

Ref. 4 p 7

LEGAL NOTICE No. 120

THE REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT ACT

(Cap. 229)

IN EXERCISE of the powers conferred by section 11 of the Regulation of Wages and Conditions of Employment Act, the Minister for Labour makes the following Order:—

THE REGULATION OF WAGES (GENERAL) ORDER, 1982

1. This Order may be cited as the Regulation of Wages (General) Order, 1982, and shall be deemed to have come into operation on the 1st August, 1982.

Citation and commencement.

2. (1) This Order shall not apply to workers in the agricultural industry.

Application. Applesto

(2) The provisions of this Order relating to the basic minimum wage rates and conditions of employment shall apply to all employees including employees to whom other wages regulation Orders made under the Act apply if the minimum wage rates and conditions of employment set forth in such Orders are less favourable than those set forth in this Order.

① All employees - except agricultural workers - even if other wage regulation orders have been made.

3. (1) No person to whom this Order applies shall be employed at a basic minimum wage less favourable to him than that which is applicable to him under the First or Second Schedule, having regard to his age and to the circumstances of his employment by reference to columns 2, 3 and 4 thereof and to the nature of his occupation as listed in column 1 thereof to be determined by reference to the definitions contained in the Third Schedule.

Basic minimum wage.

(2) An employer shall ascertain the basic minimum wage to which any person employed by him is entitled under the provisions of this Order by reference to the particulars of his birth or apparent age.

4. An employee on a monthly contract who is not provided with free housing accommodation by his employer shall, in addition to the basic minimum wage prescribed in the First or Second Schedule, be paid housing allowance equal to fifteen per cent of his basic minimum wage.

Housing allowance.

5. (1) The normal working week shall consist of not more than fifty two hours of work spread over six days of the week.

Hours of work.

(2) Notwithstanding the provisions of subparagraph (1) the normal working week of a person employed on night work shall consist of not more than sixty hours of work per week.

(3) No person under the age of sixteen years shall be required to work for more than six hours in any day.

6. (1) Overtime shall be payable at the following rates—

Overtime.

- (a) for time worked in excess of the normal number of hours per week at one and one-half times the normal hourly rate;
(b) for time worked on the employee's normal rest day or public holiday at twice the normal hourly rate.

(2) For the purpose of calculating payments for overtime in accordance with subparagraph (1) the basic hourly rate shall, where the employees are not employed by the hour, be deemed to be not less than one two-hundred-and-twenty-fifth of the employee's basic minimum monthly wage.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph and paragraph 5, overtime plus time worked in normal hours per week shall not exceed the following number of hours in any period of two consecutive weeks—

(a) one hundred and forty-four hours for employees engaged in night work;

(b) one hundred and sixteen hours for all other adult employees.

7. Every employee shall be entitled to one whole rest day in each week.

Provided that—

(i) an employer and his employee may, by mutual consent, agree to the deferment of the employee's rest day and the rest day so deferred may be taken by the employee on a subsequent day or may, subject to a maximum accumulation of fourteen such rest days at any one time, be accumulated and taken as leave with full pay in addition to the employee's entitlement to annual leave with full pay under paragraph 9;

(ii) the weekly rest day of a person under the age of sixteen years shall not be so deferred.

8. The days specified in the Fourth Schedule shall be holidays with full pay.

9. (1) Every employee be entitled—

(a) after every twelve consecutive months of service with his employer to not less than twenty-one working days leave with full pay;

(b) where employment is terminated after the completion of two or more consecutive months of service during any twelve months' leave earning period, to not less than one and three-quarter days of leave with full pay in respect of each completed month of service in such period, to be taken consecutively.

(2) The leave referred to in subparagraph (1) shall be additional to all public holidays, weekly rest days and any sick leave, whether fixed by law or agreement, in respect of which an employee is not required to work.

(3) For the purposes of this paragraph "full pay" includes wages and salary at the basic minimum rate excluding any deductions from wages made by virtue of section 6 of the Employment Act.

10. Where an employee is required to work for a period of not less than one month in an occupation or grade for which the basic minimum wage prescribed under paragraph 3 is higher than the basic wage normally earned by the employee, he shall be paid an acting allowance at a rate not less than the difference between that higher basic minimum wage and his basic wage.

Weekly rest

each week

Provided that—

(i) an employer and his employee may, by mutual consent, agree to the deferment of the employee's rest day and the rest day so deferred may be taken by the employee on a subsequent day or may, subject to a maximum accumulation of fourteen such rest days at any one time, be accumulated and taken as leave with full pay in addition to the employee's entitlement to annual leave with full pay under paragraph 9;

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Holidays with full pay.

Annual leave.

Acting allowance.

11. (1) An employee desiring to take leave on compassionate grounds shall, by prior arrangement with the employer, be granted such leave up to his earned leave entitlement under paragraph 9 and the leave taken shall be subsequently set off against his annual leave. Compassionate leave.

(2) An employee may, in addition to the leave provided for in subparagraph (1), be granted five days' compassionate leave without pay in any one year.

12. After two months' continuous service with an employer, an employee shall be entitled to a maximum of thirty days' sick leave with full pay and thereafter to a maximum of fifteen days' sick leave with half pay in each period of twelve months' consecutive service: Sick leave.

Provided that—

(i) an employee shall not be entitled to such payment unless he produces to the employer a certificate of incapacity covering the period of sick leave claimed signed by a medical practitioner in charge of a dispensary or medical aid centre, or by a person authorized by him in writing and acting on his behalf;

(ii) an employee shall not be eligible for sick leave under this paragraph in respect of any incapacity due to gross neglect on his part.

13. A woman employee shall be entitled to two months' maternity leave with full pay: Maternity leave.

Provided that—

(i) a woman who has taken two months' maternity leave shall forfeit her annual leave in that year;

(ii) child-birth in respect of a woman employee shall not be deemed to be sickness as provided for under paragraph 12, and the employer shall not be required to meet medical costs incurred thereon;

(iii) a female employee who takes maternity leave shall not incur any loss of privileges during such period.

14. (1) An employee who is required to work away from his principal area of employment shall be paid subsistence and accommodation allowance as follows— Safari allowance.

	Sh.	cts.
(a) for any period of duty exceeding six hours but not exceeding twelve hours ... ..	5	00
(b) for any period of duty exceeding twelve hours but not including an overnight stop ... ..	10	00
(c) for any period of duty exceeding twelve hours and including an overnight stop in the Nairobi Area or Mombasa Municipality ... ..	25	00
(d) for any period of duty exceeding twelve hours and including an overnight stop elsewhere ... ..	20	00
(e) for an overnight stop when the employer provides accommodation ... ..	10	00

(2) The subsistence and accommodation allowance payable under subparagraph (1) shall cease to be payable to an employee after thirty consecutive days' absence on duty from his principal area of employment and thereafter the employee shall be treated as permanently transferred.

Redundancy

15. Where the employment of an employee is to be terminated on account of redundancy, the following principles shall apply—

- (a) the union of which the employee is a member or the Labour Officer of the area shall be informed of the reasons for and extent of, the intended redundancy;
- (b) the employer shall have due regard to seniority in time and to the skill, ability and reliability of each employee belonging to particular category of employees affected by the redundancy;
- (c) no employee shall be placed at a disadvantage for being or not being a member of a trade union;
- (d) any leave due to any employee who is declared redundant shall be paid for in cash;
- (e) a redundant employee shall be entitled to one month's notice or one month's wages in lieu of notice;
- (f) an employee declared redundant shall be entitled to severance pay at the rate of ten days' pay for each completed year of service.

Warning system

16. An employee whose work or conduct is unsatisfactory or who otherwise commits a misconduct which, in the opinion of the employer, does not warrant instant dismissal shall be warned in writing and the following procedure shall apply—

- (a) the first and second warnings shall be entered in the employee's employment record and the shop steward of his union shall be informed accordingly;
- (b) the second warning shall be copied to the branch secretary of his union;
- (c) if an employee who has already received two warnings commits a third misconduct he shall be liable to summary dismissal;

Provided that where an employee completes two hundred and ninety-two working days from the date of the second warning without further misconduct any warning entered in his employment record shall be cancelled.

Termination of employment

17. It shall be a condition of every contract of employment that the contract shall be terminable by not less than one month's notice to be given by either party in writing, or otherwise by the payment, by either party in lieu of notice, of not less than one month's wages; but nothing shall prejudice the right of either party to terminate a contract summarily for lawful cause.

Sub Leg

18. The Regulation of Wages (General) Order is revoked.

"junior clerk" carries out miscellaneous clerical tasks as required; his general duties may include routine filing of correspondence and documents such as pay bills, labels, delivery notes, etc., and he performs routine accounts duties such as listing, customer invoicing, including general accounting and clerical work requiring supervision;

"laundry operator" is engaged in the simple mechanical operation of a washing machine and the loading and unloading of a washing machine, ironing of articles by hand or pressing them by the operation of laundry press and removal of stains from articles;

"line cutter" means an employee who is wholly or partly engaged in clearing of a passage for a tractor in the forest, and clears undergrowth in the logging area;

"logger" carries out logging tasks including the felling of trees;

"machine attendant" sets up and operates automatic or semi-automatic machines used for cutting, punching, pressing or moulding materials (such as wood, textiles, rubber or plastic), or spinning, weaving and blending textile fibres; he feeds machines with material to be processed, starts machines and observes proper flow of material, examines products and stops machines when products do not meet certain standards and adjusts and cleans machines to ensure that products meet the standards set for mass production;

"machine tool operator" operates various types of automatic power-driven, metal cutting, boring and grinding machines which have been set up for repetitive work, fastens metal in chuck, jig or other fixture on machine, manipulates hand wheels to feed tool to metal and observes progress of cutting and stops machines when required and when cutting is completed and (if machine is not fully automatic) checks accuracy of work with measuring instruments and cleans and oils the machine he operates;

"machinist assistant" means an employee wholly or partly engaged in any of the processes of button and button-hole sewing by hand or machine, simple hand-stitching, pressing or knife-cutting;

"machinist (made to measure)" means an employee wholly or partly engaged in the making, by hand or machine, of complete garments of wearing apparel made to measure from materials already cut out to varying specifications and who has completed one year as a learner machinist;

"maintenance artisan" means an employee with a Trade Test Certificate issued by the Ministry of Labour in a mechanical, electrical or other artisan trade to work exclusively on the maintenance, repair, assembly or making of plant or equipment;

"mass production machinist" means an employee who is wholly or partly engaged in the mass production by hand or machine of any type of garment, shirt or wearing apparel or portion of such garment, or altering or repairing second-hand clothing, and has completed a year as a learner machinist;

"miner" extracts mineral ores from an underground or surface mine, hews minerals by hand or pneumatic pick, drills holes in work-faces by hand or pneumatic drill, inserts tamps and fires explosives;

"ovenman" is engaged in controlling and operating an oven or ovens in connection with bread, cake or biscuit production, including setting, draining, firing, etc., but excludes maintenance or repair of an oven;

"pattern designer or draughtsman" means an employee engaged in the work of designing, draughting and the cutting of patterns in the tailoring trade;

"plywood machine operator" operates machines to lay face and core veneer sheets in sequence and spread glue on core sheets to form plywood panels or operates a hot-plate press to bind glue-coated veneer together to form plywood;

"printing machine operator" carries out typesetting and operation of printing machines, examines proof prints and checks for errors and makes corrections, arranges pages and locks in chase, sets and operates a small cylindrical or flatbed letterpress to print required number of copies and may print such items as letterheads, address cards and hand-bills;

"salesman driver" means an employee whose duties in addition to promotion sales of his employer's merchandise on wholesale or retail basis, is in charge of a motor vehicle carrying such merchandise;

"saw doctor" is wholly or mainly engaged in sharpening of saws in the timber and sawmilling industry;

"sawmill dresser" means an employee who is wholly or partly engaged in the dressing of wounds;

"sawmill sawyer" sets and operates one or more sawing machines, a clipper saw, a splicer and saws logs into planks or planks into boards of lesser thickness or lengths;

"shoe cutter (hand)" cuts out upper parts of footwear by hand, selects the working pattern of the part and arranges it on material;

"shoe uppers preparer or chapplis maker" prepares and assembles the upper parts of footwear for sewing, thins down edges of shoe upper parts by cutting or shaving them in a machine and fixes the parts together with adhesive, trims edges and turns them in where required;

"single hand baker, charge-hand baker or confectioner" is engaged in a bakery or allied undertaking to produce all types of goods classified as bread, buns, cakes or biscuits without skilled assistance or supervision;

"stone cutter" sets and operates machines which saw, plane, grind and polish stone such as granite or marble from rough block into slabs or smaller blocks;

"table hand baker or confectioner" is engaged in the production of bread or cakes, biscuits, etc., in a bakery or allied undertaking without fully automatic plant, including moulding, sealing, etc., by hand and assisting the ovenman, mixer or decorator under supervision from a foreman or manager;

"tailor" means an employee who has been employed as a learner tailor for not less than four years and whose professional skills correspond to at least the level required for a Trade Test Grade III;



## FIRST SCHEDULE—(Contd.)

COLUMN 1 Occupation	COLUMN 2 Nairobi Area and Mombasa Municipality			COLUMN 3 Municipal & Urban Councils and Townships of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru, Thika, Kisi, Kericho, Masaku, Nanyuki, Nyahururu, Malindi and Naivasha			COLUMN 4 All other Areas		
	Monthly Contract per Month	Daily Rate	Hourly Rate	Monthly Contract per Month	Daily Rate	Hourly Rate	Monthly Contract per Month	Daily Rate	Hourly Rate
	Sh.	Sh. cts.	Sh. cts.	Sh.	Sh. cts.	Sh. cts.	Sh.	Sh. cts.	Sh. cts.
5. Machinist (made to measure), shoe uppers preparer, chaplis maker, vehicle service worker (petrol and service stations), bakery plant hand, laundry operator, junior clerk, wheel tractor driver (light) ..	622	27 50	3 95	582	25 75	3 70	476	21 05	3 00
6. Plywood machine operator, sawmill dresser, garment and dress cutter, machine tool operator, printing machine operator, bakery machine operator, dough-maker, table hand baker or confectioner, ungraded artisan, copy typist, driver (cars and light vans) ..	648	28 70	4 10	598	26 45	3 80	494	21 85	3 15



FIRST SCHEDULE (Contd.)

COLUMN 1 Occupation	COLUMN 2 Nairobi Area and Mombasa Municipality			COLUMN 3 Municipal & Urban Councils and Townships of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru, Thika, Kisii, Kericho, Masaku, Nanyuki, Nyahururu, Malindi and Naivasha			COLUMN 4 All other Areas		
	Monthly Contract per Month Sh.	Daily Rate Sh. cts.	Hourly Rate Sh. cts.	Monthly Contract per Month Sh.	Daily Rate Sh. cts.	Hourly Rate Sh. cts.	Monthly Contract per Month Sh.	Daily Rate Sh. cts.	Hourly Rate Sh. cts.
7. Pattern designer (draughtsman), garment and dress cutter, single hand baker or confectioner, ovenman, charge-hand baker, general clerk, telephone operator, receptionist, store-keeper	741	32 80	4 70	676	29 90	4 30	576	25 50	3 65
8. Tailor, maintenance artisan (medium sized vehicles) . . .	816	36 10	5 15	750	33 20	4 75	668	29 55	4 25
9. Dyer, crawler tractor driver, maintenance artisan grade II . . .	901	39 85	5 70	840	37 15	5 30	758	33 55	4 80

## FIRST SCHEDULE (Contd.)

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	Monthly Contract per Month	Daily Rate	Hourly Rate	Monthly Contract per Month	Daily Rate	Hourly Rate	Monthly Contract per Month	Daily Rate	Hourly Rate
10. Saw doctor, caretaker (buildings) .. .. .	996	44 05	6 30	931	41 20	5 90	867	38 35	5 50
11. Cashier, driver (heavy commercial vehicles), sales-man driver, maintenance artisan grade I .. .. .	1,085	48 00	6 85	1,020	45 10	6 35	957	42 35	6 05



## THIRD SCHEDULE

(Para. 3)

## DEFINITIONS

"bakery machine operator" means an employee who has completed his service as a bakery assistant and is fully responsible for the operation of a machine used in bread, cake or biscuit production or handling, including regulation and adjustment of the machine's controls and cleaning of its working parts;

"bakery plant hand" means an employee who has completed his service as bakery assistant and is responsible for the operation of a machine used in bread, cake or biscuit production or handling;

"bakery worker or bakery assistant" means an employee working in a bakery or allied undertaking who performs such tasks as slicing, wrapping, storing, handling, cleaning and greasing, or is engaged in assisting others in the production processes for the purpose of learning bakery or allied work for a period of two years;

"cashier" means an employee who is employed in keeping records of cash transactions, receiving incoming cash, issuing change, cashing cheques, and preparing cash for bank deposit; and his additional duties may include the verifying of cash held against records which are subject to audit and salary payments;

"cook" means an employee whose main task is to prepare and cook meals in accordance with instructions given by the persons to whom he is responsible;

"crawler tractor driver" operates a steel wheeled tractor;

"doughmaker" means an employee who is engaged for more than half his working shift in the mixing of doughs for bread production by hand or machine;

"driver (cars and light vans)" means a person employed to drive a light van or a car not exceeding 2 tons tare weight and is in possession of a driving licence for the class of vehicle concerned;

"driver (medium-sized vehicles)" means a person employed to drive a vehicle over 2 tons tare weight or heavy commercial vehicle of less than 8 tons capacity with or without trailer, in both cases including handling to and from tailboard and is in possession of a driving licence for the class of vehicle concerned.

"dry cleaning operator" is mainly or partly engaged in the simple mechanical operation of a dry cleaning machine, ironing of dry cleaned articles by hand or pressing them by the operation of a dry cleaning press;

"dyer" is engaged in the work of dyeing and is capable of rejecting and using dyestuffs and able to match required shades on all textiles;

"garment and dress cutter" makes patterns and cuts materials according to pattern outlines, for conversion into finished articles, garments or wearing apparel;

"tailor's assistant" means an employee engaged in the tailoring trade for all or any of the following ancillary works, i.e. handsewing of buttons, button-holes, lining, straps, padding, trouser flies, waistbands, hems; pressing, darning and mending;

"turnboy" carries out handling of goods or packed commodities including loading and unloading of goods on vehicles; and performs other allied work on vehicles under instructions;

"ungraded artisan" carries out simple repairs and maintenance work with a reasonable proficiency in a particular trade or trades although not in possession of any Trade Test Certificate;

"vehicle service worker" means an employee who is mainly or partly engaged in lubricating vehicles, including operating the necessary equipment, repairing tyres and tubes, charging batteries and operation of petrol pumps;

"wheel tractor driver" operates a wheeled tractor, with or without attachments, for hauling or skidding materials, logs, timber, or equipment on work site or to transportation point.

#### FOURTH SCHEDULE

(Para. 8)

#### HOLIDAYS WITH FULL PAY

New Year's Day.

Good Friday.

Easter Monday.

Labour Day.

Madaraka Day.

Idd-ul-Fitr Day.

Kenyatta Day.

Independence Day.

Christmas Day.

Boxing Day.

Made on the 12th August, 1982.

T. K. B. MBATHI,  
*Minister for Labour.*