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SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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LEGAL NOTICE NO. 56 OF 2012

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

THE REGULATION OF WAGES (AGRICULTURAL INDUSTRY)
ORDER, 2012
(Under Section 11)

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

Citation

1. This Order shall be cited as the Regulation of Wages (Agricultural Industry) Order, 2012 and shall be deemed to have come into force on the 1st April, 2012.

Interpretation

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

"artisan" means a skilled employee who has passed a government recognized trade test or who has served apprenticeship recognized by the employer.

"basic minimum wage" means the wage provided for in Regulation 4 payable to an employee after the commencement of this Order;

"Heavy duty driver" means an employee who is employed to drive and be in charge of a vehicle which is over four tons tare weight, whose duties also include handling cargo to and from the tailboard, and daily maintenance and cleaning of that vehicle;

"farm clerk or storeman" means an employee whose duties include keeping all relevant records associated with storekeeping;

"field induna" means an employee who is in charge of a number of labourers of any category;

"general labourer" means an employee who has limited educational training and includes field labourers, cleaners, sweepers, pickers, produce graders, field recorders, messengers, workshop assistant and spanner hands;

"handyman" means a person who is capable of carrying out elementary tasks in either masonry, plumbing, carpentry or mechanics associated with that work on a farm with reasonable proficiency and without supervision but does not include an Artisan;

"irrigator" means an employee involved in the application of water on field crops and work associated with irrigation;

"light duty driver" means an employee in possession of a light duty driver's licence employed as a driver and who is in charge of the vehicle and its daily care;

"plant or pump attendant" means an employee who attends stationary plant and equipment and is also responsible for operating pumps;

"seasonal worker" means an employee who is employed for a limited duration and for a specific season, or for work to be done on or in connection with a specific project or activity;

"stockman" means an employee who attends or herds animals and work associated with the keeping or rearing of cattle;

"tractor driver" means an employee who is in possession of a valid driver's licence and drives a tractor and is able to take complete charge of the tractor, operate it and all its associated implements, to complete a given task without supervision and carry out daily care of the tractor;

"task-work" means any piece work to be done by a worker or group of workers, at a given time;

"watchman" means an employee who is engaged during the day or night guarding and protecting premises or property as directed by his employer;

Application

3. (1) This Order shall apply to all persons employed in any undertaking carrying one or more of the following activities for gain -

- (a) cultivation of land and the use of land (irrigated or otherwise) for the purpose of animal husbandry, horticulture, civi-culture, fruit growing, dairy farming, livestock and poultry keeping or breeding, and the growth or production of seed;
- (b) the use of land and grazing or meadowlands, market gardens, nursery grounds;
- (c) all handling and processing normally carried out on a farm or estate including crop cleaning, winnowing, drying, sacking, cantoning, livestock food preparation;
- (d) The construction, maintenance and repair of a farm building or construction works including irrigation canals and installation machinery, plant equipment, the running of irrigation scheme and the keeping of farm or estate accounts.

Basic Minimum Wage

4. (1) The basic minimum wage to be paid to any employee specified in the First Schedule shall not be less than that specified therein for the employee concerned.

(2) An employee who at the date of commencement of this Order is in receipt of a higher wage for the employee's occupation than the wage prescribed in the First Schedule, shall not suffer any reduction in that wage by reason of this Order.

Hours of work

5. (1) The normal hours of work shall, subject to the provision of regulation 6, be fifty-four hours of work spread over a period of six days in a week;

(2) The normal hours of work for watchman, stockmen, irrigators, plant and pump house attendants shall be sixty hours.

Overtime

6. An employee required to work in excess of the normal working hours specified in regulation 5 shall be paid at one and half time the basic hourly rate for the time worked from Monday to Saturday, and at twice the employee's basic hourly rate for time worked on Sundays, or the Public Holidays referred to in Regulation 7.

Public Holidays

7. (1) The following shall be Public Holidays with full pay:

- (a) New Year's Day;
- (b) Good Friday;
- (c) King's Birthday;
- (d) Somhlolo Day (Reed Dance);
- (e) Christmas Day;
- (f) Easter Monday;
- (g) Boxing Day;
- (h) Incwala Day;
- (i) May Day; and
- (j) National Secondary Parliamentary Election day.

(2) Subject to sub-regulation (1) hereof, the public holidays specified shall subject to the provision of regulation 6, be holidays with full pay.

(3) The provisions of sub-regulation (1) shall only apply where the employee presents himself for the work on the working day immediately prior to the public holiday and the working day immediately after the public holiday except where the employee concerned has received permission from his employer to be absent on either day or has been certified not fit to work by a medical practitioner.

Annual Leave

8. (1) On completion of twelve months' continuous service with an employer, an employee shall, at a time convenient to the employer, be entitled to annual leave of not less than twelve working days with full pay.

(2) An employee whose services are terminated after three months' service with an employer or after three months returning from annual leave as provided for in sub-regulation (1) shall be entitled to one day's pay for each completed month of service following his engagement or following his return from leave as the case may be.

Compassionate Leave

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

(a) Widows	-	30 calendar days
(b) Widower	-	7 calendar days
(c) Natural father or mother	-	7 calendar days
(d) Natural child	-	7 calendar days

(2) In all the above cases only 3 days will be on full pay and the rest will be at the discretion of the employer.

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

Sick Leave

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

(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

11. (1) Every female employee, whether married or unmarried, who has been in the 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 after delivery but only one month on full pay and the rest at the discretion of the employer.

(2) For purposes of sub-regulation (1) an employee shall produce -

- (a) a certificate issued by a medical practitioner or a midwife setting the expected or actual date of confinement; or
- (b) any other evidence in support of the entitlement to maternity leave as is reasonable, having regard to all the circumstances of the case.

(3) A female employee shall not be entitled to the maternity leave provided for under sub-regulation (1) for two (2) consecutive years.

Written particulars to be provided

12. An employer shall within two calendar months of the appointed day, give the employee a completed copy of the form in the Second Schedule of this Order.

Continuous service

13. Where following a sale, transfer or takeover of a business 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 employer unless otherwise agreed in writing by all the parties.

Task and ticket contracts

14. Nothing in this Order shall prevent an employer and employee from agreeing to the substitution of a Task for the normal hours of work in any day.

Employment of women

15. A female employee shall be paid the same wage payable to as an adult male employee employed in a similar capacity and for work of equal value.

Employment of children and young persons

16. Employment of children and young persons shall in accordance with Part X of the Employment Act, 1980 as amended or its successor as the case may be.

Task work

17. Provided that where task work is being performed the rate of payment shall be the same for all persons engaged in the task, irrespective of age or sex, but payment shall be calculated in respect of the volume of work done or proportionate to the amount of task completed.

Payment during inclement weather

18. An employee who makes himself available for work but does not work during a continuous period of wet or inclement weather shall be entitled to his basic wage up to the third day of that wet or inclement weather and nothing thereafter for the rest of the duration

Lay-Off due to other reasons other than inclement weather

19. An employee who makes himself available for work, but his employer cannot provide him with his normal work due to any reasons valid at law other than inclement weather, the employer shall -

- (a) through consent of the employee, provide the employee with task work and pay him his normal pay for the first three days and thereafter at the rate of the task work he is assigned.
- (b) pay the employee his normal pay for the first three days, and nothing thereafter if the employee does not agree to the task work until the situation normalizes.

Protective clothing

20. An employer shall annually provide, free of charge, adequate and appropriate personal protective appliances, equipment and clothing to an employee who is performing activities or processes which may expose that employee to wet, dusty or noisy conditions, extreme heat or extreme cold, or to any other poisonous, corrosive or injurious substance or material liable to affect the employee's safety and health or cause undue damage to the employee's clothing

Rations

21. Subject to the provisions of Section 153 of the Employment Act, 1980 as amended, an employee who was in receipt of rations or meals or cash allowance in lieu of rations shall continue to receive rations or that cash allowance.

Revocation

22. Legal Notice No. 48 of 2007 is revoked.

FIRST SCHEDULE

(Regulation 4)

BASIC MINIMUM WAGE PER DAY

General Labourer	E30.59
Seasonal Worker	E30.59
Stockman	E30.59
Watchperson	E45.80
Irrigator	E31.22
Plant or Pump House Attendant	E31.22
Field Induna	E45.80
Handyman	E38.17
Tractor Driver	E40.34
Farm Clerk/ Storeman	E47.60
Heavy Machine Operator	E54.66
Artisan	E71.51
Driver	E40.34
Driver (heavy duty)	E54.66

SECOND SCHEDULE

(Regulation 12)

WRITTEN PARTICULARS OF EMPLOYMENT

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 Holiday
- 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. Pension Schedule, Provident Fund Gratuity Schedule etc. (if any, other than SNPF).
- 17. Any other matter either party wishes to include
-

Notes:

(a) An employee is free to join a trade union or staff association, which is recognized by the undertaking. The address of the Trade Union of Staff Association is:

.....

(b) The grievance procedure and disciplinary procedure in this undertaking requires to be followed when a grievance arises or disciplinary action that needs to be taken.

.....

.....

(c) When any heading is inapplicable enter NIL.

.....
Employer's Signature

.....
Witness

.....
Employee's Signature

.....
Witness

.....
Date

.....
Date

THIRD SCHEDULE
(Regulation 21)

MINIMUM MONTHLY RATION SCALE

Mealie Meal	25kg
Meat	5.5kg
Sugar	10kg
Dry beans, Peas or Groundnuts.....	5kg
Fresh vegetables	4kg
Salt	500g
Fat	3litres

Alternatives

1. The following rations may be supplied in lieu of the Items of Food mentioned above;
 - (a) Mealie Meal:
(For every 0.9kg of mealie meal - 4.5kg of bread; 34kg of rice or 0.23kg of cheese.
 - (b) For the first 23kg of meat - 23kg of offal; or for the first 0.45kg of fish - 0.23kg of cheese.
 - (c) For every 0.46kg of Fresh Vegetables, 0.45kg of Fresh Fruit or a proportionate ration of Dehydrated Vegetables.

Permitted Variations

2. The rations of mealie meal shown in paragraph 1 (a) may be reduced by an amount not exceeding 2.72 kg equivalent to the amount mealie meal used in the preparation of:
 - (a) The drink known as *Mahewu* or
 - (b) A proprietary vitaminized drink if either is issued in a week to the employee by the employer.

LUTFO E. DLAMINI
MINISTER FOR LABOUR AND SOCIAL SECURITY

