

LEGAL NOTICE NO OF 2024

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

THE REGULATION OF WAGES (AGRICULTURAL INDUSTRY) ORDER, NOTICE, 2024 (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

1. This Order may be cited as the Regulation of Wages (Agricultural Industry) Order, 2024 and shall come into force on the date of publication in the gazette.

Interpretation

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

“artisan” means a skilled employee who has undergone and passed a trade test from a recognized government institution or who has served an apprenticeship programme from a recognized employer;

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

“basic wage” means the hourly, weekly or monthly wages determined by the hours of work or number of days worked paid to an employee excluding benefits;

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

“heavy duty driver” means an employee who is employed to drive a motor vehicle and be in charge of a vehicle which is over four tons’ tare weight, and the duties shall also include handling cargo to and from the tailboard, and daily maintenance and cleaning of such vehicle;

“farm clerk or storeman” means an employee whose duties include keeping all relevant records in a storeroom or farm office;

“field indvuna” means an employee who is in charge of a number of general workers of any category;

“general worker” means an employee who is employed to carry out non-specific tasks;

“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 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 a motor vehicle and its daily care;

“normal pay” means the remuneration received by an employee when carrying out the main job or task;

“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 period of which cannot be pre-determined, for a particular season 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, silvi-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 such wage by the commencement 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 exclusive one-hour rest period per day;
- (2) The normal hours of work for watchman, stockmen, irrigators, plant and pump house attendants shall be sixty hours per week.
- (3) An employee on duty shall be entitled to twenty minutes' tea break per day to be taken at his work station.

Overtime

- 6. (1) An employee who is required to work in excess of the normal working hours specified in Regulation 5 or perform an extra task work than what is specified under Regulation 17 shall be paid overtime as follows:

- (a) for time or task work worked in excess of the normal hours or task target from Monday to Saturday, he shall be paid at one and half time the basic hourly rate or task rate for such time or task; and
- (b) for the time worked on a rest day and Sunday, where the Sunday is not a working day and Public Holiday, he shall be paid at twice the employee's basic hourly rate or task rate.

Public Holidays

7 (1) Public holidays shall be observed in line with the Public Holidays Act No.71 of 1938 or its successor.

(2) In this Order, employees shall be paid a full day's wage on all designated public holidays that falls on their normal working day.

(3) Where a public holiday is on a Sunday, the following Monday shall be deemed a public holiday.

Annual Leave

7. (1) On completion of twelve months' continuous service with an employer, an employee shall, at a time convenient to the employer and the employee, be entitled to annual leave of not less than 12 working days.

(2) On completion of 5 years continuous service with an employer, an employee shall, at a time convenient to the employer and the employee, be entitled to annual leave of 14 working days.

(3) An employee whose services is terminated after three months' service with an employer but not amounting to a year from the date of its commencement 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 probation shall be entitled to compassionate leave as follows:-

- (a)Widows - 30 calendar days (10 days on full pay)
- (b)Widower - 8 calendar days
- (c)Natural father or mother - 8 calendar days

(d) Natural child/Legally adopted child - 8 calendar days

(2) In all the above cases except for widows only 6 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) –

- (i) A certificate of incapacity 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 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 six weeks 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) such 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 from the day of appointment, give the employee a completed copy of the Form in the Second Schedule of this Order.

Continuous service

13. Where following the sale, transfer or takeover of a business or undertaking and 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 or hour.

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 person shall be 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. (I) 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 such wet or inclement weather and thereafter at the discretion of the employer for the rest of the duration of such condition.

- (2) Temperatures from 39 degrees Celsius and above shall be regarded as inclement weather.

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 that 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.

Transport arrangement

20. (1) Where an employee is required to start work on or before 0600 am and remain on duty after 0600 pm without accommodation, the employer shall-

- (a) provide transport for travel up to 5 (five) kilometers from the place of work, accessible by road, as may be agreed by the employer and employee; or
- (b) pay to the employee in addition to wages, an amount equivalent to the cost of payment for transport for 5 (five) kilometers from the place of work of the employee

(2) Where the employer provides accommodation for the employee and the employee is required to start work on or before 0630 am and remain on duty after 0530 pm, the employer shall ensure that he provides transport for the employee to his place of abode.

Protective clothing

21. (1) 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 involved in processes which may expose such 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.

(2) Protective clothing appliances and equipment shall be supplied in the following manner;

- (i) Security Guards and firefighters who are normally exposed in their employment to inclement weather; water proof cap, overcoat, suitable coats for cold weather or other suitable protective clothing.
- (ii) to drivers and assistants- a minimum of two dust coats, two overalls or two uniforms per annum.
- (iii) to mechanics, assistant mechanics and employees engaged in the loading, unloading and delivery of goods to and from vehicles, suitable overalls or other protective clothing.
- (iv) to employees who are normally exposed in their employment to cold weather, a minimum of a suitable coat for cold weather.

- (v) to employees normally required to use overalls and safety shoes, a minimum of two pairs of overalls and one pair of safety shoes annually.
- (3) Save for clothing provided in terms of Regulation 21 (2) (v) any clothing supplied to an employee in terms of this Regulation shall remain the property of the employer and subject to fair wear and tear, may be returned to him in good condition on resignation.

Rations

22. (1) 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 such rations or such cash allowance.

(2) As a condition of employment, an employer shall supply rations in quantities not less than those specified in the Third Schedule of this Order.

Housing

23. Where an employee is employed in circumstances where it is impracticable, for reasons of distance, for him to return to his home or normal place of residence at the end of his day's work, his employer shall cause such employee to be housed in such a manner as may be prescribed.

General health measures

24. (1) Every employer shall ensure that every workroom or place in which persons are employed by him is kept in a clean and sanitary condition and that in each workroom or place-

- (a) each employee is provided with not less than 400 cubic feet of air space and not less 35 square feet of floor space;
- (b) there is adequate ventilation and circulation of fresh air;
- (c) there is adequate and suitable lighting, and that windows and fanlights are kept clean and free from obstruction;

(2) Every employer shall ensure that-

- (a) there is adequate supply of wholesome drinking water for his employees at their place of work;
- (b) sufficient and suitable sanitary conveniences are available for his employees at or near their place of work and that-

- (i) the conveniences are adequately lit and ventilated;
- (ii) the conveniences are kept in clean condition; and
- (iii) where applicable, and where more than six persons are employed, separate conveniences are provided for male and female employees

(3) Every employer shall, where a substantial proportion of the work being carried out by his employees can be carried out sitting, provide suitable seating for such employees.

First aid equipment and medical aid

25. (1) every employer shall provide at each place of employment-

- (a) adequate first aid facilities for the treatment of accidents;
- (b) one or more suitably stocked first aid boxes in the care and control of a responsible person which shall be readily available during working hours.

(2) The locality of every first aid box and the name of the person in charge of it shall be prominently displayed.

(3) Every employer shall at his own expense provide for his employees and members of their families living with them on his property essential first aid facilities in accordance with such scales as may be prescribed.

(4) If an employer has reasonable cause for believing that any of his employees or any of their dependants living on the employer's property, is suffering from any serious injury or ailment he shall take all reasonable measures to obtain skilled medical aid for such person without undue delay and if required to do so by the Commissioner of Labour, or any labour inspector or medical officer, or in case of danger to life or serious illness, he shall transport the said person as soon as reasonably practicable to the nearest hospital where such skilled medical attention is available.

(5) Any employer shall not be liable for any medical or hospital fees charged for any treatment provided for the dependants of any employee under subsection (4) unless he specifically assumes liability thereof or unless such liability is part of the conditions under which the employee is employed.

Savings

26. An employee who enjoys more favourable terms and conditions of employment and better benefits than are provided by this Order shall not be disadvantaged or suffer any reduction by its coming into effect.

Revocation of the Regulation of Wages (Agricultural Industry), Order, Notice, 2023

27. The Regulation of Wages (Agricultural Industry) Order, Notice 2023 promulgated under Legal Notice No. 201 of 2023 is hereby revoked;

FIRST SCHEDULE
(Regulation 4)

BASIC MINIMUM WAGE PER DAY

General Worker	E74.67
Seasonal Worker	E74.67
Stockman	E74.67
Watchperson	E111.90
Irrigator	E77.64
Plant or Pump House Attendant	E77.64
Field Induna	E110.78
Handyman	E93.90
Tractor Driver	E99.29
Farm Clerk/ Storeman	E116.20
Heavy Machine Operator	E133.45
Artisan	E174.60
Driver (Light duty)	E100.15
Driver (heavy duty)	E133.45

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 ENPF).
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 or Staff Association is:

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(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.

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(c) When any heading is inapplicable enter NIL.

.....	
Employer's Signature	Witness

.....	
Employee's Signature	Witness

.....	
Date	Date

THIRD SCHEDULE
(Regulation 22)

MINIMUM MONTHLY RATION SCALE

1. Mealie Meal 25kg (twenty-five kilograms)

Meat 5.5kg (five point five kilograms)

Sugar 10 kg (ten kilograms)

Dry beans, Peas or Groundnuts..... 5 kg (five kilograms)

Fresh vegetables 4kg (four kilograms)

Salt 500g (five hundred grams)

Fat 3 litres (three litres)

Alternatives

2. The following rations may be supplied in lieu of the items of food mentioned above;

- (a) Mealie Meal:
(For every 9kg (nine kilograms) of mealie meal it shall be 4.5kg (four point five kilograms) of bread; 3.4kg (three point four kilograms) of rice or 0.23kg (zero point two three kilograms) of cheese.
- (b) For the first 2.3kg (two point three kilograms) of meat it shall be 2.3kg (two point three kilograms) of offal; or for the first 0.45kg (zero point four five kilograms) of fish it shall be 0.23kg (zero point two three kilograms) of cheese.
- (c) For every 0.46kg (zero point four six kilograms) of fresh vegetables, 0.45kg (zero point four five kilograms) of fresh fruit or a proportionate ration of dehydrated vegetables.

Permitted Variations

3. The rations of mealie meal shown in paragraph (2) (a) may be reduced by an amount not exceeding 2.72 kg (two point seven two kilograms) 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.

Phila Buthelezi
Minister
Ministry of Labour & Social Security