

SUPPLEMENT TO

THE

SWAZILAND GOVERNMENT

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LEGAL NOTICE NO. 101 OF 2014

THE WAGES ACT, 1964
(Act No. 16 of 1964)THE REGULATION OF WAGES (RETAIL, HAIRDRESSING, WHOLESALE AND
DISTRIBUTIVE TRADES INDUSTRY) ORDER, 2014
(Under Section 11)

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

Citation.

1. This Order may be cited as the Regulation of Wages (Retail, Hairdressing, Wholesale and Distributive Trades) Order, 2014 and shall be deemed to have come into force on the 1st July, 2014.

Application.

2. This Order shall apply to all persons employed in the Retail and Wholesale supply of goods or merchandise of any description, beauty- care and hairdressing services and in such operations as ware-housing, storing, packing, clerical or other work which is associated with such Retail, beauty care, hairdressing services and wholesale supply.

Interpretation.

3. In this Order unless the context otherwise requires -

"baker" means a person mainly employed to order ingredients, scale ingredients, mix ingredients, other than wheat or flour products and make confectionery, pack the finished product for display or sale to customers;

"barber man" means a person mainly employed to cut hairs in a saloon, beauty care and or hairdressing services.

"blockman" means a person employed in a butcher's shop or butchery whose duties are the cutting, dressing and preparation of meat, and may include attending to customers;

"cashier" means a person responsible for issuing, receiving and checking money in relation to a transaction of sale or the rendering of a service;

"senior clerk" means an employee who is the holder of a Senior Certificate of education and who is engaged in general clerical duties and also supervises the Junior Clerk;

"junior merchandiser or promoter" means a person employed by a merchandising company to, work in a place where goods are exhibited for sale to the public, transact business, display goods, make orders, check incoming goods and who has not acquired two (2) years experience working as such.

"junior clerk" means an employee who is the holder of a Junior Certificate of education who is engaged in general clerical duties;

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

"assistant baker" means an employee who assists a baker;

"copy typist" means an employee wholly or mainly engaged in typing, checking figures and filing, and who is capable of typing a minimum of 25 words per minute;

"deliveryman" means an employee wholly or mainly engaged in the delivery of goods or merchandise;

"driver (heavy vehicle)" means a person who is employed to drive a motor vehicle with a weight of over one and a half (1 1/2) tons whose duties include the handling of cargo and daily maintenance and cleaning of such vehicle;

"driver (light vehicle)" means a person who is employed to drive a motor vehicle with a weight of one and a half (1 1/2) tons or less, whose duties include handling of cargo to and from the tailboard and the daily maintenance and cleaning of such vehicle;

"general labourer" means a person employed to perform duties of a sweeper, cleaner, shopman or other general work assigned to him;

"commercial cleaner" means a person who performs duties of a cleaner in an office, block of offices, shops or business establishment or private homestead through an establishment that provides commercial cleaning services;

"hyster/forklift driver" means a person employed to drive a forklift in the establishment or other place as the case may be;

"heavy duty labourer" means an employee wholly or mainly engaged in the handling, loading and stocking of heavy packages of goods or items of 33.75 kilograms weight or more and who has been specially engaged for such work;

"junior shop assistant" means a person employed in a place, where goods are exhibited for sale to the public and who assists a shop assistant or other person serving customers, including the making up of orders and checking of incoming goods and who has not acquired 2 years experience in such activities;

"lorryman" means an employee wholly or mainly engaged in a vehicle conveying goods or merchandise and assist in their loading and unloading and whose duties may also include those of a general labourer;

"merchandise" means a person employed by a merchandising company to work in a place, where goods are exhibited for promotion or sale to the public, who transacts business with customers and displays goods, including the making up of orders and checking incoming goods and who has acquired two (2) years experience in such activities;

"messenger" means an employee wholly or mainly engaged in carrying out errands, delivering or fetching mail or goods, making bank deposits, and carrying out simple routine tasks in the employer's establishment;

"petrol pump attendant" means a person wholly or mainly employed at a filling station selling fuel, oil and includes cleaning of driveway and forecourt.

"pre-packer" means an employee wholly or mainly engaged in the pre-packing of goods from bulk to small quantities, for display or for sale to the public;

"hairdresser" means a person who is qualified and for purposes hereof perform work in scalp treatment, hair texturing, hair relaxing, braiding, perm, blowouts and other forms of hairstyling; "assistant hairdresser" means a person who prepares, shampoos and sets hair in a salon without relaxing and styling who has less than six months experience;

"cashier-salon" means a person who is employed to handle cash, keep records, take money to the bank, receive money from and issues receipts to customers;

"hair braider" means a person who braids hair and makes braid styles in a salon or beauty parlour;

"barber person" means a person who cuts or shaves hair in a salon or beauty parlour;

"beautician" means a person who does skin care, manicure, pedicure, waxing, massaging, plugging, tweezing and make-up;

"general labourer (salon)" means a person who does general cleaning of floors, windows, rollers, trolleys and washing of towels;

"redundancy" means a situation where, due to the operational or financial requirements or circumstances of the employer, the need for workers of a particular kind has ceased or diminished;

"shop assistant" means a person wholly or mainly employed for purposes of transacting business with customers or displaying goods in a place where such goods are exhibited for sale to the public in a supermarket or similar establishment and who has acquired two years experience in such work;

"telephone/switchboard operator" means a person whose duties consist wholly or mainly in the operation of a telephone switchboard;

"trainee cashier" means a person responsible for issuing and receiving money and who has been employed as such for a continuous period of not more than 6 months; and

"watchman" means an employee who is engaged during the day or night to guard the premises or property of his employer.

BASIC MINIMUM WAGE.

4. The basic minimum wage to be paid to an employee 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 which may be provided by the employer.

Provided that an employee who, at the date of commencement of this Order is in receipt of a higher wage for his particular occupation than the wage prescribed by this Order, shall not by reason of this Order suffer reduction in such wage.

Hours of work.

5. (1) Subject to sub-regulations (2) and (3), the normal hours of work for an employee other than a petrol pump attendant and a watchman shall, subject to the provisions of regulation 6, consist of forty-eight hours per week divided into eight and a half hours per day excluding a rest period of one hour on Monday to Friday inclusive.

(2) The normal hours of work for a petrol pump attendant shall, subject to the provisions of regulation 6, be forty-eight hours of work spread over a period of 6 days.

(3) The normal hours of work for a watchman shall be sixty-six hours per week divided into six shifts each of eleven hours.

Overtime Payment.

6. (1) An employee other than a petrol pump attendant and a watchman, who is required to be on duty and work in excess of the hours specified in regulation 5 shall be paid at one and halftimes the basic hourly rate.

Provided that overtime worked on Sundays or public Holidays or after 1.00 p.m on Saturday shall be paid at twice the employee's basic hourly rate.

(2) Overtime shall be paid to a petrol pump attendant as follows:

- (i) for all time worked in excess of the normal hours of work (other than on a public holiday) at one and halftimes the employee's basic hourly rate;
- (ii) for all time worked on a public holiday at twice the employee's basic hourly rate.

(3) For the purpose of calculating the employee's basic hourly rate, the employee's monthly basic rate shall be divided by two hundred and eight hours (48 hours per week x 4.33 weeks per month).

(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 twelve consecutive months service with an employer, an employee shall be entitled to twelve working days leave on full pay:

- (i) On completion of three years' continuous service with an employer an employee shall be entitled to fifteen working days leave on full pay;
- (ii) On completion of eight years' continuous service with an employer an employee shall be entitled to eighteen working days leave on full pay

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

Sick leave.

8. 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 of up to a maximum of fourteen days with full pay and thereafter to sick leave up to a maximum of fourteen days on half pay in each period of twelve months' continuous service.

Maternity Leave

9. (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 maternity leave on full pay for a period not exceeding twelve weeks (84 calendar days) upon delivering to her employer :-

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

(2) No employee shall be entitled to the maternity leave provided for under sub- regulation (1) for two (2) consecutive years.

WRITTEN PARTICULARS TO BE PROVIDED

10. Subject to section 22 (2) of the Employment Act, 5 of 1980, as amended an employer shall on engagement of an employee, give such employee a completed copy of the form in the Second Schedule of this Order.

Public Holidays

11. (1) The following shall be Public Holidays with full pay -

- (a) Christmas Day;
- (b) Boxing Day;
- (c) New Years Day;
- (d) Good Friday;
- (e) Easter Monday;
- (f) Ascension Day;
- (g) King' s Birthday;
- (h) Somhlolo Day;
- (i) Umhlanga (Reed Dance) Day;
- (j) Flag Day;
- (k) Incwala Day;
- (l) 22nd July;
- (m) Workers' Day; and
- (n) National Secondary election's 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 on the working day before or 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.

Compassionate Leave.

12. (1) An employee who has signed a contract of employment whether permanent or fixed term contract shall be entitled to compassionate leave as follows;

- | | |
|-------------------|-------------------------------------|
| Widow | - 30 working days with full pay; |
| Widower | - 7 working days with full pay; |
| Biological parent | - 4 working days with full pay; and |

Biological child - 5 working days with full pay

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

Retirement Age

13. The retirement age for employees in the industry in respect of which this order applies shall be sixty (60) years.

Casual Work.

14. A casual employee shall be paid at the end of each day or shift worked at a rate not less than the basic minimum wage applicable to the job category in which he/she is working.

Watchman's Clothing and Equipment.

15. (1) The employer of a watchman shall provide him free of charge with two pairs of boots, a police whistle, a club, a hat, and an overcoat or rain coat as is reasonably necessary in prevailing weather conditions.

(2) Any clothing or equipment referred to in sub-regulation (1) shall be of a reasonable quality and shall remain the property of the employer.

Redundancy.

16. When an employee has been employed for a period of three years or more and his employment is terminated for reasons which are beyond the control of either the employer or the employee he will be paid either:

- (a) a redundancy payment equal to two-thirds of his monthly wage multiplied by four; or
- (b) severance allowance in terms of the Employment Act, 1980 whichever is greater, but he will not be entitled to be paid both severance pay and redundancy pay.

Piece or task work

17. An employee, engaged on task or piece work shall be entitled to wages and conditions of employment not less than those specified in this Order. Provided that where the employee has performed work that would entitle him to a wage that is higher than the rates stated in the schedule hereto, the employee shall be paid according to the amount of work he has performed.

Transport

18. An employee, who by nature of his employment is required on any day to remain on duty from 6 p.m. or is required to start work before 6.30 a.m. shall be provided free of charge with transport between his place of work and his place of residence or such point on a public road as may be mutually agreed upon between the employer and the employee.

Continuous Employment / Service.

19. (1) Continuous employment or service is service in the employment of the employee as defined in section 2 of the Employment Act, 1980. Provided that in the case of discharge, the re-engagement of the employee within seven (7) days of such discharge shall not affect continuity of employment or service.

(2) Where, following upon a sale or takeover of a business of an employer an employee enters the service of a new employer without interruption, his service shall, subject to section 33 bis of the Employment Act, 1980, be deemed to be continuous service in the employment of the new employer.

Protective Clothing.

20. If it is necessary to protect an employee from physical or chemical injury or from any hazardous situation which may arise from the work he is required to do, the employer shall supply, free of charge, that employee with adequate protective clothing and equipment and the employee shall use the protective clothing as instructed.

Revocation of Legal Notice No. 176 of 2012

21. The Regulation of Wages (Retail, Hairdressing, Wholesale and Distributive Trade Industry) Order, 2012 (Legal Notice No. 176 of 2012) is hereby revoked.

FIRST SCHEDULE

**BASIC MINIMUM WAGE
(EMALANGENI PER MONTH)**

The areas mentioned in (A) below are for purposes hereof regarded as urban areas.

(A) Bhunya, Big Bend, Havelock Mine, Luyengo, Matata, Malkerns, Manzini, Mbabane, (including establishments situated along and within 5km on either side of the Mbabane/Manzini main road stretching 20 km from Mbabane); Matsapha Industrial Area, Mhlambanyatsi, Mhlume, Ngwenya, Nhlengano, Piggs Peak, Sidvokodvo, Simunye, Siteki, Tabankulu, Tshaneni, Vuvulane, Nsoko Shopping Complex, Ngonini Shopping Complex, Ebuhleni Shopping Complex, Lavumisa, Mankayane, Lomahasha Shopping Complex, Ludzeludze, Mhlaleni and Hlatikulu.

	A Urban Areas	B All other areas
General Labourer	E1 235.85	E1 164.89
General Labourer (Salon)	E 973.03	E 632.72
Lorry man	E1 334.72	E1 164.89
Watchman	E1 334.72	E1 164.89
Messenger	E1 334.72	E1 164.89
Deliveryman	E1 334.72	E1 164.89
Heavy duty labourer	E1 374.81	E1 246.86
Pre-Packer	E1 334.72	E1 164.89
Commercial cleaner	E1 375.76	E1 164.89
Junior clerk	E1 302.48	E1 196.37
Senior clerk	E1 374.52	E1 188.00

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Junior shop assistant	E1 334.72	E1 007.93
Junior merchandiser	E1 334.72	E1 164.89
Switchboard operator	E1 334.72	E1 164.89
Copy typist	E1 334.72	E1 164.89
Driver (Light vehicle)	E1 393.85	E1 164.89
Petrol pump attendant	E1 393.85	E1 164.89
Driver (Heavy duty)	E1 470.74	E1 201.77
Shop assistant	E1 470.74	E1 201.77
Merchandiser or promoter	E1 470.74	E1 201.77
Blockman	E1 642.14	E1 398.38
Trainee cashier	E1 335.04	E1 246.43
Cashier	E1 676.54	E1 323.97
Beautician	E1 702.57	E1 349.97
Cashier (saloon)	E1 459.73	E 948.02
Hairdresser	E1 337.04	E 945.00
Assistant Hairdresser	E1 094.82	E 724.68
Hair braider	E1 094.82	E 724.68
Baker	E1 471.72	E1 247.08
Assistant Baker	E1 334.72	E1 164.89
Hyster/ forklift driver	E1 470.85	E1 247.08
Handyman	E1 374.62	E1 164.89
Barber man	E 998.84	E 649.45

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 Holidays
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. Scheme)
16. Any other matter either party wishes to include

Notes (a) An Employee is free to join a union or staff association which is active in the undertaking.

The address of the Union / 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

WINNIE MAGAGULA
 MINISTER
 MINISTRY OF LABOUR & SOCIAL SECURITY

The Government Printer, Mbabane