

CHAPTER 47:01 - EMPLOYMENT: SUBSIDIARY LEGISLATION
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EMPLOYMENT (ISSUE OF EMPLOYMENT CARD) ORDER

(section 31(1))

(13th September, 1985)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Issue of employment card

Schedule

S.I. 121, 1985,
S.I. 42, 1992.

1. Citation

This Order may be cited as the Employment (Issue of Employment Card) Order.

2. Issue of employment card

(1) Subject to subparagraph (2) every employer within the areas listed in the Schedule hereto shall issue to each of his employees an Employment Card in accordance with the provisions of the Employment (Employment Cards) Regulations.

(2) The provisions of subparagraph (1) shall not apply to an employee who has entered into a written contract of employment which contains better or similar terms and conditions of employment as provided for in the Act.

SCHEDULE

Francistown
Gaborone
Jwaneng
Kanye
Lobatse
Mahalapye
Maun
Molepolole
Morupule
Orapa

Selebi-Phikwe
Serowe
Sowa

EMPLOYMENT (MAXIMUM PERIOD OF EMPLOYMENT SECURITY ARISING FROM PREGNANCY) ORDER

(section 116)

(28th December, 1984)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Prescription of maximum period of employment security arising from pregnancy

S.I. 153, 1984.

1. Citation

This Order may be cited as the Employment (Maximum Period of Employment Security Arising from Pregnancy) Order.

2. Prescription of maximum period of employment security arising from pregnancy

The aggregate of the whole period of absence from work for which provision is made by section 113(2) and (4) of the Act and a further period of absence from work of six weeks only by virtue of section 116(1) of the Act is hereby prescribed as the maximum period of absence from work for the purposes of the latter provision.

REGULATION OF WAGES (BUILDING CONSTRUCTION, EXPLORATION AND QUARRYING INDUSTRIES) ORDER

(section 135)

(1st August, 1980)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Application and interpretation
3. Basic minimum wage
4. Hours of work
5. Weekly rest period
6. Paid public holidays
7. Overtime
8. Annual paid leave
9. Protection of existing wages and conditions of employment

S.I. 105, 1980,
S.I. 53, 1982,
S.I. 72, 1983,
S.I. 50, 1984,
S.I. 73, 1985,
S.I. 53, 1986,
S.I. 80, 1987,
S.I. 48, 1988,
S.I. 38, 1989,
S.I. 42, 1990,
S.I. 25, 1991,
S.I. 38, 1992,

S.I. 39, 1993,
S.I. 30, 1995,
S.I. 31, 1996,
S.I. 37, 1997,
S.I. 57, 1998,
S.I. 83, 1999,
S.I. 57, 2000,
S.I. 32, 2001,
S.I. 56, 2002,
S.I. 45, 2003,
S.I. 49, 2004,
S.I. 72, 2005,
S.I. 21, 2006,
S.I. 15, 2007,
S.I. 19, 2008,
S.I. 101, 2009.

1. Citation

This Order may be cited as the Regulation of Wages (Building Construction, Exploration and Quarrying Industries) Order.

2. Application and interpretation

(1) This Order shall apply to all persons employed in any undertaking or part of an undertaking which consists of the carrying on, for gain, of one or more of the following activities-

- (a) the construction, structural alteration or maintenance or repair of any building, the demolition of any building or the preparation for and laying the foundations of any intended building;
- (b) the construction of any railway line or siding or the construction, structural alteration, repair or demolition of any airfield, dock, harbour, wharf, quay, pier, inland navigation works, road, tunnel, bridge, viaduct, waterworks, dam, reservoir, pipeline, aqueduct, sewer, sewerage works or lattice work structure designed solely for the support of electric lines;
- (c) the surveying, exploration and drilling for water and minerals;
- (d) the surveying and recording of information for the purpose of mapping of all kinds;
- (e) the making of all kinds of bricks for use in construction; or
- (f) the quarrying of stone, rocks or other materials.

(2) In this Order "undertaking" includes any person, firm, business, company or club and the activities of any body, whether corporate or unincorporate, whether carried on by way of trade or not:

Provided that persons employed in an undertaking or part of an undertaking-

- (i) in any trade affected by any other minimum wages order made under the Act; or
- (ii) which is operated by Government,

shall be excluded.

(3) Casual and part-time employees shall be entitled to the minimum wages and other conditions at the rates prescribed by this Order.

3. Basic minimum wage

There shall be paid to employees in any undertaking referred to in paragraph 2 a basic minimum wage of P3.80 thebe per hour, except that persons employed by an undertaking solely to watch over the property of that undertaking shall be paid a basic minimum wage of P3.20 per hour:

Provided that nothing shall prevent-

- (i) payment of a higher wage than the basic minimum wage, or

- (ii) any agreement or contract with an employee for the partial payment of wages in the form of allowances in kind in accordance with sections 80 and 84 of the Act.

4. Hours of work

No employee shall be required to work, other than as provided for in paragraph 7(3), more than nine hours in any one working day or a total of 45 hours in any working week of five days or, in the case of persons employed by the undertaking solely to watch over any property of the industry, more than 10 hours in any one working day or a total of 60 hours in any working week of six days:

Provided that no employee with the exception of persons employed by the undertaking solely to watch over any property of the industry shall be required to work continuously for more than five hours without an interval of at least half-an-hour.

5. Weekly rest period

An employee shall earn a rest period at the rate of not less than 24 consecutive hours in the course of each week at the employer's discretion to determine when this period shall be taken:

Provided that the employee shall be notified at least seven days before the proposed rest period.

6. Paid public holidays

The following public holidays shall be treated as paid public holidays-

New Year's Day;
Good Friday;
Easter Monday;
1st May;
President's Day;
Day following President's Day;
Botswana Day, and
Christmas Day:

Provided that-

- (i) nothing shall prevent the treatment of additional public holidays as paid public holidays; and
- (ii) an employee who was on unauthorised leave on a working day immediately prior to, or on a working day immediately following, a paid public holiday shall not be entitled to receive payment for that paid public holiday if he is not required to work, or payment at overtime rates if he is required to work, on the paid public holiday.

7. Overtime

(1) Where an employee works for any period in excess of nine hours in a working day or a total of 45 hours in a working week of five days or, in the case of a person employed by the undertaking solely to watch over any property of the industry, any period in excess of 10 hours in a working day or a total of 60 hours in a working week of six days, he shall be paid an overtime rate of his normal hourly rate plus one-half of such rate (otherwise known as "time-and-a-half").

(2) Subject to the proviso to paragraph 6, where an employee works on any paid public holiday or rest period prescribed by this Order, he shall be paid an overtime rate of twice his normal hourly rate (otherwise known as "double time").

(3) Any overtime work required by the employer shall normally be at the discretion of the employee except in the event of urgent business demands or emergencies.

8. Annual paid leave

An employee shall be entitled to paid leave at the rate of at least 15 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-quarter working days for every completed month of service.

9. Protection of existing wages and conditions of employment

The wages and conditions of employment in force between employers and employees at the commencement of this Order shall not be altered for the worse in respect of employees but to the extent that the same are not in conflict with this Order and the parties thereto shall be subject and entitled to the benefits of the provisions of this Order.

REGULATION OF WAGES (WHOLESALE AND RETAIL DISTRIBUTIVE TRADES) ORDER

(section 135)

(1st August, 1980)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Application and interpretation
3. Basic minimum wage
4. Hours of work
5. Weekly rest period
6. Paid public holidays
7. Overtime
8. Annual paid leave
9. Protection of existing wages and conditions of employment

S.I. 107, 1980,
S.I. 55, 1982,
S.I. 73, 1983,
S.I. 48, 1984,
S.I. 70, 1985,
S.I. 55, 1986,
S.I. 82, 1987,
S.I. 51, 1988,
S.I. 41, 1989,
S.I. 42, 1990,
S.I. 25, 1991,
S.I. 38, 1992,
S.I. 39, 1993,
S.I. 30, 1995,
S.I. 31, 1996,
S.I. 37, 1997,
S.I. 57, 1998,
S.I. 83, 1999,
S.I. 57, 2000,
S.I. 32, 2001,
S.I. 56, 2002,
S.I. 45, 2003,
S.I. 49, 2004,
S.I. 72, 2005,
S.I. 21, 2006,
S.I. 15, 2007,
S.I. 19, 2008,
S.I. 101, 2009.

1. Citation

This Order may be cited as the Regulation of Wages (Wholesale and Retail Distributive Trades) Order.

2. Application and interpretation

(1) This Order shall apply to all persons employed in any undertaking or part of an undertaking which consists of the carrying on of one or more of the following activities-

- (a) the retail or wholesale supply of goods and merchandise;
- (b) operations such as warehousing, storing or packing or clerical or other work associated with retail or wholesale supply; or
- (c) restaurants, being restaurants licensed under the Trade Act.

(2) In this Order "undertaking" includes any person, firm, business, company or club and the activities of any body, whether corporate or unincorporate, whether carried on by way of trade or not:

Provided that persons employed in an undertaking or part of an undertaking-

- (i) in any trade affected by any other minimum wages order made under the Act; or
- (ii) which is operated by the Government,

shall be excluded.

(3) Casual and part-time employees shall be entitled to the minimum wages and other conditions at the rates prescribed by this Order.

3. Basic minimum wage

There shall be paid-

- (a) to employees in the wholesale distributive trade, a basic minimum wage of P3.80 per hour, except that unskilled employees and persons employed by an undertaking to watch over the property of that undertaking shall be paid a basic minimum wage of P3.20 per hour; and
- (b) to employees in the retail distributive trade, a basic minimum wage of P3.80 per hour, except that persons employed by an undertaking to watch over the property of that undertaking shall be paid a basic minimum wage of P3.20 per hour:

Provided that nothing shall prevent-

- (i) payment of a higher wage than the basic minimum wage; or
- (ii) any agreement or contract with an employee for the partial payment of wages in the form of allowances in kind in accordance with sections 80 and 84 of the Employment Act.

4. Hours of work

No employee shall be required to work, other than as provided for in paragraph 7(3), more than eight and a half hours in any one working day or a total of 47 hours in any working week of five and a half days or, in the case of persons employed by the undertaking solely to watch over any property of the industry, more than 10 hours in any one working day or a total of 60 hours in any working week of six days:

Provided that no employee with the exception of persons employed by the undertaking solely to watch over any property of the industry shall be required to work continuously for more than five hours without an interval of at least half-an-hour.

5. Weekly rest period

An employee shall earn a rest period at the rate of not less than 24 consecutive hours in the course of each week at the employer's discretion to determine when this period shall be taken:

Provided that the employee shall be notified at least seven days before the proposed rest period.

6. Paid public holidays

The following public holidays shall be treated as paid public holidays-

- New Year's Day;
- Good Friday;
- Easter Monday;
- 1st May;

President's Day;
Day following President's Day;
Botswana Day, and
Christmas Day:

Provided that-

- (i) nothing shall prevent the treatment of additional public holidays as paid public holidays; and
- (ii) an employee who was on unauthorised leave on a working day immediately prior to, or on a working day immediately following, a paid public holiday shall not be entitled to receive payment for that paid public holiday if he is not required to work, or payment at overtime rates if he is required to work, on the paid public holiday.

7. Overtime

(1) Where an employee works for any period in excess of eight and a half hours in a working day or a total of 47 hours in a working week of five and a half days or, in the case of a person employed by the undertaking solely to watch over any property of the industry, any period in excess of 10 hours in a working day or a total of 60 hours in a working week of six days, he shall be paid an overtime rate of his normal hourly rate plus one-half of such rate (otherwise known as "time-and-a-half").

(2) Subject to the proviso to paragraph 6, where an employee works on any paid public holiday or rest period prescribed by this Order, he shall be paid an overtime rate of twice his normal hourly rate (otherwise known as "double time").

(3) Any overtime work required by the employer shall normally be at the discretion of the employee except in the event of urgent business demands or emergencies.

8. Annual paid leave

(1) Where the normal working week is five days, an employee shall be entitled to paid leave at the rate of at least 15 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-quarter working days for every completed month of service.

(2) Where the normal working week exceeds five days, an employee shall be entitled to paid leave at the rate of at least 18 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-half working days for every completed month of service.

9. Protection of existing wages and conditions of employment

The wages and conditions of employment in force between employers and employees at the commencement of this Order shall not be altered for the worse in respect of employees but to the extent that the same are not in conflict with this Order and the parties thereto shall be subject and entitled to the benefits of the provisions of this Order.

REGULATION OF WAGES (MANUFACTURING, SERVICE AND REPAIR TRADES) ORDER

(section 135)

(1st August, 1980)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Application and interpretation
3. Basic minimum wage
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8. Annual paid leave
9. Protection of existing wages and conditions of employment

S.I. 106, 1980,

S.I. 54, 1982,
S.I. 71, 1983,
S.I. 52, 1984,
S.I. 74, 1985,
S.I. 54, 1986,
S.I. 81, 1987,
S.I. 50, 1988,
S.I. 39, 1989,
S.I. 42, 1990,
S.I. 25, 1991,
S.I. 38, 1992,
S.I. 39, 1993,
S.I. 30, 1995,
S.I. 31, 1996,
S.I. 37, 1997,
S.I. 57, 1998,
S.I. 83, 1999,
S.I. 57, 2000,
S.I. 32, 2001,
S.I. 56, 2002,
S.I. 45, 2003,
S.I. 49, 2004,
S.I. 72, 2005,
S.I. 21, 2006,
S.I. 15, 2007,
S.I. 19, 2008,
S.I. 101, 2009.

1. Citation

This Order may be cited as the Regulation of Wages (Manufacturing, Service and Repair Trades) Order.

2. Application and interpretation

(1) This Order shall apply to all persons employed in any undertaking or part of an undertaking which consists of-

- (a) the manufacture, for gain, of any item whether from raw materials or from partially processed materials, whether for sale to the wholesale or retail trade or for sale to any other manufacturer;
- (b) the repair, for gain, of any item; or
- (c) the provision of services.

(2) In this Order "undertaking" includes any person, firm, business, company or club and the activities of any body, whether corporate or unincorporate, whether carried on by way of trade or not:

Provided that persons employed in an undertaking or part of an undertaking-

- (i) in any trade affected by any other minimum wages order made under the Act; or
- (ii) which is operated by the Government,

shall be excluded.

(3) Casual and part-time employees shall be entitled to the minimum wages and other conditions at the rate prescribed in this Order.

3. Basic minimum wage

There shall be paid to employees in any undertaking referred to in paragraph 2 a basic minimum wage of P3.80 per hour, except that persons employed by an undertaking solely to

watch over the property of that undertaking shall be paid a basic minimum wage of P3.20 per hour:

Provided that nothing shall prevent-

- (i) payment of a higher wage than the basic minimum wage; or
- (ii) any agreement or contract with an employee for the partial payment of wages in the form of allowances in kind in accordance with sections 80 and 84 of the Act.

4. Hours of work

No employee shall be required to work, other than as provided for in paragraph 7(3), more than nine hours in any one working day or a total of 45 hours in any working week of six days or, in the case of persons employed by the undertaking solely to watch over any property of the industry, more than 10 hours in any one working day or a total of 60 hours in any working week of six days:

Provided that no employee with the exception of persons employed by the undertaking solely to watch over any property in the industry shall be required to work continuously for more than five hours without an interval of at least half-an-hour.

5. Weekly rest period

An employee shall earn a rest period at the rate of not less than 24 consecutive hours in the course of each week at the employer's discretion to determine when this period shall be taken:

Provided that the employee shall be notified at least seven days before the proposed rest period.

6. Paid public holidays

The following public holidays shall be treated as paid public holidays-

New Year's Day;
Good Friday;
Easter Monday;
1st May;
President's Day;
Day following President's Day;
Botswana Day, and
Christmas Day:

Provided that-

- (i) nothing shall prevent the treatment of additional public holidays as paid public holidays; and
- (ii) an employee who was on unauthorised leave on a working day immediately prior to, or on a working day immediately following, a paid public holiday shall not be entitled to receive payment for that paid public holiday if he is not required to work, or payment at overtime rates if he is required to work, on the paid public holiday.

7. Overtime

(1) Where an employee works for any period in excess of nine hours in a working day or a total 45 hours in a working week of six days or, in the case of a person employed by the undertaking solely to watch over any property of the industry, any period in excess of 10 hours in a working day or a total of 60 hours in a working week of six days, he shall be paid an overtime rate of his normal hourly rate plus one-half of such rate (otherwise known as "time-and-a-half").

(2) Subject to the proviso to paragraph 6, where an employee works on any paid public holiday or rest period prescribed by this Order, he shall be paid an overtime rate of twice his normal hourly rate (otherwise known as "double time").

(3) Any overtime work required by the employer shall normally be at the discretion of the employee except in the event of urgent business demands or emergencies.

8. Annual paid leave

(1) Where the normal working week is five days, an employee shall be entitled to paid leave at the rate of at least 15 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-quarter working days for every completed month of service.

(2) Where the normal working week exceeds five days, an employee shall be entitled to paid leave at the rate of at least 18 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-half working days for every completed month of service.

9. Protection of existing wages and conditions of employment

The wages and conditions of employment in force between employers and employees at the commencement of this Order shall not be altered for the worse in respect of employees but to the extent that the same are not in conflict with this Order and the parties thereto shall be subject and entitled to the benefit of the provisions of this Order.

REGULATION OF WAGES (HOTEL, CATERING AND ENTERTAINMENT TRADES) ORDER

(section 135)

(1st August, 1980)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Application and interpretation
3. Basic minimum wage
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8. Annual paid leave
9. Protection of existing wages and conditions of employment

S.I. 108, 1980,
S.I. 56, 1982,
S.I. 75, 1983,
S.I. 49, 1984,
S.I. 71, 1985,
S.I. 56, 1986,
S.I. 83, 1987,
S.I. 47, 1988,
S.I. 37, 1989,
S.I. 42, 1990,
S.I. 25, 1991,
S.I. 38, 1992,
S.I. 39, 1993,
S.I. 30, 1995,
S.I. 31, 1996,
S.I. 37, 1997,
S.I. 57, 1998,
S.I. 83, 1999,
S.I. 57, 2000,
S.I. 32, 2001,
S.I. 56, 2002,
S.I. 45, 2003,
S.I. 49, 2004,
S.I. 72, 2005,
S.I. 21, 2006,

1. Citation

This Order may be cited as the Regulation of Wages (Hotel, Catering and Entertainment Trades) Order.

2. Application and interpretation

(1) This Order shall apply to all persons employed in any undertaking which consists of the carrying on, whether for profit or not, of one or more of the following activities-

- (a) the supply of food or drink for premises licensed under the Trade Act or the Liquor Act;
- (b) the provision of living accommodation for guests or lodgers; or
- (c) the provision of entertainment.

(2) In this Order "undertaking" includes any person, firm, business, company or club and the activities of any body, whether corporate or unincorporate, whether carried on by way of trade or not:

Provided that persons employed in an undertaking or part of an undertaking-

- (i) in any trade affected by any other minimum wages order made under the Act, or
 - (ii) which is operated by the Government,
- shall be excluded.

(3) Casual and part-time employees shall be entitled to the minimum wages and other conditions at the rates prescribed by this Order.

3. Basic minimum wage

There shall be paid to employees in any undertaking referred to in paragraph 2 a basic minimum wage of P3.80 per hour, except that persons employed by an undertaking solely to watch over the property of that undertaking shall be paid a basic minimum wage of P3.20 per hour:

Provided that nothing shall prevent-

- (i) payment of a higher wage than the basic minimum wage, or
- (ii) any agreement or contract with an employee for the partial payment of wages in the form of allowances in kind in accordance with sections 80 and 84 of the Act.

4. Hours of work

No employee shall be required to work, other than as provided for in paragraph 7(3), more than eight and a half hours in any one working day or a total of 51 hours in any working week of six days or, in the case of persons employed by the undertaking solely to watch over any property of the industry, more than 10 hours in any one working day or a total of 60 hours in any working week of six days:

Provided that no employee with the exception of persons employed by the undertaking solely to watch over any property in the industry shall be required to work continuously for more than five hours without an interval of at least half-an-hour.

5. Weekly rest period

An employee shall earn a rest period at the rate of not less than 24 consecutive hours in the course of each week at the employer's discretion to determine when this period shall be taken:

Provided that the employee shall be notified at least seven days before the proposed rest period.

6. Paid public holidays

The following public holidays shall be treated as paid public holidays-

- New Year's Day;
- Good Friday;
- Easter Monday;

1st May;
President's Day;
Day following President's Day;
Botswana Day, and
Christmas Day:
Provided that-

- (i) nothing shall prevent the treatment of additional public holidays as paid public holidays, and
- (ii) an employee who was on unauthorised leave on a working day immediately prior to, or on a working day immediately following, a paid public holiday shall not be entitled to receive payment for that paid public holiday if he is not required to work, or payment at overtime rates if he is required to work, on the paid public holiday.

7. Overtime

(1) Where an employee works for any period in excess of eight and a half hours in a working day or a total of 51 hours in a working week of six days or, in the case of a person employed by the undertaking solely to watch over any property of the industry, any period in excess of 10 hours in a working day or a total of 60 hours in a working week of six days, he shall be paid at an overtime rate of his normal hourly rate plus one-half of such rate (otherwise known as "time-and-a-half").

(2) Subject to the proviso to paragraph 6, where an employee works on any paid public holiday or rest period prescribed by this Order, he shall be paid an overtime rate of twice his normal hourly rate (otherwise known as "double time").

(3) Any overtime work required by the employer shall normally be at the discretion of the employee except in the event of urgent business demands or emergencies.

8. Annual paid leave

(1) Where the normal working week is six days, an employee shall be entitled to paid leave at the rate of at least 15 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-quarter working days for every completed month of service.

(2) Where the normal working week exceeds five days-

- (a) an employee shall be entitled to paid leave at the rate of at least 18 working days in respect of the first period of 12 months' service calculated at the rate of one-and-a-half working days for every completed month of service; and
- (b) after completion of the first 12 months an employee, other than a person employed by the undertaking solely to watch over any property of the industry, shall be entitled to at least 24 working days in respect of each period of 12 months' service calculated at the rate of two working days for every completed month of service.

9. Protection of existing wages and conditions of employment

The wages and conditions of employment in force between employers and employees at the commencement of this Order shall not be altered for the worse in respect of employees but to the extent that the same are not in conflict with this Order and the parties thereto shall be subject and entitled to the benefits of the provisions of this Order.

REGULATION OF WAGES (GARAGE, MOTOR TRADE AND ROAD TRANSPORT) ORDER

(section 135)

(1st August, 1980)

ARRANGEMENT OF PARAGRAPHS

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- 1. Citation
- 2. Application and interpretation
- 3. Basic minimum wage

4. Hours of work
5. Weekly rest period
6. Paid public holidays
7. Overtime
8. Annual paid leave
9. Protection of existing wages and conditions of employment

S.I. 109, 1980,
 S.I. 57, 1982,
 S.I. 74, 1983,
 S.I. 51, 1984,
 S.I. 72, 1985,
 S.I. 57, 1986,
 S.I. 84, 1987,
 S.I. 49, 1988,
 S.I. 40, 1989,
 S.I. 42, 1990,
 S.I. 25, 1991,
 S.I. 38, 1992,
 S.I. 39, 1993,
 S.I. 30, 1995,
 S.I. 31, 1996,
 S.I. 37, 1997,
 S.I. 57, 1998,
 S.I. 83, 1999,
 S.I. 57, 2000,
 S.I. 32, 2001,
 S.I. 56, 2002,
 S.I. 45, 2003,
 S.I. 49, 2004,
 S.I. 72, 2005,
 S.I. 21, 2006,
 S.I. 15, 2007,
 S.I. 19, 2008,
 S.I. 101, 2009.

1. Citation

This Order may be cited as the Regulation of Wages (Garage, Motor Trade and Road Transport) Order.

2. Application and interpretation

(1) This Order shall apply to all persons employed in any undertaking or part of an undertaking which consists of the carrying on, for gain, of one or more of the following activities-

- (a) the actual supply of motor vehicles, agricultural machinery or mobile construction plant; or the repair, servicing, assembly or adaptation thereof of such vehicles, machinery or plant on behalf of other persons or undertakings;
- (b) the sale of automotive fuels or lubricants; or
- (c) the road transportation of passengers or goods.

(2) In this Order "undertaking" includes any person, firm, business, company or club and the activities of any body, whether corporate or unincorporate, whether carried on by way of trade or not:

Provided that persons employed in an undertaking or part of an undertaking-

- (i) in any trade affected by any other minimum wages order made under the Act; or
 - (ii) which is operated by the Government,
- shall be excluded.

(3) Casual and part-time employees shall be entitled to the minimum wages and other conditions at the rates prescribed by this Order.

3. Basic minimum wage

There shall be paid to employees in any undertaking referred to in paragraph 2 a basic minimum wages of P3.80 per hour, except that persons employed by an undertaking solely to watch over property of that undertaking shall be paid a basic minimum wage of P3.20 per hour:

Provided that nothing shall prevent-

- (i) payment of a higher wage than the basic minimum wage; or
- (ii) any agreement or contract with an employee for the partial payment of wages in the form of allowances in kind in accordance with sections 80 and 84 of the Act.

4. Hours of work

No employee shall be required to work, other than as provided for in paragraph 7(3), more than nine hours in any one working day or a total of 45 hours in any working week of five days or, in the case of persons employed by the undertaking solely to watch over any property of the industry, more than 10 hours in any one working day or a total of 60 hours in any working week of six days:

Provided that no employee with the exception of persons employed by the undertaking solely to watch over any property of the industry shall be required to work continuously for more than five hours without an interval of at least half-an-hour.

5. Weekly rest period

An employee shall earn a rest period at the rate of not less than 24 consecutive hours in the course of each week at the employer's discretion to determine when this period shall be taken:

Provided that the employee shall be notified at least seven days before the proposed rest period.

6. Paid public holidays

The following public holidays shall be treated as paid public holidays-

New Year's Day;
Good Friday;
Easter Monday;
1st May;
President's Day;
Day following President's Day;
Botswana Day, and
Christmas Day:

Provided that-

- (i) nothing shall prevent the treatment of additional public holidays as paid public holidays, and
- (ii) an employee who was on unauthorized leave on a working day immediately prior to, or on a working day immediately following, a paid public holiday shall not be entitled to receive payment for that paid public holiday if he is not required to work, or payment at overtime rates if he is required to work, on the paid public holiday.

7. Overtime

(1) Where an employee works for any period in excess of nine hours in a working day or a total of 45 hours in a working week of five days or, in the case of a person employed by the undertaking solely to watch over any property of the industry, any period in excess of 10 hours in a working day or a total of 60 hours in a working week of six days, he shall be paid an overtime rate of his normal hourly rate plus one-half of such rate (otherwise known as

"time-and-a-half").

(2) Subject to the proviso to paragraph 6, where an employee works on any paid public holiday or rest period prescribed by this Order, he shall be paid an overtime rate of twice his normal hourly rate (otherwise known as "double time").

(3) Any overtime work required by the employer shall normally be at the discretion of the employee except in the event of urgent business demands or emergencies.

8. Annual paid leave

An employee shall be entitled to paid leave at the rate of at least 15 working days in respect of each period of 12 months' service calculated at the rate of one-and-a-quarter working days for every completed month of service.

9. Protection of existing wages and conditions of employment

The wages and conditions of employment in force between employers and employees at the commencement of this Order shall not be altered for the worse in respect of employees but to the extent that the same are not in conflict with this Order and the parties thereto shall be subject and entitled to the benefits of the provisions of this Order.

EMPLOYMENT (EXHIBITION OF MINISTER'S NOTICES IN CONNECTION WITH MINIMUM WAGES) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Manner of exhibiting Minister's *Gazette* notices in connection with minimum wages

S.I. 152, 1984.

1. Citation

These Regulations may be cited as the Employment (Exhibition of Minister's Notices in Connection with Minimum Wages) Regulations.

2. Manner of exhibiting Minister's *Gazette* notices in connection with minimum wages

Every employer required by section 141(1) of the Act to exhibit a copy of any notice published by the Minister in the *Gazette*-

- (a) under section 132(2) or 137(2) of the Act declaring the Minister's intention to refer the matter or question of fixing, adjusting or abolishing a minimum wage to the Minimum Wages Advisory Board; or

- (b) under section 137(4) of the Act abolishing a minimum wage,

shall exhibit, for not less than 30 days, such number of readily legible copies of the notice, together with a readily legible Setswana translation of the same, at such places on the work premises and in such manner as to be likely to ensure that all those literate employees who may be or are affected thereby are informed of the contents thereof.

(2) Every employer required by section 141(1) of the Act to exhibit a copy of any order published by the Minister in the *Gazette*-

- (a) under section 135 of the Act fixing a minimum wage; or

- (b) under section 137(4) of the Act adjusting a minimum wage,

shall exhibit, and thereafter keep exhibited until such time as the minimum wage is abolished, such number of readily legible copies of the notice, together with a readily legible Setswana translation of the same, at such places on the work premises and in such manner as to be likely to ensure that all those literate employees who are affected thereby are informed of the contents thereof.

EMPLOYMENT (AGRICULTURAL EMPLOYEES) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Special provision for agricultural employees

S.I. 154, 1984.

1. Citation

These Regulations may be cited as the Employment (Agricultural Employees) Regulations.

2. Interpretation

In these Regulations-

"agricultural employee" means an employee employed in an agricultural undertaking principally by way of manual labour;

"agricultural undertaking" means an undertaking or part of an undertaking engaged in cultivation, animal husbandry (including livestock production and care of cattle or cattle ranching), forestry, horticulture, running a plantation, the primary processing of agricultural products or any other form of agricultural activity.

3. Special provision for agricultural employees

(1) In the case of an agricultural employee-

- (a) section 46 of the Act shall not apply where he is entering into a contract of employment in an agricultural undertaking not then employing more than 25 persons;
- (b) section 95 of the Act shall not apply;
- (c) section 98 of the Act shall apply as if-
 - (i) subsection (2) thereof required his employer to grant him, in respect of each period of one month's continuous employment, not less than one and a half working days' leave with basic pay;
 - (ii) subsection (3) thereof required, where at the end of any period of 12 months' continuous employment no working days' leave or less than 10 working days' leave has been taken, 10 working days' leave or the balance of 10 working days' leave, as the case may be, to be taken no later than three months immediately after the end of that 12 months' period; and
 - (iii) subsection (6)(b) were deleted;
- (d) section 99 of the Act shall not apply; and
- (e) no provision of the Act shall apply if the employee is employed in an agricultural undertaking in which members of the same family alone are employed.

(2) The Commissioner may, in writing addressed to any employer of agricultural employees, restrict or limit the application of section 110 of the Act in the case of those employees for such period and subject to such conditions as the Commissioner thinks fit.

(3) Notwithstanding any provision to the contrary made by order under section 116 of the Act, in the case of a female agricultural employee, the aggregate of the whole period of absence from work for which provision is made by section 113(2) and (4) of the Act and a further period of absence from work of four weeks only by virtue of section 116(1) of the Act is hereby prescribed as the maximum period of absence from work for purposes of the latter provision.

(4) Notwithstanding any provision to the contrary contained in other regulations made under the Act, no employer of agricultural employees shall be required to keep any records,

books or accounts in respect of those employees:

Provided that the Commissioner may, by notice in writing served on any such employer, require the employer to furnish the Commissioner in writing, within a reasonable time to be specified in the notice, with so much of such information as the employer would, apart from this subregulation, have been required to record in respect of those employees as the Commissioner shall specify.

(5) Where any employer of agricultural employees is required by the Commissioner under the proviso to subregulation (4) to furnish the Commissioner with information, the employer may require the assistance of the Commissioner or a labour officer in complying with the Commissioner's requirement.

(6) Any employer of agricultural employees who fails, without reasonable excuse, to comply with a requirement made of him by the Commissioner under the proviso to subregulation (4) shall be guilty of an offence and liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding six months, or to both.

EMPLOYMENT (EMPLOYMENT CARDS) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Procedure for issuing employment card
4. Production and inspection of employment cards and copies
5. Penalties

Schedule - Employment Card

S.I. 155, 1984.

1. Citation

These Regulations may be cited as the Employment (Employment Cards) Regulations.

2. Interpretation

In these Regulations, "**employment card**" means an employment card such as is referred to in section 31 of the Act.

3. Procedure for issuing employment card

Where an employer is required by the Commissioner of Labour under section 31 of the Act to issue an employment card, the employer shall-

- (a) prepare an employment card in the form set out in the Schedule and ensure that it contains all the particulars indicated therein;
- (b) having performed the duties imposed by paragraph (a), prepare one true copy of the employment card;
- (c) sign both the employment card and the copy thereof and then ensure that both documents are also signed by the employee; and
- (d) deliver the employment card to the employee for safe keeping by him and retain the copy thereof for safe keeping with his records.

4. Production and inspection of employment cards and copies

(1) The Commissioner or any labour officer may, at any time during ordinary working hours, require any employer forthwith-

- (a) to produce from his records, for inspection by the Commissioner or a labour officer, any copy of any employment card retained by the employer in terms of regulation 3; and

- (b) to provide the Commissioner or a labour officer with a true copy of the same.
- (2) The Commissioner or any labour officer may require any person claiming or reasonably believed to be the holder of an employment card-
 - (a) immediately to produce the card for inspection by the Commissioner or a labour officer (if that person has the employment card on his person); or
 - (b) to produce the card for inspection by the Commissioner or a labour officer at such reasonable place and within such reasonable time as the Commissioner or a labour officer shall specify (if that person does not have the employment card on his person).
- (3) Any employer or other person of whom a requirement is made under this regulation shall comply with the same.

5. Penalties

- (1) Any person who fails, without reasonable excuse, to comply with any provision of these Regulations shall be guilty of an offence and liable to a fine not exceeding P200.
- (2) In any proceedings in respect of an offence under this regulation, the court shall presume, unless the contrary is proved, the absence of a reasonable excuse on the part of the person charged with the offence.

**SCHEDULE
EMPLOYMENT CARD**

EMPLOYMENT ACT
(Cap. 47:01)
(section 31)

EMPLOYMENT (EMPLOYMENT CARDS) REGULATIONS
(regulation 3(a))

1. Full name of employer
2. Postal and locational addresses of employer
3. Full name of employee
4. Residential address of employee
5. The above named employee, having entered into a contract of employment with the above named employer, commenced employment under the contract on the day of 20 and in terms thereof works at *(locational address of work place)* as or in the capacity of *(nature of employee's occupation)*
6. The following are the other terms or conditions of employment under the said contract of employment-
 - (a) Period contract *(term unless unspecified)*
 - (b) Ordinary wage rate
 - (c) Pay interval *(daily/weekly/fortnightly/monthly)*
 - (d) Usual hours of work: from to
from to
 - (e) Number of paid public holidays a year
 - (f) Number of days paid leave a year
 - (g) Number of days permitted sick leave a year
 - (h) Overtime (regular or occasional) to be worked
 - (i) Overtime wage rate
 - (j) Notice period
 - (k) Any other explicit terms or conditions of employment (e.g. rations, gratuity, bonus, free housing, transportation, etc.)
.....
.....

.....
.....
.....
Dated at this day of 20

.....
.....
.....
(signature of employer)

.....
.....
.....
(signature or mark of employee)

.....
.....
.....
(signature of witness to mark, if any)

Full name of witness

Postal address and/or residential address of witness

EMPLOYMENT (DOMESTIC EMPLOYEES) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Special provision for domestic employees

S.I. 156, 1984.

1. Citation

These Regulations may be cited as the Employment (Domestic Employees) Regulations.

2. Special provision for domestic employees

In the case of a domestic employee-

- (a) section 92 of the Act shall not apply;
- (b) section 95 of the Act shall not apply:

Provided that a domestic employee shall not be required under his contract of employment to work more than 240 hours in any one period of four weeks;

- (c) section 99 of the Act shall apply as if the public holidays specified in the Second Schedule of the Act were New Year's Day, Good Friday, Botswana Day and Christmas Day alone; and
- (d) Parts V, IX, XIV and XV of the Act shall not apply, except as otherwise prescribed.

EMPLOYMENT (LABOUR HEALTH AREAS) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and application
2. Interpretation
3. Provision of housing and sanitary arrangements
4. Type of housing to be provided
5. Minimum accommodation
6. Scale of provision of accommodation
7. Height of walls
8. Insulation of walls
9. Doors
10. Lighting and ventilation

11. Height of floor
12. Back-to-back construction prohibited
13. Provision of ablution accommodation
14. Provision of privy accommodation
15. Feeding of employees
16. Provision of water
17. Health authority
18. Provision of medicine and medical treatment
19. Cleanliness of housing
20. Transportation of employees

Schedule - Minimum Requirements for Dispensary for Treatment of Employees

S.I. 157, 1984.

1. Citation and application

(1) These Regulations may be cited as the Employment (Labour Health Areas) Regulations.

(2) These Regulations shall apply to every labour health area to which sections 122, 123, 124, 125, 126 and 127 of the Act have been applied.

(3) The Minister may, by order published in the *Gazette*, apply any material provision of these Regulations to a labour health area to which not all the sections specified by subregulation (2) have been applied.

2. Interpretation

In these Regulations, "**health officer**" has the meaning assigned to that expression by the Public Health Act.

3. Provision of housing and sanitary arrangements

Every employer of employees employed within a labour health area shall-

- (a) cause those employees to be housed; and
- (b) provide for those employees and members of their families living with them sanitary arrangements both at the place of employment and the place where they are housed,

in accordance with these Regulations.

4. Type of housing to be provided

(1) Housing for employees may be either permanent or temporary.

(2) Permanent housing for employees shall conform to the standards prescribed by the Building Control Regulations in so far as those standards are applicable.

(3) Temporary housing for employees shall be situated in labour lines and shall conform to regulations 5 to 12 inclusive.

5. Minimum accommodation

(1) Where an employee has a member of his family living with him, they shall be housed in a dwelling unit comprising at least one habitable room and a covered cooking area of at least 2,8 m² of which the shortest horizontal dimension shall not be less than 1,5 m.

(2) Where an employee has no member of his family living with him, he shall be housed either in a dwelling unit of the type prescribed by subregulation (1) or in barracks.

(3) In either type of accommodation, the scale of provision of accommodation shall not be less than is prescribed by regulation 6.

6. Scale of provision of accommodation

(1) The size of a room for a single person shall be at least 7,5 m².

(2) The size of a room for two persons shall be at least 9,3 m².

(3) For each additional occupant of a room, at least 3,7 m² of additional floor area shall be provided.

7. Height of walls

(1) The height of walls of an habitable room, kitchen, ablution room or privy accommodation shall be at least 2 m.

(2) The average interior height of an habitable room without a ceiling shall be at least 2,9 m and the average interior height of an habitable room with a ceiling shall be at least 2,29 m.

8. Insulation of walls

All walls shall provide against heat and cold insulation equivalent to that provided by sound burnt brick 10,4 cm thick.

9. Doors

Each habitable room shall be provided with a door opening and a door at least 0,76 m wide and 2 m high.

10. Lighting and ventilation

Opening windows with top-hung fanlights with an overall area equal to at least 10 percent of the floor area shall be installed in each habitable room.

11. Height of floor

The floor of every habitable room, kitchen, ablution room or privy accommodation shall be at least 15,24 cm higher than the level of the surrounding ground.

12. Back-to-back construction prohibited

Rooms or dwellings on the back-to-back principle shall not be constructed.

13. Provision of ablution accommodation

(1) Every employer shall provide for the purpose of ablution at least one trough for every three families housed as such or for every eight persons housed otherwise than as members of families.

(2) Each trough required by this regulation shall be so sited as to be easily available to those for whom it is provided.

14. Provision of privy accommodation

(1) Every employer shall provide at the place where employees are housed at least one privy for every three families housed as such or for every eight persons housed otherwise than as members of families.

(2) Every employer shall provide at the place of employment at least one privy for every eight employees.

(3) Each privy required by this regulation shall be a water closet, aqua privy or pit latrine and shall be so sited as to be easily available to those for whom it is provided.

(4) Except where separate privy accommodation is provided for a single family as such, separate privy accommodation shall be provided for each sex.

15. Feeding of employees

For the purposes of sections 123 and 127 of the Act, the scale and description of rations supplied shall be determined from time to time by the health officer concerned, having regard to all the material circumstances.

16. Provision of water

Every employer shall provide at easily accessible points potable water adequate for the needs for drinking, washing and other domestic purposes of all persons housed in temporary housing to which these Regulations apply.

17. Health authority

The appropriate authority for the purposes of section 124 of the Act shall be the health officer concerned.

18. Provision of medicine and medical treatment

(1) Every employer shall take every reasonable step open to him to ensure that all cases of illness or injury suffered by any employee at the place of employment are brought to the employer's notice.

(2) Where an employer has reasonable cause to believe that any employee or member

of an employee's family living with him is suffering from illness or injury, the employer shall cause to be provided to the employee or member of his family, as the case may be, medical treatment.

(3) Medical treatment provided as required by subregulation (2) shall be at the employer's expense except where the employee is suffering from-

- (a) a contagious disease;
- (b) a venereal disease; or
- (c) an injury or illness proved to the satisfaction of the Commissioner to have been suffered or contracted prior to the employee's employment by the employer or to be attributable to injury or illness suffered or contracted prior to such employment or suffered or contracted in circumstances not arising in the course of or otherwise out of such employment.

(4) Medical aid for the purposes of section 125 of the Act shall include a dispensary of the treatment of employees and members of their families living with them having at least the items set forth in the Schedule hereto.

(5) For the purposes of this regulation, "medical treatment" means treatment by a medical officer, treatment at an hospital or, in the case of a minor illness or injury, treatment by a medical attendant holding at least the Red Cross Proficiency Certificate, Grade I, including the provision of such food, medicines, dressings and other medical items as may be necessary.

19. Cleanliness of housing

The disinfection, disinfestation and rat-proofing of housing shall be carried out by every employer in accordance with the instructions of the health officer concerned regarding periodicity, manner, materials and other relevant matters.

20. Transportation of employees

Where, for the purposes of section 127 of the Act, an employer decides to provide transportation by road to the places of origin or the places of engagement to employees having no right of repatriation under section 32 or 65 of the Act, the motor vehicles used shall be such as to provide suitable seating for the employees located separately from any compartment or other facility for the conveyance of their personal effects.

SCHEDULE

MINIMUM REQUIREMENTS FOR DISPENSARY FOR TREATMENT OF EMPLOYEES

(r. 18(4))

Furniture

1 bed	1 table	1 cupboard with lock
1 mattress	1 bench	3 shelves
2 pillows	1 chair	1 enamel bucket with lid
4 sheets	1 handwash basin	1x4-gallon container of potable water
1 rubber sheet	3 towels	
2 blankets	1 box for surgical dressing	

Equipment

1 stove	paraffin as required
1 enamel jug	1 sterilizer
1 specimen glass	2 nail brushes
1 4-oz glass measure	1x1-pint E.I. measure
2 1/2-oz measures (Proctor)	1x8-oz glass measure
2 thermometers	2 teaspoons
2 dissecting forceps	2x8-ins kidney basins
1 large dressing tray	2 pairs scissors B.P. 5-ins
1 eye dropper (pipette)	1 small dressing tray
soap as required	3 bowls 8-ins in diameter

a supply of microscopic slides

Stationery

1 patients' register
2 ball-point pens (red)

1 note pad
2 ball-point pens (blue or black)

EMPLOYMENT (CASUAL EMPLOYEES) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and application
2. Register of casual employees
3. Casual Employees Advisory Committees

Schedule - Register of Casual Employers

S.I. 158, 1984.

1. Citation and application

(1) These Regulations may be cited as the Employment (Casual Employees) Regulations, and shall apply to every area of Botswana for the time being designated under subregulation (2) for the purposes of these Regulations.

(2) The Minister may, by order published in the *Gazette*, designate any area of Botswana for the purposes of these Regulations.

2. Register of casual employees

The Register of casual employees to be kept, by virtue of section 36 of the Act, by every employer who employs such employees within an area to which these Regulations apply shall be in the form set forth in the Schedule hereto.

3. Casual Employees Advisory Committees

(1) The Minister may, by order published in the *Gazette*, establish for any area to which these Regulations apply a committee to be known as a Casual Employees Advisory Committee.

(2) The following provisions of this regulation shall apply in respect of every Casual Employees Advisory Committee established under subregulation (1).

(3) The Committee shall consist of such number of members as the Minister shall determine in the Committee's own particular case, all of whom shall be appointed by the Minister:

Provided that the Committee's membership shall equally represent-

- (i) the Government;
- (ii) employers employing casual employees within the area for which the Committee is established; and
- (iii) casual employees usually employed within that area.

(4) Every member of the Committee, other than a member representing the Government, shall remain a member thereof for three years but shall be eligible for reappointment to the Committee at the expiry of the term of his membership:

Provided that-

- (i) the Minister may revoke the appointment of any such member at any time; and
- (ii) any such member may, by notice in writing lodged with the Minister, resign his membership of the Committee at any time.

(5) Every member of the Committee representing the Government shall remain a member thereof at the Minister's pleasure.

(6) The Minister shall appoint, from among the members of the Committee, persons to be the Chairman and Deputy Chairman respectively of the Committee, each of whom shall hold office as such at the Minister's pleasure.

(7) The Chairman or, in his absence, the Deputy Chairman of the Committee shall preside at every meeting of the Committee.

(8) The functions of the Committee shall be-

- (a) regularly to review, in the context of the Act, the terms and conditions of or affecting the employment of casual employees within the area for which the Committee is established;
- (b) to advise the Minister on the adequacy or otherwise of these Regulations and to make appropriate recommendations for their revision;
- (c) to bring forthwith to the attention of the Minister any abuses that have become apparent in relation to the employment of casual employees within the area for which the Committee is established and to advise the Minister regarding the remedies that appear to be called for;
- (d) to advise the Minister on any matter regarding the further protection of casual employees, either generally or within the area for which the Committee is established; and
- (e) such other functions in relation to the employment of casual employees as the Minister may specify.

(9) At every meeting of the Committee, the Chairman or Deputy Chairman of the Committee (whoever is presiding) shall designate a member of the Committee to record the minutes of the meeting in either Setswana or English and that person shall, as soon as is reasonably practicable, enter those minutes in a book kept for that purpose alone (hereinafter referred to as "the Committee's minute book").

(10) The Committee's minute book shall be kept in safe custody by such member of the Committee as the Committee shall designate and that member shall forthwith produce the book for examination by the Minister or by a labour officer authorized in writing by the Minister in that behalf on being required, at any reasonable time, by the Minister or such a labour officer to do so.

(11) Subject to these Regulations and to any directions that may be given it by the Minister, the Committee shall regulate its own procedure, including the appointment of additional officers of the Committee and the frequency of its meetings.

SCHEDULE
REGISTER OF CASUAL EMPLOYEES

(r. 2)

EMPLOYMENT ACT

(Cap. 47:01)

(section 36)

EMPLOYMENT (CASUAL EMPLOYEES) REGULATIONS

Full name of employer

Postal and locational addresses of employer

..... Telephone No.

Nature of undertaking

<i>Date</i>	<i>Name of employee</i>	<i>Age</i>	<i>Identification No. 1</i>	<i>Description of employee</i>	<i>Wages paid</i>	<i>Number of hours worked</i>

1. This is the identification number, if any, shown on a metal token or otherwise, given the casual employee and serving to identify him for the purpose of paying him his wages.
2. E.g. driver, gardener, cleaner.

Month	Total number of employees of all categories employed	Total number of casual employees employed	Month	Total number of casual employees employed	Total number of employees of all categories employed

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS

(under section 154)

(28th December, 1984)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Procedure for hearing appeals under section 11(9) of the Act
3. Severance benefit
4. Form of indemnity
5. Scale of medical facilities
6. Fees for attestation of certain contracts of employment
7. Fees for medical examination of employees
8. Recruiters' licences
9. Recruitment permits
10. Returns to be furnished in connection with recruitment
11. Deductions at request of employees
12. Advances of wages
13. Compensation for injury
14. Report of accidents
15. Records to be kept by employers generally
16. Additional information to be recorded by certain employers
17. Statistics

First Schedule - Form of Indemnity

Second Schedule - Scale of Medical Facilities

Third Schedule

Fourth Schedule

Fifth Schedule - Monthly Record of Wages, Etc.

S.I. 159, 1984,

S.I. 110, 1992.

1. Citation

These Regulations may be cited as the Employment (Miscellaneous Provisions)

Regulations.

2. Procedure for hearing appeals under section 11(9) of the Act

(1) In the case of an appeal under section 11(9) of the Act, the document required to be delivered to the Minister by section 11(10) of the Act shall set forth-

- (a) a summary of the grounds on which the appellant is of the opinion that the terms of the direction or prohibition in question are harsh or unreasonable or that the requirements of repair or reconstruction or otherwise specified in the direction cannot be fulfilled within a reasonable time; and
- (b) where the direction or prohibition is to remain in abeyance until the appeal is determined by the Minister, the steps that have been taken to safeguard human health, safety, care or welfare pending that determination.

(2) The Minister shall, for the purpose of hearing any appeal under section 11(9) of the Act, require the appellant and the Commissioner to appear together before him at a time and place to be specified by the Minister and shall, at that time and place, invite both the appellant and the Commissioner to make oral submissions to him:

Provided that, where the appeal is from a direction given by a labour officer, the Commissioner may direct the labour officer to deputise for him at the hearing of the appeal.

(3) Before determining an appeal under section 11(9) of the Act, the Minister shall give due consideration to every submission made to him by virtue of subregulation (2) and thereafter shall proceed with all due speed to confirm, rescind or vary the terms of the direction or prohibition from which the appeal is brought.

(4) Where, on an appeal under section 11(9) of the Act, the Minister confirms or varies the terms of the direction or prohibition from which the appeal is brought the appellant shall, within seven days immediately after the day on which he was informed of the result of the appeal, lodge with the Minister written confirmation that the occupation or use to which the direction relates has been and remains discontinued or the prohibition is being observed, as the case may be:

Provided that, where such occupation or use is required to be discontinued or observance of the prohibition is required to commence on some day later than the day on which the appellant was informed of the result of the appeal, the appellant shall lodge the confirmation required by this subregulation within seven days immediately after that later day.

(5) Any appellant who fails, without reasonable excuse, to comply with subregulation (4) shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

3. Severance benefit For the purposes of section 27(1) of the Act the severance benefit to be paid on the termination of a contract of employment shall be at the rate of one day's basic pay in respect of each of the first sixty months of continuous employment, and two day's basic pay in respect of each additional month of continuous employment.

4. Form of indemnity

The form of indemnity to be rendered to an employer in terms of section 30(2) of the Act shall be as set forth in the First Schedule hereto.

5. Scale of medical facilities

The scale of medical facilities required to be provided by employers by section 35(1) of the Act shall be as set forth in the Second Schedule hereto:

Provided that, where the provision of a full-time medical attendant is required in order that reasonable medical facilities may, in all the material circumstances, be provided in accordance with section 35(1) of the Act, the employer shall provide a full-time medical attendant holding at least the Red Cross Proficiency Certificate, Grade I.

6. Fees for attestation of certain contracts of employment

The fee to be paid to an attesting officer by an employer or a recruiter in respect of each contract of employment attested by him in terms of section 44 of the Act shall be-

- (a) where the period of employment in terms of the contract is not to exceed four months or a number of working days equal to a period not exceeding four months, P5; or
- (b) in the case of any other period of employment in terms of the contract, P10.

7. Fees for medical examination of employees

The fee to be paid to a medical officer by an employer or a recruiter in respect of each employee in the same undertaking examined by him under section 46 of the Act in any year commencing on 1st January shall not exceed-

- (a) 50 thebe in the case of the employee being one of the first 500 of such employees to be so examined; or
- (b) 20 thebe in every other case.

8. Recruiters' licences

(1) Every recruiter's licence issued under Part V of the Act shall be either-

- (a) a type A recruiter's licence, to be held by every recruiter recruiting not more than 100 employees for employment in the recruiter's own undertaking; or
- (b) a type B recruiter's licence, to be held by every other recruiter.

(2) Every application in terms of section 55(1) of the Act for a recruiter's licence to be issued shall be in writing setting forth-

- (a) whether the application is for a type A or type B recruiter's licence;
- (b) the nature of the proposed employment for which employees are to be recruited;
- (c) the wage rates it is proposed to pay different classes of employees in the event of their engagement following recruitment; and
- (d) where the application is for a type B recruiter's licence, the full name and postal and locational addresses of the employer or each of the employers for whom it is proposed to recruit the employees,

and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6).

(3) Every application in terms of section 55(1) read with section 59 of the Act for a recruiter's licence to be renewed shall be in writing setting forth what is required to be set forth in an application for a recruiter's licence to be issued by subregulation (2)(b), (c) and (d) and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6) and the licence.

(4) Every application for a recruiter's licence to be renewed shall be lodged with the Commissioner no earlier than six or later than four weeks immediately before the day on which the licence is due to expire.

(5) An applicant for a recruiter's licence to be issued or renewed shall furnish all such additional information as the Commissioner may require of him.

(6) The fee to be paid for the issue or renewal of a type A recruiter's licence shall be P20 and the fee to be paid for the issue or renewal of a type B recruiter's licence shall be P100 and the fee shall be lodged in advance with the Commissioner in accordance with subregulation (2) or (3), as the case may be.

(7) Every type A recruiter's licence shall be in the form set forth in Part I of the Third Schedule hereto and every type B recruiter's licence shall be in the form set forth in Part II of that Schedule.

9. Recruitment permits

(1) Every recruitment permit issued under Part V of the Act shall be either-

- (a) a type A recruitment permit, to be held by every person assisting in recruitment a recruiter holding a type A recruiter's licence; or
- (b) a type B recruitment permit, to be held by every person assisting in recruitment a recruiter holding a type B recruiter's licence.

(2) Every application in terms of section 56(3) of the Act for a recruitment permit to be issued shall be in writing setting forth-

(a) whether the application is for a type A or type B recruitment permit;
(b) the full name of the recruiter it is proposed to assist in recruitment together with the serial number of his recruiter's licence; and
(c) the proposed method of remuneration of the applicant by the recruiter,
and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6).

(3) Every application in terms of section 56(3) read with section 59 of the Act for a recruitment permit to be renewed shall be in writing setting forth what is required to be set forth in an application for a recruitment permit to be issued under subregulation (2) and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6) and the permit.

(4) Every application for a recruitment permit to be renewed shall be lodged with the Commissioner no earlier than six or later than four weeks immediately before the day on which the permit is due to expire.

(5) An applicant for a recruitment permit to be issued or renewed shall furnish all such additional information the Commissioner requires of him.

(6) The fee to be paid for the issue or renewal of a type A recruitment permit shall be P5 and the fee to be paid for the issue or renewal of a type B recruitment permit shall be P20 and the fee shall be lodged in advance with the Commissioner in accordance with subregulation (2) or (3), as the case may be.

(7) Every type A recruitment permit shall be in the form set forth in Part I of the Fourth Schedule hereto and every type B recruitment permit shall be in the form set forth in Part II of that Schedule.

10. Returns to be furnished in connection with recruitment

(1) Every recruiter shall, within four weeks immediately after the end of each quarter in every year commencing on 1st January, furnish a written return to the Commissioner setting forth the number of employees recruited by him in any district during that quarter.

(2) Every employer employing recruited employees shall, within four weeks immediately after the end of each quarter in every year commencing on 1st January, furnish a written return to the Commissioner setting forth-

- (a) the number of such employees whose wages have been deposited by the employer during that quarter; and
- (b) the aggregate amount of deposited wages of such employees that has been paid out, on or after completion of their contracts of employment, during that quarter.

11. Deductions at request of employees

(1) No employer shall, under section 80(1)(c) of the Act, deduct from the wages or any other payments which may be due to an employee any amount unless the employer forthwith issues to the employee a written statement setting forth-

- (a) the full name and home address of the employee;
- (b) his wage rate;
- (c) the amount and date of the deduction; and
- (d) the full name and address of the person or body to whom the amount deducted is to be or has been remitted on behalf of the employee.

(2) Every employer shall, in respect of each employee from whose wages or any other payments which may have been due to him any amount has been deducted under section 80(1)(c) of the Act, keep or cause to be kept a separate written record of the particulars referred to in subregulation (1)(a), (b), (c) and (d).

12. Advances of wages

(1) Except with the written permission of the Commissioner, the amount of wages which may, in terms of section 87(2) of the Act, be advanced to an employee at the time of his engagement shall not exceed one third of his total monthly wage together with an amount equal

to the total amount due and payable and unpaid by the employee at the time of his engagement under any law relating to taxation.

(2) Any advance such as is referred to in subregulation (1) may be repaid in one or more instalments by deduction from the wages of the employee in question.

13. Compensation for injury

If personal injury arising out of and in the course of his employment is caused to an employee and his employer is not liable to pay compensation to him by virtue of any other written law for the time being in force solely because the employee does not belong to a category of employees in respect of which that other law applies, his employer shall nevertheless be liable to pay compensation to him in terms of that other law as if he did belong to such a category of employees.

14. Report of accidents

(1) Every employer shall, within 17 days immediately after the day on which the injury was incurred, make a report to the nearest labour officer of every injury caused to an employee arising out of and in the course of his employment which-

- (a) results in the employee's death;
- (b) results in or is likely to result in some degree of permanent incapacity to the employee; or
- (c) results in incapacitating the employee from following his normal employment for more than three consecutive days:

Provided that this subregulation shall not apply where the employer is required by some other written law for the time being in force to report any such injury to some person other than the nearest labour officer.

(2) Every report required to be made by subregulation (1) shall be in writing setting forth-

- (a) the full name and postal and locational addresses of the employer or of the undertaking in question;
- (b) the employee's full name and address;
- (c) the employee's age, sex and occupation;
- (d) whether the injury resulted in the employee's death or incapacity;
- (e) the full name and address of the employee's next-of-kin;
- (f) whether the next-of-kin has or has not been informed of the employee's death or incapacity and of the injury resulting therein;
- (g) the material circumstances in which the injury resulting in death or incapacity was caused;
- (h) in the case of incapacity, the nature of the injury resulting therein and whether the incapacity is or is not likely to involve any degree of permanent incapacity;
- (i) in the case of what appears to be temporary total incapacity, how long it is likely to last;
- (j) the company, if any, with which the employer is insured against injury liability in respect of the employee;
- (k) the full name and postal address of the insurance company; and
- (l) the number of the insurance policy in question.

15. Records to be kept by employers generally

(1) Every employer shall, in performance of the duty imposed on him by section 92(1) of the Act, keep such records, books and accounts in respect of each employee employed by him as will at all times clearly show-

- (a) the employee's full name and address;
- (b) the employee's age and sex;
- (c) whether the employee is married or single;
- (d) the full name and address of the employee's next-of-kin;
- (e) the nature of the employment on which the employee is engaged;
- (f) the employee's wage rate and the pay interval;

- (g) the period of notice to be given in order to terminate the employee's contract of employment;
- (h) the number of working days leave with at least basic pay to which the employee is entitled in respect of each period of 12 months' continuous employment;
- (i) the number of days paid sick leave to which the employee is entitled in any year;
- (j) the number of paid public holidays to which the employee is entitled each year;
- (k) particulars of the employee's weekly rest period;
- (l) particulars of the employee's weekly and daily hours of work;
- (m) the date on which employment (whether on probation or not) under the employee's contract of employment commenced;
- (n) the date on which the employee's contract of employment terminated and the reason therefor;
- (o) particulars of all payments made to the employee by the employer on the termination of the employee's contract of employment (whether in respect of wages, payment in lieu of notice, leave with pay, severance benefit or otherwise); and
- (p) particulars of the employee's wages in terms of his contract of employment specifying the aggregate of basic pay and each other form of remuneration, such as overtime payments, production bonuses and cost-of-living allowances and other special remuneration arising out of the particular circumstances under which work is carried out or from other considerations attaching thereto.

(2) The records required to be kept by an employer by virtue of this regulation shall include a record in the form set forth in the Fifth Schedule hereto in respect of each month beginning on the first day of the month.

(3) The records, books and accounts required to be kept by an employer by virtue of this regulation shall be retained by him in safe custody for at least two years immediately after the date of the last entry therein:

Provided that, where such records, books and accounts are kept in respect of an employee to whom a minimum wages order applies, they shall be retained by the employer in safe custody for at least five years immediately after the date of the last entry therein.

16. Additional information to be recorded by certain employers

(1) Every employer of an employee to whom a minimum wages order applies shall, in performance of the duty imposed on him by section 140(1) of the Act, indicate in the record of the employee's wage rate required to be kept by virtue of regulation 15(1)(f) that the wage is a minimum wage by making the entry "SMW" (that is to say, Statutory Minimum Wage) against the recorded wage rate.

(2) Every employer of an handicapped employee holding a permit issued by the Commissioner under section 139 of the Act authorizing his employment for less than the minimum wage shall, in performance of the duty imposed on him by section 140(1) of the Act, if the employee belongs to a category of employees to whom a minimum wages order applies and is paid less than the minimum wage, indicate in the record of the employee's wage rate required to be kept by virtue of regulation 15(1)(f) that the wage rate is that of a person holding such a permit by making the entry "SMW-EP" (that is to say, Statutory Minimum Wage-Exemption Permit) against the recorded wage rate.

17. Statistics

(1) The duties of district labour officers shall include the collection of labour statistics on the average wages of and the hours actually worked by employees (other than members of management, including supervisors) and the remaining provisions of this regulation shall apply in respect of such statistics.

(2) The statistics shall be compiled on the basis of data relating to a representative sample of the following industrial, commercial and domestic sector-

- (a) mines;

- (b) manufacturing industries and associated engineering and electrical trades;
- (c) motor engineering and road transport;
- (d) building, construction, prospecting and quarrying;
- (e) agriculture;
- (f) hotels, catering and entertainment;
- (g) wholesale, retail and distributive trades;
- (h) bakeries;
- (i) banking;
- (j) insurance;
- (k) communications; and
- (l) domestic employment.

(3) The statistics of average wages shall include-

- (a) specific reference to all employees employed on task or piece work;
- (b) all cash payments and bonuses received by employees from their employers;
- (c) contributions such as social insurance contributions paid by employees and deducted by their employers;
- (d) taxes paid by employees to public authorities and deducted by their employers; and
- (e) deductions from wages other than those referred to in paragraphs (c) and (d).

(4) Each district labour officer shall collect the statistics of wages and hours of work twice a year and shall start collecting on 1st January and 1st July, or as near thereto as is reasonably practicable, and shall use his best endeavours to furnish the Commissioner with the statistics before the end of January and the end of July respectively.

(5) Statistics of wages and hours of work shall be collated on the basis of the records, books and accounts employers are required to keep by virtue of regulation 15.

(6) The Commissioner shall use his best endeavours to publish by notice in the *Gazette* the statistics of wages and hours of work by district and sector before the end of March and the end of September respectively.

**FIRST SCHEDULE
FORM OF INDEMNITY**

EMPLOYMENT ACT

(Cap. 47:01)

(section 30(2))

EMPLOYMENT (MISCELLANEOUS PROVISIONS)

REGULATIONS

(regulation 4)

To:

In consideration of your having, as the former employer of
(hereinafter referred to as "the former employee"), delivered to me, being a person specified in the First Schedule to the Act, in accordance with section 30(1) of the Act, certain moneys as payments due to the former employee (the particulars whereof are hereinafter set forth) and certain other property as property of the former employee in your possession (the particulars whereof are also hereinafter set forth), I hereby undertake for and on behalf of the Government of Botswana to indemnify you and keep you indemnified-

- (a) against any claim that may be made against you in respect of a payment hereinbefore mentioned, to the extent of the amount delivered to me as that payment; and
- (b) against any claim that may be made against you in respect of any of the other property hereinbefore mentioned, except in so far as the claim relates to any damage or injury caused to that other property prior to its delivery to me.

Particulars of moneys received:

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Particulars of other property received:

Dated at this day of 20.....

.....
Signature of scheduled person

.....
Title of signatory's office

Office Stamp

**SECOND SCHEDULE
 SCALE OF MEDICAL FACILITIES**

(reg 5)

	<i>Minimum quantity for less than 20 employees or for every complete number of 20 employees</i>
Copy of reputable first aid manual	1
Enamelled iron or stainless steel bowl not less than 10 ins in diameter	1
Small enamelled or stainless steel bowl not less than 4 ins in diameter	1
Safety pins not less than 1 in in length	12
Cotton wool	1 lb
Triangular bandages	12
Centrimide, 2 percent solution	10 fl oz
Gentian violet, 1 percent aqueous solution	10 fl oz
Castor oil	12 fl oz
Eye drops of pharmaceutical standard contained in a bottle having a pipette incorporated in the stopper	10 fl oz
Complete long, socketed thigh splints each having 3 sections	2
Reels of adhesive plaster not less than 3 ins wide	1
Blunt ended 5 ins long scissors	1
Cough mixture (of a kind approved by a medical officer)	1 pt
Epsom salts or sodium sulphate	1 lb
Liniment	10 fl oz
Medicinal kaolin	4 oz
Iodoform and kaolin powder	2 oz
Mepacrine tablets	100
Sulphur ointment	4 oz
Zinc ointment	2 oz
Aspirin tablets	100
Vaseline	4 oz
	<i>Minimum quantity for less than 20 employees</i>
	<i>Minimum quantity for every complete number of 20 employees</i>
Small sterilized dressings for injured fingers	12 24
Medium sterilized dressing for injured hands or feet	12 24

THIRD SCHEDULE

PART I

Type A Recruiter's Licence

EMPLOYMENT ACT

(Cap. 47:01)

(section 55(1))

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS

(regulation 8(7))

(Not transferable)

Licence No

Licence Register Folio

Fee: P20

Licence is hereby granted to

of

to recruit within Botswana not more than 100 employees for employment in his own undertaking.

This licence shall be valid, unless previously cancelled or suspended, during the period of 12 months immediately following the date of its issue.

CONDITIONS

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Issued at this day of 20.....

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Commissioner of Labour

PART II

Type B Recruiter's Licence

EMPLOYMENT ACT

(Cap. 47:01)

(section 55(1))

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS

(regulation 8(7))

(Not transferable)

Licence No

Licence Register Folio

Fee: P100

Licence is hereby granted to

of

to engage in recruitment within Botswana.

This licence shall be valid, unless previously cancelled or suspended, during the period of 12 months immediately following the date of its issue.

CONDITIONS

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Issued at this day of 20.....

.....
Commissioner of Labour

FOURTH SCHEDULE

PART I

Type A Recruitment Permit

EMPLOYMENT ACT

(Cap. 47:01)

(section 56(3))

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS

(regulation 9(7))

(Not transferable)

Permit No

Permit Register Folio

Fee: P5

Permission is hereby granted to

of

to assist in recruitment

of

who holds Type A recruiter's Licence No. licensing

him to recruit within Botswana not more than 100 employees for employment in his own

undertaking.

This permit shall be valid, unless previously cancelled or suspended, during the period of 12

months immediately following the date of its issue.

CONDITIONS

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Issued at this day of 20.....

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Commissioner of Labour

PART II

Type B Recruitment Permit

EMPLOYMENT ACT

(Cap. 47:01)

(section 56(3))

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS

(regulation 9(7))

(Not transferable)

Permit No

Permit Register Folio

Fee: P20

Permission is hereby granted to

of

to assist in recruitment

of

who holds Type A recruiter's Licence No. licensing

him to engage in recruitment within Botswana.

This permit shall be valid, unless previously cancelled or suspended, during the period of 12

months immediately following the date of its issue.

CONDITIONS

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 Issued at this day of 20.....

 Commissioner of Labour

**FIFTH SCHEDULE
 MONTHLY RECORD OF WAGES, ETC.**

EMPLOYMENT ACT
 (Cap. 47:01)
 (section 92(1))

EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS
 (regulation 15(2))

1	2	3	4	5	6	7	8	9	10	11	12	13	14
a	b												

1. Full name of employee
2. Aggregate of basic pay for month
3. Aggregate amount of any bonuses paid in month
4. Aggregate amount of any cost-of-living allowances paid in month
5. Aggregate amount of any other form of remuneration included in wages for a month
6. Aggregate of wages for a month
7. Current pay interval
8. Ordinary daily working period in a month from the first to end of the month
9. Number of ordinary hours of work worked in a month
10. Number of hours overtime worked in a month
11. Aggregate number of hours worked in a month
12. Number of working days leave with at least basic pay taken in a month
13. Number of paid public holidays taken in a month
14. Number of days paid sick leave taken in a month

EMPLOYMENT (PROCEDURE) REGULATIONS

(under section 154)
 (25th September, 1987)
 ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Appeal against an order under section 27(5)
3. Copy to be served on labour officer
4. Deductions from terminal benefits

S.I. 105, 1987.

1. Citation

These Regulations may be cited as the Employment (Procedure) Regulations.

2. Appeal against an order under section 27(5)

Any employer or employee dissatisfied with an order made by a labour officer under subsection (5) of section 27 of the Act may, within 14 days of the receipt by him of the said order, appeal therefrom to the Commissioner.

3. Copy to be served on labour officer

Any person appealing from an order made by a labour officer under subsection (5) of section 27 shall serve a copy of his appeal to the Commissioner on the labour officer who made the order.

4. Deductions from terminal benefits

Subject to the provisions of subsection (3) of section 80 of the Act, and employer may upon the termination of the employment of any employee, recover any outstanding loan made to such employee from the terminal benefits, if any, due to that employee:

Provided that any amount so recovered shall not exceed 80 percent of the total amount due to such employee as terminal benefits.

EMPLOYMENT (DECLARATION OF GOVERNMENT INDUSTRIAL CLASS WORKERS AS EMPLOYEES) REGULATIONS

(under section 154)

(3rd October, 1997)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Declaration of Government Industrial Class Workers as employees

S.I. 87, 1997.

1. Citation

These Regulations may be cited as the Employment (Declaration of Government Industrial Class Workers as Employees) Regulations.

2. Declaration of Government Industrial Class Workers as employees

Government Industrial Class Workers are hereby declared as employees for the purposes of the Employment Act.