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PART C

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LEGAL NOTICE NO. 22 OF 2011

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

REGULATION OF WAGES (TEXTILE AND APPAREL INDUSTRY) NOTICE 2011 (Under Section 11)

In the exercise of the 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 (Textile and Apparel Industry) Order, 2011 and shall be deemed to have come into effect on 1st March, 2011.

Application

2. This order shall apply to all persons employed in the Textile and Apparel Industry who are engaged in the occupations specified in the first schedule.

Interpretation

3. In this Order, unless the context otherwise requires:-

"blaster" means an employee who operates a sand blasting machine or spray gun to sand blast or spray finished garments according to customer requirements;

"blaster assistant" means an employee who assists a blaster operator in the operation of a sand blasting machine or spray gun to sand blast finished garments according to customer requirements;

"boiler operator/attendant" means an employee who operates a boiler machine;

"boiler assistant" means an employee who assist a boiler operator in the operation of a boiler machine;

"casual labourer" means an employee who is not employed for more than twenty four hours at a time;

"cleaner" means an employee who is responsible for the cleaning of a factory, offices, toilets and canteen and who also performs tea making duties;

"continuous service" means unbroken service in the employment of an employer interrupted by death, retirement, or discharge of the employee concerned, an employee who is re-engaged within two months of the employee's;

"cutter" means an employee who is engaged in cutting material by means of a machine in a garment manufacturing factory;

"dispatch clerk" means an employee who selects and packs goods according to customers' orders;

"driver messenger" means an employee in possession of a current driving licence who is mainly engaged in carrying messages, who delivers and collect goods or mail by vehicle and performs

simple routine tasks in an office;

"factory clerk" means an employee who is employed in the production area of a factory and who is wholly or mainly responsible for the recording of attendance and/or production data, which data may require further processing by office administration;

"final presser" means an employee who is engaged in pressing completed garments;

"fusers" means an employee who irons pieces of materials through a fusing machine in the preparation section of clothing manufacture;

"handyman" means an employee who carries out different jobs, including simple structural repairs, supervising and allocating work to subordinate staff under his control;

"hand trimmer" means an employee, who trims by means of a clipper all excess threads, binding and tapes after all closing operations have been done;

"inline examiner" means an employee who examines the uncompleted garments or parts for flaws or sewing defects;

"inline presser" means an employee who is engaged in pressing parts of garments during manufacturing process;

"learner sewing machinist A" means an employee with less than 3 months training to be a sewing machinist;

"learner sewing machinist B" means an employee with more or more months but less than 6 months training to be a sewing machinist;

"learner mechanic A" means an employee who has less than three months Training engaged in mechanical repairing and assembly of machinery;

"learner mechanic B" means an employee who has 3 or more months training but less than 6 months experience engaged in mechanical repairing and assembly of machinery;

"labourer" means an employee engaged in one or more of the following operations: Cleaning premises, loading or unloading goods, carrying and/or stacking goods, removing refuse and the arrangement and organization of materials;

"layer-up" means an employee who is engaged in the laying of material in one or more thicknesses on the cutting tables and may include the duty of slicing the ends;

"learner" means an employee who is serving probation and is learning on the job to become a machinist, folder, packer, presser, soberer, quality controller, or any unskilled job for a period not exceeding 6 months. The probation period of 3 months shall run concurrently with the learning period;

"mechanic I" means an employee who has more than twelve months experience engaged in mechanical repairing and assembly of machinery;

"mechanic II" means an employee who has more that six months but less than 12 months experience engaged in mechanical, repairing and assembly of machinery;

"office / computer clerk" means an employee who does general clerical duties including invoicing, data capturing and generally works on a computer in the office;

"quality checker" means an employee who is responsible for the activities which ensures that products and services are fit for employer's quality standards and who is able to identify the specific below standard outcome and to give advice on solution(s) for improvement;

"quality checker finished garments" means an employee who is engaged in checking completed garments to required standards;

"quality auditor" means an employee who is mainly engaged in checking the quality of finished garments and makes 2.5 or 4.0 audit quality level reports on finished products;

"re-cutter" means an employee who is engaged in the cutting out and/or marking-in of materials for replacing damaged or missing parts of a garment;

"supervisor" means an employee who under general supervision is responsible for the efficient performance of the duties of the employees or a section of the employee's in a factory;

"sewing machinist" means an employee engaged on operating a sewing machine using a needle and thread;

"soberer" means an employee who stamps information on to material or pieces of material by means of a sober gun;

"sorter" means an employee performing the sorting out of garments or parts of garments;

"screen printer" means an employee who is engaged in printing a design on a garment by applying ink through a silk screen;

"washer" means an employee who is engaged in loading or unloading garments into a washing or drying machine;

Basic Minimum Wage:

4. The Basic Minimum Wage inclusive of rations or cash in lieu thereof to be paid to employees specified in the First Schedule shall be calculated at a rate not less than that specified therein provided that -

(1) an employee who, at the date of commencement of this Order, is in receipt of a higher wage than prescribed by this Order, shall not suffer any reduction in such wage by reason of this Order.

(2) where no definition of an employee's duties exists, such employee shall be paid a basic minimum wage not less than that applicable to a general labourer; and

(3) nothing in this regulation shall prevent an employer, if he so wishes from-

- a) supplying cooked or uncooked food to an employee in addition to his basic wage; and
- b) providing free transport to an employee who works from 6a.m to 5.30p.m or free accommodation.

Statement of condition of employment

5. (1) The employer shall provide an employee with a written statement at the commencement of his employment, stating whether the employee is employed for an indefinite duration or

seasonally, the conditions of the employee's employment, the starting wage, including the learning period.

(2) The learning period referred to in sub-regulation (1) shall be-

- a) six months in the case of the weaving industry, textile and apparel industry, printing industry; and
- b) three months in the case of other occupations.

Hours of work

6. (1) The normal working week for employees other than security guards and casual labourers shall consist of not more than forty-seven hours of work spread over a period of 5 days in a week, from Monday to Friday.

(2) The normal working week for a casual labourer shall consist of not more than twenty four hours at a time.

Overtime

7. (1) An employee who is engaged otherwise than on shift work or as a security guard and is required to work in excess of the normal daily hours shall be paid as follows:-

- a) for time worked in excess of the normal hours on a weekday, payment shall be at one and half times his basic hourly wage; and
- b) for time worked on a Sunday, payment shall be twice his hourly rate.
- c) for time worked on a paid public holiday, payment shall be two times or double the hourly rate for each hour worked plus the normal rate applicable to all other employees whether at work or not on that paid public holiday.

(2) An employee employed on shift work, or as a security guard who is required to work on his rest day or on a public holiday specified in regulation 8, may be paid for such overtime or alternatively, be given an equivalent amount of time off in lieu of overtime payment.

(3) The basic hourly wage of an employee on a weekly wage shall be calculated dividing such wage by the number of hours the employee normally works in a week.

(4) The basic hourly wages of casual labourer shall be calculated by dividing his daily wage by eight hours.

Public Holiday

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

Incwala;

Good Friday;

Easter Monday;

Christmas Day;

Boxing Day;

Umhlanga (Reed) Dance Day;

Somhlolo Day;

King's Birthday;

New Year's Day

May Day / Labour Day;

Ascension 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 or any valid reason on the working day before or the working day after a public holiday, shall not be entitled to normal payment in respect of that public holiday in terms of this regulation. But if the employee is at work on the public holiday, he will be paid for time worked on that public holiday.

Annual Holiday

9. (1) An employee shall have thirteen working days annual leave with full pay after each period of twelve months continuous service with an employer.

Provided that in the case of a security guard annual leave shall be twenty-one calendar days with full pay after each period of twelve months continuous service with an employer.

Sick Leave

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

Compassionate Leave

11. (1) An employee shall be entitled to compassionate leave as follows:

Widow	- 30 days
Widower	- 7 working days
Child	- 7 working days
Natural Parents	- 7 working days

Maternity Leave

12. An employee who has completed probation shall be entitled to maternity leave and be provided with protection against loss of employment or seniority as required by the Employment Act, No.5 of 1980 or its successor.

Paternity Leave

13. An employee who has completed probation shall be entitled to two (2) days' unpaid paternity leave upon production of a birth card and later a birth certificate as proof of birth.

Continuous Service

14. Where, following upon a change of ownership of an establishment or undertaking an employee enters the service of a new employer without interruption, his service shall be deemed to be continuous service in the employment of the new owner.

Short Time

15. (1) If an employer finds it necessary for reasons beyond the employer's control to employ an employee on short time, the employer may do so subject to the Commissioner of Labour consenting in writing to such an arrangement, having satisfied himself that the employees organization recognized in the undertaking has been fully consulted and is fully aware 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) the employee shall be paid not less than fifty percent of the employee's weekly wages where the employee is employed to periods which, in aggregate, are equivalent to or less than fifty percent of the employee's 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 paid placed on short time.

Piece Work

16. An employee engaged on piece work shall be entitled to wages and conditions of employment not less than those specified in this Order.

Re-imbursement of expenses

17. A salesman, driver or salesman assistant shall be re-imbursed all expenses reasonably incurred on lodging and meals for the period of absence from his place of residence or duty.

Lay-Off

18. (1) Due to circumstances beyond the employee's control an employer may lay off employees for up to fourteen working days, without pay provided that at the end of this period the employer shall either re-employ the employees in their original jobs, or give them notice of termination of service in accordance with the provisions of the Employment Act, 1980.

(2) During the period of any lay-off, the employer shall not engage other employees to replace the employees he has laid off.

(3) The employer shall give-

(a) an employee shall give an employee engaged on an indefinite contract fourteen (14) days' notice before the lay-off and the employer organization recognized in the undertaking shall be consulted and informed before the lay-off

(b) a seasonal employee twenty-four hours notice before the lay-off.

(4) An employer may apply to the Minister responsible for Labour for a temporary exemption for a specified period according to the circumstance of the enterprise, from the application of regulation 17(3), (a), after consultation with an employees' organization if any, for a reduction of the period of notice to be given to employees, before lay-off.

Trade Testing

19. (1) An employer shall grant unpaid leave to an employee who requests to undergo a trade test at the Swaziland College of Technology or any similar institution to enable him to take tests.

(2) An employee undergoing a trade test shall furnish the employer with the results of his examination.

Revocation of Legal Notice No. 55 of 2010

20. The Regulation of Wages (Textile and Apparel Industry) Order, 2010 is hereby revoked.

FIRST SCHEDULE

BASIC MINIMUM WAGE (Emalangenzi per week)

Category 1

Rate: 191.40

Casual Labourer
Learner
Learner Mechanic A
Learner Sewing Machinist A

Category 2

Rate: 256.30

Cleaner
Learner Mechanic B
Fusers
Labourer
Hand Trimmer
Inline Examiner
Layer-up
Packer
Inline Presser
Sorter
Screen printer
Washer
Soberer
Learner Sewing Machinist B

Category 3**Rate: 282.50**

Blaster
 Factory / Despatch Clerk
 Final Presser
 Quality Checker
 Re-Cutter
 Sewing Machinist

Category 4**Rate: 318.10**

Cutter
 Driver
 Mechanic 2
 Office/Computer Clerk

Category 5**Rate: 347.70**

Quality Auditor

Category 6**Rate: 396.50**

Handyman
 Planer

Category 7**Rate: 410.30**

Mechanic 1

* Set or team Leader or Assistant Supervisor shall earn not less than 20% above the sewing Machinist rate of pay.

** Supervisor shall earn not less than 25% above the Sewing Machinist rate of pay.

*** The learning period shall be deemed to be more that 6 months. Any employee being trained outside of the production line environment, i.e. training school, will be excluded from this schedule and his/her progress into the schedule shall be based on merit.

**** An Employee who at the time of publication of this Order earns higher than the group he/she is categorized under, shall be entitled to a 10% increment on his/her current pay.

SECOND SCHEDULE
WRITTEN PARTICULARS OF EMPLOYMENT

1. Name of Employer
2. Name of Employee
3. Date Employment began
4. Wage and method of calculation
5. Interval and which wages are paid

7. Short description of employees' work
-
8. Probation Period
9. Annual Leave Entitlement
10. Paid Public Holiday
11. Payment during sickness
12. Notice employee entitled to receive
13. Notice employer required to give
14. Pension Scheme (if any, other than N.P.F. Scheme)
15. Any other matter either party wishes to include
- (a) An Employee is free to join an industry union which is recognized by the undertaking.
- The address of the Industry Union is:
-
- (b) The grievance procedure in this undertaking requires that a grievance should be first referred to
-
- (c) When any heading is inapplicable enter nil
- (d) Please give a copy of this form to the employee after it has been duly signed
- Signed Employer
- Employee
- Witness
- Date

HON P. M. MAMBA
 MINISTER- MINISTRY OF LABOUR & SOCIAL SECURITY