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SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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LEGAL NOTICE NO. 115 OF 2013

THE WAGES ACT 1964
(Act No. 16 of 1964)THE REGULATION OF WAGES (ROAD TRANSPORTATION)
INDUSTRY ORDER, 2013
(Under Section 11)

In exercise of 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 (Road Transportation) Industry Order, 2013 and shall be deemed to have come into force on the 1st August 2013.

Interpretation

2. In this Order unless the context otherwise requires-

“artisan/mechanic” means an employee who has completed an apprenticeship or who has been awarded a grade test certificate;

“assistant artisan/mechanic” means unskilled employee who assists an artisan/mechanic;

“casual employee” means an employee whose term of engagement provides for his payment at the end of each day and who is not engaged for longer than twenty four hours at a time;

“clerk grade II” means an employee performing clerical duties who has been in continuous service with the same employer for period not exceeding three months;

“clerk grade III” means an employee performing clerical duties who has been in continuous employment with the same employer for three months but not exceeding twelve months;

“clerk grade IV” means an employee performing clerical duties who has been in continuous employment with the same employer for more than twelve months but not exceeding twenty four months period;

“clerk grade V” means an employee performing clerical duties who has been in continuous employment with the same employer for more than 24 months;

“continuous employment” shall have the same meaning as defined by the Employment Act, 1980 or its successor;

“conductor” means a person who is employed to sell bus fare tickets on a public service vehicle and who is responsible for the control of passengers on that vehicle;

“driver” means a person who is employed to drive goods vehicles, public transport vehicles, motor bike car for hire or taxi as the context may require, and for the purpose of this definition the expression “drives a motor vehicle” includes all periods of driving, all periods during which he is obliged to remain at his post in readiness to drive and any time spent by him in connection with the vehicle or its load;

“driver instructor” means a person who is employed to conduct practical lessons and tests for a learner driver and who supervises a drivers’ department or cadre in an establishment;

“grade” means any grade listed in the First Schedule;

“general worker” means an employee who is engaged in one or more of the following duties;

- (a) Opening, closing, nailing up, sewing up, marking, typing, filing or emptying bales, vats, packing cases, boxes, tins, cartons, drums, bags or containers;
- (b) Assisting in the loading or unloading of tarpaulins or plastic coverings;
- (c) Throwing over or removing tarpaulins or plastic coverings;
- (d) Sealing or opening messages, packages, letters or goods and delivering or transporting them on foot, by pedal cycle or tricycle, or by hand-operated vehicle;
- (e) Carrying, lifting, pulling, pushing, dragging, packing, repacking, stacking, rolling up, shifting, loading or unloading any goods, containers, packages or vehicles, wheelbarrows, trolleys or other hand-operated vehicle other than using power-driven equipment;
- (f) Pasting labels on goods or making, branding or stamping or stenciling goods, or perforating labels;
- (g) Parceling, wrapping or typing goods;
- (h) Replacing towels, soap or toilet paper;
- (i) Cleaning goods or containers;
- (j) Setting up or taking apart ready-made cardboard or fireboard boxes or similar containers by hand;
- (k) Shoveling or scattering stone, gravel, soil, clay, sand or other raw materials with shovel;
- (l) Boring, scraping down or sandpapering by hand;
- (m) Guarding motor vehicles, goods or the loads on motor vehicles;
- (n) Operating a hand-operated crane, hoist, pump, duplicating machine, jack or winch;
- (o) Assisting an artisan in ways other than by using the tools of his trade independently;
- (p) Washing overalls, uniforms, protective clothing, packing material or blankets;
- (q) Working on motor vehicle, trailer or semi-trailer, or accompanying it on trips;
- (r) Repairing packing cases, crates or pallets by hand;
- (s) Cleaning premises, pallets, vehicles or machinery;
- (t) Preparing rations or making or serving tea or similar beverages for employees or making or serving tea or other refreshments for the employer or his guests;

(u) Using rubber or other stamps where selection or discretion is not needed;

(v) Opening or shutting railway trucks or containers;

“fuel issuer” means an employee who fills up fuel to motor vehicles.

“general worker repair shop assistant” means an employee who assists an artisan by doing manual and physical tasks, which include carrying tools, cleaning parts, cleaning the work areas, packing away tools and helping where needed;

“goods” means any movable property, including but not limited to any article, commodity or substance such as sand, soil, gravel stone, coal, water or other liquid, gaseous or solid matter and containers or containerized goods;

“loader” means an employee who assists in the loading or off-loading of vehicles;

“lorry mate” means an employee who assists in the execution of driver’s duties;

“messenger” means an employee engaged to convey messages and parcels and carry out elementary office jobs;

“mobile crane driver” means an employee who operates a mobile crane to load or off-load materials;

“night-shift” means a shift during which five and a half or more ordinary hours of work, overtime excluded, fall within the period reckoned from 18.00 hrs to 06.00 hrs the next day;

“overtime” means any time worked outside the ordinary hours of work as provided in regulation 6;

“public holiday” means a day prescribed as a paid public holiday in regulation 13;

“rank marshal” means an employee who works at a taxi or kombi or bus rank and who manages the allocation of passengers to public motor vehicle on a particular route according to an agreed roster;

“senior clerk” means an employee engaged in general clerical duties including supervisory work;

“short time” means a temporary reduction in the number of ordinary hours of work owing to unpredictable changes in weather, slackness(reduced demand) of trade, a shortage of goods to be transported, a breakdown of vehicle, plant or machinery or breakdown or threatened breakdown of buildings;

“suitable accommodation” means a weatherproof structure containing bed or camp bed with a palliate or similar covering;

“switchboard operator” means an employee who operates a telephone switchboard;

“tyre man” means a person who is employed in repairing of tyres and tubes, including the use of equipment necessary for such work;

“workshop storeman” means an employee who is engaged in receiving, recording, storing unpacking and issuing spares for the repair and maintenance of vehicles;

“working day” means any day other than a day-off or a public holiday listed in regulation 13

Application

3. (1) This Order shall apply to all persons employed in any undertaking involving the carriage, for hire or reward, of passengers or goods by motor vehicle required to be licensed under the Road Transportation Act 2007. All employers in the Road Transportation Industry shall have registered premises in Swaziland.

(2) The application of the terms and condition of service provided for in this Order shall be limited to the employees whose job categories are in the First Schedule.

(3) The terms and conditions of service in the Road Transportation Industry and any other employee not listed in the First Schedule but employed in the industry shall in addition to those regulations be governed by the national labour laws.

Basic Minimum Wage

4. (1) The basic minimum wage to be paid to the employees specified in the First Schedule shall be calculated at a rate specified therein in relation to the employee's grade.

(2) A casual employee shall not be paid less than the basic minimum wage for the occupation and grade in which he is employed.

Protection of Wages

5. (1) Except in the case of short time, no employer shall reduce the wages of an employee who is able and willing to work and presents himself for work at the appointed time and place but for whom the employer is unwilling or unable to provide work.

(2) An employee who is required to perform duties in a lower grade than that in which he is normally employed, shall be paid the wages applicable to the grade in which he is normally employed.

(3) Any employee who is required temporarily to perform duties in a higher grade than which he is normally employed, shall be paid the wage applicable to such higher grade on and after the third day of such work.

Hours of Work

6. (1) The ordinary hours of work, subject to the provisions of regulation 8 shall not exceed forty eight hours per week, spread over 6 days.

(2) Every employee shall receive one day off each week and no employee shall be required to work on his day-off in successive weeks unless mutually agreed to and by prior arrangement.

(3) Where two drivers are engaged in driving a vehicle, the total driving hours per day for both drivers shall not exceed sixteen hours and each driver shall be paid for driving time, which driving hours shall be apportioned equally between them.

(4) A driver of a public transport vehicle shall be allowed rest time amounting in aggregate to not less than forty minutes within a period of eight consecutive hours, and he shall, in addition to the rest break, be given another thirty minutes rest period at the end of eight hours.

(5) No driver shall be required or permitted to drive for eleven or more hours in one day except in the case of an emergency.

Conversion of rates

7. For purposes of converting a weekly wage to-

- (a) an hourly rate, the weekly wages shall be divided by the number of hours worked in a week;
- (b) a daily rate, the weekly wage shall be divided by the number of days ordinarily worked in a week; and
- (c) a monthly rate, the weekly wages shall be multiplied by four and one third.

Payment for Overtime

8. (1) Subject to the provisions of regulation 6 an employer may require an employee to work overtime and whenever possible, shall give the employee twenty-four hours notice of such requirement. Such request to work overtime shall not be unreasonably refused by an employee.

(2) The first thirty minutes of overtime worked on any day shall qualify for payment at the employee's normal rate of wage applicable to that day.

(3) Overtime in excess of thirty minutes on any normal day shall be paid at the rate of one and half/times the employee's normal rate of wages.

(4) Overtime worked by an employee on his off day or on a public holiday specified in regulation 13 shall be paid at double the employee's normal wages.

Compassionate Leave

9. (1) An employee who has completed a probationary 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) Out of all the above mentioned days, a minimum of three days shall be on full pay and the rest shall 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.

Allowances

10. (1) A driver other than a taxi-driver, who is required to drive on a night shift shall be paid an allowance at one and one half times his normal wage rate.

(2) A taxi driver shall be paid, in addition to his normal wage, a commission of not less than two percent, on his money intake during any month worked.

(3) A driver who has been in the continuous employment of the same employer for more than six months and who is required to obtain an annual public driver's permit, shall be reimbursed by his employer the cost of any medical examination required as a condition for the issuance of that permit.

(4) An employee who is on duty outside his normal station or principal place of employment shall be paid a subsistence allowance in respect of each continuous period of 12 hours up to a maximum of six days as follows;

- (a) Thirty seven Emalangeni ten cents (E37.10) where the employer provides suitable accommodation and food;
- (b) Seventy four Emalangeni thirty cents (E74.30) where the employer does not provide food, but provides suitable accommodation or where accommodation is available on the vehicle being driven by or in which the employee is an assistant; and
- (c) One hundred and forty eight Emalangeni sixty cents (E148.60) where the employer provides neither food nor accommodation.

(5) An employee who is away from his normal place of work and for more than seven days but not exceeding thirty days, shall be paid the following subsistence allowance in respect of each day of absence

- (a) one hundred and twenty emalangeni and seventy cents (E120.70) if the employer provides suitable accommodation and food;
- (b) Seventy four emalangeni thirty cents (E74.30) where the employer does not provide food but provides suitable accommodation or where the accommodation is available on the vehicle being driven; and
- (c) one hundred and eighty five emalangeni seventy cents (E185.70) if the employer provides neither food nor accommodation.

(6) Whenever a transfer is envisaged to be permanent in nature from the outset, a transfer allowance of one hundred and eighty five emalangeni seventy cents (E185.70) shall be paid to the transferee.

Annual Leave

11. (1) During the first two years of continuous service with an employer, an employee shall earn leave at the rate of one and a quarter working days for each completed month of service.

(2) After the completion of two years service but no exceeding seven years continuous service with an employer, an employee shall earn leave at the rate of two working days for each completed month.

(3) An employee with more than seven years continuous service with an employer shall earn leave at a rate of two and half working days for each completed month.

(4) Where the services of an employee are terminated after a period exceeding three months but not amounting to one year from the date of engagement, the employer shall pay to the employee a sum not less than one day's wages for each completed month of such period.

(5) A period of unpaid leave or unpaid sick leave shall not be counted as employment earning leave.

(6) An employer, who observes a holiday other than a public holiday in regulation 13, shall not off-set such holiday against an employee's leave.

(7) Twelve days with full pay in compensation for public holidays worked will be added to if it was not paid in the month such holiday falls in. These holidays shall not be in lieu of an employee's off-days.

Maternity Leave

12. (1) Every female employee, whether married or unmarried, who had 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 from the date of confinement.

(2) During maternity leave an employee shall be entitled to four weeks wages and the remaining period shall be at the discretion of the employer

Public Holidays

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

- (a) New Year's Day;
- (b) Good Friday;
- (c) Easter Monday;
- (d) National Flag Day;
- (e) Ascension Day;
- (f) May/Workers Day;
- (g) King's Birthday;
- (h) Umhlanga (Reed Dance) Day;
- (i) Somhlolo Day;
- (j) Incwala Day;
- (k) Christmas Day;
- (l) Boxing Day; and
- (m) National Secondary Parliamentary Election's Day

(2) Where a public holiday falls on Sunday, the following day shall be deemed to be a public holiday.

Sick Leave

14. (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 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 wages and thereafter to maximum of fourteen days on half wages in each period of twelve months.

(2) Notwithstanding sub-regulation (1),

- (a) a certificate issued by a registered nurse shall be accepted in place of a medical certificate if a Medical Practitioner is not available at the time the employee presented himself for medical examination and treatment.

Retirement Age

15. An employee shall retire at the age of 60.

Written Particulars of Employment to be provided

16. An employer shall within a month of engaging an employee, give such employee a completed copy of the Form in the Second Schedule of this Order.

Continuous Service

17. Where, following upon a change of ownership or sale as a going concern of an establishment or undertaking an employee enters the service of a new employer without interruption or where his services are interrupted without termination and enters the services of a new employer within seven days of such interruption, his service shall be deemed to be continuous service in the employment of the new employer.

Protective Clothing

18. (1) Subject to sub-regulation (2), an employer shall supply, free of charge and without payment of any deposit by the employee, the following items-

- (i) in case of employees who are normally exposed in their employment to inclement weather, a waterproof cap, overcoat and other suitable protective clothing;
- (ii) two dust coats, two pairs of safety shoes, two overalls or two uniforms per annum, in the case of drivers and conductors; and
- (iii) in the case of artisans, assistant mechanics and employees engaged in the loading, unloading and delivery of goods to or from vehicles, suitable overalls or other protective clothing equipment and appliances.

(2) Any clothing equipment or appliance supplied to an employee in terms of this regulation shall remain the property of the employer and shall subject to fair wear and tear, be returned to the employer in good condition on the resignation, retirement or discharge of an employee.

Payment of Severance Allowance

19. Severance allowance shall be paid to an employee as outlined in Section 34 of the Employment Act, 1980 or its successor as the case may be.

Short Time

20. (1) If an employer finds it necessary, for reasons beyond his control, to employ an employee on short time, that employer may do so, subject to the Commissioner of Labour consenting in writing to such an arrangement, and on the written undertaking of that employer stating that it intends resuming full time work within three weeks.

(2) Where an employee has been placed on short time under sub-regulation (1), that employee shall be paid not less than fifty percent of his 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 normal weekly hours of work during any week the employee has been placed on short time.

Revocation of Legal Notice No. 185 of 2010

20. The Regulation of Wages (Road Transportation Industry) Order, No. 185 of 2010 is hereby revoked.

FIRST SCHEDULE

(Regulation 4)

BASIC MINIMUM WAGE PER WEEK (Public service vehicles)**Grade I:**

Conductor	E 336.15
General Worker	

Grade II

Fuel Issuer	E 479.00
Rank Marshal	
Driver of vehicle carrying 1 to 16 passengers	

Grade III

Driver of a vehicle carrying 17 to 36 passengers	E512.65
Assistant artisan / mechanic	

Grade IV

Driver of a vehicle carrying 37 to 59 passengers	E531.10
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Grade V

Driver of vehicle carrying 60 passengers and more	E551.30
Clerk	
Workshop Storeman	

Grade VI

E556.33

Senior Clerk

Grade VII

Driver Instructor

Artisans / Mechanics

E971.47

Mechanics

Auto Electrician

Welder

BASIC MINIMUM WAGE PER WEEK (Courier/ goods services)**Grade I**

Loader

E364.50

Lorrymate

Messenger

General Worker

Grade II

Fuel issuer

Tyre man

E519.40

Driver of a vehicle up to 2000kg

Grade III

Driver of a vehicle up to 2001 kg to 7000kg

E555.90

Assistant Artisan/ Mechanic

Grade IV

Driver of a vehicle up to 7001 to 12 000kg

Driver of mobile crane

E575.80

Grade V

Driver of a vehicle from 12001 to 20000kg

Clerk

E597.80

Workshop storeman

Grade VI

Senior clerk

Driver of a vehicle from 20001 tare weight and above

E603.25

Grade VII

Driver instructor

Artisans/ Mechanics

E1, 053.40

Mechanics

Auto Electrician

Welder

SECOND SCHEDULE**WRITTEN PARTICULARS OF EMPLOYMENT FORM**

1. Name of Employer
2. Name of Employee
3. Date Employment began
4. Wage and method of calculation
5. Intervals at 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
13. Notice employee entitled to receive
14. Notice employer required to give
15. Pension Scheme (if any, other than S.N.P.F. Scheme)
16. 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

LUTFO E. DLAMINI
MINISTER FOR LABOUR & SOCIAL SECURITY

