

Order of Regs
SUPPLEMENT TO

THE
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THE WAGES ACT, 1964

(No. 16 of 1964)

THE REGULATION OF WAGES (RETAIL AND WHOLESALE
DISTRIBUTIVE TRADES) ORDER, 1978

(Under section 11(5))

(Date of commencement: 27th October, 1978)

In exercise of the powers conferred on him by the abovementioned Act, the Honourable the Deputy Prime Minister is pleased to make the following Order.

Citation.

1. This Order may be cited as The Regulation of Wages (Retail and Wholesale Distributive Trades) (Amendment) Order, 1978.

Application.

2. This Order shall apply to all persons employed in the retail and wholesale supply of goods or merchandise of any description, or in any operations such as warehousing, storing, packing, clerical or other work which are associated with such retail or wholesale supply.

Interpretation.

3. In this Order unless the context otherwise requires —

“the principal Order” means the Regulation of Wages (Retail and Wholesale Distributive Trades) (No. 1) Order, 1966 (Legal Notice No. 39 of 1966) and the Regulation of Wages (Retail and Wholesale Trades) (No. 2) Order, 1966 (Legal Notice No. 40 of 1966);

“blockman” means a person employed in a butcher’s shop whose duties are the cutting, dressing and preparation of meat, but may include attending to customers;

“clerk (with Junior certificate)” means an employee who is the holder of a Junior Certificate of Education, and who is engaged in general clerical duties;

“clerk (with no certificate)” means an employee who does not possess a Junior Certificate of Education and who is engaged on general clerical duties;

“copy typist” means an employee 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 and who is not accompanied in such deliveries by another employee;

"driver (heavy vehicle)" means an employee in charge of a vehicle of over 1½ tons whose duties include handling to and from the tailboard, and the daily maintenance and cleaning of such vehicle

"driver (light vehicle)" means an employee in charge of, a vehicle of 1½ tons or under whose duties include handling to and from the tailboard, and the daily maintenance and cleaning of such vehicle;

"general labourer" includes a person employed as a sweeper, cleaner or shopman;

"heavy duty labourer" means an employee wholly or mainly engaged in the handling, loading, unloading and stacking of heavy packages of goods or items of 75 pounds weight or more and who has been specially engaged for such work;

"junior shop assistant or turnboy" 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 goods inwards and outwards;

"lorryman" means an employee wholly or mainly engaged in a vehicle conveying goods or merchandise whose responsibility includes **the safe custody of such goods or merchandise whilst in transit**, and assisting in their loading and unloading and whose duties **may be interchangeable with those of a general labourer**;

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

"petrol pump attendant" means a person wholly or mainly employed at a petrol pump selling fuel or oil;

"pre-packer" means an employee wholly or mainly employed in the pre-packing of goods for display or for sale to the public";

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

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

"watchman" means an employee who is engaged during the day or night guarding the premises or property belonging to his employer;

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

Rations.

4. If an employer, at the request of an employee, supplies rations to that employee, he may after notifying the Labour Commissioner, deduct from the basic minimum wage payable to the employee a sum of money not exceeding E3.05 for each week he supplies to him the amount of rations specified in the Second Schedule.

Hours of work.

5. (1) Subject to subsection (2) and (3) hereof, the normal hours of work for employees shall consist of forty-eight hours per week divided into eight and one half hours per day excluding a rest period of one hour on Mondays to Fridays inclusive, and five and one half hours before 1.00 p.m. on Saturdays.

(2) The normal hours of work for petrol pump attendants shall be forty-eight hours worked in a week at the request of the employer, provided that no petrol-pump attendant shall be required to work more than nine hours in any one day.

(3) The normal hours of work for watchman shall be seventy two hours divided into six shifts, each of twelve hours.

Public Holidays.

6. Public holidays shall mean the days specified in the Third Schedule hereto and shall be holidays with full pay.

Overtime.

7. (1) Any employee who is required to be on duty and work in excess of the hours specified in paragraph 5 hereof shall be paid at one and half times the basic hourly rate:

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

(p) Overtime shall be paid to petrol pump attendants as follows:—

- (i) for all time worked in excess of the normal hours of work (other than on a public holiday) at one and one half times the employees basic hourly rate;
- (ii) for all time worked in excess of the normal hours of work on a public holiday at twice the employees basic hourly rate:

Provided that work carried out in the first fifteen minutes immediately following the completion of normal working hours shall qualify for payment at the basic rate and not at the overtime rate

Provided further that for the purpose of calculating the employee's basic hourly rate the monthly basic rate shall be divided by two hundred and eight.

Annual Leave.

8. (8) After twelve consecutive months' service with an employer, an employee shall be entitled to twelve working days leave on full pay.

(2) Where employment is terminated after three months' initial service with an employer, or after returning from annual leave as provided for in sub-paragraph (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.

9. (1) After three consecutive month's service, with an employer, an employee shall be entitled to sick leave up to a maximum of twenty-one days with full pay, and thereafter to sick leave up to a maximum of seven days with half pay in each period of twelve months' continuous service, subject to him producing a certificate of incapacity covering the period claimed as sick leave and signed by a medical practitioner:

Provided that an employee shall not be eligible for sick leave in respect of any incapacity due to his own neglect or misconduct.

(2) Sick leave taken by an employee in terms of this paragraph shall not be construed as a break in service for the purpose of determining his entitlement to annual leave.

(3) A female employee who produce a certificate signed by a medical practitioner recommending her absense from work for reasons of pregnancy, shall be entitled to sick leave as set out in this paragraph:

Provided that the period of leave on half pay shall be increased to twenty-one days in such cases.

Casual labourer.

10. An employee employed as a casual labourer shall be paid for each day or shift worked at a rate not less than one twenty-fourth of the basic minimum wage.

Watchmen's clothing and equipment.

11. (1) The employer of a watchman shall provide him free of charge with —

(a) boots, a police whistle and a club; and

(b) a hat, overcoat or raincoat as are reasonably necessary in prevailing weather conditions.

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

Redundancy.

12. When an employee has been employed continuously by the same employer 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, in addition to any other payment to which he may be entitled by reason of his contract of service, or in pursuance of any law for the time being in force, a redundancy payment equal to two-thirds of his monthly wage multiplied by four.

Piece or task work.

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

Transport.

14. Any employee, who by nature of his employment is required on any day to remain on duty after 1800 hours, or is required to start work before 7.00 hours, shall be provided free of charge with transport between his place of work and his home or such point on a public road as may be mutually agreed upon between the employer and the employee.

Repeal.

15. Legal Notice No. 91 of 1976 is hereby repealed.

A. R. SHABANGU
Permanent Secretary.

Mbabane
26th. September, 1978.

FIRST SCHEDULE

Mbabane, Manzini
Malkerns, Bhunya
Mhlambanyatsi,
Big Bend,
Tambankulu,
Tshaneni, Vuvulane
Irrigated Farms,
Pigg's Peak
Havelock Mine,
Ngwenya, Luyengo,
Sidvokodvo and
Matsapha Industrial
Areas

All other Areas

	<i>Basic Minimum wage (emalangenzi per month)</i>	<i>Basic Minimum wage (emalangenzi per month)</i>
General labourer	65.00	52.00
Lorryman	65.00	52.00
Watchman	65.00	52.00
Messenger	65.00	52.00
Deliveryman	65.00	52.00
Heavy-duty labourer	65.00	52.00
Pre-packer	65.00	52.00
Clerk (with no certificate)	72.00	56.00
Junior shop assistant or Turnboy	72.00	56.00
Telephone switchboard operator	72.00	56.00
Copy typist	72.00	56.00
Driver (light vehicle)	77.00	56.00
Clerk (with junior certificate)	77.00	56.00
Petrol pump attendant	77.00	62.00
Driver (heavy vehicle)	84.00	62.00
Clerk (with senior certificate)	84.00	62.00
Shop assistant	84.00	62.00
Blockman	84.00	62.00

SECOND SCHEDULE

Weekly ration scale per person

1. Mealie meal	6. 35 kg
Meat	1. 36 kg
Sugar	. 45 kg
Dry beans, peas or groundnuts	. 68 kg
Fresh vegetables	. 9 kg
Salt	.113 kg

Alternatives.

2. The following weekly rations may be supplied in lieu of the items of food mentioned in paragraph (1) :—

- (a) Mealie meal
for every .9kg of mealie meal; .45 kg of bread, .34 kg or rice or .23 kg of ordinary or sweet potatoes;
- (b) Meat
 - (i) for the first .23 kg of meat, .45 kg of offal;
 - (ii) for the first .45 kg of meat, .45 kg of fish or .23 kg of cheese.
- (c) Fresh vegetables
for every .45 kg of fresh vegetables, .45 kg of fresh fruit or a proportionate ration of dehydrated vegetables.

Permitted variations.

The ration of mealie meal shown in paragraph (1) may be reduced by an amount, not exceeding 2.72 kg equivalent to the amount of meal used in the preparation of —

- (a) the drink known as "mahewu" or
- (b) a proprietary vitaminised drink, if either drink is issued in the week to the employee by the employer.

THIRD SCHEDULE

(Statutory public holidays)

Incwala Day,
Flag Day
Ascension Day
New Year's Day
Good Friday
Easter Monday
King's Birthday
Reed Dance Day
Christmas Day
Boxing Day
Sombhlo Day.

LEGAL NOTICE NO. 83 OF 1978

TRADING LICENCES ORDER 1975

(No. 20 of 1975)

DESIGNATION OF LICENSING OFFICER

(Under Section 6 (1 and 2))

(Commencement: 20th October, 1978)

In exercise of the powers conferred on him by the abovenamed Order, the Honourable, the Minister for Commerce and Co-operatives is pleased to designate the following officer to be Licencing Officer with effect from the 20th October, 1978.

CHIEF DAMBUZA P. M. LUKHELE

NKOMENI DOUGLAS NTIWANE

Permanent Secretary.

MBABANE
19th October, 1978.

THE WAGES ACT, 1964

(No. 16 of 1964)

THE REGULATION OF WAGES (AGRICULTURAL INDUSTRY)
ORDER, 1978

(Under section 11(5))

(Date of commencement: 27th October, 1978)

In exercise of the powers conferred on him by the abovementioned Act, the Honourable the Deputy Prime Minister is pleased to make the following Order:

Citation.

1. This Order may be cited as The Regulation of Wages (Agricultural Industry) Order, 1978.

Interpretation.

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

“artisan” means a skilled employee who has passed a Government trade test or who has served an apprenticeship recognised by the Government;

“basic minimum wage” means the wage provided for in regulation 4 payable to an employee before the commencement of this Order;

“farm clerk/storeman” means an employee who is employed fulltime on day to day duties of accounting or issuing or receiving goods, stores and equipment and who is capable of keeping all relevant records associated therewith;

“field induna” means an employee who is in charge of a number of labourers of any category

“general labourer” means an employee who requires only limited training and includes field labourers, cleaners, sweepers, pickers, produce packers, produce graders, field recorders, messengers, workshop assistants and spanner hands;

“handyman” means a person who is capable of carrying out elementary tasks in either masonry, plumbing, carpentry or mechanics, associated with such work on a farm with reasonable proficiency and without continuous supervision, but does not include a skilled and trade artisan or an employee erecting ordinary fencing on farms;

“heavy machine operator” means an employee who can fulfil the requirements of a tractor driver and is able to operate a self-propelled combine harvester, motor grader, crane, excavator, ditch-digger or similar heavy machines;

"irrigator" means a labourer involved in the application of water to crops in the field and work associated therewith;

"motor vehicle driver" means an employee employed as a driver and who is in possession of a current driving licence for the class of vehicle concerned, who is in charge of the vehicle and its daily care;

"plant or pump house attendant" means an employee who attends stationary plant or equipment;

"seasonal worker" means an employee who is temporarily engaged to work for an indefinite period usually but not necessarily during peak cropping periods, and whose services are dispensed with when the purpose for which he was employed has been fulfilled;

"stockman" means a labourer concerned with attending or herding animals and work associated therewith;

"tractor driver" means an employee who is in possession of a current driving licence for the class of vehicle concerned, and who is also able to take complete charge of his tractor, can operate it and all its associated implements to complete a given task in the field without supervision, and carry out the daily care of such vehicle;

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

Application.

3. This Order shall apply to all persons employed in any undertaking carried in 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 husbandry, horticulture, fruit growing, seed growing, dairy farming, livestock, small animal and poultry keeping and breeding, apiculture;
- (b) the use of land as grazing or meadow-land, market gardens, nursery grounds;
- (c) all handling and processing normally carried out on a farm or estate including crop cleaning, winnowing drying, sacking, packing, cartoning, livestock food preparations;
- (d) or the construction, maintenance and repair of farm buildings and installations, machinery plant equipment, the running of irrigation schemes and the keeping of farm or estate accounts;

Provided that this Order shall not apply to the following undertakings:—

- (a) the retail supply of motor vehicles, agricultural machinery or mobile construction plant or the repair, servicing, assembling or adaption of such vehicles, machinery or plant on behalf of other persons or under a licence;

- (b) any labourer to whom the Farm Dweller's Act No. 21 of 1967 applies;
- (c) a director of any company engaged in activities mentioned in paragraph (a) and (b) of the proviso.

Basic minimum wage.

4. The basic minimum wage to be paid to any employee specified in the First Schedule shall be determined at a rate not less favourable than that specified in the said Schedule:

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 in terms of this regulation, shall not by reason of this Order suffer any reduction in such wage.

Accommodation.

5. An employer to whom section 95 of the Employment Act No. 51 of 1962 applies shall cause his employees to be housed in the manner prescribed in terms thereof:

Provided that this regulation shall not apply to seasonal juvenile female, young persons or employees who provide houses themselves on their employer's premises and do not require their employers to provide houses for them.

Hours of work.

6. The normal working week shall consist of fifty-seven hours of work from Monday to Saturday, both days inclusive:

Provided that in the case of watchmen, stockmen, plant or pump-house attendants and irrigators the normal working week shall not be more than seventy-two hours of work.

Overtime.

7. An employee required to work in excess of the normal working hours specified in regulation 6 shall be paid at one-and-half times the basic hourly rate from Monday to Saturday, inclusive, in any one week and twice his basic hourly rate for excess time worked on Sundays and Statutory public holidays referred to in the Second Schedule.

Public Holidays.

8. The days specified in the Second Schedule to this Order shall be holidays with full pay at the basic minimum wage:

Provided that the employee works on working days immediately prior to and following, such holiday except when authority for absence has been given by the employer.

Annual Leave.

9. On completion of each period of twelve months continuous service with an employer, an employee shall at any time convenient to his employer be entitled to annual leave of not less than nine working days with full pay at the basic minimum wage.

Sick leave.

10. After six months' continuous service with an employer an employee shall be entitled in each period of twelve months continuous service to sick leave up to the maximum of fourteen days with half pay at the basic minimum wage:

Provided that the employee shall produce a certificate issued by a medical practitioner registered under the Medical and Dental Practitioners Act No. 3 of 1970 covering each period of sick leave:

And provided further that an employee shall not be entitled to such pay if his incapacity was due to neglect or default on his own part.

Rations.

11. (1) Subject to section 98 of the Employment Act No. 51 of 1962 an employer shall each week, supply rations to his employees in accordance with the provisions of the abovementioned Act:

Provided that the consent of any employee and after notifying the Labour Commissioner to that effect cash payments at the rate to be fixed by the Labour Commissioner may from time to time be made in lieu of any such employee.

(2) For the purposes of this Order the value of the ration fixed by the Labour Commissioner from time to time shall be deemed to form part of the total wages payable to any employee but shall not be taken into account when overtime is calculated.

(3) Upon publication by the Labour Commissioner of an increase in the value of the ration allowance and not later than the commencement of the next pay period following the publication, such increases shall be added to the rates shown in the First Schedule which at the commencement of this Order excludes a ration allowance of E3.95 for a week of six days.

Task and Ticket Contracts.

12. (1) Nothing in the Order shall prevent an employer and an employee from fixing remuneration for a task in lieu of the normal work for any day.

(2) Nothing in the Order shall prevent the entering into a TICKET CONTRACT AS PROVIDED FOR in section 17 of the Employment Act No. 51 of 1962:

Provided that a daily paid worker on a ticket contract shall be paid on a routine basis at least once a month.

Permit for the Employment of the aged, infirm or disabled persons.

13. Section 16 of the Wages Act No. 16 of 1964 shall apply to the employment of the aged, infirm or disabled persons who by virtue of their advanced age or infirmity or disability would not normally be employed but who are working on light duties and are not in receipt of a pension.

Employment of women.

14. An adult female employee shall be paid the basic minimum wage payable to an adult male person employed in a similar capacity.

Employment of Young persons.

15. Male and female young persons below the age of 15 years shall be paid a daily wage of not less than 50% the basic minimum wage payable to an adult person employed in a similar capacity; and young persons between the ages of 15 and 17 years shall be paid a daily wage of not less than 75% of that payable to an adult person employed in a similar capacity.

Discharge due to redundancy.

16. An employer who intends to discharge his employee on the grounds of redundancy shall give such employee written notice to that effect and any benefits due to such employee at the date of such discharge plus each payment on a pro rata basis in lieu of any leave earned by the employee, shall be paid to him before the discharge in accordance with the provisions of the Employment Act No. 51 of 1962:

Provided that no seasonal worker shall be entitled to such payment benefits.

Lay off due to wet weather.

17. Any employee who makes himself available for work during a continuous period of wet weather shall be entitled to his basic wage for the first day; half his basic minimum wage on the second and third days of each wet weather and nothing thereafter.

Protective clothing.

18. (1) If it is necessary to protect any employee from physical or chemical injury which may arise from the work he is required to do, the employer shall supply such employee with adequate protective clothing, and such employee shall use the protective clothing supplied as instructed.

(2) An employer who has supplied his employee with protective clothing may deduct from the wages of such employee a sum not exceeding the cost price of such clothing; but shall upon the return of such protective clothing refund such sum of money to his employee provided that such protective clothing is in a serviceable condition, fair wear and tear excepted.

Repeal.

19. Legal Notice No. 29 of 1977 is hereby repealed.

A. R. SHABANGU

Permanent Secretary.

Mbabane

26th. September, 1978.

FIRST SCHEDULE

Regulation 4

MINIMUM BASIC WAGE PER DAY INCLUDING
THE VALUE OF RATIONS

	<i>Wage</i>	<i>Ration</i>	<i>Total</i>
General Labourer	63c	66c	E1.29
Watchman	66c	66c	E1.32
Stockman	63c	66c	E1.29
Irrigator	66c	66c	E1.32
Plant or pump house attendant	66c	66c	E1.32
Filed Induna	81c	66c	E1.47
Farm Clerk/storeman	E1.03	66c	E1.69
Tractor Driver	88c	66c	E1.54
Motor vehicle driver	E1.03	66c	E1.69
Heavy machinery operator	E1.21	66c	E1.87
Artisan	E1.76	66c	E2.42
Seasonal worker	63c	66c	E1.29
Handyman	82c	66c	E1.48

SECOND SCHEDULE

PUBLIC HOLIDAYS WITH FULL PAY

Regulation 8

Incwala Day
 Good Friday
 Somhlolo Day (Independence)
 Christmas Day
 Boxing Day
 King's Birthday
 Umhlanga (Reed Dance) Day