

SUPPLEMENT TO

THE

SWAZILAND GOVERNMENT

GAZETTE

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THE WAGES ACT, 1964

(Act No. 16 of 1964)

THE REGULATION OF WAGES (ROAD TRANSPORTATION) (NO. 2) ORDER, 1979

(Under Section 11(5))

In exercise of the powers conferred on him by the above-mentioned Act, the Honourable Deputy Prime Minister is pleased to make the following Order:-

Citation.

1. This order may be cited as the Regulation of Wages (Road Transportation) (No. 2) Order, 1979.

Interpretation

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

"analysis clerk" means a clerical employee who carries out work under supervision.
"assistant mechanic" means an employee who is undergoing training as a mechanic;
"bookkeeper" means an employee who is engaged in the keeping of elementary books of account;

"fork lift and crane operator" means an employee who operates a power driven fork lift or crane to load or unload materials or machinery;

"fuel issuer" means an employee responsible for the checking of oil levels in differentials; gear boxes steering systems and engines and making oil and fuel issue;

"grade" means a grade listed in the First Schedule;

"greaser" means an employee engaged in the elementary greasing of vehicles and trailers;

"head driver" means an employee who supervises other drivers;

"hire-car" means a public service vehicle having seating accommodation for not more than seven passengers, which is let with a driver to a hirer under contract for a period of not less than twenty-four hours;

"hostess" means a female employee responsible for the welfare of passengers on a motor bus or coach;

"industrial holiday" means any day prescribed as a paid holiday in terms of regulation 12;

"inspector" means an employee who checks on buses;

"journeyman/mechanic" means an employee who has completed an apprenticeship;

"junior clerk" means a clerk who works under supervision for a maximum period of one month when first employed;

"lay over" means a period of duty performed by a driver for the purpose of booking-on and 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 transportation;

"lorrymate" means an employee who assists in the execution of drivers duties other than driving;

"mechanic's assistant" means an unskilled employee engaged to assist a mechanic;
 "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 and off-load goods and 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 5;

"packer" means an employee engaged in the packing of items or materials;

"porter" means a person employed to carry luggage and other goods from or onto a train, bus or other vehicle used by in the conveyance of persons for reward;

"pricing clerk" means an employee responsible for the allocation of prices to goods and materials;

"probationary driver" means a driver who is working under the supervision of a qualified driver for a maximum period of one month when first employed.;

"rating clerk" means an employee who implements contract rates;

"receptionist" means an employee engaged in receiving visitors and carrying out other clerical duties;

"senior clerk" means an employee engaged in clerical duties including supervisory work;

"short time" means the retention of all grades at twenty-five percent of their basic wage;

"stacker" means an employee engaged in stacking of items or materials;

"stores clerk" means an employee who records particulars of requisitions and stock cards;

"storeman in charge" means an employee controlling the stores staff;

"suitable accomodation" means a weatherproof structure containing a bed with a palliasse or similar covering or camp bed;

"telephone attendant" means an employee who attends to a telephone;

"switchboard operator" means an employee who operates a telephone switchboard;

"ticket agent" means an employee responsible for the sale of transport tickets;

"transport operating industry" means, without in anyway limiting its ordinary meaning, the industry in which employers and employees are associated together for all or any of the following purposes:-

- (a) transporting for hire or reward goods or passengers by road motor vehicle;
- (b) letting or hiring a road motor vehicle for the transport of goods or passengers;
- (c) transporting by road motor vehicle goods which have been acquired by the carrier for resale or delivery to the persons from whom they have been;
- (d) transporting by road motor vehicle goods which have been acquired by the carrier for resale and delivery to a third party:-
- (e) where it is agreed between the carrier and the first person, delivered and resold to the third party in accordance with an agreement between the third party and the carrier;

"wages clerk" means an employee who computes staff wages;

"watchman" means an employee who guards property;

"waybill clerk" means an employee engaged in the completion of waybills and the clerical work pertaining thereto;

"working day" means any day other than a day off or an industrial holiday;

Application

3. This order shall apply to all persons employed in any undertaking or part of an undertaking comprising the carriage, for hire or reward, of passengers and goods or either of them, by motor vehicle, required to be licensed under the Road Transportation Act, 1963.

Wages and Gradings

4. (1) the basic minimum wage to be paid to employees specified in the First Schedule to this Order shall be calculated at a rate not less favourable than that specified in that Schedule in relation to the employee's grade and length of continuous service:

Provided that no casual worker shall be paid less than one-and-one-third times the basic minimum wage for the occupation and grade in which he is employed.

(2) An employee who is required to perform work in a lower grade than that in which he is normally employed shall be paid the wage applicable to the grade in which he is normally employed.

(3) An employee who is required temporarily to perform work 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 third day of working in that higher grade.

(4) No employer shall reduce the wage of an employee if the employee was able and willing to work and was present at his place of work but the employer was unable or unwilling to furnish him with work.

Hours of work

5. (1) The ordinary weekly hours of work for employees shall be decided by the employer but shall not exceed:-

- (a) sixty hours for watchmen;
- (b) forty-eight hours for employees in grade I to VI;
Provided that the ordinary hours of work in grades I and II shall not exceed eleven per day.
- (c) forty-five hours for employees in grades XI, XII and XIII;
- (d) seventy-two hours for taxi-drivers and hire-car drivers.

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

(3) Every employee shall receive one day off in each week and no employee, other than a watchman, shall be required to work on his day off in successive weeks:-

Provided that in an emergency an employee may be required to work on his day off, in which case he will be given another day off in lieu of that day.

(4) Where two drivers are employed on a vehicle the total driving hours for both drivers shall not exceed sixteen hours and each driver shall be paid for driving time only.

(5) an omnibus driver shall be allowed breaks amounting in aggregate to not less than forty minutes during a period of eight consecutive hours driving time and in the event of him working for more than eight consecutive hours, he shall, in addition to the forty aggregate minutes, be given a thirty minute rest period at the end of eight hours.

(6) A driver shall not be permitted to drive for more than eleven hours in one day except in the case of an emergency when the permissible driving hours may be increased to a maximum of fifteen hours in any one day:

Provided that where a driver drives for more than eleven hours in an emergency he shall be given a period of rest of twenty-four consecutive hours before he starts work again.

Short time

6. (1) If an employer wishes to work short time he may do so provided he is satisfied that:-

- (a) it is economically necessary for the establishment to work short time;
- (b) the establishment will be able to resume normal working hours within the foreseeable future; and
- (c) it would not be in the best interest of the employees to be discharged.

(2) When an employee works a period of time equivalent to or more than twenty-five percent of his normal weekly hours of work he shall be paid his full wages for that week.

Conversion rates.

7. (1) For the purpose 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;
- (c) a monthly rate, the weekly wage shall be multiplied by four and one-third.

(2) For the purpose of converting a monthly wage to:-

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

Payment for overtime.

8. (1) an employer may require any employee to work overtime and shall wherever possible give twenty-four hours notice of such requirement.

(2) An employee shall be paid for overtime in excess of his ordinary weekly hours of work for each hour, or part of an hour in excess of thirty minutes, at one-and-one half times his basic hourly rate:

Provided that:-

- (a) overtime worked on a day off shall be paid for at double the basic minimum wage rate of the employee;
- (b) overtime worked on an industrial holiday shall be paid for at twice the basic hourly wage rate of the employee.

(3) This regulation shall not apply to employees in grades VII, XI, XII and XIII.

Payment of wages

9. (1) An employer shall pay the remuneration due to the employee within four days of the date when such remuneration is due to him.

(2) If the services of an employee are terminated, payment of all remuneration due shall be made at the time of termination:

Provided payment may be made on the first working day following such termination.

(3) Any employee whose services are terminated for any cause whatsoever shall be paid the cash equivalent of any vacation leave due to him at the time of such termination.

Allowances.

10. (1) Any driver (other than a taxi driver) who is required to drive at night shall be paid at one-and-one-quarter times his current wage rate, provided that when two drivers are employed on the same vehicle only one driver may be paid at that rate.

(2) A taxi driver shall be paid, in addition to his normal wages, a commission of not less than two per centum of his takings during any month in respect of which such wages are due and paid to him.

(3) A driver who has been in the continuous employment of the same employer for a period in excess of 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) Any employee in grades I to IX who is required to perform work away from his principal place of employment shall be eligible for the following subsistence allowances in respect of:

- (a) each continuous period of not less than eleven hours of absence:-
 - (i) if the employer provides suitable accommodation and food - 80 cents.
 - (ii) if the employer provides neither food nor accommodation - E1.50.
 - (iii) if accommodation is available on the vehicle on which the employee is employed - E1.00.
- (b) periods of more than six but less than thirty days absence for each twenty-four hour period or part thereof -
 - (i) if the employer provides accommodation and food - 95 cents.
 - (ii) if the employer provides neither food nor accommodation - E1.80.

Provided that the payment of subsistence allowance shall be limited in respect of any single period, to a maximum of thirty days.

(5) If an employee is required to undertake a journey outside Swaziland and such journey entails an absence of eight hours or more from his principal place of employment he shall be paid in addition to the allowance payable in terms of sub-paragraph (4) an allowance of E1.50 for each period of twenty-four hours or part thereof he is occupied in that journey.

(6) Any employee in grades X to XIII who is required to travel on duty shall be reimbursed reasonable out of pocket expenses, subject to the production of receipts supporting his claim for such reimbursement.

Vacation Leave:

11. (1) During his first five years of continuous service with the employer an employee in grades I to IX shall accumulate vacation leave at the rate of one working day for each completed month of service; thereafter he will accumulate vacation leave at the rate of one-and-a-quarter working days for each completed month of continuous service:

Provided that no employee may accumulate more than thirty-six working days vacation leave without the agreement of his employer.

(2) An employee in grades X to XIII shall accumulate vacation leave at the rate of one-and-one half working days for each completed month of continuous service:

Provided that no such employee may accumulate more than fifty-four working days vacation leave without the agreement of his employer.

(3) No employee shall be entitled to take vacation leave during his first year of continuous service, but thereafter, unless mutually agreed otherwise, he shall be permitted to proceed on vacation leave within one calendar month of his application therefor and shall be paid prior to proceeding on leave, all remuneration and allowances due to him in respect of the period of that leave.

(4) An employee who has accumulated vacation leave may, with the consent of the employer, elect to be paid cash equivalent to such leave or portion thereof instead of proceeding on vacation leave.

(5) Any period of leave taken by an employee including sick leave, whether paid or not, shall not be counted for the purpose of calculating further leave.

(6) Should any employer observe a holiday other than an industrial holiday the holiday shall not be off set against an employee's accumulation of vacation leave.

Industrial Holidays

12. (1) The following days shall be Industrial Holidays with full pay:-

New Year's Day
Good Friday
Christmas Day
Boxing Day
Incwala Day
Independence Day and
King's Birthday

Provided that when an Industrial Holiday falls on a Sunday the day following shall be deemed to be an Industrial Holiday.

(2) Any employee who is absent without leave on the working day before or the working day after an Industrial Holiday, shall not be entitled to any payment in terms of this sub-regulation.

Benefits during sickness

13. After six consecutive months service with an employer and subject to the production of a medical certificate signed by a medical practitioner, 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 each period of twelve months continuous service.

Provided that:-

- (a) an employee shall not be entitled to the benefits provided herein if his sickness or accident was occasioned through his own neglect or misconduct;
- (b) that a certificate issued by a District Commissioner or a registered nurse shall be accepted in place of a medical certificate if a medical practitioner is not available.

14. An employer shall provide every employee on engagement with a document bearing the following information:-

- (a) his grade
- (b) his wage rate
- (c) periodicity of wage payments

- (d) provisions for accommodation (where applicable);
- (e) provisions for the termination of employment;
- (f) the hours of work;
- (g) the details of any bonus or incentive production scheme in operation; and
- (h) sick benefits.

Termination of Service

15. (1) Continuous service is service broken only by death, retirement or discharge of the employee concerned.

Provided that an employee who is discharged and re-engaged within two months of his discharge shall not be deemed to have broken his continuous service.

(2) When, following upon a change of ownership of an establishment, an employee enters the service of the new owner, his service with the previous owner shall be reckoned as continuous service with the new owner and shall be deemed not to have been broken by such change of ownership.

Protective Clothing

16. (1) The employer shall supply, free of charge and without payment of a deposit by the employee, the following items:-

- (a) to employees habitually exposed to inclement weather, a waterproof cape, overcoat or other suitable protective clothing.
- (b) to drivers and conductors, two dust-coats, two overalls or two uniforms per annum; and
- (c) to journeyman's assistants and employees engaged in the loading, unloading and delivery of goods to or from vehicles, adequate 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 him in good condition on the resignation, retirement or discharge of the employee.

(3) If the employee either fails to return or loses the clothing provided in terms of this regulation the employer may recover the cost thereof from the money due to the employee:

Provided that in the event of the employee being dissatisfied with the decision of the employer, he may submit his case to the Labour Commissioner.

Ration Allowance

17. An employer shall, as a condition of employment, supply to each employee earning less than E1080 per annum, or a weekly equivalent of E20.70, weekly rations of the scale prescribed in the Second Schedule to this Order.

Provided that with the consent of the employee and after notifying the Labour Commissioner, an employer may pay in lieu thereof an amount not less than that specified by the Labour Commissioner from time to time.

Revocation of L.N. 15 of 1979

18. The Regulation of Wages (Road Transportation) Order, 1979 (Legal Notice No. 15 of 1979) is hereby revoked.

S8
FIRST SCHEDULE
(Regulation 4)

CLASSIFICATION OF OCCUPATIONS IN GRADES
WEEKLY MINIMUM WAGE

<i>Grade I</i>	<i>For First six months service</i>	<i>After Completing six months service</i>
(a) Loader	E11.23	E11.70
Lorrymate	E11.23	E11.70
(b) Cleaner	E11.23	E11.70
Loader (Depot)	E11.23	E11.70
Porter (Furniture removal)	E11.23	E11.70
Loader (Furniture removal)	E11.23	E11.70
(c) Trainee Conductor	E11.70	—
Probationary Driver	E11.70	—
 <i>Grade II</i>		
Journeyman/Mechanic's Assistant		E11.81
Fuel issuer		E11.81
Greaser		E11.81
Messenger		E11.81
Packer and furniture removal		E11.81
Senior Loader		E11.81
Tyre-hand		E11.81
Watchman		E11.81
 <i>Grade III</i>		
Checker (general goods)		E15.87
Clerk (not elsewhere specified)		E15.87
Filing Clerk		E15.87
Fork-lift and Crane operators (Unlicensed)		E15.87
Stacker (furniture removal)		E15.87
Telephone attendant		E15.87
 <i>Grade IV</i>		
Conductor		E15.94
Hostess		E15.94
Ticket		E15.94
 <i>Grade V</i>		
(a) Assistant Cashier		E15.18
Checker (furniture removal)		E15.18
Despatch Clerk		E15.18
Pricing Clerk		E15.18
Rating Clerk		E15.18
Senior Checker (freight)		E15.18
Way-bill Clerk		E15.18
(b) Analysis Clerk		E15.18
Mileage Clerk		E15.18
Stores Clerk		E15.18
Time Clerk		E15.18

Grade VI

(a)	Driver of vehicle with a carrying capacity of up to 1½ tons	E13.89
(b)	Driver of a vehicle with a carrying of more than 1½ tons up to and including 7 tons. Drivers of Vehicles with 1 to 10 passenger capacity	E16.01
(c)	Driver of vehicle with carrying capacity of more than 7 tons up to and including 12 tons. Drivers of vehicles with 11 to 40 passenger capacity	E16.01
(d)	Driver of vehicle with carrying capacity of more than 12 tons. Mobile Crane Driver. Drivers of vehicles with 41 or more passenger capacity	E19.45
(e)	Driver of a low-loader with a carrying capacity of 20 tons and over	E22.22
	head Driver	E22.22

Grade VII

Hire-car driver	E17.58
Assistant Mechanic	E17.58

MONTHLY MINIMUM WAGE*Grade VIII*

Taxi-driver	E77.35
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plus 2% of takings.

WEEKLY MINIMUM WAGE*Grade IX*

(a)	Junior Inspector	E17.90
(b)	Inspector	E24.35
	Senior Checker (furniture removal)	E24.35
	Senior Rating Clerk	E24.35

Grade X

Journeyman/Mechanic	E62.92
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MONTHLY MINIMUM WAGE*Grade XI*

Chief Wages Clerk	E65.70
Copy Typist	E65.70
Depot Assistant	E65.70
Switchboard Operator	E65.70
Travel booking Clerk	E65.70

Grade XII

Receptionist	E80.05
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Accounting-machine Operator	E96.55
Book-Keeper	E96.55
Customs Clearing Clerk	E96.55
Cashier	E96.55
Storeman-in-charge	E96.55

SECOND SCHEDULE
(Regulation 18)
WEEKLY RATIONS SCALE

Minimum Ration Scale

(1) Mealie Meal	6.36kg. (14 lbs.)
Meat	1.36kg. (3 lbs.)
Sugar	0.45kg. (1 lb.)
Dry beans, peas or groundnuts	0.68kg. (1½ lb.)
Fresh vegetables	0.45kg. (1 lb.)
Salt	0.114kgs. (4 ozs.)

Alternatives:

- (2) The following weekly rations may be supplied in lieu of Mealie meal or meat mentioned in paragraph (1):-
- (a) Mealie meal:-
For every 0.9kg. (2 lbs.) of mealie-meal;
- (i) 0.45kg (1 lb.) of bread, or
 - (ii) 0.34kg. (12 lbs.) of rice, or
 - (iii) 0.23 (½ lb.) of ordinary or sweet potatoes;
- (b) Meat:-
- (i) for the first 0.23kg. (8 ozs.) of meat 0.23kg. (8 oz.) of offal, or
 - (ii) for the first 0.45kg. of meat 0.45kg. (1 lb.) of fish or 0.23kg. (8 ozs.) of cheese.

Permitted Variations:

- (3) The ration of mealie meal shown in paragraph (1) may be reduced by an amount, not exceeding 2.72kg. (6 lbs.) where the employer provides the drink known as "mahewu".

A.R. SHABANGU
Permanent Secretary,
Deputy Prime Minister's Office

Mbabane.

S11
LEGAL NOTICE NO. 102 OF 1979

THE HIGH COURT ACT, 1954

(Act No. 20 of 1954)

THE HIGH COURT (AMENDMENT) RULES, 1979

(Under section 10)

In exercise of the powers conferred on me by section 10 of the High Court Act, 1954, I, CHARLES JOSEPH MANFRED NATHAN, Chief Justice of Swaziland, hereby make the following Rules:-

Citation

1. These Rules may be cited as the High Court (Amendment) Rules 1979, shall be read as one with the High Court Rules, and shall come into force on the 15th December, 1979.

Amendment of heading to the the High Court Rules

2. The heading to the High Court Rules is hereby amended by the deletion of the words "(under section 13 of the Act)" and the substitution therefor of the words "(under section 10)".

Amendment of Rule 4

3. Rule 4 of the High Court Rules is amended in sub-rule (1)(a) by inserting after sub-paragraph (ii) the following sub-paragraphs -

"(ii) *bis* (1) If the person to be served keeps his place of residence or place of business closed, and thus prevents the service of any process, it shall be sufficient service to affix a copy thereof to the outer door of such residence or place of business.

(ii) *bis* (2) If the Sheriff or deputy-sheriff is unable after diligent search to find at the residence of the person to be served either that person or such a person as is described in Rule 4 (1)(a)(ii), it shall be sufficient service to affix a copy of the process to the outer or principal door of such residence."

Amendment of Part II of the Third Schedule of the Tariff for the Sheriff and Deputy Sheriff

4. Part II of the Third Schedule is replaced by the following -

"PART II

- | | | |
|--------|--|--------|
| 1. | For registration of any document for service or execution on receipt thereof | E 0.50 |
| 2. (a) | For service (including attempted service) of summonses, petitions, together with notice of motion or set down and any other annexures thereto; composite fee | E 6.00 |
| (b) | For service of any subsequent notice, with any annexures thereto, in the same case: composite fee | E 2.00 |

Travelling Allowance

3. For the distance actually and necessarily travelled by the Deputy Sheriff or his officer, reckoned from the office of the Magistrate of his district, both on the forward and the return journey per kilometre or part thereof - E 0.25

Postage

4. In the event of the Deputy Sheriff experiencing any difficulties with local postal authorities in the acceptance of envelopes containing documents for service by him or returns of service and marked "official" by him, the Deputy Sheriff may take the postal matter to the Magistrate of his district who shall frank the envelope with his official franking stamp.

Execution of writs

5. The fees shall be as follows:-

- (1) for personal arrest including conveying the person arrested to Court, to the applicant's attorney's offices or to a prison, per person - E 5.00
- (2) for conveying the person arrested to Court from place of custody on any day subsequent to the date of arrest and attending Court, E2.50 per hour or part thereof, but not exceeding - E 5.00
- (3) for ejection E2 per hour or part thereof, exclusive of travelling time, subject to a maximum fee of - E 8.00
- (4) Against immovable property
 - (a) for execution, including service of notice of attachment upon the owner of the immovable property concerned and upon the Registrar of Deeds or other office charged with the registration of the property, and, if the property is being occupied by an occupier other than the owner, also upon such occupier: composite fee - E 5.00
 - (b) in the event of a withdrawal of any attachment for the first necessary notice of withdrawal - E 2.00
and for subsequent similar notices, each - E 0.75
 - (c) for the sale of the immovable property concerned by the Deputy Sheriff acting as auctioneer three (3%) percent of the purchase price actually paid by the purchaser with a minimum of - E 30.00
- (5) Against movable property -
 - (a) if a writ is paid in cash on presentation, three (3%) percent of the amount so paid, subject to a maximum fee of - E200.00
 - (b) for an abortive attempt at attachment, not due in any way to the fault of the Deputy Sheriff, including search and inquiry - E 7.50
 - (c) (i) if a writ is withdrawn or the debtor's estate is placed under sequestration or liquidation before any attachment is effected - E 5.00
 - (ii) if an attachment is withdrawn or the debtor's estate is placed under sequestration or liquidation before sale, 3% of the amount of the writ or of the value of the goods attached, whichever is the lesser, subject to a maximum fee of - E200.00
 - (d) for making an attachment, including search and inquiry - E 10.00
 - (e) notice of attachment, if necessary, to one person - E 2.00
and exact copies where necessary, in the case of more than one person, per copy - E 0.75
 - (f) if the amount of the writ is paid to the Deputy sheriff after attachment but before sale, three (3%) percent on the amount so paid, subject to a maximum fee of - E200.00
 - (g) if any actual money is attached in execution one (1%) percent of the amount so attached.

- (h) for drawing advertisement of sale of goods attached, plus costs of actual advertisements - E 4.00
 - (i) for copy of advertisement of sale of goods for display in the Court buildings - E 0.75
 - (j) for making an inventory of the goods attached per 100 words or part thereof - E 2.00
and for each necessary copy thereof - E 0.75
 - (k) for selling in execution (whether auctioneer employed or not), including distribution of the proceeds, 5 percent.
 - (l) The Deputy Sheriff himself shall sell movable property in execution but he shall engage the services of an auctioneer if directed thereto in writing by the judgement creditor, provided the judgement creditor bears the additional commission, if any.
 - (m) Commission shall not be chargeable, as against a judgement debtor, on the value of movables attached and subsequently claimed by a person other than the judgement debtor and released in consequence of such claim unless such property has been attached at the express direction of the judgement creditor, in writing, in which event the judgement creditor shall be liable to the deputy-sheriff for the commission.
 - (n) For insuring movable property attached when it is considered necessary and when the deputy-sheriff is directed thereto in writing by the judgement creditor, in addition to the amount of premium paid, an inclusive fee of - E 3.00
- (6) For keeping possession of property (money excepted):
- (a) For officers necessarily left in possession, an inclusive fee per day per officer of - E 4.00
Note: "Possession" means the continuous and necessary presence on the premises for the period in respect of which possession is charged of a person or persons employed and paid by the deputy-sheriff for the sole purpose of retaining possession.
 - (b) For removal and storage, the reasonable and necessary expenses for such removal and storage; and if an animal is to be stabled or fed, the reasonable charges for such stabling and feeding (including grazing).
 - (c) For herding and preserving livestock including dipping, the reasonable and necessary expenses for herding and preserving such stock.
 - (d) When no officer is left in possession and no security bond is taken, but movable property attached remains under the supervision of the deputy-sheriff, per day - E 1.00
6. The deputy sheriff shall be entitled to payment of all postage stamps and telephone calls paid by him and necessary for the discharge of his functions
7. For all necessary letters or memoranda in connection with any writ or process such - E 1.00
8. For making return of service - E 0.50
9. For drawing and completing bail bond, deed of suretyship or indemnity bond - E 2.10
10. In cases of prisoners sentenced to death: for attending capital punishment - E 10.00
11. The fees and charges for all work reasonably and necessarily done in the service or execution of process for which either no provision is made in this

S14

tariff or in regard to which it is claimed that by reason of special circumstances a fee in excess of that set out in the tariff should be allowed, shall be assessed by the Taxing Officer, and every question arising under or relative to such tariff shall be determined by him."

Amendment of Fourth Schedule

5. The Fourth Schedule is amended by inserting the following immediately before Part A –

"The fees specified in this Schedule shall be increased by 331/3% in respect of any matter failing to done on or before the commencement of these Rules."

C.J.M. NATHAN

Chief Justice of Swaziland

Mbabane

27th November 1979.

S15
LEGAL NOTICE NO. 103 OF 1979

MAGISTRATE'S COURTS ACT, 1938

(Act No. 66 of 1938)

THE MAGISTRATE'S COURT (AMENDMENT) RULES, 1979

(Under section 95)

In exercise of the powers conferred on me by section 95 of the Magistrate's Courts Act, 1938, I, CHARLES JOSEPH MANFRED NATHAN, Chief Justice of Swaziland, hereby make the following Rules:

Citation

1. These Rules may be cited as the Magistrate's Courts (Amendment) Rules, 1979, shall be read as one with the Magistrates' Courts Rules and shall come into force on the 15th December, 1979.

Amendment of Second Annexure

2. The Second Annexure to the Magistrates' Courts Rules is amended by replacing Table "A" with the following -

"Computation of Costs"

1. For the purposes of computing costs, the following provisions shall apply, namely -

(1) "Amount in dispute" shall mean -

- (a) if costs are awarded to the applicant or plaintiff, the amount or value of the judgement and if more than one claim is involved, the total of the amounts involved in the judgement;
- (b) if costs are awarded to the respondent or defendant, the amount or value of the claim and where more than one claim is involved the total amounts of all the claims.

Provided that the amount or value of the claim or judgement, as the case may be, shall be inclusive of interest, but exclusive of costs.

(2) In the event of a matter being settled at any time the cost shall be taxed on the scale agreed upon between the parties to the agreement of settlement:

Provided that in the absence of any agreement as to the scale to be applied any one of the parties to the dispute may within 14 days after the settlement of such dispute apply to a Magistrate to determine the scale of fees to be applied on taxation.

- (3) All costs in undefended actions or applications shall be in accordance with the scale as set out under the heading "undefended actions".
- (4) Save as otherwise provided in this Annexure all costs in defended applications or actions shall be taxed on scale A.
- (5) If the amount in dispute exceeds E400.00 the costs shall be taxed on scale B.

- (6) If the amount in dispute is not apparent on the face of the proceedings, the Court may on the application of any party thereto assess the amount in dispute and the costs shall then be computed on the scale applicable to such amount:

Provided that in actions for divorce or judicial separation costs shall be computed in accordance with scale B;

And provided further that claims for ejectment shall be computed at two months rent of the leased premises.

- (7) Any amount specified in this Annexure in respect of any item as allowable shall be inclusive of all necessary copies, attendances, and service (other than service through a messenger) in connection therewith.
- (8) If the allowable amount on any item in this Annexure is left blank the following provisions shall apply –
- (a) the drawing of documents shall be allowed at E1.00 per folio;
 - (b) copies for filing and service shall be allowed at E0.50 for the first copy and E0.25 per copy for all other necessary copies;
 - (c) if printed forms of documents are used, the fees for copying shall be limited to the necessary matters inserted in such printed documents;
 - (d) if any document appears to the Court to be unnecessarily prolix it may disallow all or part of the fees therefor.
 - (e) service of any document shall be allowed at E0.50 for each necessary service. A document shall be deemed to include any annexures thereto or other documents served therewith; and no additional fee for the service of such annexures or other documents shall be allowed.
- (9) A folio shall be 100 written or typed words or figures; in the case of figures four figures shall be equivalent to one word.
- (10) The rate at which costs are computed shall not be increased by reason of any claim for confirmation of an interdict or other interlocutory order.

2. *If judgement payable by instalments*

- (1) If a judgement debt is payable by instalments in terms of a Court Order, the fees shall be taxable immediately the judgement is given, but the collection fee in respect of any instalment shall be recoverable only on payment of such instalment.
- (2) A collection fee of 10% shall be allowed in respect of the first E100 paid in instalments in reduction of the capital and costs of the action; thereafter the collection fee shall be reduced to 5% in respect of further instalments so paid.

3. *Demand*

For the purpose of this Annexure, "demand" means a notice in writing to the debtor from the creditor's attorney, sent to the debtor in one or other of the manners provided for service of process (including registered post, without restriction as to locality or postal address), demanding payment of the debt within a reasonable time thereafter, whether or not such demand was required by law to be made before the institution of proceedings.

4. *Totality of hours allowed*

If any fee is calculated on an hourly basis, the total number of hours on any one day shall be added together and the fee calculated on such total.

5. *Unnecessary charges*

The Clerk of the Court shall disallow any charges which have been unnecessarily incurred.

UNDEFENDED ACTIONS

If there is more than one defendant or respondent E1.00 shall be added for each additional defendant or respondent to Items 1 and 2 hereof.

Item 1	: Summons (inclusive of demand)	E6.00
	If the claim or claims or value of the claim or claims in the aggregate do not exceed E200	E4.00
Item 2	: Judgement	
	Half the fee allowed for the Summons under item 1	E4.00
Item 3	: Notice in terms of Rule 6(1) of Order VII	E3.00
Item 4	: Affidavit	-
Item 5	: Attending Court at the instance of the Magistrate when the claim referred to court for judgement... as allowed under item 26 of the Scale for defended actions.	

DEFENDED ACTIONS

	Item	Scale A	Scale B
1.	Instructions to sue or defend or to counterclaim or defend counterclaim	15,00	20,00
2.	Instructions on commission de bene esse	3,00	3,00
3.	Summons	10,00	15,00
4.	Appearance	1,50	1,50
5.	Notice under Order X Rule 4(1) and (2)	1,50	1,50
6.	Plea	10,00	15,00
7.	Instructions after receipt of plea	7,00	12,00
8.	Claim in reconvention	10,00	15,00
9.	Reply, if necessary	5,00	10,00
10.	Request for further particulars	-	-
11.	Further particulars	-	-
12.	Consent to adjournment or extension of time	2,00	2,00
13.	Attendance, applying for costs on discontinuance	4,50	4,50
14.	Schedule of documents and affidavit	-	-
15.	Production of documents for inspection per half hour of the time spent, subject to maximum of E20:	4,00	4,00
16.	Inspection of documents, per half hour of the time spent, subject to maximum of E20	4,00	4,00
17.	Subpoena (not more than one for each four witnesses summoned)	2,00	2,00
18.	Each copy for service	,50	,50
19.	Any notice not otherwise provided for	-	-
20.	Affidavit (other than discovery)	-	-
21.	Interrogatories	-	-
22.	Taking proof of witness (each)	-	-
23.	Notice of trial or re-instatement	1,50	1,50
24.	Preparing for trial (if counsel not employed)	25,00	40,00
25.	Attending Court when action on roll for trial but adjourned	4,50	4,50
26.	Attending Court on trial or at examination on commission, for each hour or part of an hour spent in court while case is actually being heard -		
	(a) where counsel not employed	12,50	20,00
	(b) where counsel employed	10,00	10,00

27.	Attending pre-trial conference; for each hour or part of an hour actually occupied in such conference, subject to maximum of two hours.	7,50	10,00
28.	Attending Court to hear reserved judgement	5,00	7,50
29.	Correspondence and attendances: For each necessary letter or telegram written or received, including copy to keep, and each necessary attendance not otherwise provided for : E1,00: Provided that a charge for perusing shall not be allowed in addition to the fee herein provided for.		
30.	Agreement not to appeal	3,00	3,00
31.	Inspection in loco before trial, if the court so orders	5,00	10,00
32.	Necessary consultations per hour or part thereof	7,00	10,00

OTHER MATTERS

(Exceptions, applications to strike out, application for summary judgement, interlocutory applications, arrest, interdict and ex parte orders under Order XXII or application to review judgement or order)

1.	Instructions to make application or to oppose or to show cause	4,00
2.	Drawing up of all documents, affidavits, applications and notices, orders etc.	-
3.	Attending Court on hearing	
(a)	If unopposed	5,00
(b)	If opposed (where counsel employed), per hour actually spent in court	7,50
(c)	If opposed (counsel not employed) per hour or part thereof actually spent in court	15,00

The Court may on application made at the hearing allow, in addition to the fee prescribed under paragraph 3(c), a fee for preparing argument not exceeding that provided under item 24 of the scale for defended actions.

INTERPLEADER SUMMONS

4.	Instructions	
(a)	where interpleader proceedings initiated by messenger	7,50
(b)	otherwise	10,00
5.	Summons (if not sued out by messenger)	10,00
6.	Affidavit	-
7.	Attending Court on return of summons (if the matter is not being heard)	5,00
8.	Attending Court on trial of interpleader issue, per hour actually spent in court	15,00

The Court may on application made at the hearing allow, in addition to the fee prescribed in item 8, a fee for preparing argument not exceeding that under item 24 of the scale for defended actions.

TAXATION OF COSTS

9.	Bill of Costs : 5% of the fees allowed	
10.	Attending taxation : 5% of the total of the Bill allowed	
11.	Notice of application for review of taxation and service	-
12.	Affidavit where necessary	-
13.	Attending on review of taxation, per hour or part thereof in court while review is actually being heard	8,00

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EXECUTION

14. (1) Issue of warrant of execution, ejectment arrest, delivery up of possession etc.	4,50
(2) For each re-issue thereof	2,00
15. Inclusive fee for work involved in releasing of attachment of immovable property	4,00
16. Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work for which fees are already provided for elsewhere and the drawing up of conditions of sale)	17,00
17. (1) Drawing up of conditions of sale in terms of Order XXV, per folio	-
(2) For all other work done and papers and documents supplied to the messenger in connection with a sale in execution of movable property - inclusive fee	10,00
18. Security for restitution, where necessary	4,00

WHERE COUNSEL EMPLOYED

19. Instructions on exception or application where allowed	7,50
20. Instructions on trial	10,00
21. Drawing brief on exception or application where allowed	-
22. Drawing brief on trial	-
23. Attending each necessary consultation with counsel	5,00

FEES TO COUNSEL

24. With brief to argue exception or application, not to exceed	50,00
25. With trial brief for the first day, not to exceed	150,00
26. There may be allowed by special order of the court a travelling allowance (in addition to the fee on brief)	
27. Each necessary consultation per hour or part thereof	10,00
28. For every day exceeding one, on which evidence is taken or arguments heard, a refresher not exceeding two thirds of counsel's allowed fee on exception, application or trial as the case may be	
29. Where trial is adjourned upon payment of the costs of the day as part of such costs (only by the party requesting such adjournment)	15,00
30. Drawing pleadings, not to exceed	25,00

MISCELLANEOUS

31. Obtaining certified copy of judgement	2,00
32. Obtaining payment out in terms of rule 2(2) Order XII	2,00
33. Request for security in terms of rule 9 Order XXXIV	-
34. Giving security in terms of Order XXXIV	-

C.J.M. NATHAN
Chief Justice

Mbabane
27th November, 1979

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LEGAL NOTICE NO. 104 OF 1979

THE WEIGHTS AND MEASURES ORDER, 1975

(Order No. 27 of 1975)

AMENDMENT OF CERTIFICATE OF APPROVAL (REVOCATION)
NOTICE, 1979

(Under section 12)

In exercise of the powers conferred by section 12 of the Weights and Measures Order, 1975, the Superintendent of Assize hereby issues the following Notice:-

Citation

1. This Notice may be cited as the Amendment of Certificate of Approval (Revocation) Notice, 1979.

Revocation of L.N. 76 of 1979

2. The Amendment of Certificate of Approval Notice, 1979 is hereby revoked.

ALEXANDER JAMES STOLTZ

Superintendent of Assize

MBABANE
7th December, 1979

THE KING'S PROCLAMATION TO THE NATION OF THE 12TH APRIL
1973

APPOINTMENT OF ACTING ATTORNEY GENERAL

In exercise of the powers conferred on me by the above-mentioned Proclamation, I SOBHUZA II, King of Swaziland, am pleased to appoint -

APPUDURAI NITHIANANDAN

to be the Acting Attorney-General of Swaziland between the 29th of October, 1979 and the 19th November, 1979 and with effect from 3rd December, 1979 until further notice.

DONE UNDER MY HAND AT LOZITHEHLEZI ON THIS 3RD DAY OF DECEMBER
1979

SOBHUZA II

King of Swaziland