tester" means an employee mainly engaged in the final inspection or testing of finished products, if necessary, using electronic equipment;

"finisher" means an employee who smoothens, trims carpets and makes knots on the fringes to make such carpets adaptable for sale;

"fitter" means an employee who repairs and maintains machinery;

"foam attacher" means an employee who attaches foam to the topline of the quarters for collar padding;

"foam strip cutter" means an employee who cuts foam into strips by means of a machine;

"folder" means an employee who folds the garment after pressing;

"flour sifter" means an employee who sifts flour;

"foreman baker" means an employee engaged in a supervisory capacity who is capable of carrying out all processes relating to the manufacture of bread;

"foreman confectioner" means an employee engaged in a supervisory capacity who is capable of carrying out all processes relating to the manufacture of confectionery;

"forklift operator" means an employee mainly engaged in operating a forklift;

"general labourer" means an employee engaged in unskilled work;

"grinder" means an employee who grinds, smoothens, and polishes a finished glassware product;

"guillotine operator (printing)" means an employee engaged in cutting paper/board to be printed and trimming of jobs to finish size for packing including working out paper cuts from full sheets, maintenance of machine and knowledge of paper and board stocks;

"handyman" means an employee who does not hold a trade test certificate, who carries out simple repairs and supervises and allocates work to subordinate staff under his control;

"hand trimmer" means an employee who trims by means of a pair of scissors, all excess threads, bindings and tapes after all closing operations have been done;

"heel seat laster" means an employee who lasts the heelpart of a shoe by means of a machine;

"hole perforator" means an employee who punches holes by means of a press;

"hoist operator" means an employee who operates a dough hoist;

"insole attacher" means an employee who attaches the insole to the last by means of a tacking machine;

"insole moulder/stamper" means an employee who moulds or stamps insoles by means of a machine;

"inspector" means an employee with not less than six months experience as an assembler who inspects the work on a production line;

"invoice clerk" means an employee who prepares and Issues invoices and Statements to customers for goods supplied;

"jumper" means an employee who has knowledge of several jobs and who is able to relieve any other worker on a production line;

"kardex clerk/storeman" means an employee who operates a kardex system of stock control;

"kiln operator" means an employee who is capable of operating and maintaining a kiln;

"laboratory assistant" means an employee who generally carries out unskilled work in a laboratory or who assists a laboratory technician;

"laboratory technician" means an employee qualified to carry out all duties allocated to him in a laboratory;

"lacer" means an employee who inserts and ties laces for footwear;

"last preparer" means an employee who prepares and loads lasts onto the conveyor according to the uppers loaded;

"last transporter" means an employee who returns last to last-bins after delasting;

"layer" means an employee who lays the material for cutting for a garment manufacture;

"learner finisher" means an employee who is learning on the job to become a finisher and who has not completed six months in the case of the weaving industry or three months for other industries;

"learner craftsperson" means an employee who is learning on the job to become a potter, screenprinter, silversmith or any craftwork for a period of not less than three months or more than six months;

"learner machine operator" means an employee with three months or less continuous service of operating a machine for other industries or not more than six months in the weaving and printing industry;

"leaner machine minder (printing)" means an employee with six months or less continuous service of operating a printing machine;

"learner spinner" means an employee who is learning on the job to become a weaver and who

has not completed six months in the case of the weaving industry or three months for other industries;

"leather baler" means an employee who bales leather for storage purposes;

"leather sorter" means an employee who sorts leather by means of the point system;

"line feeder" means an employee mainly engaged in feeding the assembly line with components;

"Loader" means an employee who loads goods on to vehicle by hand.

"loader/packer" means an employee who packs bread or confectionery into or off a vehicle or who packs finished products into cartons, concluding the transfer of good material from large to smaller containers;

"lubricator" means an employee who has the responsibility of lubricating and greasing machines;

"machinist" means an employee who operates an electrical sewing machine to manufacture clothing/garment;

"machine attendant" means an employee, other than a learner machine operator, who attends and operates a guillotine machine, bending machine, spot welding machine or any other machine requiring similar skills;

"machine minder (printing)" means an employee engaged in operating a printing machine and capable of full colour printing, numbering and perforating, maintenance and cleaning;

"machine operator" means an employee, other than a learner machine operator, engaged in operating a machine;

"master screenprinter" means an employee who is capable of cutting screen, mixing pigments and has thorough knowledge of screenprinting techniques;

"master potter" means an employee who is skilled in making pots to any specification, who has a general knowledge of glazing and firing techniques;

"master silversmith" means an employee who is capable of working on silver to any specification;

"mechanical assistant" means an employee mainly engaged in the mechanical assembly of television and radio accessories and placement of products in the appropriate area of assemble or despatch;

"melter" means an employee who melts glasses in a glass factory;

"messenger" means an employee engaged in carrying messages, banking, collecting and delivering mail or carrying out simple tasks in an office;

"mono caster attendant" means an employee who attends a monotype caster under the supervision of a key board operator;

"office clerk" means an employee who does general clerical duties;

"painter" means an employee who cleans and paints equipment, machines and buildings;

“packer” means an employee who packs garments which are finished into cartons;

“personnel clerk” means an employee who controls and updates personnel records;

“Pc board trimmer” means an employee mainly engaged in trimming excess components lead on soldered board;

“photolithographer” means an employee who is capable of doing make-up, imposition and pasting (from artwork provided) darkroom work and plate making;

“picture tube assembler” means an employee mainly engaged in preparing picture tubes for the assembly line;

“plant assistant” means an employee who assists a plant attendant;

“plant attendant” means an employee mainly in operating a galvanizing plant and if necessary, taking of the plant;

“plate filer (printing)” means an employee who is responsible for the gumming and filing of printing plates.

“potter” means an employee who makes pots by hand or on pot wheels;

“presser attendant” means an employee who operates a pressing machine to iron materials or clothing;

“printers grade 1,11,111” means an employee who is in possession of a trade test certificate signed by a trade testing officer appointed by the government;

“printing machine minder(junior)” means a machine minder only able to operate printing machines for single or spot colour work;

“proof controller” means an employee mainly engaged in checking the quality and making reports on finished products;

“proof reader” means an employee who edits documents before final presentation, checking spelling, grammar and lay-out;

“quality section controller” means an employee who checks and controls the quality of goods leaving their section;

“rebate clerk” means an employee who controls the stocks and documentation for a rebate store;

“receiver -second stock” means an employee who checks, receives and controls the stock of factory seconds;

“reception clerk (printing)” means an employee who attends to customers, answering calls and queries, acting as telephonist, filling, opening job- cards, faxing and general office duties;

“repairs assistant” means an employee with a basic knowledge of electronics mainly engaged in making simple repairs on PC board;

“recutter” means an employee who arranges re-cuts and repairs poor quality work;

"riveter/buckler" means an employee who attaches rivets or bucklers;

"rougher-uppers" means an employee who reduces the bumps on the lasting margin by means of roughing machine;

"rougher-sole margin" means an employee who roughs the sole margin on rubber soles;

"rubber stamp maker" means an employee engaged in the making of rubber stamps;

"runner" means an employee who performs unskilled duties such as conveying from one point to the other, materials used in garment manufacture;

"saw sharpener" means an employee who sharpens saws and carries out simple maintenance work on them;

"salesman" means an employee engaged in promoting the sales of an employer's products;

"sales assistant" means an employee who assist customers when the salesman or sales-rep is not available;

"salesman (senior)" means an employee engaged in promoting the sales of an employer's products and able to do quotations and in possession of a valid drivers licence.

"stacker" means an employee who packs erected boxes into cartons and stacks, ready for transportation to the factory;

"seasonal labourer" means an employee engaged for the duration of a season to carry out unskilled work, canning fruit or vegetables;

"security guard or watchman" means an employee mainly engaged in the protection and security of his employers premises;

"senior watchman" means an employee who is in charge of other watchmen;

"sewer/binder" means a binder capable of doing thread sewn books;

"sewing machinist I" means an employee who has more than six months experience and turns stitches collars, stiches toecaps, facing, o/s counters, d-rings and attaches bindings;

"sewing machinist II" means an employee who has more than six months experience and stiches backseams, side flashes, collar toughies, velcro, brand tags and zig-zags pieces together;

"screenprinter" means an employee who screenprints by hand pulling a squeegee;

"semi-skilled kiln hand" means an employee who has limited knowledge in operating kiln and packs it according to specification;

"silver-smith" means an employee who is capable of working on silver by hand;

"seasonal labourer" means an employee engaged for the duration of a season to carry out unskilled work, canning fruit and vegetables;

"side-laster" means an employee who lasts the waist section of a shoe by means of a shoe;

"size painter" means an employee who colour-codes components according to size by means of a brush;

“skiver-upper/toepuffs” means an employee who skives or reduces the thickness of the edge of components by means of skiving machine;

“slaughterman” means an employee engaged in stunning, bleeding, skinning eviscerating and splitting livestock;

“spinner” means an employee who carries out spinning operation of wool or other materials according to specification;

“soaking attendant” means an employee who operates solder bath, prepares fluxes, and checks solder levels;

“soaker” means an employee who applies adhesives and inserts socks into finished footwear;

“sole chlorinator” means an employee who chlorinates or halogenates a sole prior to cement application;

“sole presser” means an employee who, by means of a press, ensures that there is good bond between sole and upper;

“sole spotter” means an employee who places the precededented upper and sole accurately together prior to pressing;

“sorter R” means an employee who sorts goods into racks by item and size ready for despatch;

“sorter “ means an employee who puts together according to sizes the material, which is to be sewn;

“shoe boxer” means an employee who packs finished footwear into boxes;

“shoe repairer” means an employee who repairs subquality footwear;

“shop assistant” means an employee who assists a shop supervisor in the stock control, displays and selling of products in a retail shop;

“stonehand” means an employee with the knowledge of composition who places jobs set out by a compositor into steel frames locking them into printing machines ready for printing;

“stamper” means an employee who stamps logos/information onto components by means of stamping machine;

“staple extractor” means an employee who removes staples from the insole of a shoe;

“sticker attacher” means an employee who attaches stickers to indicate size or customer code;

“stitching machine operator (printing)” means an employee engaged in the operation of an automatic stitching machine including adjustments, changing wire thickness and maintenance;

“storeman (printing)” means an employee engaged in storekeeping who holds a senior certificate of education and a recognised certificate in storekeeping and competent knowledge of all printing papers, materials and sundries;

“string lacer” means an employee who strings uppers for toelasting;

“strips cutter” means an employee who cuts material into strips by means of a machine;

"supervisor" means an employee who supervises other employees under his/her control;

"switchboard operator" means an employee whose duties consists wholly or mainly in the operation of a telephone switchboard;

"tablehand" means an employee who prepares material and places them on the table for cutting or weaving according to specification ;

"tester" means an employee who tests the function of assembled PC Boards using electronic equipment;

"textile preparer" means an employee who folds and prepares materials into a set number of layers ready for cutting;

"trimmer" means an employee who uses the clippers to clear the garment when the sewing part is finished;

"toecap positioner" means an employee who precements toecaps into position prior to toecap stitching;

"toelaster" means an employee who pulls the toe of the shoe over the last by means of a toelasting machine;

"toelaster feeder" means an employee who supplies the toelaster with uppers and on completion replaces them back to the conveyor;

"toepuff positioner" means an employee who positions and presses a toepuff onto the upper by means of a heated press;

"tool setter" means an employee who fits and sets tools on a machine;

"unlaster" means an employee who removes the last from the finished shoe;

"upper brusher" means an employee who brushes finished footwear so as to clean and improve the look of the shoe;

"upper cleaner" means an employee who cleans finished footwear by means of various cleaning material;

"upper primer" means an employee who primes the nylon upper at the lasting margin to ensure cement adhesion;

"upeight clerk per splitter" means an employee who splits uppers by means of a splitting machines;

" upper spotter" means an employee who places the correct upper onto the last prior to toelasting;

"upper\bottom preparer" means an employee who loads the sewn and corresponding bottom components onto the making conveyor;

"utility" means an employee who has the knowledge of jobs and who is able to relieve other workers on a production line;

"weaver" means an employee who carries out duties either by operating hand loom or other equipment to manufacture the required goods;

"wage clerk" means an employee who prepares and controls wage payments according to the time worked taken from clock cards or any other source and keeping relevant records related to pay;

"washer" means an employee who washes and dries material or wool and if necessary, mothproofs the wool;

"weight clerk" means an employee who weighs cartons of finished goods prior to despatch;

"workshop assistant" means an employee who assists the fitter and handyman in general maintenance.

Basic Minimum Wage.

4. The Basic Minimum wage inclusive of rations or cash in lieu thereof to be paid to employees specified in the First Schedule shall be calculated at a rate not less than that specified therein provided that-

- (a) an employee who, at the date of commencement of this Order, is in receipt of a higher wage than that prescribed by this Order, shall not suffer any reduction in such wage by reason of this Order;
- (b) where no definition of an employee duties exists, such employee shall be paid a basic minimum wage not less than that applicable to a general labourer; and
- (c) nothing in this regulation shall prevent an employer, if he so wishes from-
 - (i) supplying cooked or uncooked food to an employee in addition to his basic wage; and
 - (ii) providing free transport or free accommodation to an employee.

Statement of conditions of employment.

5. (1) The employer shall provide an employee with a written statement at the commencement of his employment, stating whether the employee is employed permanently or seasonally, the conditions of the employee's employment, the starting wage, including the learning period.

(2) The learning period referred to in sub-regulation (1) shall be -

- (a) six months in the case of the weaving industry; and printing industry and;
- (b) three months in the case of other occupations.

Hours of work

6. (1) The normal working week for employees other than security guards and casual labourers shall consists of not more than forty-eight hours of work.

(2) The normal working week for security guards shall consists of not more than six shifts of twelve hours each .

(3) The normal hours of work for a casual labourer shall consist of eight hours per day.

Overtime

7. (1) An employee who is engaged otherwise than on shift work or as a security guard and is required to work in excess of the normal hours specified in regulation 6 shall be paid as follows:-

(a) for time worked in excess of the normal hours on a weekday, payment shall be at one and a half times his basic hourly wage ; and

(b) for time worked on a Sunday or a public holiday specified in regulation 8, payment shall be at twice his hour rate.

(2) An employee employed on shift work, or as a security guard who is required to work on his rest day or on a public holiday specified in regulation 8, may be paid for such overtime or alternatively, be given an equivalent amount of time off in lieu of overtime payment.

(3) The basic hourly wage of an employee on a weekly wage shall be calculated by dividing such wage by the number of hours the employee normally works in a week .

(4) The basic hourly wage of a casual labourer shall be calculated by dividing his daily wage by eight.

Public Holiday.

8. (1) The following shall be public holidays with full pay-

Incwala;

Good Friday;

Easter;

Christmas Day;

Boxing Day;

Reed Dance Day;

Somhlolo Day;

Kings birthday;

New Year's Day; and

May Day .

(2) Where a public holiday falls on a Sunday, the following day shall be deemed to be a public holiday .

(3) An employee who is absent without leave on the working day before or the working day after a public holiday, shall not be entitled to any payment in respect of that public holiday in a terms of this regulation.

Annual Leave

9. (1) An employee shall have fourteen calendar days' leave with full pay after each period of twelve months continuous service with an employer. Provided that in the case of a security guard annual leave shall be twenty-one calendar days with full pay after each period of twelve months continuous service with an employer.

(2) Where the employment of an employee is terminated after a period exceeding three months but amounting to one year from the date of its commencement the employer shall pay to the employee a sum not less than one day's pay for each completed month of such period.

Sick Leave

10. (1) After three consecutive months of continuous service with an employer and subject to the production of a medical certificate signed by a Medical Practitioner, registered under the Medical and Dental Practitioners Act, 1970, an employee shall be entitled to sick leave up to a maximum of fourteen days on full wages and thereafter to a maximum of fourteen days on half wages on in each period of twelve months continuous service.

(2) Notwithstanding Sub-Regulation (1) -

- (i) An employee shall not be entitled to the sick leave specified in sub-regulation (1) if the sickness or accident causing his absence was caused by his own negligence or misconduct; and
- (ii) a certificate issued by a registered nurse shall be accepted in place of a medical certificate if a Medical Practitioner is not available.

Compassionate leave.

11. (I) An employee who has completed the probation period shall be entitled to compassionate leave as follows :

Widow	30 working days
Widower	7 working days
Child	7 working days
Natural parents	7 working days.

(2) Entitlement to compassionate leave or other relatives in addition to the above shall be at the discretion of the employer.

(3) Nothing in this Order shall be construed as requiring any employer to pay an employee for any time spent on compassionate leave.

Maternity Leave.

12. An employee who has completed the probation period shall be entitled to 30 days maternity leave with full pay.

Written particulars to be provided.

11. An employer shall on engagement of an employee, give such employee a completed copy of the form at the Second Schedule of this Order.

Continuous service.

13. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of a new owner without interruption, his service shall be deemed to be continuous service in the employment of the new owner.

Short time.

14. (1) If an employer finds it necessary for reasons beyond the employer's control to employ an employee on short time, the employer may do so subject to the Labour Commissioner consenting in writing to such an arrangement, and on the understanding that the employer intends resuming full time work within three weeks.

(2) Where an employee has been placed on short time under sub-regulation (1) the employee shall be paid not less than fifty percent of the employee's weekly wages where the employee is employed for periods which, in aggregate, are equivalent to or less than fifty percent of the employee's normal weekly hours of work.

(3) No reduction shall be made in an employee's earnings where the employee has been placed on short time, and works in aggregate more than fifty percent of his normal weekly hours of work during any week he has been placed on short time.

Piece work.

15. An employee engaged on piece work shall be entitled to wages and conditions of employment not less than those specified in this Order.

Reimbursement of expenses.

16. A salesman, driver or salesman assistant shall be reimbursed all expenses reasonably incurred on lodging and meals for periods of absence from his place of residence on duty.

Lay-off.

17. (1) Due to circumstances beyond the employee's control an employer may lay off employees for up to fourteen working days, without pay provided that at the end of this period the employer shall either re-employ the employees in their original jobs, or give them notice of termination of service in accordance with the provisions of the Employment Act, 1980.

(2) During the period of any lay-off, the employer shall not engage other employees to replace the employees he has laid off.

(3) The employer shall give -

(a) a permanent employee fourteen days notice before the lay-off; and

(b) a seasonal employee twenty-four hours notice before the lay-off.

(4) An employer may apply to the Commissioner of Labour for a temporary exemption for a specified period according to the circumstance of the enterprise, from the application of regulation 17(3) (a), after consultation with the employees organisation, for a reduction of the period of notice to be given to employees, before lay-off.

Trade testing.

18. (1) An employer shall grant unpaid leave to an employee who requests to undergo a trade test at the Swaziland College of Technology or any similar institution to enable him to take tests.

(2) An employee undergoing a trade test shall furnish the employer with the results of his examination.

Revocation of Legal Notice No. 22 of 2001

19. The Regulation of wages (Manufacturing and Processing Industry) Order, 2001 is hereby revoked.

FIRST SCHEDULE
(Paragraph 4)

BASIC MINIMUM WAGE
(Emalangenzi per week)

Learner Craftsperson
Learner Finisher
Learner Spinner
Learner Weaver
Casual Labourer
Seasonal Labourer
Carder
Checker
Cleaner
Cook

131.13

Engraver's Assistant
Entrepreneur's Assistant
Finisher
Grinder
Loader
Potter
Runner
Trimmer
Bagger
Learner Machine Operator

167.78

Screenprinter
Semi skilled kiln hand
Silversmith
Spinner
Tablehand
Presser (garment)
Washer
Weaver
Layer

177.10

S17

Presser
Folder
Packer
Box folder
Canteen Assistant
Carton Sealer
Painter
Despatch Clerk (Printing)

Upper Printer
Backseam Reducer
D-ring inserter
Foam attacher
Hand trimmer
Lacer
Stacker
Receiver-Second Stock
Sorter **184.58**
Textile preparer
Toecap positioner
Toelaster Feeder
Upper Brusher
Workshop assistant

Assemble socks
Box Preparer
Cementer
Edward Marker
Foam Strip Cutter
Hole perforator
Lubricator/Riveter/Buckler **193.87**
Sewing Machinist II
Shoe Boxer
Sole Chlorinator
Stamper
Staple extractor
String lacer
String Cutter
Toepuff Positioner
Unlaster
Upper Cleaner
Plate Filer (Printer)

Assembler-Botton Components
Box labeller
Canteen assistant /Cashier
Insole Moulder/stamper
Last Preparer **197.57**
Last Transporter
Rougher-sole Margin
Shoe Repairer

Sticker attacher
Upper splitter
Weights Clerk

Coil Winder
Component Assembler
Copy Typist
Dough Panner
Driver Salesman's Assistant
Entrepreneur's Assistant Grade I
Flour sifter
General Labourer
Hoist Operator
Loader/Packer
Messenger
PC Board Trimmer
Plant Assistant
Security Guard/Stonehand
Machinist
Leaner Machine Minder (Printing)
Assistant Receptionist
Digital/Duplicator Operator (Riso)

201.36

Assembler (soldering)
Binder Assistant
Compositor
De-Boner
Dark Room Attendant
Mechanical Assembler
Proof Reader
AJS Operator
Assembler Upper-Components
Counter inserter
Counter Moulder
Leather Baler
Loader F.O.F.
Recutter
Sewing Machinist 1
Shop Assistant
Clerk/Storeman (Printing)
Rubber Stamp maker
Stitching Machine Operator (Printing)
Sewer/ Binder
Skiver- Upper/toepuffs
Soaker

209.35

Slaughterman
Driver/Messenger
Laboratory Assistant
Presser Attendant
Electrical Maintenance Assistant

218.33

Office Clerk
 Rougher Uppers
 Senior Watchman
 Sole Presser
 Printing Machine Minder (Junior)
 Photolithographer
 Reception Clerk (Printing)
 Sales Assistant
 Wages Clerk

Cabinet Fitter
 Chassis Fitter
 Clerk\ Stores Assistant **231.15**
 Driver (L.D.V.)
 Forklift Operator
 Picture Tube Assembler
 Soakline attendant
 Switchboard Operator
 Utility
 D T P Operator
 Printers Grade 111

Baker's Assistant
 Blower
 Confectioner's Assistant
 Dough Mixer
 Engraver **234.91**
 Divider Operator

Click-High Frequency
 Clicker- Insolers\toepuffs\Counters
 Clicker-Linings\ Trims\Socks\Velcro
 Despatch Clerk
 Heelseat Laster **238.63**
 Invoice Clerk
 Leather sorter
 Quality Controller
 Sole Spotter

Kiln Operator
 Melter
 Saw Sharpener
 Design Draftman's Assistant
 Inspector
 Machine Operator **242.36**
 Machine Attendant
 Solder Bath Attendant
 Tester
 Guillotine Operator (Printing)
 Machine Minder (Printing)

Boiler
 Driver(H.D.V.)
 Kardex Clerk\Storeman **247.95**

Aligner Final Inspector\Tester	247.95
Clicker-textile Rebater Controller Repairer's Assistant	251.71
Liner Feeder Repairers' Assistant	259.13
Baker Confectioner Handy-Man Chef Clicker- Suede Split	272.16
Chargehand Final Aligner and Tester Jumper Plant attendant Tool Setter Fitter Personnel Secretary Sewing Mechanic Toelaster	281.51
Printers Grade 11	287.11
Clerk\Storeman Assistant(with Junior certificate) Driver Artisan Grade 111 Cattle buyer Master Screenprinter Master Potter Master Silversmith Salesman	298.29
Salesman (Senior) Storeman (Printing)	283.84
Assistant foreman Confectioner Assistant Foreman Baker Clerk\Storeman(with Senior Certificate)	385.87
Printers Grade 1	433.73
Artisan Grade 11 Foreman Baker	531.39
Foreman Confectioner	568.61
Artisan Grade 1	779.35

S21

Laboratory Technician

823.97

Supervisor

25% above the wage to the highest paid
employee under his direct supervision

SECOND SCHEDULE

WRITTEN PARTICULARS OF EMPLOYMENT FORM

1. Name of Employer.....
2. Name of Employee.....
3. Date Employment began.....
4. Wage and method of calculation.....
5. Interval at which wages are paid.....
6. Normal hours of work.....
7. Short description of employee's work.....
8. Probation Period.....
9. Annual holiday Entitlement.....
10. Paid Public Holiday.....
11. Payment during sickness.....
12. Maternity Leave.....
13. Notice employee entitled to receive.....
14. Notice employee required to give.....
15. Pension Scheme(if any, other than N.P.F Scheme).....
16. Any other matter either party wishes to include.....

Notes (a) An Industry Union is required by this undertaking any employee is free to join it.
The address of the Industry Union is:

- (b) The grievance procedure in this undertaking requires that a grievance should be first referred to

.....
.....

- (c) When any heading is inapplicable enter nil.

Signed: Employer
..... Employee
..... Witness
..... Date

M.E. VILAKATI
Principal Secretary
Ministry of Enterprise and Employment

LEGAL NOTICE NO. 150 OF 2002

THE WAGES ACT, 1964
(Act No. 16 of 1964)

THE REGULATION OF WAGES (BUILDING AND CONSTRUCTION INDUSTRY)
ORDER, 2002
(Under Section 11)

In exercise of the powers conferred on him by section 11 of the Wages Act, 1964, the Minister for Enterprise and Employment hereby makes the following Order:

Citation and Commencement

1. This Order may be cited as the Regulation of Wages (Building and Construction Industry) Order 2002 and shall be deemed to have come into effect on the 1st January, 2003

Interpretation.

2. In this Order, unless the context otherwise requires:

“clerk (without certificate)” means an employee who does not hold the Senior Certificate of Education or its equivalent and who is engaged in general clerical duties;

“clerk (with certificate)” means an employee who holds the Senior Certificate of Education and who is engaged in general clerical duties;

“cook” means an employee engaged in cooking and issuing of food to other employees;

“typist” means an employee mainly engaged in typing, checking figures and filing, and who is capable of typing a minimum of 30 words per minute;

“crane driver” (mobile) means an employee who operates a self propelled crane;

“crane driver (tower) means an employee who operates a tower crane;

“continuous service” means service in the employment of the employer interrupted only by the death, retirement, completion on discharge of the employee concerned and an employee who is re-engaged within two months of his discharge shall be deemed to be in the continuous service of that employer.

“driver” (light vehicle) means an employee whose duties, in addition to being in charge of a motor vehicle of under 5 tons laden weight, include handling of cargo to and from the tailboard and the daily maintenance and cleaning of such vehicle;

“driver” (heavy duty) means an employee in possession of a heavy duty driver’s licence and whose duties, in addition of being in charge of a vehicle of between 5 tons and 10 tons laden, weight include the handling of cargo to and from the tailboard and the daily maintenance and cleaning of such vehicle;

“driver” (extra heavy) means an employee in possession of a heavy duty driver’s licence and who is in charge of a vehicle in excess of 10 tons laden weight including articulated vehicles and is responsible for the safety of the load;

“family” means in relation to an employee, the wife and unmarried children under the age of eighteen.

“general labourer” means an employee who performs general unskilled work;

“general tradesman” means an employee who does not hold a trade test certificate but has recognized ability in one of the following trades -

- (a) block layer or plasterer;
- (b) brick layer or tiler;
- (c) joiner or cabinet maker;
- (d) shutter hand or carpenter;
- (e) painter or glazier;
- (f) plumber or drain layer;
- (g) welder
- (h) reinforcement steel fixer
- (i) electrician;
- (j) wire-man;
- (k) mechanic;
- (l) plant fitter;
- (m) structural steel erector;
- (n) boiler maker;
- (o) pipe fitter; and
- (p) scaffolding erector

“induna” means an employee in charge of other employees;

“plant operator” means an employee who is placed in charge of operating either a concrete mixer, concrete dumper, tractor, walk-behind roller, plate compactor, power float machine and compressor.

“earthmover operator” means an employee who operates an earthmoving machine;

“reinforcement fixer” means an employee who cuts, bands and fixes reinforcement;

“scaffolding erector” means an employee who is in charge of erecting scaffolding;

“storeman” means an employee who, apart from carrying out the duties of stores clerk, is responsible for ordering certain items on behalf of his employer;

“structure steel erector” means an employee who erects a steel structure;

“survey and soil technician assistant” means an employee who surveys the earth’s surfaces, natural topography and man-made structures, underground areas, and prepare maps and charts;

“tea maker” means an employee who is engaged to routinely clean offices and to prepare refreshments;

“normal working hours” means the hours of work specified in regulation 5;

“trade tested person or tradesman” means a person who holds a craft certificate indicating the degree of proficiency attained by the person as indicated by a trade test conducted by a trade testing officer duly appointed as such in the public service;

“watchman or security guard” means an employee who is engaged during the day or night to guard the premises or other property of his employer.

Application.

3. (1) Subject to sub-regulation (2), this Order shall apply to employees specified in the First Schedule who are employed in any undertaking or part of an undertaking which carries on for gain in one or more of the following activities -

- (a) the construction, structural alteration, maintenance, of any railway line, siding, public or private road, thoroughfare, airfield, tunnel, bridge, viaduct, waterworks, lattice work, or other structure designed solely for the support of electric lines; or
- (b) the construction, structural alteration, maintenance repair or demolition of any building, fencing and preparing or laying the foundation of a building or an intended building.
- (c) the construction, structural alteration, maintenance, repair or demotion of any electrical work, plumbing, fire protetion, sewerage reticulation and purification, or other services related to structures.

(2) This Order shall not apply to persons employed in any undertaking or part thereof operated by:-

- (a) the Government;
- (b) a local authority; or
- (c) such charitable or religious organization, educational or medical institution as may be specified in writing by the Minister.

(3) This Order is subject to the Employment Act, 1980 and Part V of that Act is, for purposes of easy reference, found in the Third Schedule of this Order.

Basic minimum wage (First Schedule).

4. The employees specified in the First Schedule shall be paid a basic minimum wage calculated at a rate not less than that specified in that Schedule.

Normal working hours.

5. (1) The normal working week (other than for a watchman or security guard) shall be from Monday to Friday and shall consist of forty-five hours.

(2) The normal working week for a watchman or security guard shall be seventy-two hours spread over six shifts, each of twelve hours, inclusive of meal breaks.

(3) No employee, other than a watchman or security guard shall be required to work for more than five hours without a break of not less than thirty minutes.

Public holidays.

6. (1) The following shall be public holidays with full pay -

- (a) Independence (Somhlolo) Day;
- (b) Good Friday;
- (c) Christmas Day
- ;
- (d) Umhlanga (Reed Dance) Day;
- (e) King's Mswati III Birthday;
- (f) Incwala Day;
- (g) Easter Monday; and
- (h) Workers Day (1st May)

(2) Where a public holiday, specified in sub- regulation (1) falls on a Sunday, the following day shall be deemed to be a public holiday.

(3) An employee who is absent without leave on the working day before or the working day after a public holiday, shall not be entitled to any payment in respect of that public holiday in terms of this regulation

Payment of Overtime.

7. (1) An employee, other than a watchman or security guard, shall be paid for overtime worked at the following rates -

- (a) during the normal working week for overtime worked, before midnight in excess of the normal working hours, at one and one third times the normal hourly rate of wages;
- (b) during the normal working week for overtime worked after midnight in continuation of normal working hours or other overtime worked, at twice his employee's normal hourly rate of wages;
- (c) for any time worked on Saturday before 1.00 p.m. at one and half times his normal hourly rate of wages;
- (d) for any time worked on a public holiday specified in regulation 6(1) ,Sunday or after 1.00 p.m. on Saturday at twice his normal hourly rate of wages.

(2) Overtime in respect of a watchman or security guard shall be calculated at twice the normal hourly rate for all time worked on a public holiday specified in regulation 6 or any time worked in excess of twelve hours on any working day, and that any watchman or security guard who has been absent from work during any week without reasonable cause shall not be entitled to overtime in that week until the watchman or security guard has completed seventy-two hours of work.

Annual Leave.

8. (1) After three months' of continuous service, an employee shall be entitled to one day's leave on full pay in respect of each month's continuous service and such leave which is in addition to the Public Holidays specified in regulation 6 and any other days which are not normal working days shall be taken during the industry's annual three weeks shut down in December and January of each year.

(2) Any employee with eleven months of continuous service will be granted two days leave on full pay during the twelfth month of employment, which leave together with the Public holiday of Christmas Day will provide full leave pay for the industry shut down (that is 14 working days)

(3) Where the employment of an employee is terminated after a period exceeding three months but not amounting to one year from the date of its commencement the employer shall pay to the employee a sum not less than one day's wages for each completed month of such period.

Sick Leave.

9. (1) After twelve consecutive months of continuous service with an employer and subject to the production of a medical certificate signed by a Medical Practitioner, registered under the Medical and Dental Practitioners Act, 1970, an employee shall be entitled to sick leave up to a maximum of fourteen days on full wages and thereafter to a maximum of fourteen days on half wages in that period of twelve months continuous service.

(2) Notwithstanding sub-regulation (1);

- (a) An employee shall not be entitled to the benefits specified in sub-regulation (1) if the sickness or accident causing his absence was caused by his own negligence or misconduct;
- (b) A certificate issued by registered nurse shall be accepted in place of a medical certificate if a Medical Practitioner is not available.

Written particulars to be provided.

10. An employer shall within six weeks of engagement of an employee, give such employee a completed copy of the form found in the Second Schedule of this Order.

Continuous service.

11. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of the new owner without interruption, his service shall be deemed to be continuous service in the employment of the new owner unless otherwise agreed in writing by all the parties.

Travelling and Subsistence Allowances.

12. (1) Where an employee is temporarily employed at a place which is separated from his normal place of work by a distance of more than five kilometres by road his employer shall provide him with free transport to and from his normal place of work and the place of temporary employment.

(2) An employee required to travel on duty, other than in the circumstances set out in sub-regulation (1), shall be provided either with free transport or be paid by his employer the cost of travel by public transport.

(3) An employee who is absent on duty away from his normal place of employment for a longer period than twelve hours, and who returns to his normal place of residence without staying overnight shall be paid a subsistence allowance of E12.50 for each period of twelve hours or part thereof of such absence.

(4) An employee who is absent on duty overnight away from his normal place of employment, shall, in respect of each night's absence, be provided by his employer with;

- (a) free food and accommodation or a nightly allowance of E30.00 in lieu thereof, or
- (b) free accommodation and an allowance of E15.00 in lieu of food; or
- (c) free food and an allowance of E15.00 in lieu of accommodation;

(5) An entitlement to free food, accommodation or allowances under sub-regulation shall not cease until the employee is back to his normal place of employment.

(6) An employee entitled to subsistence allowance under sub-regulation (4), shall not be entitled to subsistence allowance under sub-regulation (3) in respect of the same period of absence.

(7) Where an employee is transferred to another project site and such transfer prevents him from returning to his normal place of employment, the employer shall provide him with free accommodation and a transfer allowance of E75.00

(8) An employee, who is provided by his employer with accommodation at his place of permanent employment in which his family is residing with the consent of the employer, shall if so required by his employer to transfer to another place of employment other than for the purpose of seasonal employment, be moved at the expense of that employer.

Lay-off.

13. (1) Where an employer is unable to provide work for any employee due to:

- (a) unavailability of working materials; or
- (b) temporary cessation of work;

the employer may, subject to that employer giving the employee not less than twenty four hours notice, lay-off the employee without pay for a maximum period of thirty calendar days, not more than two times within a period of twelve months, in the circumstances mentioned in sub-regulations (a) and (b).

(2) At the expiry of thirty calendar days the employer shall either provide work for the employee, or terminate his employment under the provisions of the Employment Act;

(3) An employee who is engaged for the duration of a specific project or in connection with a specific project shall, upon commencement of work be notified of the date upon which it estimated the project shall terminate and the notification of such date of termination, shall constitute an adequate notice by the employer to the employee of the date of notice of termination of such contract of service.

Lay-off due to weather.

14. (1) An employee who reports for work at his place of employment at the normal time but who is unable to start work due to inclement weather the employee shall be entitled to a minimum of one and one half hours pay for that day.

(2) Where the employer, on consideration of inclement weather, orders an employee not to report for duty for a specific number of days shall reduce such order into writing and the employee shall be entitled to pay as specified under subsection (1)

(3) An employee who on any day commences work and who, in the opinion of his employer is unable to continue work due to inclement weather, shall be paid for the hours he has worked plus an additional one-and half hours wages.

(4) The employer shall determine whether to start or stop work within the one-and half hours.

Clothing, equipment and protective clothing.

15. (1) If it is necessary to protect an employee from physical or chemical injury which may arise from the work he is required to do, the employer shall supply that employee with adequate protective clothing and such employee shall use the protective clothing as instructed.

(2) The employer of a watchman or security guard shall provide him, free of charge, with boots or shoes, a police whistle, a club and a torch, and where the watchman or security guard is required to work in inclement weather, the employer shall, in addition, provide him with a hat, overcoat or rain coat.

(3) An employee either than a watchman or security guard, who is required to work in direct contact with mass concrete or similar matter which is likely to cause injury to his feet, shall be provided by his employer, without charge, with a pair of gumboots.

(4) An employee either than a watchman who is required to work outdoors in inclement weather shall be provided by his employer, free of charge with a waterproof coat and cap or similar garment.

(5) The clothing and equipment supplied to an employee under this regulation shall be of high quality and shall remain the property of the employer.

(6) Where protective clothing, supplied to an employee under this regulation, is damaged or lost through the negligence of the employee, the employer may deduct the cost thereof, after due consideration of wear and tear, from wages due to the employee.

(7) Each employee who works on a section of a project which is a double storey or more shall be issued with a hard-hat when the work proceeds into the section of the double storey.

(8) An employer shall, after the completion of a probationary period by the employee, issue such employee a pair of overalls and a pair of safety boots at half the cost price at least twice in a twelve month period.

Revocation of Legal Notice No. 2 of 2002.

16. The Regulation of Wages (Building and Construction Industry) Order, 2002 is hereby revoked.

FIRST SCHEDULE**(REGULATION 3 AND 4)**

Clerk (without a certificate)	E4.14p/h
Clerk (with certificate)	E4.28p/h
Cook	E4.14p/h
Crane driver (mobile)	E7.96p/h
Crane driver (tower)	E7.36p/h
Driver (light vehicle)	E4.50p/h
Driver (heavy duty)	E5.55p/h
Driver (extra heavy)	E6.08p/h
Earthmover operator	E7.97p/h
Reinforcement Fixer	E4.27p/h
General Labourer	E4.14p/h
General Tradesman	E4.27p/h
Grade III Trade Tested	E4.28p/h
Grade II Trade Tested	E6.06p/h
Grade I Trade Tested	E9.03p/h
Induna	E4.58p/h
Plant Operator	E4.58p/h
Storeman	E4.31p/h
Tea Maker	E2.59p/h
Typist	E4.27p/h
Watchman/Security Guard	E36.39 per shift
Survey and Soil Assistant	E4.27p/h
Structure Steel erector	E7.53p/h
Scaffolding erector	E4.27p/h

SECOND SCHEDULE**WRITTEN PARTICULARS OF EMPLOYMENT FORM**

1. Name of Employer
2. Name of Employee
3. Date of Employment began
4. Wage and method of calculation
5. Interval at which wages are paid
6. Normal hours of work
7. Short description of employee's work
8. Probation Period

9. Annual Holiday Entitlement
10. Paid Public Holiday
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Notice employee entitled to receive
14. Notice employee required to give
15. Pension Scheme (if any, other than N.P.F Scheme)
16. Any other matter either party wishes to include

Notes: (a) An Industry Union is recognized by this undertaking any employee is free to join it.
The address of the Industry Union is:

.....
.....

(b) The grievance procedure in this undertaking requires that a grievance should be first referred to:

.....
.....

(c) When any heading is inapplicable enter nil

Signed Employer

..... Employee

..... Witness

..... Date

THIRD SCHEDULE

APPLICATION OF PART V OF THE EMPLOYMENT ACT, 1980.

(Note: Sections 31 to 44 of the Act are the corresponding section 1 to 14 of this Order)

Application.

1. This Part of the Act shall apply to every contract of employment made in Swaziland and to be performed wholly within Swaziland.

Probationary period.

2. (1) During period of probationary employment as stipulated either in the form to be given to an employee under section 22 of the Employment Act, 1980 or in a collective agreement governing his terms and conditions of employment, either party may terminate the contract of employment between them without notice.

(2) No probationary period shall, except in the case of employee engaged on supervisory technical or confidential work, extend beyond three months.

(3) In case of employees engaged on supervisory, technical or confidential work, the probationary period shall be fixed in writing, between the employer and employee at the time of engagement.

Periods of notice by employer and employee.

3. (1) Subject to regulation 9, the minimum notice of termination of employment an employer may give an employee who has completed his probationary period of employment, and who has been continuously employed by that employer for more than one month shall be:-

- (a) if the period of continuous employment is three months or less, one week;
- (b) if the period of continuous employment is more than three months but less than twelve months, two weeks, or two days for each completed month of continuous employment up to and including the twelfth month, whichever is greater ;
- (c) if the period of continuous employment is more than twelve months, one month and an additional four days for each completed year of continuous employment after first year of such employment. (Amendment Act 4/1995)

(2) Notwithstanding any other provision of this section, 3, where an employee has completed his probationary period of employment and is employed on a contract of employment which provides for an employee wages at monthly or fortnightly intervals, the minimum period of notice of termination of employment to be given to that employee shall not be less than one month or a fortnight as the case may be.

(3) The minimum period of notice to be given by an employee who has been continuously employed by the same employer for a period of three months or more shall be two week, or such longer period as may be specified in the form at the Second Schedule to be given to the employee under section 22 of the Employment Act, 1980 or in a collective agreement covering the terms and conditions of employment of the employee.

(4) The period of notice to be given under sub-regulation (2) or (3) shall begin on the working day following that on which it is served by either party.

(5) Nothing in this section shall prevent either party terminating a contract of employment by paying to the other party, in lieu of notice, an amount equal to the basic wages which would have been earned by the employee during the period of notice.

(6) During the period of notice served by an employer on an employee under this scaffolding erector, the employee shall be entitled, without reduction in wages, to be absent from work for the purpose of seeking other employment for twelve hours each week, the timing of which shall be agreed between the employer and employee and which, in pursuance of such agreement, may be taken in one or more complete days during the period of notice.

(7) Nothing in this scaffolding scaffolding section shall prejudice the right of the employer to dismiss an employee summarily for a just cause and any employee who is dismissed for a just cause shall be paid the wages due to him up to and including the date of such dismissal.

(8) An employee shall not be dismissed without notice unless the reasons for the dismissal are such as to warrant the immediate cessation of the employer and employee relationship and where the employer cannot be expected to take any other course.

Severance Allowance.

4. (1) Subject to sub sections (2) and (3) if the services of an employee are terminated by the employer other than under the provisions of section 36 of the Employment Act, 1980, or regulation 13 the employee shall be paid, as part of the benefits accruing under his contract of service, a severance allowance amounting to ten working days' wages for each completed year in excess of the one year that he has been continuously employed by that employer.

(2) In calculating the amount of the severance allowance to which the employee is entitled under subsection (1) any employment by an employee with the employer concerned prior to the 1st January 1968 shall be discharged.

(3) If an employer operates or participates in, and makes any contribution to any gratuity pension or provident fund (other than the Swaziland National Provident Fund established by the Swaziland National Provident Fund Order, 1974) which is operated for the benefit of his employees, the employer on termination of employment of an employee, shall be entitled to repayment from the gratuity, pension or provident fund equal to the employer's total contribution to that gratuity, pension or provident fund in respect of the employee to whom a severance allowance is to be paid under this section.

(4) The amount of the repayment under subsection (3) shall not exceed the total amount of the severance allowance paid by the employer under section subsection (1).

(5) For the purpose of this section, the term "wage" shall mean the wages payable to the employee at the time his services were terminated.

Employee's services not to be unfairly terminated.

5. (1) This section shall not apply to -

- (a) an employee who has not completed the period of probationary employment provided for in section 32 of the Employment Act, 1980;
- (b) an employee whose contract of employment requires him to work less than twenty-one hours each week;
- (c) an employee who is a member of the immediate family of the employer;
- (d) an employee engaged for a fixed term and whose term of engagement has expired

(2) No employer shall terminate the services of an employee unfairly,

(3) The termination of an employee's services shall be deemed to be unfair if it takes place for any one or more of the following reasons -

- (a) the employee's membership of an organisation or participation in an organisation's activities outside working hours or with the consent of the employer, within hours;

- (b) because the employee is seeking office as , or is acting or has acted in the capacity of an employee's representative;
- (c) the filling in good faith of a complaint or the participation in a proceeding against an employer involving alleged violation of any law or the breach of the terms and conditions of employment under which the employee is employed;
- (d) the race, colour, religious, marital status, sex, national origin, tribal, or clan extraction, political affiliation or social status of the employee;
- (e) where the employee is certified by a medical practitioner as being incapable of carrying out normal duties because of medical condition brought about by work carried out by the employee for his present employer except where the employer proves that he has no suitable alternative employment to offer that employee;
- (f) because of the employee's absence from duty due to sickness certified by a medical practitioner for a period not exceeding six months, or to accident or injury arising out of his employment, except where the employer proves that, in all the circumstances of the case, it was necessary for the employer permanently to replace the employee at the time his service are terminated.

Fair reasons for the termination of an employee's service.

6. It shall be fair for an employer to terminate the services of an employee for any of the following reasons-

- (a) because the conduct or work performance of the employee has, after written, been such that the employer cannot reasonably be expected to continue to employ the employee;
- (b) because the employee is guilty of a dishonest act, violence, threats or ill treatment towards his employer, or towards any member of the employer's family or any other employee of the undertaking in which the employee is employed ;
- (c) because the employee willfully causes damage to the buildings, machinery, tools, raw materials or other objects connected with the undertaking in which the employee is employed;
- (d) because of the employee, either by imprudence or carelessness, endangers the safety of the undertaking or any person employed or resident therein;
- (e) because of the employee has willfully revealed manufacturing secrets or matters of a confidential nature to another person which is, or is likely to be detrimental to the employer,
- (f) because the employee has absented himself from work for more than a total of three working days in any period of thirty days without either the permission of the employer or a certificate signed by a medical practitioner certifying that the employee was unfit for work on those occasions;
- (g) because the employee refuses either to adopt safety measures or follow instructions of his employer in regard to the prevention of accidents or disease;
- (h) because the employer has been committed to prison and thus prevented fulfilling his obligations under his contract of employment;

- (I) because the employee is unable to continue in employment without contravening this regulation or any other law;
- (j) for any other reason which entails for the employer or the undertaking similar and detrimental consequences to those set out in this section . (Amended Act 11/1981, Act 4/1985).

Certificate of employment.

7. Any employee whose services are terminated shall be entitled to receive on request, at the time of such termination, a certificate from his employer specifying the dates of his engagement and termination and the nature of the work on which he has been employed.

Suspension from employment.

8. (1) An employer may suspend an employee from employment without pay where the employee is remanded in custody.

(2) Where an employee is subsequently acquitted of the charge for which he was placed in custody, the suspension shall be lifted, and subject to sub section 3, the employer shall not be obliged to pay any wages to the employee for the period he was in custody.

(3) Where the employee is remanded in custody as a result of a charge laid by employer and is subsequently acquitted of that charge, the employer shall pay to the employee an amount equal to the remuneration he would have been paid for the period spent in custody had he not been in custody.

Employee to give notice of redundancies.

9. (1) For the purpose of this regulation the term Aemployee A shall be not to include any employee-

- (a) engaged on a seasonal contract;
- (b) who is a casual employee

(2) Where an employer contemplates terminating the contracts of employment of five or more employees for reason of redundancy, he shall give not less than one month's notice thereof in writing to the will which is a party to a collective agreement and information -

- (a) the number of employee likely to become redundant;
- (b) the occupations and remuneration of the employees affected;
- (c) the reasons for the redundancies ; and
- (d) the date when the redundancies are likely to take effect

Remedies against unfair termination of services.

11. (1) Where an employee alleges that his services have been unfairly terminated, or that the conduct of the employer towards him has been such that the employee can no longer be expected to continue in his employment, the employee may file a complaint with the Labour Commissioner, whereupon the Labour Commissioner, using the powers accorded to him Part II of the Employment Act, 1980 shall seek to settle the complaint by such means as may appear to be suitable to the circumstances of the case.

(2) Where the Commissioner of Labour succeeds in achieving a settlement of the complaint, the terms of the settlement shall be recorded in writing, signed by the employer and by employee and witnessed by the Commissioner of Labour one copy of the settlement shall be given to the employer, one copy shall be given to the employee and the original shall be retained by the Commissioner of Labour.

(3) If the Commissioner of Labour is unable to achieve a settlement of the complaint within twenty-one days of it being filed with him, the complaint shall be treated as an unresolved dispute and the Commissioner of Labour shall forthwith submit a full report thereon to the Industrial Court which will then proceed to deal with the matter in accordance with the Industrial Relations Act.

Burden of proof.

12. (1) In the presentation of any complaint under Part V of the Employment Act, 1980 the employee shall be required to prove that at the time services were terminated that the employee was an employee to whom section 12 applied.

(2) The services of an employee shall not be considered as having been fairly terminated unless the employer proved -

- (a) that the reason for the termination was one permitted by section 13 and
- (b) that, taking into account all the circumstances of the case, it was reasonable to terminate the services of the employee.

Repatriation of employees.

13. (1) Where an employee has been brought to the place of the employment by the employer, or by a person acting on his behalf, and the employee's contract of employment is terminated by the employer for any cause, the employer shall be liable for the expenses of repatriating the employee by reasonable means to the place from which the employee was brought.

(2) The expenses of repatriation shall include -

- (a) the cost of travelling and subsistence expenses for the journey
- (b) subsistence expenses during the period, if any, between the date of the termination of the contract and date of repatriation.

Offences under this Part

14. Any employee who -

- (a) except where section 33 (8) of the Employment Act, 1980 (section 3 of this Schedule) applies, fails or refuses to give an employee whose services are being terminated the minimum period of notices required by that section;
- (b) fails or refuses to an employee whose services are being terminated to be absent from work for the purposes of seeking other employment as required by section 34 (6) section 4 of this Schedule;
- (c) terminates the contracts of employment of five or more of his employees for reasons of redundancy without giving prior notice thereof as required by section 40 (section 10 of this Schedule); or

- (d) fails to pay the expenses of repatriating an employee as required by section 43 (section 12 of this Schedule);
- (e) fails to pay severance allowance as required by regulation 11 shall be guilty of an offence and liable on conviction therefore to a fine of two hundred and fifty Emalangeni or imprisonment for three months.

M. E. VILAKATI
Principal Secretary
Ministry of Enterprise and Employment

LEGAL NOTICE NO. 151 OF 2002

THE WAGES ACT, 1964
(Act No. 16 of 1964)

THE REGULATION OF WAGES (MOTOR ENGINEERING TRADES)
ORDER, 2002
(Under Section 11)

In exercise of the powers conferred on him by Section 11 of the Wages Act, the Minister for Enterprise and Employment makes the following Order -

Citation and Commencement.

1. This Order may be cited as the Regulation of Wages (Motor Engineering Trades) Order, 2002 and shall be deemed to have come into force on the 1st October, 2002.

Interpretation.

2. In this Order unless the context requires -

“artisan” means an employee who has undergone a trade test and obtained a certificate showing the employee’s grade;

“artisan assistant” means an employee who has been assisting an artisan for three continuous years in the workshop or can show proof of three years relevant experience with a previous employer;

“assistant batteryman” means an employee who assists a batteryman;

“assistant greaseman” means an employee who assists a greaseman;

“assistant tyreman” means an employee who assists a tyreman;

“batteryman” means an employee wholly or mainly engaged in the servicing and maintenance (including charging) of batteries either solely or in charge of the employees;

“casual labourer” means an employee who has not been employed continuously for a period of more than three months;

“junior clerk” means an employee who does not possess a Junior Certificate of education and who is engaged in general clerical duties;

“clerk” means an employee who is a holder of a Junior Certificate of education and is engaged in general clerical duties;

“senior clerk” means an employee who is a holder of a Senior certificate of education and who is engaged in general clerical duties;

“continuous service” means service in the employment of the employer interrupted only by death, retirement or discharge of the employee concerned. Provided that an employee who is re-engaged within two months of the employee’s discharge shall be deemed to be continuous service in the employment of that employer;

“driver” means an employee whose duties, in addition to being in charge of a motor vehicle includes the handling to and from the tailboard, and daily maintenance and cleaning of the vehicle;

“general labourer” includes a person employed as a sweeper, cleaner, or spannerman;

“greaseman” means an employee who lubricates vehicles including operating the necessary equipment either solely or in charge of other employees;

“petrol pump attendant” means a person wholly or mainly employed at a petrol pump selling fuel and oil;

“semi-skilled labourer” means a person who is employed to perform duties other than sweeping and cleaning;

“switchboard operator” means an employee whose main duties consists in the operation of telephone switchboard;

“tyreman” means an employee wholly engaged in repairing tyres and tubes;

“trainee switchboard operator” means an employee whose main duties consists in the operation of telephone switchboard under training instructions for a period not exceeding three months;

“watchman” means an employee whose engaged during the day or night guarding and protecting premises, property or belongings as directed by the employer;

Application.

3. This Order shall apply to all persons employed in an undertaking or part of an undertaking which consist in the carrying on for gain or more of the following activities -

- (a) the retail, supply of motor vehicles, fuel and oil;
- (b) the retail, supply of agricultural or mobile construction plant; and the repair, servicing or assembly or adaption of such vehicles, machinery or plant on behalf of other persons or undertaking.

Basic Minimum Wage.

4. (1) The basic minimum wage to be paid to an employee specified in the First Schedule shall be calculated at a rate not less than that specified in the First Schedule.

(2) Any employee who, at the date of the commencement of this Order is in receipt of a higher wage, or enjoys better conditions of employment than those prescribed by the Order shall not suffer a reduction in such wage or condition by reason of this Order.

(3) The normal hourly rate for a watchman, shall not be less than one hundred and twelfth of his monthly wage.

Hours of Work.

5. (1) The normal weekly hours of work for an employee other than a watchman and a petrol pump attendant shall not be more than forty-five hours exclusive of meal breaks, spread over five and half days.

(2) The normal weekly hours of work for watchman shall be seventy-two hours spread over six shifts, each of twelve hours.

(3) the normal monthly hours of work for a petrol pump attendant shall not be more than one hundred and ninety-four hours a month.

Overtime.

6. (1) Overtime in excess of the normal hours by an employee other than a watchman shall be paid at the following rate -

- (a) any normal working day on a Saturday before 1.00 p.m at one and one half times the employee's normal rate of wages;
- (b) after 1.00 p.m. Saturdays, or public holidays specified in regulation 8 at twice the employee's normal rate of wages.

(2) Overtime in excess of the normal hours worked by a watchman shall be paid at one and one half times the employee's normal rate of wages; but where such overtime is worked on a rest day or on a public holiday specified in Regulation 8, the overtime shall be paid at twice the employee's normal rate of wages.

(3) An employee shall not be required to work overtime against his will unless it is understood by both parties that such overtime is necessary.

Annual Leave.

7. (1) An employee shall, be entitled after each period of twelve months continuous service with an employer, to annual leave for a period totalling 10 working days with full pay.

(2) An employee who has completed 5 years continuous service with the same employer shall be granted 15 working days or 21 calendar days, with full pay.(3) Where the employment of an employee is terminated after a period exceeding three months from the date of commencement or after a period following her return from annual or sick leave, the employee shall be paid in addition to any other entitlement an amount equal to one days pay for each month of service during which he has earned, but had not taken annual leave.

Paid Public Holiday.

8. (1) The following shall be public holidays with full pay -

New Year's Day;

Good Friday;

Easter Monday;

King's Birthday;

May Day;

Ascension Day;

Umdlanga Day (to be announced);

Somhlolo Day;

Christmas Day;

Boxing Day; and

Incwala Day (to be announced)

(2) No employee shall be entitled to payment under sub-regulation (1) unless the employee is available for work on a working day immediately before and after the public holiday.

9. Retirement Age

An employee may retire at age of 55.

10. Payment of Severance Allowance

(1) Severance allowance calculated as outlined in Section 34 of the Employment Act, 1980, shall be payable to an employee who leaves service under the following circumstances:

(a) On grounds of age or ill-health, subject to the production of a medical certificate signed by a medical practitioner registered under the Medical and dental Practitioners act, 1970.

(b) To the employee's beneficiaries, in the case of such employee's death in service.

(2) Notwithstanding sub-regulation(i)

(i) the payment of severance allowance under any other circumstances not mentioned in sub-regulation (i) shall be governed by Section 34 of the Employment Act 1980.

Sick Leave.

11. (1) After three consecutive months of continuous service with an employer and subject to the production of a Medical Certificate signed by a Medical Practitioner, registered under the Medical and Dental Practitioner's Act, 1970, an employee shall be entitled to a maximum of fourteen days with full pay and thereafter to a maximum of fourteen days on half pay in each period of one year.

(2) Notwithstanding Sub-Regulation (1) -

(i) an employee shall not be entitled to the benefits specified under-regulation (1) if the sickness or accident causing his absence was caused by his own negligence or misconduct;

(ii) a certificate issued by a Registered Nurse shall be accepted in place of a Medical Certificate if a Medical Practitioner is not available.

(3) Where the employment of an employee is terminated after a period exceeding three months but not amounting to one year from the date of its commencement the employer shall pay to the employee a sum not less than one day's wages for each completed month of such period.

Written particulars of employment to be provided.

12. An employer shall on engagement of an employee give such employee a completed copy of the form in the Second Schedule of this Order.

Continuous Service.

13. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of the owner without interruption, his service shall be deemed to be continuous service in the employment of the new owner.

Protective Clothing.

14. (1) Subject to sub-regulation (2), an employer shall supply, free of charge and without payment of any deposit to the employee, the following items -

- (i) in the case of employees who are normally exposed in their employment to inclement weather, a waterproof cap, overcoat or other suitable protective clothing;
- (ii) two dust coats, two overalls or two uniforms per annum, in the case of drivers and conductors; and
- (iii) in the case of artisans assistant mechanics and employees engaged in the loading unloading and delivery of goods to or from vehicles, suitable overalls or other protective clothing.

(2) Any clothing supplied to an employee in terms of this regulation shall remain the property of the employer and shall subject to fair wear and tear, be returned to the employer in good condition on the resignation, retirement or discharge of an employee.

Redundancy.

15. When an Employee has been employed for a period of three years or more and his employment is terminated for reasons which are beyond the control of either the employer or the employee he will be paid either:

- (a) a redundancy payment equal to two-thirds of his monthly wage multiplied by four; or
- (b) severance allowance required by the Employment Act whichever is greater, but he will not be entitled to be paid both severance pay and redundancy pay.

Subsistence allowance.

16. For period of absence from the employee's place of employment on journey undertaken in the performance of the employee's duties, an employee shall be re-imbursed all expenses reasonably incurred on lodging and or meals during each period of such absence on production of receipts covering such expenditure.

Revocation of Legal Notice No.97 of 2000

17. The Regulation of Wages (Motor Engineering Trades) Order, 2000 is revoked.

**FIRST SCHEDULE
(Regulation 4)**

Occupation	Rate per hour New rate
Office Attendant	3.33
Casual Labourer	3.33
General Labourer	3.33
Semi-skilled labourer	3.81
Driver (up to 2 tons per load)	3.81
Driver (above 2.5 tons per load)	4.14
Greaseman	3.81
Assistant Greaseman	4.51
Batteryman	3.81
Assistant Batteryman	3.33
Tyreman	4.81
Assistant Tyreman	3.33
Clerk	3.81
Junior Clerk	3.68
Senior Clerk	3.92
Trainee (Switchboard Operator)	3.33
Switchboard	3.68
Artisan Assistant	3.68
Artisan (Trade Tested) Grade III	4.15
Artisan (Trade Tested) Grade II	5.84
Artisan (Trade Tested) Grade I	8.91
Watchman per month	708.06

Petrol Pump Attendant to be paid as provided for under the Regulation of Wages (Retail, Hairdressing, Wholesale and distributive Trades) Order

**SECOND SCHEDULE
(Regulation 10)**

WRITTEN PARTICULARS OF EMPLOYMENT FORM

1. Name of employer
2. Name of employee
3. Date of Employment began
4. Wage and method of calculation
5. Interval at which wages are paid
6. Normal hours of work
7. Short description of employee's work
.....
.....
8. Probation Period

9. Annual Holiday Entitlement
10. Paid Public Holidays
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Notice employee entitled to receive
14. Notice employee required to give
15. Notice Scheme (if any, other than N.P.F. Scheme)
-
16. Any other matter either party wishes to include
-

Notes (a) An Industry Union is recognised by this undertaking any employee is free to join it.
The address of the Industry Union is:

(b) The grievance procedure in this undertaking requires that a grievance should be first
referred to

(c) When any heading is inapplicable enter nil.

Signed Employer
..... Employee
..... Witness
..... Date

M. E. VILAKATI
Principal Secretary
Ministry of Enterprise and Employment

LEGAL NOTICE NO.152 OF 2002

THE WAGES ACT,1964
(Act No. 16 of 1964)

THE REGULATION OF WAGES (ROAD TRANSPORTATION) ORDER, 2002
(Under Section 11)

In exercise of the powers conferred on him by Section 11 of the Wages Act,1964, the Minister for Enterprise and Employment hereby makes the following Order .

Citation and commencement.

1. This Order may be cited as the Regulation of Wages (Road Transportation) Order,2002 and shall be deemed to have come into effect on the 1st November, 2002.

Interpretation.

2. In this Order, unless the context otherwise requires -

“assistant mechanic” means an unskilled employee who assists a mechanic;

“cleaner” means a person who is employed to clean vehicles or the premises of his employer;

“clerk grade II” means a clerk from one day to 3 months continuous service with the same employer;

“clerk grade III” means a clerk above 3 months up to 12 months, continuous service with the same employer;

“clerk grade IV” means a clerk from 13 months up to 24 months continuous service with the same employer;

“clerk grade V” means a clerk from 25 months service who is engaged in general clerical duties, with the same employer;

“conductor” means a person who is employed to sell tickets on a public service vehicle and who is responsible for the control of passengers on that vehicle;

“driver” means a person who is employed to drive a goods vehicle, public service vehicle, car hire or taxi as the context may require;

“grade” means any grade listed in the First Schedule;

“greaser” means an employee who greases vehicles and trailers;

“general worker” means an employee who performs manual tasks of simple routine nature, requiring mainly physical effort and little or no experience, which is not performed by workers classified elsewhere;

“head driver” means an employee who supervises other drivers;

“public holiday” means a day prescribed as a paid public holiday in regulation 11;

“artisan” means an employee who has completed an apprenticeship or who has been awarded a trade grade certificate;

“lay over” means a period of duty performed by a driver for the purpose of booking-off his vehicle which shall not include driving duty;

“Loader” means an employee engaged in the loading or off-loading of vehicles or rail transport;

“lorrymate” means an employee who assists in the execution of driver’s duties other than driving;

“messenger” means an employee engaged to convey messages and to carry out elementary office jobs;

“mobile crane driver” means an employee who operates a mobile crane to load or off-load materials;

“night” means the period between the hours of 6.00 p.m and 6.00 a.m;

“overtime” means any time worked outside the ordinary hours of work as defined in regulation 6;

“senior clerk” means an employee engaged in general clerical duties including supervisory work;

“short time” means the employment of employees on short time working at not less than fifty percent of their basic wage;

“suitable accommodation” means a weatherproof structure containing bed or camp bed with a palliasse or similar covering;

“switchboard operator” means an employee who operates a telephone switchboard ;

“tyre hand” means a person who is employed in the repairing of tyres and tubes, including the use of equipment necessary for such work;

“journeyman/mechanic” means any employee who completed an apprenticeship;

“watchman” means an employee who guards property or premises of the employer;

“working day” means any day other than a day-off or a public holiday listed in regulation 11.

Application.

3. This Order shall apply to all persons employed in any undertaking involving the carriage, for hire or reward, of passengers or goods by a motor vehicle required to be licenced under the Road Transportation Act, 1963.

Basic Minimum Wage.

4. (1) The basic minimum wage to be paid to the employees specified in the First Schedule shall be calculated at a rate specified therein in relation to the employee’s grade;

(2) A casual employee shall not be paid less than one and third (1/3) times the basic minimum wage for the occupation and grade in which he is employed.

Protection of Wages.

5. (1) An employee who is required to perform duties in a lower grade than that in which he is normally employed, shall be paid the wages applicable to the grade in which he is normally employed.

(2) Any employee who is required to temporarily perform duties in a higher grade than that in which he is normally employed, shall be paid the wage applicable to such higher grade on and after the third day of such work.

(3) Except in the case of short time, no employer shall reduce the wages of any employee who is able and willing to work and who presents himself for work at the appointed time and place but for whom the employer is unwilling or unable to provide work.

Hours of work.

6. (1) The ordinary hours of work, subject to the provisions of regulation 8 shall not exceed forty eight hours per week, spread over 6 days.

(2) Except in case of emergency, no employer shall require or permit an employee, other than a watchman or taxi-driver, to work more than sixty hours, including overtime, in any week or for more than five continuous hours without a break of at least thirty minutes.

(3) Every employee shall receive one day off work in each week and no employee shall be required to work on his day-off in successive weeks unless mutually agreed to by prior arrangement.

(4) Where two drivers are engaged in driving a vehicle, the total driving hours per day for both drivers shall not exceed sixteen hours and each driver shall be paid for driving time only, which driving hours shall be appointed equally between both drivers.

(5) A driver of a Public Transport vehicle shall be allowed breaks amounting in aggregate to not less than forty minutes in a period of eight consecutive hours working time, and in the event of him working more than eight consecutive hours, he shall, in addition to aggregate break of forty minutes, be given a thirty minutes rest period at the end of eight hours.

(6) No driver shall be required or permitted to drive for eleven or more hours in one day except in the case of an emergency.

Conversions Rates.

7. For purposes of converting a weekly wage to-

- (a) an hourly rate, the weekly wages shall be divided by the number of hours ordinarily worked in a week;
- (b) a daily rate, the weekly wage shall be divided by the number of days ordinarily worked in a week; and
- (c) a monthly rate, the weekly wages shall be multiplied by four and one third.

Payment of Overtime.

8. (1) Subject to the provisions of regulation 6 an employer may require an employee to work overtime and, whenever possible, shall give twenty -four hours notice of such requirements.

(2) The first thirty minutes of overtime worked on any day shall qualify for payment at the employee's normal rate of wage applicable to that day.

(3) Overtime in excess of thirty minutes on any normal working day shall qualify for payment at the rate of one and half/times the employee's normal rate of wages.

(4) Overtime worked by an employee on his day off or on a public holiday qualify for payment at double the employee's normal wages.

Allowances.

9. (1) A driver other than a taxi-driver, who is required to drive on a night shift shall be paid at one and one quarter times his normal wage rate.

(2) A taxi driver shall be paid, in addition to his normal wage, a commission of not less than two percent, on his money intake during any month worked.

(3) A driver who has been in the continuous employment of the same employer for more than six months and who is required to obtain an annual public driver's licence, shall be reimbursed by his employer the cost of any medical examination required as a condition for the issue of that licence.

(4) An employee who is on duty outside his normal station or principal place of employment shall be paid subsistence allowance in respect of each continuous period of 12 hours up to a maximum of six days the following-

- (a) thirteen emalangeni, twenty cents (13.20) where the employer provides suitable accommodation and food;
- (b) eighteen emalangeni, ninety eight cents (18.98) where the employer does not provide food, but provides suitable accommodation or where the accommodation is available on the vehicle; and
- (c) thirty three emalangeni (33.00) where the employee provides neither food nor accommodation.

(5) An employee who is absent on duty from his principal place of employment for more than seven days but not exceeding thirty days, shall be paid the following subsistence allowance in respect of each absence-

- (a) twenty six emalangeni, forty cents (26.40) if the employer provides suitable accommodation and food;
- (b) eighteen emalangeni, ninety eight cents (18.98) where the employer does not provide food, but provides suitable accommodation or where the accommodation is available on the vehicle; and
- (c) thirty nine emalangeni sixty cents (39.60) if the employer provides neither food nor accommodation

(6) Whenever a transfer is envisaged to be permanent in nature from the outset, a transfer allowance of E60.00 shall be paid to the transferee.

Annual Leave.

10. (1) During the first two years of continuous service with an employer, an employee shall earn leave at the rate of one and a quarter working days for each completed month of service.

(2) After the completion of two years service but not exceeding seven years continuous service with an employer, an employee shall earn at the rate of two working days for each completed month.

(3) An employee with more than seven years continuous service with an employer shall earn leave at the rate of two and a half working days for each completed month.

(4) Where the services of an employee is terminated after a period exceeding three months but not amounting to one year from the date of commencement, the employer shall pay to the employee a sum not less than one day's wages for each completed month of such period.

(5) A period of unpaid leave or unpaid sick leave shall not be counted as employment earning leave.

(6) an employer who observes a holiday other than a public holiday in regulation 11, shall not off-set such holiday against an employee's leave.

Public Holiday.

11. (1) The following shall be public holidays with full pay -

New Years' Day;

Good Friday;

Easter Monday;

National Flag Day;

Ascension Day;

May Day;

King's Birthday;

Umhlanga (Reed dance) Day;

Somhlolo Day;

Incwala Day;

Christmas Day; and

Boxing day

(2) Where a public holiday falls on a Sunday, the following day shall be deemed to be a public holiday.

(3) An employee who is absent without leave on the working day before or the working day after a public holiday, shall not be entitled to any payment in respect of that public holiday in terms of this regulation.

Sick Leave.

12. (1) After three consecutive months continuous service with an employer and subject to the production of a medical certificate signed by a medical practitioner, registered under the Medical and Dental Practitioners Act, 1970, an employee shall be entitled to sick leave up to a maximum of fourteen days on full wages and thereafter to maximum of fourteen days on half wages in each period of one year.

(2) Notwithstanding sub-regulation (1),

- (a) an employee shall not be entitled to the benefits specified under sub-regulation (1) if the sickness or accident causing his absence was a result of his own negligence or misconduct; and
- (b) a certificate issued by a registered nurse shall be accepted in place of a medical certificate if a medical practitioner is not available.

Retirement Age

13. An employee may retire at age of 60.

Written Particulars of employment to be provided

14. An employer shall on engagement of an employee, give such an employee a completed copy of the form in the Second Schedule of this Order.

Continuous Service.

15. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of the new owner without interruption, his service shall be deemed to be continuous service in the employment of the new owner.

Protective Clothing.

16. (1) Subject to sub-regulation (2), an employee shall supply, free of charge and without payment of any deposit by the employee, the following items -

- (i) in the case of employees who are normally exposed in their employment to inclement weather, a waterproof cap, overcoat or other suitable protective clothing;
- (ii) two dust coats, two overalls or two uniforms per annum, in the case of drivers and conductors; and
- (iii) in the case of artisans assistant mechanics and employees engaged in the loading, unloading and delivery of goods to or from vehicles, suitable overalls or other protective clothing.

(2) Any clothing supplied to an employee in terms of this regulation shall remain the property of the employer and shall subject to fair wear and tear, be returned to the employer in good condition on the resignation, retirement or discharge of an employee.

Payment of Severance Allowance

17. (i) Severance allowance calculated as outlined in Section 34 of the Employment Act, 1980, shall be payable to an employee who leaves service under the following circumstances:

- (a) On grounds of age or ill-health, subject to the production of a medical certificate signed by a medical practitioner registered under the Medical and dental Practitioners act, 1970.
 - (b) Resignation after 10 years of continuous service with the same employer, provided the employer satisfied himself
 - (c) To the employee's beneficiaries, in the case of such employee's death in service.
- (2) Notwithstanding sub-regulation (i)
- (i) the payment of severance allowance under any other circumstances not mentioned in sub-regulation (i) shall be governed by Section of the Employment Act 1980.

Short Time.

18. (1) If an employer finds it necessary, for reasons beyond that employers control, to employ an employee on short time, that employer may do so, subject to the Labour Commissioner consenting in writing to such an arrangement and on the undertaking that the employer intends resuming full time working within three weeks.

(2) Where an employee has been placed on short time under sub-regulation (1), that employee shall be paid not less than fifty percent of the weekly wages where the employee is employed for periods which, in aggregate, are equivalent to or less than fifty percent of his normal weekly hours of work.

(3) No reduction shall be made in an employee's earnings where the employee has been placed on short time, and works, in aggregate, more than fifty percent of normal weekly hours of work during any week the employee has been placed on short time.

Revocation of legal Notice No.152 of 1997.

19. The Regulation of Wages (Road Transportation Industry) Order, 1997 is revoked.

**FIRST SCHEDULE
(Regulation 4)**

BASIC MINIMUM WAGE PER WEEK

GRADE 1:

Cleaner	
Greaser	
Loader	
Lorry mate	157.00
Messenger	
Conductor	
General worker	

Grade II:

Fuel issuer	
Tyre hand	
Watchman	231.00

Driver of vehicles up to 200kg tare weight or
A public transport Licenced to carry 1 to 16 passengers

Grade 111:

Driver of vehicles from 2001kg to 7000kg tare weight or
Public Transport Licenced to carry 17 to 36 passengers
Assistant mechanic 249.00

Grade IV:

Driver of mobile cranes, vehicles from 7001 kg to 12000 kg tare
weight or public transport
licenced to carry 37 to 59 passengers 258.00

Grade V:

Driver of vehicles 12001kg to 20000kg tare weight or public
transport licenced to carry 60 passengers and more
Clerk 269.00
Storman

Grade VI:

Driver of (vehicles of 20001 kg tare weight and above
Senior Clerk 271.00

Grade VII:

Driver Supervisor
Journeyman 486.00
Mechanic
Auto Electrician
Welder

SECOND SCHEDULE**WRITTEN PARTICULARS OF EMPLOYMENT**

1. Name of Employer
2. Name of Employee
3. Date of employment began
4. Wage and method of calculation
5. Interval at which wages are paid
6. Normal hours of work

7. Short description of employee's work
-
-
8. Probation Period
9. Annual Holiday Entitlement
10. Paid Public Holiday
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Notice employee entitled to receive
14. Notice employee required to give
15. Pension Scheme (if any, other than N.P.F Scheme)
-
16. Any other matter either party wishes to include
-

Notes: (i) An Industry Union is recognised by this undertaking any employee is free to join it.
The address of the Industry Union is:

.....

- (ii) The grievance procedure in this undertaking requires that a grievance should be first referred to

.....

.....

- (iii) When any heading is unapplicable enter nil.

Signed Employer

..... Employee

..... Witness

..... Date.

M.E. VILAKATI
Principal Secretary
Ministry of Enterprise & Employment

LEGAL NOTICE NO. 153 OF 2002

THE WAGES ACT, 1964
(Act No. 16 of 1964)

THE REGULATION OF WAGES (SECURITY SERVICES INDUSTRY)
ORDER, 2002
(Under Section 11)

In exercise of the powers conferred upon him by section 11 of the Wages Act, 1964, the Minister of Employment And Enterprise hereby makes the following Order-

Citation.

1. This Order may be cited as the Regulation of Wages (Security Industry) Order, 2002 and shall come into force on the 1st November, 2002.

Application.

2. (1) This Order shall apply to all persons employed in detective, investigative, cash in transit, patrolling and night-watching services providing protection against burglary, fire, personal injury and similar services connected with or related to the foregoing.

(2) This Order shall not apply to persons employed by:-

(a) The Government

(b) A local Authority

Interpretation.

3. In this order, unless the context otherwise requires:

“clerk” means an employee engaged on full time general clerical duties:

“group A” means an employee, other than a patrol supervisor, with three months or less continuous service:

“group B” means an employee, with more than three months’ up to twelve months’ continuous services;

“group B1” means an employee with more than twelve months’ continuous service;

“group C” means a patrol supervisor Grade 11;

“group D” means a patrol supervisor grade 1:

Basic Minimum wage.

4. (1) Basic Minimum wage to be paid to an employee shall,

(i) include a ration allowance; and

(ii) be calculated at a rate specified in the First Schedule hereto.

(2) An employee, who at the commencement of this Order, is entitled to benefits greater than those specified in this Order, shall not suffer any reduction in such benefits by reason of this Order coming into operation.

Hours of work.

5. The basic working week shall consist of seventy-two hours spread over a period of six days.

Overtime payment.

6. (1) An employee who is required to be on duty and work in excess of the hours specified in Regulation 5 shall be entitled to be paid for such overtime at the rate of one and half times the employee's normal hourly rate of wages.

(2) Normal hourly rate shall mean the employees monthly rate of wages divided by three hundred and twelve.

Annual Leave.

7. (1) On completion of each period of twelve months' continuous service, an employee shall be entitled to an annual leave of twelve days with full pay.

(2) Ten days with full pay in compensation for public holidays worked will be added if it was not paid in the month such holidays falls in. The holidays shall not be in lieu of an employee's off-days

(3) Where the employment of an employee is terminated after a period exceeding three months but not amounting to one year from the date of its commencement, or after a period of employment following the completion of a year in respect of which the paid annual holiday has been taken, the employer shall, on or before the date of such termination, pay to the employee a sum equal to not less than one day's wages for each completed month of such period.

Sick Leave

8. After three months' continuous service with an employer; an employee shall be entitled to fourteen days sick leave with full pay and a further period of fourteen days on half pay in each period of twelve months of continuous employment, subject to the employee submitting to the employer a medical certificate covering the period of absence, signed by a Medical practitioner registered in Swaziland.

Written Particulars to be provided

9. An employee shall on engagement of an employee give such employee a completed copy of the form in the Second Schedule of this Order.

Public Holidays:

10. (1) The following shall be Public Holidays with full pay :-

New Year's Day

Good Friday

Easter Monday

National Flag Day

King's Birthday

Somhlolo Day

Reed Dance Day

Incwala Day

Christmas Day and

May Day

Day Off

11. (1) An employee shall be entitled to a minimum of one day off in each week.

(2) An employer and employee may mutually agree that the day-off be deferred so to allow the employee to accumulate a minimum of four days off work each month.

Travelling Expenses.

12. (1) Any employee who travels on duty and remains away from his place of residence shall be reimbursed all travelling, lodging and meal expenses incurred, if the employee remains away from the employees' place of work for a period of 48 hours, on production of receipts covering the expenditure.

(2) Where an employee is transferred from his place of employment the payment of expenses under regulation 12(1) shall cease and the employer shall therefore provide such employee with suitable accommodation or payment in lieu thereof for a period of three months, to allow the alternative accommodation.

Lay -Off

13. (1) A Lay-off due to circumstances beyond an employer's control shall not exceed fourteen working days and such lay-off shall be without pay and at the end of such period the employer shall either re-instate an employee or terminate the employee's employment in accordance with the Employment Act, 1980.

(2) During the lay-off the employer shall not engage any other employee to fill a vacancy created by the lay-off.

(3) The employer shall give a lay-off notice of not less than twenty-four hours to an employee before the lay-off

Pay Day

14. An employee shall be paid not later than three days after the end of a pay period.

Uniforms, Protective Clothing and Equipment

15. (1) The employer of a guard or watchman shall provide such employee free of charge with,

- (a) boots (shoes for female guards) a whistle, a club, torch; and
- (b) when reasonably required under the prevailing weather conditions, a hat, raincoat, or overcoat

(2) Any clothing referred to in sub-regulation (1) shall be of reasonable quality and shall remain the property of the employer.

Revocation of legal Notice NO. 191 of 2001.

16. The Regulation of Wages (Security Services Industry) Order 2001 is hereby revoked.

**FIRST SCHEDULE
(Regulation 4)**

	(Per Month) Rates
Group A	843.00
Group B	913.50
Group B1	990.00
Group C	1020.50
Group D	1189.50
Telephonist	843.00
Clerk	1189.50

SECOND SCHEDULE**WRITTEN PARTICULARS OF EMPLOYMENT FORM**

1. Name of Employer
2. Name of Employee
3. Date Employment began.....
4. Wage and method of calculation.....
5. Intervals at which wages are paid.....
6. Normal hours of work.....
7. Short description of employee's work.....
.....
.....
8. Probation Period.....
9. Annual Holiday Entitlement.....
10. Paid Public Holiday
11. Payment during sickness.....
12. Maternity Leave (if employee female).....
13. Notice employee entitled to receive.....
14. Notice employee required to give.....
15. Pension Scheme (If any, other than N.P.F. Scheme).....
.....
16. Any other matter either party wishes to include.....
.....

Notes (a) An Industry Union is recognised by this undertaking any employee is free to join it. The address of the Industry Union is;

.....
.....

- (b) The grievance procedure in this undertaking requires that a grievance should be first referred to:

.....
.....

- (c) When any heading is inapplicable enter Nil

Signed Employer
..... Employee
..... Witness
..... Date

M. E. VILAKATI
Principal Secretary
Ministry of Enterprise and Employment