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SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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PUBLISHED BY AUTHORITY

PART C

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LEGAL NOTICE NO. 184 OF 2010

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

THE REGULATION OF WAGES (BUILDING AND CONSTRUCTION) INDUSTRY ORDER, 2010 (Under Section 11)

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

Citation and Commencement

1. This order may be cited as the Regulation of Wages (Building and Construction) Industry Order 2010 and shall be deemed to have come into force on the 1st August 2010.

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 a 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;

“crane driver(with certificate)” means an employee who operates a self propelled crane who is in possession of a recognised certificate;

“crane driver(without certificate)” means an employee who operates a self propelled crane;

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

“continuous service” means service in the employment of the employee interrupted only by death, retirement, completion of fixed term task or discharge of the employee concerned and an employee who is re-engaged within 7 days of his discharge shall be deemed to be in the continuous service of that employer;

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

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

“driver (extra heavy)” means an employee who holds 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;

“driver (tractor)” means an employee who holds a tractor driver licence and who operates a tractor;

“earth mover operator” means an employee who operates an earthmoving machine;

“family” means in relation to an employee, the spouse and unmarried children under eighteen (18) years of such employee;

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

“general tradesman” means an employee who does not have a trade test certificate but has recognised ability to perform the duties of any of one of the following -

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

“normal place of work” means a place where an employee reports for duty on a daily basis;

“normal place of engagement” means a work station where an employee was first engaged;

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

“plant” means any machinery used in construction industry other than hand held small tools;

“plant operator” means an employee who is in charge of operating either a concrete mixer, concrete dumper, walk-behind roller, plate compactor, power float machine and compressor or any other plant used by the operator;

"tea maker/ cleaner" means an employee who is engaged to routinely clean offices and to prepare refreshments;

"survey and soil technician assistant" means an employee who assist surveyors and soil technicians with surveying earth surfaces, topography and man made structures, underground areas, and prepares maps and charts;

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

"first aid officer" means an employee whose for the provision of adequate first aid material and equipment at employer's premises and other outside workplaces;

"registered nurse" means an nurse registered under the Nurses and Midwives Act, 1965 or its successor;

"structure steel erector" means an employee who erects a steel structure;

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

"watchman or security guard" means an employee who is engaged during the day or night to guard the premises, workplace or other property of the employer;

Application

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

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

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

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

Basic Minimum wage (First Schedule)

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

(2) Nothing prevents and employer from paying an employee more than the basic minimum wage stipulated in the First schedule.

Normal working hours

5. (1) The normal working week (other than for a watchman or security guard) shall be from Monday to Friday and shall consist of forty-five hours made up of nine working hours per twenty-four hour day;

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

(3) No employee, other than a watchman or security guard shall be required to work for more than five hours with no break of thirty minutes.

Public holiday

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

- (a) Ascension day;
- (b) Independence (Somhlolo) day;
- (c) Good Friday;
- (d) Christmas day;
- (e) Umhlanga (Reed Dance) day;
- (f) King's birthday;
- (g) Incwala day;
- (h) Easter Monday;
- (i) Workers day; and
- (j) National Secondary Election's day

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

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

Payment of overtime

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

- (a) during the normal working week for overtime worked before midnight in excess of the normal working hours, at one and one third times the normal hourly rate of wages;
- (b) during the normal working week for overtime worked after midnight in continuation of normal working hours or other overtime worked, at twice his normal hourly rate of wages;
- (c) for any time worked on Saturday before 1.00 pm at one and half times his normal hourly rate of wages;
- (d) for anytime worked on a public holiday specified in regulation 6 (1), Sunday or after 1:00 pm on Saturday at twice his normal hourly rate of wages;

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

Annual Leave

8. (1) On completion of three months of continuous employment with the same employer, an employee shall be entitled to accrue one day of paid leave per month to a maximum of thirteen (13) days in a twelve month period

(2) In each year of continuous employment, an employee shall be entitled to eleven (11) days paid leave for eleven (11) months and two (2) days paid leave for the twelfth month of each year of employment.

(3) An employer and its employee(s) may agree, where it appears to them to be suitable, or convenient, on the time or period in which leave is to be taken.

(4) Where the employment of an employee is terminated after a period exceeding three months but not amounting to a one (1) year from the date of its commencement the employer shall pay to the employee a sum not less than one (1) day's wages for each completed month of such period.

Sick Leave

9. (1) After three consecutive months of continuous service with an employer and subject to the production of a medical certificate signed by a Medical Practitioner, as defined under the Medical and Dental Practitioners Act, 1970, an employee shall be entitled to sick leave up to a maximum of fourteen (14) days on full wages and thereafter to a maximum of fourteen (14) days on half wages in that period of twelve months continuous service.

(2) Notwithstanding sub-regulation (1) a certificate issued by a registered nurse shall be accepted in place of a medical certificate if a Medical Practitioner is not available.

Maternity Leave

10. After twelve months of continuous service with an employer, and subject to the production of a medical certificate signed by a registered nurse or midwife recommending that an employee should refrain from work because she is pregnant, an employee shall be entitled to thirty (30) working days maternity leave on full pay thereafter thirty (30) days without pay in respect of that pregnancy.

Compassionate Leave

11. An employee shall be entitled to a total of one month compassionate leave annually but nothing in this section shall be construed as requiring an employer to pay an employee for any time spent on such leave.

Written particulars to be provided

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

Continuous service

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

Traveling and Subsistence Allowances

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

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

(3) An employee who is absent on duty away from his normal place of employment for longer period than twelve hours, and who returns to his normal place of residence without staying overnight shall be paid a subsistence allowance of E 20.00 for each period of twelve hours or part there 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 night allowance of E45.00 in lieu thereof, or
- (b) free accommodation and an allowance of E25.00 in lieu of food; or
- (c) free food and an allowance of E25.00 in lieu of accommodation;

(5) An entitlement to free food, accommodation or allowances under sub regulation 4 and 9 shall not cease until the employee is back to his normal place of employment.

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

(7) Where an employee is transferred to another project site and such transfer prevents him from returning to his normal place of employment, the employer shall provide him with free accommodation and transfer allowance of E120.00

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

(9) An employee who is absent on duty outside the country for a period not exceeding 5 days at a time shall be provided with free food, accommodation and shall be entitled to out of country allowance of E100.00 a day.

Lay-off

15. (1) where an employer is unable to provide work for any employee due to-

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

the employer may, subject to that employer giving the employee not less than twenty four hours notice, lay-off the employee without pay for a maximum period of thirty (30) calendar days, not more than three times within a period of twelve months, in the circumstances mentioned in sub regulation (a) and (b).

(2) At the expiry of thirty (30) calendar days the employer shall either provide work for a minimum of 5 days for the employee, or terminate his employment under the provisions of the Employment Act, 1980 or its successor.

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

Lay-off due to weather

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

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

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

Protective clothing

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

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

(3) 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, without charge with a pair of gumboots or safety guards.

(4) 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.

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

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

(7) Each employee who works on a section of a project which is overhead activity shall be issued with a hard-hat when the work proceeds into the section above first floor.

Uniform and non-protective clothing

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

Retirement

19. An employee may retire at the age of 60.

Revocation of Legal Notice No. 4 of 2008

20. The Regulation of Wages (Building and Construction Industry) Order, 2008 is hereby revoked.

**FIRST SCHEDULE
(Regulation 3 & 4)**

EMALANGENI PER HOUR

Clerk (without a certificate)	E6.37
Clerk (with a certificate)	E6.58
Cook	E6.37
Crane driver (mobile without a certificate)	E12.25
Crane driver(mobile with a certificate)	E13.45
Crane driver (tower without a certificate)	E11.33
Crane driver(tower with a certificate)	E12.53
Driver (light duty)	E6.92
Driver (heavy duty)	E8.54

Driver (heavy duty with high up crane)	E9.74
Driver (extra heavy)	E9.35
Earthmover operator	E13.22
Reinforcement fixer	E6.56
General Labourer	E6.37
General Trademan	E6.56
Grade III tested	E6.56
Grade II tested	E9.31
Grade I tested	E13.90
Induna	E7.04
Small Plant operator	E7.04
Storeman	E6.64
Tea maker/ cleaner	E3.97
Typist	E6.56
Watchman/ Security guard	E55.98 per shift
Watchman/ Security guard supervisor	E57.60 per shift
Survey and soil assistant	E6.56
Structure steel erector	E10.16
Scaffolding erector	E6.56
Tractor driver	E6.92
First aid officer	E 6.56

SECOND SCHEDULE

(WRITTEN PARTICULARS OF EMPLOYMENT FORM)

1. Name of employer
2. Name of employee
3. Date Employment began
4. Wage and method of calculation

5. Interval at which wages are paid
6. Normal hours of work
7. Short description of employee's work
-
-
8. Probation Period
9. Annual Holiday Entitlement
10. Paid Public Holidays
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Nursing Break Entitlement (for female employee)
14. Notice employee entitled to receive
15. Notice employer required to give
-
16. Any other matter either party wishes to include
-

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

The address of the Industry Union is:

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

(c) When any heading is inapplicable enter nil.

Signed Employee
 Employer
 Witness
 Date

PATRICK M. MAMBA
 HONOURABLE MINISTER
 MINISTER FOR LABOUR & SOCIAL SECURITY

LEGAL NOTICE NO. 185 OF 2010

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

THE REGULATION OF WAGES (ROAD TRANSPORTATION)
INDUSTRY ORDER, 2010
(Under Section 11)

In exercise of powers conferred by section 11 of the Wages Act, 1964, the Minister for Labour and Social Security hereby makes the following Order.

Citation and commencement

1. This order may be cited as the Regulation of Wages (Road Transportation) Industry Order, 2010 and shall come into effect on the 1st September 2010.

Interpretation

2. In this order unless the context otherwise requires-

“artisan/ mechanic” means an employee who has completed and apprenticeship or who has been awarded a grade test certificate;

“assistant artisan/ mechanic” means an unskilled employee who assist an artisan/ mechanic;

“casual employee” means any employee the terms of whose engagement provides for his payment at the end of each day and who is not engaged for longer period than twenty four hours at a time;

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

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

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

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

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

“driver” means a person who is employed to drive a goods vehicle, public transport vehicles, car hire or taxi as the context may require, and for the purposes of this definition the expression “drives a motor vehicle” includes all periods of driving, all periods during which he is obliged to remain at his post in readiness to drive and any time spent by him in connection with the vehicle or its load;

“driver instructor” means a person who is employed to conduct practical lessons and tests for a learner driver and who supervises a drivers’ department or cadre in an establishment;

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

“general worker” means an employee who is engaged in one or more of the following duties;

- (a) Opening, closing , nailing up, sewing up, marking , typing, filling or emptying bales, vats, packing cases, boxes, tins, cartons, drums, bags or containers;
- (b) Assisting in the loading or unloading tarpaulins or plastic coverings;
- (c) Throwing over or removing tarpaulins or plastic coverings;
- (d) Sealing or opening messages, packages, letters or goods and delivering or transporting them on foot, by pedal cycle or tricycle, or by hand-operated vehicle;
- (e) Carrying, lifting, pulling, pushing, dragging, packing, repacking, stacking, rolling up, shifting, loading or unloading any goods , containers, packages or vehicles, wheelbarrows, trolleys or other hand-operated vehicle other than using power-driven equipment;
- (f) Pasting labels on goods or making, branding or stamping or stenciling goods, or perforating labels;
- (g) Parceling, wrapping or typing goods;
- (h) Replacing towels, soap or toilet paper;
- (i) Cleaning goods or containers;
- (j) Setting up or taking apart ready-made cardboard or fireboard boxes or similar containers by hand;
- (k) Shoveling or scattering stone, gravel, soil, clay, sand or other raw materials with shovel;
- (l) Boring, scraping down or sandpapering by hand;
- (m) Guarding motor vehicles, goods or the loads on motor vehicles;
- (n) Operating a hand-operated crane, hoist, pump, duplicating machine, jack or winch;
- (o) Assisting an artisan in ways other than by using the tools of his trade independently;
- (p) Washing overalls, uniforms, protective clothing, packing material or blankets;
- (q) Working on motor vehicle, trailer or semi-trailer, or accompanying it on trips;
- (r) Repairing packing cases, crates or pallets by hand;
- (s) Cleaning premises, pallets, vehicles or machinery;
- (t) Preparing rations or making or serving tea or similar beverages for employees or making or serving tea or other refreshments for the employer or his guests;
- (u) Using rubber or other stamps where selection or discretion is not needed;
- (v) Opening or shutting railway trucks or containers;
- (w) Applying paint or anti-rust agents to goods, trailers or semi-trailers by hand;

- (x) Removing, replacing, changing or pumping wheels, tires or tubes of motor vehicles, front-end loaders, mobile hoists, trailers, semi-trailers, wheelbarrows, trolleys or other hand-driven vehicles, or repairing tubes; and

(y) Any other manual labour not specifically defined herein;

“fuel issuer” means an employee who fills up fuel to motor vehicles.

“general worker repair shop” means an employee who assists an artisan by doing manual and physical tasks, which include carrying tools, cleaning parts, cleaning, cleaning the work area, packing away tools and helping where needed;

“goods” means any movable property, including but not limited to any article, commodity or substance such as sand, soil, gravel stone, coal, water or other liquid, gaseous or solid matter and containers or containerized goods;

“loader” means an employee engaged in the loading or off-loading of vehicles;

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

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

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

“night-shift” means a shift during which five and a half or more ordinary hours of work, overtime excluded, fall within the period reckoned from 18.00 hrs to 6.00 hrs the next day;

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

“public holiday” means a day prescribed as a paid public holiday in regulation 13;

“rank marshal” means an employee who works at a taxi or kombi or bus rank and who manages the allocation of passengers to drivers on a particular route according to an agreed roster;

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

“short time” means a temporary reduction in the number of ordinary hours of work owing to vagaries(unpredictable changes) of the weather, slackness(reduced demand) of trade, a shortage of goods to be transported, a breakdown of vehicles, plant or machinery or breakdown or threatened breakdown of buildings;

“suitable accommodation” means a weatherproof structure containing bed or camp bed with a palliase 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;

“workshop storeman” means an employee who is engaged in receiving, recording, storing unpacking and issuing spares for the repair and maintenance of vehicles;

“working day” means any day other than a day-off or a public holiday listed in regulation 13.

Application

3. (1) This Order shall apply to all persons employed in any undertaking involving the carriage, for hire or reward, of passengers or goods by motor vehicle required to be licenced under the Road Transportation Act 2007. All employers in the Road Transport Industry shall have registered premises in Swaziland.

(2) The application of the terms and conditions of service provided for in this Order shall be limited to the employees whose job categories are listed regulation or in the First Schedule.

(3) The terms and conditions of service of any incumbent to a job category not listed in the First Schedule shall be governed by the labour laws.

Basic Minimum Wage

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

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

Protection of Wages

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

Hours of Work

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

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

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

(4) 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 aggregate break of forty minutes, be given a thirty minutes rest period at the end of eight hours.

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

Conversions rates.

7. For purposes of converting a weekly wage to-

- (a) an hourly rate, the weekly wages shall be divided by the number of hours worked in a week;

(b) a daily rate, the weekly wage shall be divided by the number of the days ordinarily worked in a week; and

(c) a monthly rate, the weekly wages shall be multiplied by four and one third.

Payment for Overtime

8. (1) Subject to the provisions of regulation 6 an employer may require an employee to work overtime and whenever possible, shall give the employee twenty-four hours notice of such requirement. Such request to work overtime shall not be unreasonable refused by an employee.

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

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

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

Compassionate Leave:

9. (1) An employee who has completed a probation period shall be entitled to compassionate leave as follows:-

Widows	-	30 calendar days
Widower	-	7 calendar days
Natural father or mother	-	7 calendar days
Natural child	-	7 calendar days

(2) Out of all the above mentioned days only three days will be with full pay

(3) Entitlement to compassionate leave of any other relative in addition to the above shall be at the discretion of the employer.

Allowances.

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

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

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

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

- (a) twenty nine emalangeni eighty cents (E29.80) where the employer provides suitable accommodation and food;
 - (b) fifty nine emalangeni sixty seven cents(E59.67) where the employer does not provide food, but provides suitable accommodation or where accommodation is available on the vehicle being driven by or which the employee is an assistant; and
 - (c) one hundred and nineteen emalangeni thirty four cents (E119.34) where the employer provides neither food nor accommodation.
- (5) An employee who is absent from his place of employment and for more than seven days but not exceeding thirty days, shall be paid the following subsistence allowance in respect of each absence:
- (a) ninety six emalangeni and ninety three cents (E96. 93) if the employer provides suitable accommodation and food.
 - (b) fifty nine emalangeni sixty seven cents (E59.67) where the employer does not provide food but provides suitable accommodation or where the accommodation is available on the vehicle being driven; and
 - (c) one hundred and forty nine emalangeni seventeen cents (E149.17) if the employer provides neither food nor accommodation.
- (6) Whenever a transfer is envisaged to be permanent in nature from the outset, a transfer allowance of one hundred and forty nine emalangeni seventeen cents (E149.17) shall be paid to the transferee.
- (7) 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.
- (8) Any employee who is required temporarily to perform duties in a higher grade than that in which he is normally employed, shall be paid the wage applicable to such higher grade on and after the third day of such work.

Annual Leave

11. (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 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 a rate of two and half working days for each completed month.
- (4) Where the services of an employee are terminated after a period exceeding three months but not amounting to one year from the date of commencement, the employer shall pay to the employee a sum not less than one days wages for each completed month of such period.
- (5) A period of unpaid leave or unpaid sick leave shall not be counted as employment earning leave.

(6) An employer, who observes a holiday other than a public holiday in regulation 13, shall not off-set such holiday against an employee's leave.

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

Maternity Leave

12. Every female employee, whether married or unmarried, who has been in th continuous employment of her employer for twelve months or more shall be entitled to twelve week's maternity leave, so arranged that she gets six weeks before the date of confinement, the other six weeks from the date of confinement but only at least two weeks paid; the rest at the discretion of the employer.

Public Holidays

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

New Year's Day;

Good Friday;

Easter Monday;

National Flag Day;

Ascension Day;

May Day;

King's Birthday;

Umhlanga (Reed Dance) Day;

Somhlolo Day;

Incwala Day;

Christmas Day;

Boxing Day; and

National Secondary Election's day

(2) Where a public holiday falls on 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 after the public holiday, shall not be entitled to any payment in respect of that public holiday in terms of this regulation.

Sick Leave

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

(2) Notwithstanding sub-regulation (1),

(a) a certificate issued by a registered nurse shall be accepted in place of a medical certificate if a medical practitioner is not available

Retirement Age

15. An employee may retire at the age of 60.

Written Particulars of employment to be provided

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

Continuous Service.

17. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of a new employer without interruption or where his services are interrupted without termination and enters the services of a new employer within seven days of such interruption, his service shall be deemed to be continuous service in the employment of the new employer.

Protective Clothing

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

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

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

Payment of Severance Allowance

19. Severance allowance shall be paid to an employee as outlined in Section 34 of the Employment Act, 1980 or its successor as the case may be.

Short Time

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

(2) Where an employee has been placed on short time under sub-regulation (1), that employee shall be paid not less than fifty percent of his normal weekly hours of work.

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

Revocation of legal Notice No.182 of 2006

20. The Regulation of Wages (Road Transportation Industry) Order, 2006 is hereby revoked.

FIRST SCHEDULE

(Regulation 4)

BASIC MINIMUM WAGE PER WEEK**Grade1:**

Loader	270.00
Lorry mate	
Messenger	
Conductor	
General worker	

Grade 11

Fuel issuer	
Rank marshal	
Tyre hand	384.75
Driver of vehicles up to 2000 kg weight or	
A public transport Licenced to carry 1 to 16 passengers	

Grade 111

Driver of vehicles from 2001kg to 7000kg	
weight or Public Transport Licensed	411.75
to carry 17 to 36 passengers	
Assistant artisan/mechanic	

Grade IV

Driver of mobile cranes, vehicles from 7001 kg to 12000kg weight or public transport Licenced to carry 37 to 59 passengers	426.60
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Grade V

Driver of vehicles 12001kg to 20000 kg weight or public Transport licenced to carry 60 passengers and more Clerk Workshop Storeman	442.80
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Grade VI

Driver of (vehicles of 20001 kg tare weight and above Senior Clerk	446.85
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Grade VII

Driver Instructor Artisans/ Mechanics Mechanics Auto Electrician Welder	780.30
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SECOND SCHEDULE
WRITTEN PARTICULARS EMPLOYMENT

1. Name of Employer
2. Name of Employee
3. Date of employment began
4. Wage and method of calculation
5. Interval at which wages are paid
6. Normal hours of work
7. Short description of employee's work
-
-
8. Probation Period
9. Annual Holiday Entitlement
10. Paid Public Holiday

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

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

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.....

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

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.....

(iii) When any heading is inapplicable enter nil.

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

P. M. MAMBA
HONOURABLE MINISTER
MINISTRY OF LABOUR AND SOCIAL SECURITY