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154. The Regulation of Wages (Building and Construction Industry) Order 1992 S1

LEGAL NOTICE NO. 154 OF 1992

THE WAGES ACT NO. 16 OF 1964
 THE REGULATION OF WAGES (BUILDING AND CONSTRUCTION INDUSTRY)
 ORDER, 1992
 (Under Section II)

In exercise of the powers conferred on him by Section II of the Wages Act, 1964, the Minister for Labour and Public Service hereby makes the following Order:

Citation.

1. This Order may be cited as the Regulation of Wages (Building and Construction Industry) Order 1992 and shall be deemed to have come into effect on the first November, 1992.

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;

"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 to and from the tailboard and the daily maintenance and cleaning of such vehicles;

"Driver" (heavy duty) means an employee in possession of a heavy duty driver's Licence and who is in charge of a vehicle of between 5 tons and 10 tons loaded including handling 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 living with the employee on the employers's property;

"General labourer" means an employee who performs general unskilled work;

"General tradesman" means an employee who holds a trade test certificate recognised by the Government in one of the following trades;

Block layer/Plaster	Electrician
Brick layer/Tiler	Wireman
Joiner/Cabinet making	Mechanic
Shutterhand /Carpenter	Plan Fitter
Painter/Glazier	Steel Fixer
Plumber/Drainlayer	Boiler maker
Welder	Pipe fitter

"Induna" means an employee in charge of other employees;

"Plant Operator" means a person who is placed in charge of operating either a mixer dumper or tractor;

"Machine Operator" means an employee who has been operating a machine in the building and Construction Industry for six or more months, or who can show proof of six months relevant experience in another industry;

"Earthmover Operator" means a person who operates a machine;

"Storeman" means a person, who apart from carrying out the duties of store's clerk, is responsible for ordering certain items on behalf of his employer;

"Survey and Soil 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 Section 5;

"Trade Tested person/Tradesman" means a person who holds a craft certificate indicating the degree of proficiency attained by him 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-section (2), this order shall apply to persons specified in the First Schedule who are employed in any undertaking or part of an undertaking which carries on for gain 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, waterwork, 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.

(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 organisation, educational or medical institution as may be specified in writing by the Minister.

Basic Minimum Wage (First Schedule).

5. (1) Subject to the provisions of Section 6, the normal working week (other than for a watchman or security guard) shall be from Monday to Friday and shall consist of forty-seven and one half hours.

(2) The normal working hours per day (other than for a watchman or security guard) shall be nine and one half hours exclusive of meal breaks.

(3) 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.

(4) 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.

6. (1) Subject to Section 12 overtime for an employee other than a watchman or security guard shall be payable 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 his 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 working, at twice his normal hourly rate of wages;
- (c) for any time worked on Saturday before 4.00 p.m. at one and half times his normal hourly rate of wages;
- (d) for any time worked on a public holiday specified in the Second Schedule, Sunday or after 4.00 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 his normal hourly rate for all time worked on a public holiday specified in the Second Schedule or any time worked in excess of twelve hours on any normal working day. Provided 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 he has completed seventy-two hours of work.

(3) For the purpose of calculating the payment of overtime in respect of a watchman or security guard the normal hourly rate of wages shall be the amount arrived at by dividing the employee's daily wage by twelve.

(4) No employee shall be required to work overtime against his will unless it is understood by both parties that such overtime is necessary.

Annual Leave.

7. (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. Such leave which is in addition to the Public Holidays specified in the Second Schedule and any other days which are not normal working days shall be taken during the Industry's Annual three week shut down in December and January of each year.

An employee with 11 months continuous service will be granted 2 days leave on full pay during the twelfth month, of employment which leave together with the Public Holidays of Christmas Day and New Year's Day will provide full pay for the Industry shut-down.

Sick Leave.

8. Where an employee who has been in the continuous employment of the employer for three or more months through no fault of his own becomes ill and incapable of performing his duties, he shall, on production of a certificate issued by a practitioner registered under the Medical and Dental Practitioner's Act, 1970, be entitled to fourteen working days sick leave with full pay and fourteen working days sick leave with half pay during any period of twelve months.

Travelling and Subsistence Allowances.

9. (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 two 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-section (1)) shall be provided either with free transport or be paid by his employer the cost of the 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 E1.00 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 E5.50 in lieu thereof;
- (b) free accommodation and an allowance of E3.00 in lieu of food; or
- (c) free food and an allowance of E3.00 in lieu of accommodation:

Provided that an entitlement to free food, accommodation or allowances under this paragraph shall cease after an employee has been absent from duty for ten or more nights continuously.

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

(6) Where an employee is permanently transferred by his employer to a new place of employment, he shall be paid in addition to any other entitlement due to him under this section, a transfer allowance of E4.00.

(7) An employee, who has been 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.

10. Where an employer is unable to provide work for any employee due to:-

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

He may, subject to him giving the employee not less than twenty four hours notice, lay-off the employee, without pay, for a maximum period of fifteen working days in the circumstances mentioned in sub-section (a) and for a maximum period of thirty working days in the circumstances mentioned in Sub-Section (b); at the expiry of fifteen working days or thirty working days as may be applicable, the employer shall either provide work for the employee, or terminate his employment under the provisions of the Employment Act:

Provided that an employee who has been engaged for the duration of a specific project or in connection with a specific project shall, upon commencement of work be informed of the date upon which it is estimated, the project will terminate and the specifying of such date of termination notwithstanding any other law whether or not this project has in fact terminated 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.

11. (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, shall be entitled to a minimum of one and one half hours pay for that day.

(2) 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.

Public Holidays.

12. The public holidays specified in the Second Schedule shall be holidays with full pay:

Provided that if an employee is absent from work without reasonable cause on the working day immediately before, or the working day immediately after such public holiday, he shall not be entitled to payment for that public holiday.

Clothing, equipment and protective clothing.

13. (1) The employer of a watchman or security guard shall provide him free of charge with boots or shoes, a police whistle, a club and torch. 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.

(2) An employee other 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, free of charge, with a pair of gumboots.

(3) An employee other 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.

(4) The clothing and equipment supplied to an employee under this paragraph shall be of reasonable quality and shall remain the property of the employer.

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

Revocation of Legal Notice No. 31 of 1992.

14. The Regulation of Wages (Building and Construction Industry) Order, 1992 is hereby revoked.

FIRST SCHEDULE
(PARAGRAPH 3 AND 4)

Clerk (without a certificate)	E 1.67 an hour
Clerk (with certificate)	E 1.77 an hour
Cook	E 1.67 an hour
Crane driver (mobile)	E 3.53 an hour
Crane driver (tower)	E 3.06 an hour
Driver (light vehicle)	E 1.87 an hour
Driver (heavy duty)	E 2.30 an hour
Driver (extra heavy)	E 2.52 an hour
Earthmover operator	E 2.30 an hour
Steel Fixer	E 3.12 an hour
General Labourer	E 1.67 an hour
General Tradesman	E 1.67 an hour
Grade III Trade Tested	E 1.77 an hour
Grade II Trade Tested	E 2.51 an hour
Grade I Trade Tested	E 3.75 an hour
Induna	E 1.91 an hour
Plant Operator	E 1.91 an hour
Storeman	E 1.78 an hour
Tea Maker	E 1.04 an hour
Typist	E 1.71 an hour
Watchman/Security Guard	E13.97 per shift
Survey and soil Assistant	E 1.71 an hour

SECOND SCHEDULE**(Paragraph 6 and 12)****Independence (Somhlolo) Day****Good Friday****Christmas Day****New Year's Day****Umhlanga (Reed Dance) Day****King's Birthday****Incwala Day****Easter Monday****S.B. CEKO****Principal Secretary****Ministry of Labour and Public Service**