

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XXV]

MBABANE, Friday, February, 27th., 1987

[No. 503

CONTENTS

No.		Page
PART A — BILLS		
4.	The Mining (Amendment) Bill, 1987	S1
PART C — LEGAL NOTICES		
12.	The Regulation of Wages (Road Transportation) Order, 1987	S3

THE MINING (AMENDMENT) BILL, 1987

(Bill No. 4 of 1987)

(To be presented by the Minister for Natural Resources, Land Utilization and Energy)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Mining Act, 1958 in the following respects —

- (a) by deleting in section 2 in the definition of “mineral” and “minerals” the provisions contained after paragraph “(d)”;
- (b) by amplifying the definition so as to include substances which had previously been excluded from the definitions; and
- (c) by empowering the Ngwenyama to exempt any person from paying a mineral royalty.

D.P. MAKANZA
Attorney-General

A BILL
entitled

An Act to amend the Mining Act, 1958.

ENACTED by the King and Parliament of Swaziland.

Short title.

1. This Act may be cited as the Mining (Amendment) Act, 1987 and shall be read as one with the Mining Act, 1958.

Amendment of section 2.

2. Section 2 of the Mining Act, 1958 is amended in the definition “mineral” and “minerals” —

- (a) by deleting the proviso to paragraph (d);
- (b) by adding after paragraph (d) the following new paragraph —

“(e) such substances in their natural state as are commonly used for building, roadmaking or other construction purposes including clay, kaolin, limestone, shale, laterite, sand, stone, chalk or slate except when used by a natural person who is a citizen of Swaziland and who is the owner or occupier of the surface land for his construction purposes on such land:

Provided that the King may by notice in the Gazette declare any substance in its natural state not to be a mineral for the purposes of this Act.

And provided further that Part VI of this Act and any regulations made hereunder or under any other law relating to safety in mines or quarries shall apply to substances which have been so declared not to be minerals for the purposes of this Act.”

Addition of section 98 bis.

3. The Mining Act, 1958 is amended by adding the following new section after section 98 —

“Exemption from payment of royalty.

98 bis. The Ngwenyama may exempt any person from the payment of a mineral royalty and such exemption shall be published by the Minister by notice in the Gazette.

LEGAL NOTICE NO. 12 OF 1987

THE WAGES ACT, 1964

(Act No. 16 of 1964)

THE REGULATION OF WAGES (ROAD TRANSPORTATION) ORDER, 1987

(Under section 11)

In exercise of the powers conferred on him by section 11 of the Wages Act, 1964 the Minister for Labour hereby makes the following Order —

Citation.

1. This order may be cited as the Regulation of Wages (Road Transportation) Order, 1987 and shall come into force on the 2nd March, 1987.

Interpretation.

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

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

“Bookkeeper/Cashier” means an employee who is engaged in the keeping of elementary books of account or cash;

“Checker/Sorter” means a person who is employed to check or sort goods or parcels being loaded or off-loaded from a vehicle or which are to be dispatched or sorted;

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

“Clerk” means a person with more than three months service and who is engaged on general clerical duties;

“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, hire car or taxi as the context may require;

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

“Greaser” means an employee in the elementary greasing of vehicles and trailers;

“Head Driver” means an employee who supervises other drivers;

“Public Holiday” means any day prescribed as a paid public holiday in paragraph 10;

“Journeyman/Mechanic” means any employee who has completed an apprenticeship;

“Junior Clerk” means a clerk who works under supervision for a maximum period of three months when first employed;

“Lay over” means a period of duty performed by a driver for the purpose of booking-on/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 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 and off-load goods 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 section 5;

"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;

"Watchman" means an employee who guards property or premises of his employer;

"Working day" means any day other than a day off or a public holiday listed in section 10.

Application.

3. This Order shall apply to all persons employed in any undertaking comprising the carriage, for hire or reward, of passengers and or goods by a motor vehicle required to be licensed 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 as a rate not less favourable than that specified therein in relation to the employee's grade.

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

(3) 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.

(4) An employee who is required to temporarily perform duties in 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.

(5) 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.

5. (1) "The ordinary hours of work subject to the provisions of section 7 shall not exceed forty eight per week, spread over 6 days.

(2) Except in case of emergency, no employer shall require or permit an employee other than a watchman, 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.

(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.

(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 the aggregated break of forty minutes, be given a thirty minute 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.

Conversion rates.

6. 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.

Payment of overtime.

7. (1) Subject to provisions of section 5 an employer may require an employee to work overtime and, whenever possible, shall give twenty-four hours notice of such requirement.

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

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

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

(5) This section shall not apply to a taxi-driver, hire-car, junior clerk and a book-keeper/cashier, who shall not qualify for overtime payments.

Allowances.

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

Provided that where 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 wage, commission of not less than two per centum of his takings during any month in respect of which such wages are due to him.

(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 re-embursed by this employer the cost of any medical examination required as a condition for the issue of that licence.

(4) An employee shall be paid the following subsistence allowance in respect of each continuous period of twelve hours absence on duty away from his principal place of employment up to a maximum of six days —

- (a) where the employer provides suitable accommodation and food — E1.50;
- (b) where the employer does not provide food, but provides suitable accommodation or where the accommodation is available on the vehicle — E2.00;
- (c) where the employer provides neither food nor accommodation — E3.00.

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

- (a) if the employer provides suitable accommodation food — E3.00;
- (b) if the employer provides neither food nor accommodation — E5.00.

(6) The payment of a subsistence shall be limited to a maximum of thirty days, following which the employees shall be regarded as permanently transferred.

Annual leave.

9. (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 leave pay 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 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 equal to not less than one day's wages for each completed month of such period.

(5) Periods of leave or sick leave whether paid or not, taken by an employee, shall not be counted as leave earning employment.

(6) An employer who observes a holiday other than a public holiday in section 10, shall not off-set such holiday against an employee's leave.

Public holidays.

10. (1) The following shall be public holidays with full pay —

- New Year's Day
- Good Friday

Easter Monday

National Flag Day

Ascension Day

Common Wealth Day

Kind's Birthday

Umhlanga (Reed Dance) Day

Somhlolo Day

United Nations Day

Incwala Day

Christmas Day

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 section.

Sick leave.

11. (1) After three months of consecutive 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 each period of twelve months continuous service.

(2) Notwithstanding sub-section (1) —

- (i) An employee shall not be entitled to the benefits if the sickness or accident causing his absence was caused by his own negligence or misconduct;
- (ii) A certificate issued by a District Commissioner or registered nurse shall be accepted in place of medical certificate if a medical practitioner is not available.

12. An employer shall provide an employee on engagement with a document bearing particulars as provided for at the Second Schedule of the Employment Act, 1980.

Continuous service.

13. (1) Continuous service is service in the employment of the employer interrupted only by the death, retirement or discharge of the employee concerned:

Provided that an employee who is re-engaged within two months of his discharge shall be deemed to be in the continuous service of that employer.

(2) 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.

14. (1) Subject to sub-section (3) an employer shall supply, free of charge and without payment of a deposit by the employee, the following items:—

- (a) to employees who are normally exposed in their employment to inclement weather, a waterproof cap, 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/mechanics, 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 section 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 an employee.

Ration allowance.

15. (1) An employee earning less than E1,080 per annum or E20.70 per week, shall be supplied by an employer, free of charge, with the weekly rations prescribed in the Second Schedule:

Provided that with the consent of an employee and after notifying the Labour Commissioner, an employer may pay to an employee E9.00 in lieu of weekly rations.

(2) Subject to the provisions of sub-paragraph (1) where the Labour Commissioner increases the value of rations, an employer shall, from the date of the increment, increase by the amount so specified.

Short time.

16. (1) If an employer finds it necessary, for reasons beyond his control to employ an employee on short time, he 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 working within three weeks.

(2) Where an employee has been placed on short time under sub-section (1), he shall be paid not less than fifty percent of his weekly wages where he 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 his normal weekly hours of work during any week he has been placed on short time.

Revocation of Legal Notice No. 122 of 1983.

17. The Regulation of Wages (Road Transportation Industry) Order, 1983 is hereby revoked.

FIRST SCHEDULE

(Section 4)

Grade 1		BASIC MINIMUM WAGE PER WEEK
	Cleaner)	
	Greaser)	
	Loader)	
	Lorry Mate)	
	Messenger)	E26.50
	Checker/Sorter)	
	Conductor)	
	Driver (vehicle up to 7 tons)	
	tare weight))	
Grade II		
	Fuel issuer)	
	Junior clerk)	
	Tyre hand)	
	Switchboard operator)	
	Watchman)	E41.14
	Assistant mechanic)	
	Clerk)	
	Driver (vehicle over 7 tons and)	
	under 12 tons tare weight))	
Grade III		
	Driver (P.S.V. Licenced to carry)	
	not more than 10 passengers))	E44.78
	Driver (Hire-car))	
	Driver (Taxi))	
Grade IV		
	Driver (Mobile crane))	
	Driver (P.S.V. Licenced to carry)	
	up to 40 passengers))	E48.45
Grade V		
	Bookkeeper/Cashier)	
	Driver (vehicle of 12 to 20 tons)	
	tare weight))	40.08
	Driver (P.S.V. Licenced carry)	
	more than 40 passengers))	
Grade VI		
	Head Driver)	
	Driver (Low loader more than)	
	20 tons tare weight))	E42.19
	Senior clerk)	
Grade VII		
	Journeyman/Mechanic)	E118.54

SECOND SCHEDULE

(Section 15)

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

Alternatives.

The following weekly rations may be supplied in lieu of mealie-meal or meat —

(A) Mealie-meal —

For every 0.9 kg. (2 lbs.) of mealie-meal

- (i) 0.45 kg. (1 lb.) of bread
- (ii) 0.34 kg. (12 ozs.) of rice; or
- (iii) .23 kg. (lb.) of ordinary or sweet potatoes.

(B) Meat —

For the first 0.23 kg. (8 ozs.) of meat 0.45 kg. (1 lb.), of fish or 0.23 kg. (8 ozs.) of cheese.

Permitted Variations.

The ration of mealie-meal may be reduced by an amount, not exceeding 2.72 kg. (6 lbs.) where the employer provides the drink known as “Mahewu”.

J.B.J.S. DHLAMINI
Actg. *Principal Secretary Ministry of*
Labour and Public Service