

SUPPLEMENT TO

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PART C - LEGAL NOTICE

69. The Regulation of Wages (Pre-Schools and Day-Care Centres) Industry Order, 2013 S1

LEGAL NOTICE NO. 69 OF 2013

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

THE REGULATION OF WAGES (PRE-SCHOOLS AND DAY-CARE
CENTRES) INDUSTRY ORDER, 2013
(Under Section 11)

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

Citation and Commencement

1. This Order may be cited as the Regulation of Wages (Pre-Schools and Day-Care Centres Industry) Order, 2013 and shall be deemed to have come into force on the 1st April, 2013.

Application

2. This Order shall apply to all persons employed in Pre-Schools and Day-Care Centres in respect of basic conditions of employment.

Interpretation

3. In this Order unless the context otherwise requires -

“Assistant Early Childhood Carer” means a person who has an early childhood carer certificate and assists an early childhood carer.

“Assistant Teacher” means an employee who is engaged as such, and is in possession of a Junior Certificate or O’level Certificate of Education and / or a Pre-school Teacher’s Certificate, who may be in charge of a class in the absence of the class teacher.

“Cleaner” means an employee who performs cleaning duties other than those of a labourer. Where a cleaner also performs the duties of a labourer, such employee shall be paid, in addition to such employee’s wages, half the wages applicable to a labourer.

“Clerk” means an employee who is a holder of a Junior Certificate or O’level certificate, who is engaged in secretarial or other general clerical duties.

“Cook” means an employee who is engaged to prepare meals in Pre-schools or Day-care centres.

“Early Childhood Carer” means a person who takes care of children from 0 to 3 years, who holds an Early Childhood Carer certificate.

“Labourer” means an employee who performs duties pertaining to the tidying of the grounds of the school.

“Maintenance Worker” means an employee who is engaged to service electrical appliances, furniture, painting and other such duties.

“Teacher” means an employee who is engaged as such, and is in possession of a Junior Certificate or O’Level certificate or a Pre-School Teachers Certificate.

Basic Minimum Wage

4. The basic minimum wage to be paid to the employees specified in the First Schedule shall -
- (i) be calculated at a rate not less than that specified in the schedule;
 - (ii) not be reduced by any amount for housing or accommodation or transport which the employer may provide.

Hours of work

5. The normal hours of work for an employee shall be from 0700hrs to 1330hrs, inclusive of a lunch break of one hour, from Monday to Friday for Pre-school employees. The hours of work shall be from 0700hrs to 1700hrs (ten hours), inclusive of a lunch break of one hour from Monday to Friday for Day-Care Centre employees.

Overtime

6. (a) An employee of a Pre-school other than a Day-care Centre who is required to work in excess of the hours specified in Regulation 5 shall be paid at one and half the basic hourly rate.
- (b) Overtime worked on Sundays or Public Holidays shall be paid at twice the employee’s basic hourly rate.
- (c) Overtime shall be negotiated between the employer and employee.

Annual Leave

7. (a) Employees of Pre-schools shall have paid annual leave for the days allocated by Government for the closure of schools. Any leave applied for during the period when schools are open is at the discretion of the Employer, unless it is for purposes specifically provided for in this Order or the Employment Act, 1980.
- (b) Employees of Day-care Centres which close when schools close, shall be entitled to annual leave as in (a) above. Employees of Day-care Centres that do not close when schools close shall be entitled to paid annual leave by the employer as follows:
- (i) for an employee who has worked for less than 12 months, leave shall be one day per each completed month;
 - (ii) for an employee who has worked for 12 months but less than 3 years, annual leave shall be 15 days;
 - (iii) for an employee who has worked for more than 3 years, annual leave shall be 18 days.
- (c) Where employment is terminated after three months’ service with an employer, an employee shall be entitled to one day’s pay for each completed month of service following that employee’s initial engagement.

Sick Leave

8. (a) After three consecutive months of continuous service with an employer, and subject to the submission 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 days on full pay and thereafter to a maximum of fourteen days on half pay in each period of twelve months' continuous service.
- (b) Notwithstanding sub-regulation (a), a certificate issued by a registered Nurse shall be acceptable in the place of a Medical Certificate mentioned in sub-regulation (a) if, at the time the employee goes for medical treatment or examination, a Medical Practitioner is not available.

Maternity Leave

9. (a) 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 maternity leave for a period not exceeding twelve weeks (84 calendar days) with only 6 weeks on full pay. Payment of wages for the rest of the period shall be at the discretion of the employer. The employee shall furnish the employer with a certificate signed by a Medical Practitioner or a Midwife, stating the expected or actual date of her confinement.
- (b) No employee shall be entitled to maternity leave provided for under sub-regulation (a) for two (2) consecutive years.
- (c) An employee who has been on maternity leave shall be entitled, on return from such leave, to a paid nursing break of one hour for a period not exceeding three months. Such nursing break shall not be in lieu of such employee's lunch break.

Written Particulars of employment to be provided

10. An employer shall give an employee a completed copy of the form in the Second Schedule of this Order, in the manner required by the Employment Act, 1980 or its successor.

Public Holidays

11. (a) The following are Public Holidays with full pay:

Christmas Day;

Boxing Day;

New Year's Day;

Good Friday;

Easter Monday;

Ascension Day;

King's Birthday;

Somhlolo Day;

Secondary National Elections Day;

Reed Dance Day;

Flag Day;

Incwala Day;

July 22nd; and

Workers' Day (1st May).

(b) Where a public holiday falls on a Sunday, the following day shall be a Public Holiday.

(c) An employee who is absent without leave on the working day before or after a Public Holiday shall not be entitled to any payment.

Compassionate Leave

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

Widows	-	37 working days with full pay;
Widower	-	10 working days with full pay;
Biological parents	-	10 working days with full pay; and
Biological child	-	10 working days with full pay

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

Retirement Age

13. The retirement age for an employee shall be 60 years.

Payment of Severance Allowance

14. (1) Severance allowance calculated as outlined in the Employment Act of 1980, shall be payable to an employee who leaves service under the following circumstances:

(a) Retirement; or

(b) ill-health, subject to the submission of a medical certificate signed by a Medical Practitioner as defined under the Medical and Dental Practitioners Act, 1970, or as it may be amended;

(2) Other than as provided for in this Order, the payment of severance allowance under any other circumstances not mentioned in sub-regulation (1) shall be governed by the Employment Act of 1980.

Casual Work:

15. An employee engaged on casual basis as envisaged in the Employment Act of 1980 shall be paid for each day or shift worked at a rate not less than the basic minimum wage applicable to the nature of his duties. An employee continuously employed by the same employer for a period longer than three months shall not be considered as a casual employee.

Redundancy

16. An employee who has served the same employer continuously for a period of three years or more and whose employment is terminated for reasons of redundancy shall be paid either;

- (a) a redundancy payment equal to two-thirds of the monthly wage multiplied by four; or
- (b) severance allowance in terms the Employment Act, 1980, whichever is greater

Transport

17. An employee who, by nature of his employment is required on any day to remain on duty after 17.30 hours or is required to start work before 06.00 hours, shall be provided with transport between the place of work and home or place of residence as the case may be or such point on a public road as may be mutually agreed between the employer and the employee.

Continuous Service

- 18. (a) For purposes hereof, "continuous service" shall have the same meaning as in the Employment Act of 1980. A discharged employee who is re-engaged within two months of discharge shall be deemed to be in the continuous service.
- (b) Where, following upon a sale, transfer or takeover of a business as a going concern, 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.

Protective Clothing

19. The employer shall supply an employee with appropriate clothing to protect the employee from occupational injuries and diseases.

Existing Conditions of Employment

20. At the commencement of this Order an employee who has been enjoying better terms and conditions of employment than those provided for herein, shall not suffer any reduction in such terms and conditions as a result of coming into force of this Order.

FIRST SCHEDULE
BASIC MINIMUM WAGE
(EMALANGENI PER MONTH)

Urban Areas

The following areas shall, for purpose of rates of pay, be deemed to be urban areas;

Bhunya, Big Bend, Bulembu, Hlathikulu, Lavumisa, Lomahasha, Luyengo, Malkerns, Mankayane, Manzini, Matata, Matsapha Industrial Area, Mbabane, (including establishment situated along and within 5km on either side of the Mbabane / Manzini main road stretching 20 km from Mbabane); Mhlambanyatsi, Mhlume, Ngwenya, Nhlangano, Nsoko, Piggs Peak, Sidvikodvo, Simunye, Siteki, Tabankulu, Tshaneni and Vuvulane,

	Urban Areas	All other areas
Teacher	E1034.14	E791.34
Assistant Teacher	E 896.26	E659.45
Maintenance Employee	E 827.31	E659.45
Cleaner/Labourer	E 689.43	E527.56
Clerk	E 965.20	E725.40
Cook	E 827.31	E593.51
Early childhood career	E 827.31	E593.51
Assistant early childhood career	E 689.43	E527.56

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 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 Scheme, Provident Fund Gratuity Scheme etc. (if any, other than
S.N.P.F .Scheme)
-
17. Nominated beneficiary
18. Any other matter either party wishes to include

Notes: (a) An Employee is free to join a union or staff association, which is recognized by the undertaking.

The address of the Union or Staff Association 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 Employer

..... Employee

..... Witness

..... Date

LUTFO E. DLAMINI (MP)
MINISTER OF LABOUR AND SOCIAL SECURITY