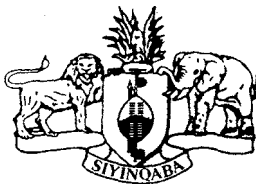


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SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XLIX]

MBABANE, Thursday, MAY 5th 2011

[No. 50

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PART C - LEGAL NOTICE

68. The Regulation of Wages (Mining and Quarrying Industry) Order, 2011 S1

PUBLISHED BY AUTHORITY

LEGAL NOTICE NO. 68 OF 2011

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

THE REGULATION OF WAGES (MINING AND QUARRYING
INDUSTRY) ORDER, 2011
(Under Section 11)

In exercise of the powers conferred by Section 11 of the Wages Act, 1964, the Minister for Labour and Social Security makes the following Order:-

Citation and Commencement

1. This Order may be cited as the Regulation of Wages (Mining and Quarrying Industry) Order, 2011 and shall be deemed to have come into force on the 1st January 2011.

Interpretation.

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

“clerk A1” means a clerical worker capable of simple reading, minimal writing, collection and carrying items, date stamps, keeping calendars up to date, recording times for arrival and departure, receiving and carrying documents and correspondence internally and acting as a messenger;

“clerk A2” means a clerical worker capable of performing all the functions of clerk A1 and writing, copying, simple filing and operating simple office machine, entering petty cash payments and receipts, transcribing information into registers and on forms and cards without analysis, sorting mail, photocopying and duplicating;

“clerk B1” means a clerical worker capable of analyzing, accounting, operating fax machines, scrutinizing and utilizing information not directly available but based on past experience, interviewing according to prescribed procedure, interpreting, supervising the works of clerks A1 and A2;

“unqualified tradesman” means a person who undertakes such task as rough glazing, painting and simple mechanical work on rock drills, locos, pumps, simple vehicle servicing and similar uncomplicated work requiring skill below the artisan’s standard;

“supervisor” means a person who oversees the work of gangs working in the Mining and Quarrying Industry;

“driver Grade 1” means a person employed to drive-

- (a) ambulances;
- (b) heavy duty vehicles (in excess of five tons capacity);
- (c) power-driven earth moving equipment; and Primary hoists;

“driver Grade 2” means a person employed to drive-

- (a) light duty vehicles other than ambulances;

- (b) secondary hoists;
- (c) rocker arm loaders;
- (d) tractor; and
- (e) locomotives.

Application.

3. (1) This Order shall apply to all persons, other than articulated apprentices, employed in any undertaking or any part of an undertaking which carries on one or more of the following activities for gain -

- (a) mining and quarrying operations
- (b) winning of sand and gravel from any source; or
- (c) ancillary work connected with the running of mineral extraction operations but; excluding contractors and suppliers to a mine or quarries.

Written particulars of employment to be provided.

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

Hours of Work

5. (1) The basic working week shall be forty five hours over a maximum of six days.

(2) Notwithstanding sub-regulation (1) where shifts are maintained, the basic week shall consist of six-twelve hour shifts in the case of a security guard;

(3) with the consent of his employer, an employee may extend his daily hours of work by up to one hour in order to reduce the hours of his last shift for his own convenience without the entitlement to overtime.

(4) Subject to regulation 10 (1) where an employer requires an employee to work in excess of the hours specified in this regulation, the employee shall be paid for overtime in accordance with the provisions of regulation 9.

Work Stoppage

6. (1) In the event of a temporary work stoppage of an employer's operations whether partial or complete, occasioned by circumstances beyond the control of the employer or of the employee, but excluding stoppage occasioned by a strike, lockout, sit-in or other form of industrial action or dispute, concerted or individual an employee who is present, available, capable and willing to work for the normal period during normal working hours at times appointed by the employer, shall be paid at full rate applicable to that job and-

- (a) in the case of a watchman or security guard, for a minimum of 72 hours in any week; and
- (b) in the case of all employees for a minimum of 45 hours in any week.

- (i) an employee shall perform any task appointed by the employer;
 - (ii) such task shall not expose or subject an employee to peculiar risks or substantially more unfavorable conditions than those pertaining to his original or normal form of employment ; and
 - (iii) the provision of such alternative work shall not prejudice the employer's right to terminate the employee's contract of service in terms of his normal conditions of employment and in accordance with the law.
- (2) Where the employer cannot appoint a productive task and the employee is present, available, capable and willing to work, the employer shall pay the employees full daily wages for two days immediately succeeding the day upon which work was stopped and thereafter pay the employees his daily rate until work is resumed or his employment is lawfully terminated.

Security of wages and conditions of employment.

7. (1) No employer affected by this order shall reduce his employees' wages or other conditions of service from those which were applicable to his employee before and at the effective date of this order.

Categories of work

8. Employees affected by this order shall be graded into categories A1, A2, B1, B2, B3, C1 and C2 as set out in the First Schedule.

Basic Minimum Wage

9. The basic minimum wage for the various categories set forth in regulation 8 shall be in respect of a 45 hours week (except in the case of a watchman, where the shift shall be twelve hours) and shall be set out in the table hereunder

Rates per hour

A1	A2	B1	B2	B3	C1	C2
E6.10	E6.70	E7.10	E7.90	E9.00	E10.30	E11.40

Overtime.

10. Overtime shall be paid to daily rated workers at the following rate-
- (a) for time in excess of 15 minutes after the specific hours per shift as specified in regulation 5 at one and half times the basic rate reduced to an hourly rate, except as provided in paragraph (b); and
 - (b) for time worked on Sundays, where it is not a working day, or on an employee's rest day where Sunday is a normal working day, or on a public holiday specified in regulation 11, at double the basic daily wage reduced to an hourly rate.

Public Holidays.

11. (1) The following Public Holidays shall be regarded as public holidays with full pay-

Christmas Day;	Boxing Day;
New Year's Day;	Worker's Day;
Good Friday;	Easter Monday;
Ascension Day;	King's Birthday;
National Holiday (22 July);	Somhlolo Day;
Reed Dance Day (Umhlanga);	Incwala Day; and
National Secondary Election's day	

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

(3) This regulation shall only apply when the employee avails himself for work on the working day immediately before the public holiday and working day immediately following the public holiday, except where the employer has authorized the employee's absence on such working day

Annual Leave.

12. On completion of each period of twelve months' continuous service with an employer, an employee shall be entitled to annual leave of not less than eighteen working days excluding the public holidays and the employee's rest day with full pay.

Sick Leave.

13. An employee who, after three months' continuous service with an employer becomes ill and becomes incapable of performing his duties, shall have one of the following sick benefits in respect of each period of one year, on production of a certificate issued by a Medical Practitioner as defined under the Medical and Dental Practitioners' Act, 1970-

- (a) Fourteen days leave with full pay and thereafter fourteen days on half pay; or
- (b) Thirty days leave of which the first three days in any period of sickness shall be without pay; or
- (c) Thirty days leave of free hospitalization and medical treatment with free food whilst in hospital and a daily sum of money equivalent to the cash value of any employee's rations as may be approved by the Commissioner of Labour from time to time.

Maternity Leave.

14. (1) Every female employee, whether married or unmarried, who has been in the continuous employment of her employer for twelve months or more shall be entitled to maternity leave as provided for in the Employment Act, 1980 upon delivering to her employer:-

- (a) a certificate issued by a medical practitioner or a midwife setting the expected or actual date of her confinement; or
- (b) such evidence in support of the entitlement to maternity leave as is reasonable, having regard to all circumstances of the case.

- (c) no employee shall be entitled to the maternity leave provided for under sub-regulation (1a) for two (2) consecutive years.

Redundancy.

15. In the case of redundancy by reason of closure, cessation or curtailment of an employer's operations, each affected employee shall receive the benefits provided for by section 33 and 34 of the Employment Act, 1980 or its successor and any other dues to which the employee is entitled to receive at the time of the redundancy.

Pay Advances.

16. (1) On a day to be appointed by his employer, which day shall be approximately half way through the pay month, an employee whose basic wages exceed E100.00 per month shall be entitled to draw an advance from his wages for the current month to an amount not exceeding 40% of his monthly wages, if

- (a) there are funds standing to the credit of the employees to meet the amount of the required advance; and
- (b) his acceptance of the advance shall be deemed to be an authorization to the employer to deduct the full amount advanced to him at the end of the pay month from his salary.

(2) In cases of bereavement, employers shall treat such a request with sympathy and consideration.

Retirement Age.

17. The retirement age for this industry shall be 55 years.

Revocation of Legal Notice No. 44 of 2006

18. The Regulation of Wages (Mining and Quarrying Industry) Order No. 44 of 2006 is hereby revoked.

FIRST SCHEDULE

Category A1 includes employees who perform duties under any of the following occupations

Beer Makers
Block Makers
Bell maintenance helper
Belt sorter
Bag printer
Plaster Labourers

Boiler attendants

Chimney sweepers

Conveyor attendants

Clerk A1

Cleaners

Change-house attendants

Coal cutters Grade 3

Dracco plant attendants

Fuel issuers

Haulage labourers

House maids

Kitchen hands

Lashers

Laundry workers

Messengers

Siding labourers

Sweepers

Sampler (Supervised)

Survey Assistant (Grade 2)

Sanitation workers

Stone sorters

Tippler attendants

Trammers

Tally checker/trip attendant

Ventilation Labourers

Whitewashers

Waiters

Underground transport labourers

Category A2 includes employees who perform duties any of the following occupations

Artisan Assistants

Battery charging attendants

Blasting licence holder's assistants

Box operations

Clerk A2 (as defined in paragraph 2)

Cooks

Compressor attendants

Coal samplers

Driller's assistance

Eleison feeder attendants

Forklift operators

First aid attendants

Geological sapling assistant / drivers

Golf club attendant

Greaser

Jackhammer operator's assistant

Laboratory attendants (Grade A2)

Lamproom attendants (uncertificated)

Loco shunters

Loading hands

Nursing aids

Onsetters

Pest control workers

Power station maintenance

Care (supervised)

Portable saw operators

Pump attendants

Receptionist

Rotary and Drifter helpers

Shortcrete Nozlemen

Sorters

Scraper winch drivers

Section timber workers

Stockpile attendants

Sawmill assistants (supervised)

Sample plant attendants

Security guards/watchman

Toolroom attendants

Tracers

Torch cutters

Tower dryer attendants

Typist (copy)

Tub loaders

Tyre inspectors

Water purification plant attendants

Winch operators

X-Ray orderlies

Category B1 includes employees who perform duties under any of the following occupations:

Accounting machine operator

Analysis

Barman

Boiler operators (Power station)

Blocklayers (without Trade Qualification)

Beer makers (chargehand)

Crusher shiftsmen
Clerk (Grade B1)
Caperters (without Trade Qualification)
Coal Cutter (Grade 2)
Driver (Grade 2)
Domestic Science Instructors
Dust Samplers
Electric drill operators
Gardening Supervisors
Guesthouse attendants
Geological samplers (other than coal)
Gang bosses (Grade 2 surface)
General gang Supervisors
Jack hammer operators

Category B2 includes employees who perform duties under any of the following occupations:-

Blasting licence holder
Coal cutters (grade 1)
Drillers (mobile rig and core)
Drivers (earth moving)
Dyke gang supervisors
Electricians (to 380 volts)
Gangbosses (Grade 1 surface)
Gangbosses (Grade 3 underground)
Laboratory assistants (Asbestos)
Medical orderlies
Truck busters
Village administration clerk

Welders

Weighbridge clerk

Category B3 includes employees who perform duties under any of the following occupations:-

Artisans (Grade 2)

Blasting supervisors (Iron ore)

Drill supervisor

Electrician (to 550 volts)

Gang bosses (grade 1 underground)

Hospital clerks

Personnel assistants

Section bosses (surface/village induna)

Stores / Accounts clerk

Transport controllers

Washing supervisors (iron ore)

X-Ray clerk

Category C1 includes employees who perform duties under any of the following occupations other than qualified artisans who have served the period of apprenticeship or undergone a government recognized trade test:-

Carpenters

Mason/Fumance bricklayers

Mechanic (maintenance)

Plumber/Sheet metal workers

Ropeway servicemen

Sewage / Water supervisors

Section bosses (underground)

Storekeepers

Category C2 includes employees whom Management considers to have such qualities as to warrant categorization above category C1.

SECOND SCHEDULE**WRITTEN PARTICULARS OF EMPLOYMENT**

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

(a) An Employee is free to join an industry union which is recognized by the undertaking.

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

(d) Please give a copy of this form to the employee after it has been duly signed.

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

PATRICK M. MAMBA
HONARABLE MINISTER
MINISTRY OF LABOUR & SOCIAL SECURITY

