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LABOUR INSTITUTIONS ACT

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SCHEDULE – PROVISIONS RELATING TO THE CONDUCT OF BUSINESS
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NO. 12 OF 2007

LABOUR INSTITUTIONS ACT

[Date of assent: 22nd October, 2007.]

[Date of commencement: 2nd June, 2008.]

An Act of Parliament to establish labour institutions, to provide for their functions, powers and duties and to provide for other matters connected thereto

[L.N. 62/2008, Act No. 20 of 2011, Act No. 12 of 2012.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Labour Institutions Act, 2007.

2. Commencement

This Act shall come into force on 2nd June, 2008.

3. Interpretation

In this Act, unless the context otherwise requires—

“**authorised officer**” means a labour officer, employment officer or medical officer appointed under this Act;

“**Board**” means the National Labour Board established under section 5;

“**collective agreement**” means a registered agreement concerning any terms and conditions of employment made in writing between a trade union and an employer, group of employers or employer’s organisation;

“**Commissioner for Labour**” means the Commissioner for Labour appointed under section 30;

“**Committee of Inquiry**” means a Committee of Inquiry appointed under section 28;

“**contract of service**” means an agreement, whether oral or in writing, and whether express or implied, to employ or to serve as an employee for a period of time, and includes a contract of apprenticeship and indentured learnership but does not include a foreign contract of service made within Kenya and to be performed in full or in part outside Kenya, and any contract for service with a foreign State, except a contract for service entered into with, by or on behalf of the Government;

“**Director**” means the Director of Employment appointed under section 30;

“**employee**” means a person who has been employed for wages or a salary and includes an apprentice or indentured learner;

“**employer**” means any person, including the Government, who employs or has employed an employee and where appropriate includes—

(a) an heir, successor, assignee or transferor of an employer; or

- (b) an agent, director, or any person authorised to represent an employer;

“employers’ organisation” means any number of employers associated together for the purpose whether by itself or with other purposes, of regulating relations between employers and their employees or the trade unions representing those employees;

“employment agency” means—

- (a) any person, company, institution, agency or other organisation which acts as an intermediary for the purpose of procuring employment for a worker, but does not include newspapers or other publications unless they are published wholly or mainly for the purpose of acting as intermediaries between the employer and the worker; or
- (b) employment agencies not conducted with a view to profit, that is to say, the placing of services of any company, institution, agency or other organisation which, though not conducted with a view to deriving any pecuniary or other material advantage, levies from either employer or worker for the above services an entrance fee, a periodical contribution or any other charge;

“employment record” means any record required to be kept by an employer;

“federation” means a registered federation of trade unions or employers’ organisations;

“Industrial Court” means the Industrial Court established under sections 11;

“labour law” means any Act dealing with labour matters;

“medical officer” means—

- (a) a medical practitioner who is registered and licensed under the Medical Practitioners and Dentists Act (Cap. 253), or
- (b) a medical officer of a local authority appointed under the Public Health Act (Cap. 242);

“Minister” means the minister for the time being responsible for Labour matters;

“Principal Judge” means the Principal Judge of the Industrial Court appointed under section 11;

“redundancy” means the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous as a result of practices commonly known as abolition of office, job or occupation;

“Registrar of the Industrial Court” means the Registrar of the Industrial Court appointed under section 19;

“Registrar of Trade Unions” means a Registrar of trade unions and includes a Deputy Registrar or an Assistant Registrar of Trade Unions appointed under section 31;

“sector” means an industry or a service or part of an industry or a service;

“trade union” means an association of employees whose principal purpose is to regulate relations between employees and employers, including an employer’s organisation.

4. Application

(1) This Act shall not apply to—

- (a) the armed forces or the reserve as respectively defined in the Armed Forces Act (Cap. 199);
- (b) the National Youth Service.

(2) The Minister may, on the recommendation of the Board and after taking account of all conventions and other international instruments ratified by Kenya, by order, exclude from the application of all or part of this Act limited categories of employed persons in respect of whom special problems of a substantial nature arise.

(3) The Minister may, after consultation with the Board, by order exclude from the application of all or part of this Act, categories of employed persons whose terms and conditions of employment are governed by special arrangements, provided those arrangements afford protection that is equivalent to or better than that part of the Act from which those categories are being excluded.

PART II – THE NATIONAL LABOUR BOARD

5. Establishment of the Board

(1) There is established the National Labour Board.

6. Composition of the Board

(1) The Board shall consist of the following members appointed by the Minister, who shall be Kenyan citizens—

- (a) a chairperson who has experience and expertise in labour relation matters;
- (b) the General Secretary of the most representative federation of trade unions;
- (c) the Chief Executive of the most representative federation of employers’ organisation;
- (d) two persons appointed from nominees of the most representative federation of employers’ organisation dealing with labour matters;
- (e) two persons appointed from nominees of the most representative federation of trade unions;
- (f) not more than two other independent members;
- (g) the Director of Employment;

- (h) the Director of Micro and Small Enterprise Development;
 - (i) the Director of Occupational Safety and Health Services;
 - (j) the Director of Industrial Training;
 - (k) the Registrar of the Industrial Court; and
 - (l) the Registrar of Trade Unions.
- (2) The provisions of the Schedule shall apply with respect to the Board.
- (3) The Minister may on the advice of the Board, amend the Schedule.

7. Functions of the Board

- (1) The functions of the Board are to advise the Minister on—
- (a) all matters concerning employment and labour;
 - (b) legislation affecting employment and labour;
 - (c) any matter relating to labour relations and trade unionism;
 - (d) any issue arising from the International Labour Organisation and the International Labour Organisation Conventions;
 - (e) codes of good practice;
 - (f) any issue raised by an international or regional association of states of which Kenya is a member;
 - (g) systems of labour inspection and the administration of the labour laws;
 - (h) any aspect of public employment services, vocational guidance, vocational training and the employment of persons with disabilities;
 - (i) the formation and development of policies designed to promote the granting of paid educational leave to workers for the purpose of training, trade union social and civic education and trade union education;
 - (j) the general state of employment, training and manpower development in the country;
 - (k) productivity measurement and improvement;
 - (l) the appointment of wages councils;
 - (m) the appointment of members of the Industrial Court;
 - (n) the setting of compensation benefits in accordance with the provisions of the laws relating to work injury benefits;
 - (o) the registration, suspension and deregistration of trade unions and employers organisations; and
 - (p) any other matter related to any of the Board's functions.
- (2) The Minister shall, in consultation with the Board advise—
- (a) the Government on the issuing of immigration entry permits and work permits to non-citizens; and
 - (b) the Chief Justice on the assignment of judges to the Industrial Court and the Rules of the Industrial Court.

(3) In the performance of its functions, the Board may conduct—

- (a) any investigation as it may consider necessary; and
- (b) research into labour, economic and social policy.

(4) The Board may co-opt any person to participate in its deliberations, but a person so co-opted shall have no right to vote at any meeting of the Board.

(5) The Board may determine its own procedure for the performance of its functions.

(6) The Secretary to the Board shall brief the Board at least once in every three months on the following issues—

- (a) the general state of the economy according to the Government;
- (b) labour market information and employment trends;
- (c) reported strikes and lockouts;
- (d) inflationary trends and indices;
- (e) the number of complaints and disputes lodged by employees against employers and by employers against employees under the law relating to labour relations and progress in the settlement of such complaints or disputes;
- (f) labour inspection services; and
- (g) any other issues determined by the Minister or the Board.

8. Committees of the Board

(1) The Board shall, in consultation with the Minister, establish the following committees—

- (a) Work Permits Committee;
- (b) National Manpower Development Committee;
- (c) Trade Disputes Committee;
- (d) Productivity Committee; and
- (e) such other committees or panels as are necessary for the performance of the Board's functions.

(2) The Board may, with the approval of the Minister, co-opt into the membership of the committees established under this section other persons whose knowledge and expertise are necessary for the functions of the committees or the Board.

9. Remuneration of members

There shall be paid to the Chairman and members of the Board such remuneration, fees or allowances for expenses as the Minister in consultation with the Minister in charge of Finance, may determine.

10. Secretary and officers of Board

The Commissioner for Labour—

- (a) shall be the secretary to the Board; and

- (b) may appoint such other officers as are necessary to assist the Board.

PART III – THE INDUSTRIAL COURT

11.-27. Deleted by Act No. 20 of 2011, s. 31.

PART IV – COMMITTEE OF INQUIRY

28. Appointment of Committee of Inquiry

(1) The Minister, may by notice in the *Gazette*, appoint a Committee of Inquiry to inquire into any matter which appears to the Minister to be connected with or relevant to any trade dispute or to trade disputes in general, or to trade disputes of any type or class, whether or not any such dispute has been reported to the Minister under this Act.

(2) Where the Minister has referred any matter to the Committee of Inquiry under subsection (1), the Minister may refer to the Committee of Inquiry any other matter which in his opinion ought to be so referred.

(3) A Committee of Inquiry shall consist of three or more persons including a chairman, as the Minister deems fit to appoint and the Minister may appoint a public officer to be the secretary of the Committee of Inquiry.

(4) A Committee of Inquiry consisting of three or more persons may act notwithstanding any vacancy in their number.

29. Report of Committee of Inquiry

(1) A Committee of Inquiry shall inquire into and report on any matter referred to it under section 28 and shall submit a report on the matter to the Minister.

(2) Subject to section 24, the Minister may order the publication of any report made by a Committee of Inquiry in whole or in part and in such manner and at such time as the Minister deems fit.

PART V – LABOUR ADMINISTRATION AND INSPECTION

30. Appointment of Commissioner for Labour, Director of Employment and other officers

(1) Subject to the laws governing the public service, there shall be appointed—

- (a) a Commissioner for Labour;
- (b) a Director of Employment; and
- (c) such other officers as may be necessary for purposes of administration of laws relating to labour and employment.

(2) The Minister may designate officers appointed under subsection (1)(c)—

- (a) labour officers;
- (b) employment officers; or
- (c) medical officers.

(3) The persons appointed under subsections (1) and (2) shall be authorised officers for purposes of this Act.

31. Appointment of Registrar, deputy registrar and assistant registrars of trade unions

(1) The Minister shall appoint a Registrar of Trade Unions who shall be responsible for the registration and regulation of trade unions, employers' organisations and federations.

(2) The Minister may appoint a deputy registrar of trade unions, assistant registrars of trade unions and such other officers as may be required for the purposes of this Act.

(3) The Registrar of Trade Unions shall, in the exercise of his powers relating to the registration and regulation of trade unions, act on the advice of the Board.

32. Delegation

(1) The Commissioner for Labour may, in writing, delegate to any labour officer any of the Commissioner's powers, functions and duties.

(2) The Director of Employment may in writing, delegate to any employment officer any of the Director's powers, functions and duties.

(3) The Registrar of Trade Unions may, in writing delegate to the Deputy Registrar or Assistant Registrars any of the Registrar's powers, functions and duties.

(4) The Commissioner for Labour, the Director of Employment, and the Registrar of Trade Unions, as the case may be, may—

- (a) attach conditions to a delegation and may amend or revoke a delegation at any time; and
- (b) vary or set aside any decision made by a person acting on delegation under subsections (1), (2) and (3).

33. Certificate of authority for authorised officer

(1) Every authorised officer shall be issued with a certificate of authority by—

- (a) the Commissioner for Labour, in the case of a labour officer;
- (b) the Director of Employment, in the case of an employment officer; and
- (c) the Director of Medical Services, in the case of a medical officer.

(2) When performing duties under this Act, an authorised officer, if reasonably requested to do so by any person affected, shall produce his certificate of appointment to that person.

34. Powers of entry to premises by authorised officer

(1) An authorised officer may, either alone or in the presence of another person, enter any premises or place where persons are, or may be, employed for the purpose of performing his duties as specified under this Act or any other labour law.

(2) An authorised officer shall, on the occasion of an inspection or visit authorised by or under the provisions of this Act, notify the employer or his representative of his presence for that purpose at the first practicable opportunity, unless it is considered by the authorised officer concerned that the notification may be prejudicial to the performance of his duties or otherwise likely to defeat the object thereof.

35. Powers of labour officer

(1) A labour officer may, for the purpose of monitoring or enforcing compliance with any labour law—

- (a) require the production of wage sheets or other employment records kept by an employer, and records of payments made to outworkers by persons giving out work, and any other such records as are required by any labour law or wages order to be kept by employers, and to inspect and examine those sheets or records and copy any material part thereof;
- (b) require any person giving out work and any out-worker to give any information which is in that person's power to give with respect to the names and addresses of the persons to whom the work is given or from whom the work is received and with respect to the payments to be made for the work;
- (c) inspect and copy any material part of any list of outworkers kept by an employer or other person giving out work to outworkers; and
- (d) examine, either alone or in the presence of any other person, with respect to any matter under Part VI, any person whom the labour officer has reasonable cause to believe to be or to have been an employee to whom a wages order applies or applied or the employer of any such person or a servant or agent of the employer employed in the employer's business, and to require every such person to be so examined and to sign a declaration of the truth of the matters in respect of which he is so examined:

Provided that no person shall be required to give any information that incriminates him;

- (e) at all reasonable times, enter, inspect and examine any land or building, other structure, whether permanent or temporary on or in which the labour officer has reasonable ground to believe that an employee is residing or is employed, and may make such inquiry, inspection or examination as may be necessary to enable the labour officer to determine whether the provisions of this Act or any other labour law are being complied with;
- (f) at all reasonable times, require an employer to produce an employee employed by him and a document relating to the employment of any employee, and may require an employee to produce any document relating to the employee's employment;
- (g) examine and make copies of a register, record, book or other document relating or appearing to relate to employment, and seize any register, record, book or other document which he has reasonable ground to believe to be or to contain evidence of an offence under this Act or any other labour law;

- (h) enter, inspect and examine all latrines and other sanitary arrangement or water supply;
- (i) inspect and examine all food provided or appearing to be provided for the employees, and take samples thereof in duplicate, in the presence of the employer or the employers representative which samples shall be sealed and one sample so sealed shall be left with the employer;
- (j) order that all buildings and premises where employees are housed or employed be kept in a clean and sanitary condition;
- (k) without prejudice to the powers of the Attorney-General, institute proceedings in respect of any contravention of any provision of this Act or for any offence committed by an employer under this Act or any other labour law;
- (l) institute an appeal on behalf of any employee in any civil proceedings by an employee against his employer in respect of any matter, thing or cause of action arising out of or in the course of the employment, whether such civil proceedings are contemplated or instituted by the employee himself or are civil proceedings ordered by a magistrate;
- (m) without prejudice to the institution of proceedings in respect of any offence, to take into custody and return to his parent or guardian, or other person whom he is satisfied has for the time being the charge of or control over him, any child whom he reasonably suspects to be employed in contravention of any of the provisions of the law relating to employment.

(2) Where a labour officer seizes a register, record, book or other document in the performance of the labour officer's duties under subsection (1)(g), the labour officer shall give to the employer or his representative a receipt in respect of such register, record, book or other document in the prescribed form.

36. Powers of employment officer

(1) An authorised officer may, for the purposes of collecting labour market data, exercise the powers conferred upon a labour officer by section 25(1)(a) to (c), (f) and (g).

(2) Where an employment officer seizes a register, record, book or other document in the performance of the employment officers' duties, the employment officer shall give to the employer or his representative a receipt in respect of such register, record, book or other document in the prescribed form.

37. Powers of medical officer

A medical officer may, for the purposes of this Act, exercise the powers conferred upon a labour officer by section 35(1)(e) to (i) inclusive and may, in addition—

- (a) order an employee who, in the opinion of the medical officer, is sick and for whom the conditions prevailing at the place of employment are not conducive to the rapid recovery of his health or strength, to return to the place of work or to proceed to hospital, and in that case

the employer shall at the earliest opportunity and at his own expense send the employee to the place of work or to a hospital, as the case may be;

- (b) condemn any food provided for employees which, in the opinion of the medical officer, is unfit for human consumption, and all food so condemned shall be destroyed forthwith in the presence of the medical officer;
- (c) order at the expense of the employer, such variety of food for an employee as he may deem necessary:

Provided that the cost of the food supplied under any such order shall not exceed the normal cost of rations ordinarily supplied by employers to employees in that district at the time;

- (d) condemn any building or other structure whether permanent or temporary in which an employee is residing or is employed, if in the opinion of the medical officer it is unfit by reason of its construction, situation or condition for the purpose to which it is put, whereupon it shall not be used for that purpose until a medical officer has subsequently certified that it may be used for that purpose;
- (e) order the employer to supply an employee working under a written contract of service with one or more blankets or with clothing, and in that case, the reasonable cost thereof shall be paid by the employee and may be deducted from the remuneration for the employee, and until the cost has been paid by, or deducted from, the wages of the employee, the blanket or blankets or clothing supplied shall remain the property of the employer; or
- (f) inspect all drugs and medicine provided for the use of employees.

38. Obstructing an authorised officer

A person who—

- (a) wilfully obstructs or hinders an authorised officer in the exercise of any power conferred by this Act or any rules made under this Act; or
- (b) neglects or fails to comply with any requirement or order made or given by an authorised officer in pursuance of any power conferred by this Act or any rules made under this Act,

commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to, for a term not exceeding six months or to both.

39. Offences by companies, etc.

(1) Where an offence under this Act is committed by a company, association or body of persons, corporate or incorporate or by a public body, and the offence is proved to have been committed with the consent or connivance, or to have been facilitated by any neglect on the part of any director, chairman, manager, secretary or other officer employed by such company or association or body of persons or public body, that director, chairman, manager, secretary or other officer shall be deemed to have committed an offence.

(2) In any proceedings under this Act, it shall be sufficient in the charge or information to allege the nature of any employment to which the charge relates

and to state the name of the ostensible employer and the burden of proving that the employment is not such as alleged or that the employers specified in the charge or information is not the actual employer shall lie upon the person or public body alleging that fact.

40. Evidence

Where an entry is required by this Act to be made in a register or written record, the entry made by an employee or on his behalf shall be admissible as evidence of the fact therein stated.

41. Confidentiality

(1) Any authorised officer or other person who is or has been engaged in the administration of this Act, who discloses, except for the purposes of the exercise of his functions or when required to do so by a court or under any written law, any information acquired by him in the exercise or purported exercise of his functions under this Act to any other person commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) Subsection (1) shall not apply to a disclosure of any information made—

- (a) for the purpose of any criminal proceedings;
- (b) for the purpose of the proper administration of this Act; or
- (c) in accordance with any written law.

42. Annual report

(1) The Commissioner for Labour and the Director of Employment shall, not later than the thirtieth of April in each year, prepare and publish an annual report of the activities undertaken in their respective departments.

(2) Without limiting what may be included in the report of the Commissioner for Labour, the report shall cover the following matters—

- (a) development with regard to relevant laws and regulations;
- (b) the staff under the jurisdiction of the Commissioner for Labour;
- (c) statistics of places of work to be inspected and number of workers employed therein;
- (d) findings in the course of inspection;
- (e) statistics of industrial accidents and occupational diseases;
- (f) statistics of persons with disabilities in work places and any aids being provided by the employer;
- (g) statistics of proceedings brought before the Industrial Court or other courts and their disposal; and
- (h) statistics of stoppages of work in various sectors of the industry.

(3) Without limiting what may be included in the report of the Director, the report shall cover the following issues—

- (a) the staff under the jurisdiction of the Director;

- (b) productivity level; and
- (c) labour market information and employment trends.

PART VI – WAGES COUNCILS

43. Establishment of wages councils

(1) The Minister, shall establish—

- (a) a General Wages Council; and
- (b) an Agricultural Wages Council.

(2) The Minister may, after consultation with the Board, in addition to the General Wages Council established under subsection (1), establish a Sectoral Wages Council if the Minister is of the opinion that—

- (a) the remuneration and other conditions of employment of any category of employees in any sector is not adequately regulated by collective agreements; and
- (b) it may be expedient to set minimum wages and other conditions of employment in respect of employees in those sectors.

(3) The terms of reference of a wages council appointed under subsection (2) may be in respect of—

- (a) employees in a sector, or part of a sector, either nationally or within a specific area; or
- (b) one or more specified categories of employees, either nationally or within specific sectors or areas.

(4) The Minister shall establish a wages council by notice in the *Gazette*—

- (a) specifying the terms of reference of the wages council;
- (b) the names of persons appointed as members of the wages council;
- (c) stipulating the period in which the wages council is required to investigate and prepare a report for the Minister; and
- (d) inviting representations from interested parties.

(5) A wages council shall consist of the following members appointed by the Minister—

- (a) a chairperson;
- (b) not more than three members nominated by the Board representing trade unions;
- (c) not more than three members nominated by the Board representing employers; and
- (d) not more than three independent members.

(6) A member nominated under subsection (5)(a) and (d) shall have knowledge and experience in the determination of minimum terms and conditions of employment.

(7) The Agricultural Wages Council may recommend to the Minister, minimum remuneration and conditions of employment of employees employed—

- (a) in the agricultural sector; or
- (b) any sector in which no other wages order is applicable.

(8) A wages council may be appointed for a period of three years.

(9) The Minister may, after consultation with the Board, vary a notice issued under this section.

44. Functions of wages council

The functions of a wages council are to—

- (a) investigate the remuneration and conditions of employment in any sector;
- (b) invite and consider written and oral representations, in the prescribed manner, from interested parties; and
- (c) make recommendations to the Minister on minimum wage remuneration and conditions of employment.

(2) Recommendations made to the Minister in accordance with subsection (1)(c) may include recommendations on any matter that the Minister may include in a wages order.

(3) In the performance of its functions, a wages council may—

- (a) question any person who may be able to provide information relevant to the investigation;
- (b) in writing, require any person to provide any information, book, document or object relevant to the investigation; or
- (c) conduct public hearings.

(4) A person who without lawful excuse refuses to—

- (a) answer any question relevant to an investigation; or
- (b) furnish any information, book or document requested by a wages council,

commits an offence.

(5) In the performance of its functions under this section, a wages council shall take into consideration—

- (a) the needs of employees and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups;
- (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment and the need to encourage investment;
- (c) the ability of employers to carry on their business successfully;
- (d) the operation of small, medium and micro enterprises;

- (e) the cost of living;
- (f) the alleviation of poverty;
- (g) the minimum subsistence level;
- (h) the likely impact of any proposed conditions of employment on current employment or the creation of employment; and
- (i) any other relevant factor.

45. Publication of draft wages order

(1) Before publishing a wages order in the *Gazette*, the Minister shall publish a notice—

- (a) specifying that the Minister proposes to make a wages order;
- (b) specifying where copies of a draft of the wages order can be obtained; and
- (c) inviting comments within a reasonable period on the draft wages order, which may not be less than thirty days from the publication of the notice.

(2) The notice specified under subsection (1) shall be published—

- (a) in the *Gazette*; and
- (b) at least twice, with an interval of at least seven but not more than fourteen days between each publication, in a newspaper with a wide circulation.

(3) Any person may submit written comments on a draft wages order within the specified period.

(4) A person who objects to any part of a draft order shall set out—

- (a) the specific grounds of objection; and
- (b) the deletions, additions or modifications proposed.

(5) If no objections are received, the Minister may publish a wages order in accordance with section 46.

(6) If objections are received, the Minister—

- (a) shall refer the objections to the proposed wages order and any other comments submitted within the specified time period to the wages council for consideration; and
- (b) may request the Board to consider and advise on the objections.

46. Publication of wages order

(1) The Minister may, after considering any further report of the wages council and any further advice from the Board, publish a wages order.

(2) A wages order shall be—

- (a) published in the *Gazette*; and
- (b) be laid before the National Assembly within twenty-one days of publication.

(3) On publishing a wages order, the Minister shall also publish notices in a newspaper in accordance with section 45(2)(b) advising persons where a copy of the wages order can be obtained.

47. Contents of wages order

(1) A wages order shall—

- (a) set minimum rates of remuneration;
- (b) specify the matters in which an employer may make deductions from employee's wages and specify the maximum amount of deductions;
- (c) specify the maximum amount which may be deducted from an employee's wages in respect of rations supplied by the employer;
- (d) provide that an employer may only make a deduction in respect of rations supplied if authorised in writing by a labour officer;
- (e) regulate task based work and piece work;
- (f) regulate outwork, casual work and contract work;
- (g) set minimum standards of sanitation for employees who reside on the premises of their employer; and
- (h) regulate any other matter concerning remuneration or conditions of employment.

(3) A wages order may—

- (a) make different provisions for different classes of employees; and
- (b) contain provisions for the amendment or revocation of previous wages orders.

48. Wages Order to constitute minimum terms of conditions of employment

(1) Notwithstanding anything contained in this Act or any other written law—

- (a) the minimum rates of remuneration or conditions of employment established in a wages order constitute a term of employment of any employee to whom the wages order applies and may not be varied by agreement;
- (b) if the contract of an employee to whom a wages order applies provides for the payment of less remuneration than the statutory minimum remuneration, or does not provide for the conditions of employment prescribed in a wages regulation order or provides for less favourable conditions of employment, then the remuneration and conditions of employment established by the wages order shall be inserted in the contract in substitution for those terms.

(2) An employer who fails to—

- (a) pay to an employee to whom a wages regulation order applies at least the statutory minimum remuneration; or
- (b) provide an employee with the conditions of employment prescribed in the order,

commits an offence.

(3) If an employer is found guilty of an offence under subsection (2), the court may in addition to any other penalty order the employer to pay the employee the difference between the amount which ought to have been paid in terms of the wages order and the amount which was actually paid.

(4) Where proceedings are brought under subsection (2) in respect of an offence consisting of a failure to pay remuneration at the statutory minimum remuneration or to provide an employee with the conditions of employment prescribed in the order, then—

- (a) if an employer is found guilty of the offence, evidence may be given of any like contravention on the part of the employer in respect of any period during the twelve months immediately preceding the date of the offence; and
- (b) on proof of such contravention, the court may order the employer to pay the difference between the amount which ought to have been paid during that period to the employee by way of remuneration and the amount actually paid:

Provided that evidence shall not be given under paragraph (a) unless notice of intention to give such evidence has been served upon the employer together with the summons, warrant, information or complaint.

(5) The powers given by this section for the recovery of sums due from an employer to an employee shall be in addition to and not in derogation of any right to recover such sums by civil proceedings:

Provided that no person shall be liable to pay twice in respect of the same cause of action.

49. Power of officers to institute proceedings

Notwithstanding any provision of any written law, a labour officer may institute proceedings on behalf of and in the name of an employee for the recovery of a sum due from an employer to an employee by reason of the failure of the employer to—

- (a) pay to the employee the statutory minimum remuneration; or
- (b) provide an employee with the conditions of employment prescribed in the order.

50. Meaning of remuneration

(1) Any reference in this Part to remuneration shall be construed as a reference to the amount paid or to be paid in cash to the employee by his employer clear of any deductions, except any deduction lawfully made—

- (a) for the purpose of a contribution to any provident fund or superannuation scheme;
- (b) in respect of rations supplied by an employer which the employer is permitted to make under a wages order;
- (c) under any provision of any other written law for the time being in force which provides for or permits deductions to be made from an employee's wages by the employer; or
- (d) at the request in writing of the employee, for any purpose in which the employer has no direct or indirect beneficial interest.

(2) Any reference in this Part to the “statutory minimum remuneration” means the minimum remuneration prescribed in a wages order.

51. Employee waiting for work on employer’s premises

For the purpose of calculating the amount due to an employee employed in any occupation in respect of which a wages order has been made, the employee shall be deemed to have been employed for all the time during which the employee was present on the premises of the employer if it is proved to the satisfaction of the court that the employee was required to be present by the employer:

Provided that—

- (a) an employee who resides on the premises of the employer shall not be deemed to be employed for any time during which the employee is present on the premises by reason only of the fact that he is so resident; and
- (b) an employee while present during normal meal times in a room or place in which no work is being done shall be deemed to be present for a purpose not connected with his employment.

52. Employer not to receive premium

(1) Where an employee to whom a wages order applies is an apprentice or an indentured learner, his employer shall not receive directly or indirectly from him, on his behalf or on his account, any payment in the form of a premium:

Provided that nothing in this subsection shall apply to any payment made in pursuance of any instrument of apprenticeship if such payment is made—

- (i) not later than four weeks after the commencement of the apprenticeship; or
- (ii) at any time with the approval of a wages council.

(2) An employer who contravenes this section commits an offence and the court may, in addition to imposing a fine, order him to pay to the employee or other person by whom the payment was made the sum improperly received in the form of a premium.

53. Records and notices

(1) The employer of employees to whom a wages order applies shall—

- (a) keep such records as are necessary to show whether or not the employer is complying with the wages order; and
- (b) retain the records for at least three years after the date of the last entry therein.

(2) An employer shall—

- (a) exhibit in the prescribed language and manner such notices as may be prescribed for the purpose of informing employees of any proposed wages order or wages order affecting them; and
- (b) give notice in the prescribed manner, to the employees of any other matters as may be prescribed.

(3) An employer who contravenes this section commits an offence.

54. Criminal liability of agent, employer

(1) Where the immediate employer of an employee is himself in the employment of another person and that employee is employed on the premises of that other person, that other person is for the purposes of this Part deemed to be the employer of that employee jointly with the immediate employer.

(2) Where an employer is charged with an offence under this Part, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person to whose act or default he alleges that the offence in question was due, brought before the court at the time appointed for the hearing of the charge.

(3) If—

- (a) after commission of the offence has been proved the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence; or
- (b) the employer further proves that he has used all due diligence to ensure that he complied with the provisions of this Act, he shall be acquitted.

(4) Where an employer seeks to rely on the provisions of subsection (2)—

- (a) the prosecution, as well as the person whom the employer claims to have committed the offence, shall have the right to cross-examine him if he gives evidence and to cross-examine any witnesses called by him in support of his case and to call rebutting evidence; and
- (b) the court may make such order as it deems fit for the payment of costs by any party to the proceedings to any other party thereto.

(5) Where it appears to a labour officer that an offence has been committed in respect of which proceedings might be taken under this Part against an employer, and the officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of another person and that the employer could establish a defence under subsections (2) and (3), the officer may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer; and in any such proceedings the defendant may be charged with and, on proof that the offence was due to his act or default, be convicted of the offence with which the employer might have been charged.

PART VII – EMPLOYMENT AGENCIES**55. Registration of employment agencies**

(1) The Director shall—

- (a) keep a register of employment agencies which have been registered under this Act; and
- (b) perform such other functions as are imposed or conferred upon the Director by this Act or any other written law.

(2) No person shall unless the person is registered under this Act—

- (a) carry out business as an employment agency; or

- (b) charge or recover any payment in connection with the procurement of employment through an employment agency.

[Act No. 12 of 2012, Sch.]

56. Application for registration

(1) An application for the registration of an employment agency shall be made to the Director in the prescribed form.

(2) Upon an application made to the Director as specified in subsection (1), and after consultation with the Board, the Director shall grant the application and issue a certificate of registration to the applicant if satisfied that—

- (a) the applicant is qualified to own and manage an employment agency; and
- (b) the premises where the employment agency will carry out its business are suitable for use as an employment agency.

(3) The Director may have regard to any other relevant matters in deciding whether the application should be granted.

(4) The Director may refuse to grant an application made under this Act and give reasons for his refusal.

(5) A certificate of registration shall specify—

- (a) the name of the person to whom the certificate is issued;
- (b) the premises at which the business is to be conducted;
- (c) the period for which the certificate shall be in force;
- (d) the area, including any foreign country, in respect of which the business may be conducted;
- (e) the class or classes of person or employment in respect of which the business may be conducted; and
- (f) any conditions subject to which the business may be conducted.

(6) The Director may cancel the registration of an employment agency or vary the terms or conditions of any certificate of registration—

- (a) after due inquiry and for good cause, if the Director has notified the holder of the certificate of his intention to do so, and has given the holder the opportunity to make presentations to him, and has considered any representations which the holder has made; or
- (b) on the application of the holder of the certificate.

(7) Any person aggrieved by a decision of the Director made in the exercise of his functions under this section may appeal against such decision to the Industrial Court.

57. Duties of persons operating employment agencies

(1) Every person who operates or is in charge of an employment agency registered under this Act shall—

- (a) retain any record which, by regulations made under this Act, he is required to keep for a period of three years subsequent to the occurrence of the event recorded;

- (b) on demand by an employment officer made at any reasonable time during the period of three years specified in subregulation (3), produce the said record for inspection;
- (c) furnish to the Director such statistical information at such times and in such manner as may be prescribed.

(2) No person shall charge or receive in respect of anything done or to be done at an employment agency—

- (a) any fee or other payment or reward at a rate higher than that which may, from time to time, be prescribed for any particular area and class of business; or
- (b) any fee or other payment or reward, unless provision has been made for the charging of such fee, payment or reward in regulations made under this Act:

Provided that this subsection shall not apply to a business consultant carrying on business at the same place as an employment agency in respect of anything done in the course of such business other than the procurement of employment for clients.

58. Powers of employment officers

(1) An employment officer may, without notice and at any reasonable time during the day, enter upon any premises of an employment agency for the purpose of conducting any search therein where there are reasonable grounds for believing that such entry or search is necessary for the prevention, investigation or detection of an offence in terms of this Part.

(2) In the exercise of the powers conferred upon an employment officer by subsection (1), an employment officer may—

- (a) require a person conducting an employment agency to produce any books or documents which relate to his business and which are or have been in his premises or in his possession or custody, or under his control;
- (b) at any place require any person who has the possession, custody or control of any books or documents relating to the business of any person who is or was conducting an employment agency, to produce the books or documents;
- (c) examine and make extracts from, and copies of, any books or documents referred to in paragraph (a) or (b);
- (d) require an explanation of any entry in any books or documents referred to in paragraph (a) or (b); or
- (e) seize any book or document referred to in paragraph (a) or (b) that in his opinion, may afford evidence of the commission of an offence under this Act.

(3) An employment officer shall in the exercise of powers conferred by the subsection (2), exercise such reasonable care as to ensure that the smooth and efficient running of an employment agency is not unduly interfered with.

(4) Every employer whose premises are used as an employment agency, and every person employed by him, shall at all reasonable times during the day,

furnish such reasonable facilities as may be required by an employment officer for entering the premises for the purpose of inspecting or examining the books and documents kept on the premises, or for making any inquiry in relation thereto.

(5) No person shall—

- (a) make a false statement—
 - (i) in any representation to an employment officer; or
 - (ii) when giving evidence to or before an employment officer investigating a case under this section which that person knows to be false in any material particular; or
- (b) refuse to answer any question which an employment officer, in the exercise of his functions under this section, asks him;
- (c) refuse to comply, to the best of his ability, with any requirement made by an employment officer in the exercise of his functions under this section; or
- (d) hinder an employment officer in the exercise of his functions under this section.

59. Offences

(1) A person who does not comply with—

- (a) any provision of this Part; and
- (b) the terms or conditions of any certificate of registration issued under section 56(2),

commits an offence.

(2) Notwithstanding subsection (1), nothing done to prevent any disruption in the smooth and efficient running of an employment agency shall be held to be in contravention of section 58(4).

60. Regulations

(1) The Minister may make regulations necessary for the purpose of giving effect to, or for the better administration, of this Part.

(2) Regulations made under subsection (1) may provide for—

- (a) the form in which an application is to be made for a certificate of registration;
- (b) the fee to be paid for a certificate of registration or copies thereof;
- (c) the fees which may be charged in respect of the business of an employment agency;
- (d) the surrender of certificates of registration where the conditions thereof are to be varied or where such certificates are to be cancelled;
- (e) the records to be kept in respect of an employment agency;
- (f) the qualification of the proprietor or persons running the employment agency; and

- (h) the nature and form of security to be given by the proprietor of the employment agency for any recruitment of employees under this Part.

PART VIII – MISCELLANEOUS PROVISIONS

61. General penalty

A person who contravenes any provision of this Act for which no penalty is specifically provided shall be liable to a fine not exceeding fifty thousand shillings or, to imprisonment for a term not exceeding three months, or to both.

62. Rules

(1) The Minister may, after consultation with the Board, make rules for the better carrying into effect of the provisions of this Act, and in particular but without prejudice to the generality of the foregoing may—

- (a) prescribe anything which under this Act is to be or may be prescribed; or
- (b) provide for the powers of a wages council to enforce the attendance of witnesses and to take evidence on oath or otherwise on any matter concerned with the subject of an inquiry under this Act;

63. Repeal of Cap. 229, transitional and savings provision

(1) The Regulation of Wages and Conditions of Employment Act (Cap. 229) is repealed.

(2) Any regulation or other instrument made or issued under the Regulation of Wages and Conditions of Employment Act (Cap. 229) shall continue to have effect as if such regulation or other instrument were made or issued under this Act.

(3) The persons who, at the commencement of this Act are Judges of the Industrial Court and members of the Industrial Court shall be deemed to have been appointed under this Act.

(4) For the greater certainty and subject to subsection (3), the persons referred to in subsection (3) shall have and may exercise and perform all the powers and functions of a judge or member of the Industrial Court as the case may be.

(5) Every person who at the commencement of this Act is an employee of the Industrial Court (not then being under notice of dismissal or resignation) shall, on that day and subject to this Act, be deemed to be an employee of the Industrial Court on the same terms and conditions.

64. Existing laws

Any written law relating to the regulation of labour matters shall have effect subject to modification as may be necessary to give effect to this Act, and where the provisions of any law conflict with the provisions of this Act, the provisions of this Act shall prevail.

SCHEDULE

[Section 6.]

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE BOARD**1. Tenure of office and conduct of business of the Board**

(1) The chairman of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than *ex officio* members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) A member other than the chairman or an *ex officio* member may—

- (a) at any time resign from office by notice in writing to the minister;
- (b) be removed from office by the Minister if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairman;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving fraud or dishonesty;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness;
 - (vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act;
 - (vii) fails to comply with the provisions of this Act relating to disclosure; or
 - (viii) is otherwise unable or unfit to discharge his functions as a member of the Board.

(4) The Minister may remove a member nominated by a federation of trade unions or employers only after consultations with the federation that nominated the member.

(5) If a member of the Board is removed under subsection (4), the Minister shall fill the vacancy from nominations submitted by the federation that made the initial nomination.

2. Meetings of the Board

(1) The Board shall meet no less than four times in every financial year, and no more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the chairman may call a special meeting of the Board at any time where the chairman deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the Secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

(4) The chairman shall preside over all meetings of the Board, in which the chairman is present, but in his absence, the vice-chairman shall preside, and in his absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(5) At the first meeting of the Board, the members shall elect a vice-chairman, not being a public servant, from among its members.

3. Disclosure of interests

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure for interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. Board may regulate procedure

Save as provided in this Schedule, the Board may regulate its own procedure.

NO. 12 OF 2007

LABOUR INSTITUTIONS ACT

SUBSIDIARY LEGISLATION

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**REGULATION OF WAGES (TAILORING, GARMENT MAKING AND ASSOCIATED
TRADES WAGES COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, section 7, G.N. 641/1952, L.N. 496/1956, L.N. 204/1963, L.N. 284/1963, L.N. 216/1964, L.N. 251/1973.]

1. This Order may be cited as the Regulation of Wages (Tailoring, Garment Making and Associated Trades Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known, as the Tailoring, Garment Making and Associated Trades Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.
3. The Tailoring, Garment Making and Associated Trades Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than fifteen persons to represent employers and not more than fifteen persons to represent employees.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the activities of tailoring, dressmaking or garment making, the making up of soft furnishings and the making up of canvas goods:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution shall be excluded.

REGULATION OF WAGES (HOTEL AND CATERING TRADES WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, Sub. Leg., G.N. 641/1952, G.N. 1288/1954, L.N. 494/1956, L.N. 551/1962, L.N. 32/1963, L.N. 284/1963, L.N. 216/1964, L.N. 251/1972, L.N. 33/1973.]

1. This Order may be cited as the Regulation of Wages (Hotel and Catering Trades Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Hotel and Catering Trades Wages Council, to perform, in relation to the employees specified in the Schedule and their employers, the powers and functions specified in that behalf in the Act.
3. The Hotel and Catering Trades Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than twelve persons to represent employers and not more than twelve persons to represent employees.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carrying on (whether for profit or not) of one or other of the activities of the supply of food or drink for immediate consumption or the provision of living accommodation for guests or lodgers:

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

- (i) which provides living accommodation for less than five adult guests or lodgers; or
- (ii) which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution,

shall be excluded.

In this Schedule, “undertaking” includes any person, firm, business, company or club and the activities of any body whether corporate or unincorporated, whether carried on by way of trade or not.

**REGULATION OF WAGES (ROAD TRANSPORT WAGES COUNCIL
ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, G.N. 1676/1954, G.N. 1323/1955, L.N. 495/1956, L.N. 203/1963, L.N. 284/1963, L.N. 216/1964.]

1. This Order may be cited as the Regulation of Wages (Road Transport Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Road Transport Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.
3. The Road Transport Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than fifteen persons to represent employers and not more than fifteen persons to represent employees.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carriage, for hire or reward, of passengers and goods or either of them by any motor vehicle required to be licensed as a public service vehicle under the Traffic Act (Cap. 403), or required to be licensed under a road service licence, or a public carrier's licence, or a limited carrier's licence granted under the Transport Licensing Act (Cap. 404):

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or any educational or medical institution shall be excluded.

REGULATION OF WAGES (MOTOR ENGINEERING TRADES WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, sub. leg, L.N. 3/1956, L.N. 499/1956, L.N. 344/1963, L.N. 216/1964, L.N. 149/1972.]

1. This Order may be cited as the Regulation of Wages (Motor Engineering Trades Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Motor Engineering Trades Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.
3. The Motor Engineering Trades Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than fifteen persons to represent employers and not more than fifteen persons to represent employees.

SCHEDULE

All persons employed in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities—

- (a) the retail supply of motor vehicles, agricultural machinery or mobile construction plant, or the repair, servicing, assembly, or adaptation of such vehicles, machinery or plant on behalf of other persons or undertakings;
- (b) spray painting of motor vehicles, agricultural machinery or mobile construction plant on behalf of other persons or undertakings;
- (c) panel beating of motor vehicles, agricultural machinery or mobile construction plant on behalf of other persons or undertakings;
- (d) the supply of batteries, radiators or the repair, manufacturing, assembly or adaptation of such batteries and radiators on behalf of other persons or undertakings;
- (e) the supply of tyres, or the repair, manufacturing, retreading or adaptation of such tyres on behalf of other persons or undertakings;

Provided that persons employed in any undertaking or part of any undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organization, or any educational or medical institution shall be excluded.

REGULATION OF WAGES (BAKING, FLOUR CONFECTIONERY AND BISCUIT MAKING TRADES WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, sub. leg, L.N. 4/1956, L.N. 498/1956, L.N. 551/1962, L.N. 284/1963, L.N. 216/1964.]

1. This Order may be cited as the Regulation of Wages (Baking, Flour Confectionery and Biscuit Making Trades Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Baking, Flour Confectionery and Biscuit Making Trades Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.
3. The Baking, Flour Confectionery and Biscuit Making Trades Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than nine persons to represent employers and not more than nine persons to represent employees.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of any of the following activities—

- (a) the baking or preparation of bread, biscuits, pastries, cakes or other flour confectionery;
- (b) the manufacture of other cooked cereals or farinaceous foodstuffs intended for human consumption:

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

- (i) which supplies its products mainly for consumption on the premises; or
- (ii) which is operated by the Government, a local authority, a quasi-government body or a charitable organization,

shall be excluded.

**REGULATION OF WAGES (BUILDING AND CONSTRUCTION INDUSTRY
WAGES COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 240/1960, L.N. 205/1963, L.N. 284/1963, L.N. 216/1964, L.N. 157/1972.]

1. This Order may be cited as the Regulation of Wages (Building and Construction Industry Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Building and Construction Industry Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.
3. The Building and Construction Industry Wages Council shall consist, as to independent members, of a chairman, a deputy chairman and one other member, and, as to representative members, of not more than fifteen persons to represent employers and not more than fifteen persons to represent employees.

SCHEDULE

All persons employed in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities—

- (a) the construction, structural alteration, maintenance or repair of any building, the demolition of any building, and the preparation for, and laying the foundation of, any intended building;
- (b) the construction of any railway line or siding, and the construction, structural alteration or repair, or the demolition of any airfield, dock, harbour, wharf, quay, pier, inland navigation works, road, tunnel, bridge, viaduct, waterworks, dam, reservoir, pipeline, aqueduct, sewer, sewage works or lattice work structure designed solely for the support of electric lines:

Provided that persons employed in an undertaking or part of any undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution shall be excluded.

**REGULATION OF WAGES (LAUNDRY, CLEANING AND DYEING TRADES
WAGES COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 588/1960, L.N. 565/1963, L.N. 216/1964.]

1. This Order may be cited as the Regulation of Wages (Laundry, Cleaning and Dyeing Trades Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Laundry, Cleaning and Dyeing Trades Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the activities of laundering, cleaning or dyeing of clothes, fabrics, bedding or textile furnishings, or the finishing of such articles after such processing:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution shall be excluded.

**REGULATION OF WAGES (FOOTWEAR INDUSTRY WAGES COUNCIL
ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 165/1963, L.N. 284/1963, L.N. 216/1964.]

1. This Order may be cited as the Regulation of Wages (Footwear Industry Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Footwear Industry Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of the manufacture of footwear or the repair or alteration thereof:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution shall be excluded.

REGULATION OF WAGES (AGRICULTURAL INDUSTRY WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, sub. leg, L.N. 284/1963, L.N. 739/1963, L.N. 216/1964, L.N. 183/1967.]

1. This Order may be cited as the Regulation of Wages (Agricultural Industry Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Agricultural Industry Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All agricultural employees (excluding directors and managers) who are employed in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or other of the activities of the cultivation of land and the use of land for any purpose of husbandry, including horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens or nursery grounds, and the use of land for woodlands when that use is ancillary to the use of land for other agricultural purposes:

Provided that any such undertaking—

- (i) which consists mainly in the growing of coffee, tea, sisal or sugar crops; or
- (ii) which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organization, or any research, educational or medical institution,

shall be excluded.

**REGULATION OF WAGES (WHOLESALE AND RETAIL DISTRIBUTIVE TRADES
WAGES COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 364/1963, L.N. 318/1966.]

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

2. There is hereby established a wages council, to be known as the Wholesale and Retail Distributive Trades Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons engaged in an undertaking or part of an undertaking which consists in the carrying on of one or more of the following activities—

- (a) the retail supply of goods or merchandise of any description;
- (b) the wholesale supply of goods or merchandise of any description;
- (c) operations such as warehousing, storing, packing or clerical or other work which are associated with such retail or wholesale supply:

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

- (i) in any trade, industry, or occupation affected by any other wages council order made under the Act; or
- (ii) which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution,

shall be excluded.

**REGULATION OF WAGES (PETROL AND SERVICE STATIONS WAGES
COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 319/1966, L.N. 252/1973.]

1. This Order may be cited as the Regulation of Wages (Petrol and Service Stations Wages Council Establishment) Order.
2. There is hereby established a wages council, to be known as the Petrol and Service Stations Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons engaged in any undertaking or part of an undertaking which consists of a petrol station or service station, and which carries on for gain one or more of the activities of the retail supply of fuel oils and lubricants, spares and accessories, the light servicing of vehicles, and the provision of ancillary services:

Provided that persons employed in an undertaking which is operated by the Government, a local authority, a quasi-government body, a charitable or religious organization or an educational or medical institution shall be excluded.

REGULATION OF WAGES (DOMESTIC SERVANTS WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, sub. leg, section 5(2), L.N. 106/1967.]

1. This Order may be cited as the Regulation of Wages (Domestic Servants Wages Council Establishment) Order.

2. In this Order, “domestic servant” means any person employed wholly or partly in any private household or part of a private household in any of the following capacities, namely cook, house servant (including bedroom and kitchen servant), waiter, butler, children’s nurse, valet, footman, chauffeur, bar attendant, groom, gardener, garden labourer, washerman or watchman.

3. There is hereby established a wages council, to be known as the Domestic Servants Wages Council, to perform, in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act:

Provided that domestic servants employed in an undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation, or any educational or medical institution shall be excluded.

SCHEDULE

[Paragraph 3.]

All domestic servants employed in the following areas—

The area of jurisdiction of the former Municipality of Nairobi as set forth in the First Schedule to the Municipalities Ordinance (Cap. 136 of 1948) (now repealed).

Mombasa Island.

The Municipality of Eldoret.

The Municipality of Kisumu.

The Municipality of Kitale.

The Municipality of Nakuru.

The Municipality of Nyeri.

The Municipality of Thika.

The Town Council of Kericho.

The Town Council of Nyahururu.

The Town Council of Naivasha.

The Town Council of Nanyuki.

REGULATION OF WAGES (ELECTRICAL CONSTRUCTION INDUSTRY WAGES COUNCIL ESTABLISHMENT) ORDER

[Cap. 229, sub. leg, L.N. 187/1971.]

1. This Order may be cited as the Regulation of Wages (Electrical Construction Industry Wages Council Establishment) Order.

2. There is hereby established a wages council, to be known as the Electrical Construction Industry Wages Council, to perform in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons (other than managers) employed in any undertaking or part of any undertaking which consists in the carrying on of one or more of the following activities—

- (a) construction, installation, assembling, maintenance and repair of electrical and electronic systems and equipments;
- (b) electrical rewinder, auto-electrician and motor electric rewinder:

Provided that persons employed in any undertaking or part of any undertaking—

- (i) which is affected by any other wages council order made under the Act; or
- (ii) which is operated by the Government, any local authority, any quasi-government body or any charitable or religious organization,

shall be excluded.

**REGULATION OF WAGES (TIMBER AND SAWMILLING TRADES WAGES
COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 202/1971.]

1. This Order may be cited as the Regulation of Wages (Timber and Sawmilling Trades Wages Council Establishment) Order.

2. There is hereby established a wages council, to be known as the Timber and Sawmilling Trades Wages Council, to perform in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons employed in any undertaking or part of any undertaking which consists in the carrying on of one or more of the following activities—

- (a) timber felling, logging, transportation of timber, sawmilling, plywood production, pitting or maintenance of any timber, pulp, fibreboard, particleboard or paper making;
- (b) selling, storing, processing, reversion or packing of any timber or any other work associated with the sale of timber:

Provided that persons employed in any undertaking or part of any undertaking—

- (i) which is affected by any other wages council order made under the Act; or
- (ii) which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organization or any educational or medical institution,

shall be excluded.

**REGULATION OF WAGES (FURNITURE, BOAT, DOOR AND WINDOW MAKING
INDUSTRY WAGES COUNCIL ESTABLISHMENT) ORDER**

[Cap. 229, sub. leg, L.N. 200/1972.]

1. This Order may be cited as the Regulation of Wages (Furniture, Boat, Door and Window Making Industry Wages Council Establishment) Order.

2. There is hereby established a wages council, to be known as the Furniture, Boat, Door and Window Making Industry Wages Council, to perform in relation to the employees specified in the Schedule, the powers and functions specified in that behalf in the Act.

SCHEDULE

All persons (other than managers) employed in any undertaking or part of any undertaking which consists in the carrying on, for gain, of one or more of the following activities, that is to say—

- (a) the manufacture, assembling, maintenance, repair or alteration of office and domestic furniture;
- (b) the manufacture, assembling, maintenance, repair or alteration of handcarts, wooden boats, doors and wooden windows:

Provided that persons employed in any undertaking or part of any undertaking—

- (i) which is affected by any other wages council order made under the Act; or
- (ii) which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organization, or any educational or medical institution,

shall be excluded.

REGULATION OF WAGES (GENERAL) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Weekly rest.
8. Holidays with full pay.
9. Annual leave.
10. Acting allowance.
11. Compassionate leave.
12. Sick leave.
13. Maternity leave.
14. Safari allowance.
15. Redundancy.
16. Warning system.
17. Termination of employment.
18. Revocation.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE – DEFINITIONS

FOURTH SCHEDULE – HOLIDAYS WITH FULL PAY

FIFTH SCHEDULE – *Deleted by s. 2(d) of L.N. 97/1987*

REGULATION OF WAGES (GENERAL) ORDER*[Date of commencement: 1st August, 1982.]*

[Cap. 229, sub. leg, section 11, L.N. 120/1982, L.N. 80/1985, L.N. 17/1987, L.N. 97/1987, L.N. 122/1987, L.N. 189/1989, L.N. 207/1990, L.N. 206/1991, L.N. 107/1992, Corr. No. 46/1992, L.N. 454/1992, L.N. 93/1993, L.N. 163/1994, Corr. No. 39/1994, L.N. 185/1994, L.N. 193/1995, Corr. No. 45/1995, L.N. 113/1996, L.N. 345/1997, L.N. 346/1997, L.N. 67/1998, L.N. 50/1999, L.N. 61/2000, L.N. 87/2001, L.N. 86/2002, L.N. 48/2003, Corr. No. 63/2003, L.N. 36/2004, L.N. 42/2005, L.N. 38/2006, L.N. 70/2009, L.N. 98/2010, L.N. 64/2011, L.N. 70/2012, L.N. 71/2012.]

ORDERS UNDER SECTION 11**1. Citation**

This Order may be cited as the Regulation of Wages (General) Order.

2. Application

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

(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.

3. Basic minimum wage

(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.

(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. Housing allowance

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.

5. Hours of work

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

(2) Notwithstanding 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.

[L.N. 17/1987, s. 2(a), L.N. 97/1987, 2(a).]

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week at one and one-half times the normal hourly rate;

[Subsidiary]

- (b) for time worked on the employees 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 subparagraph (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.

[L.N. 17/1987, s. 2(b), L.N. 97/1987, s. 2(b).]

7. Weekly rest

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.

[L.N. 17/1987, s. 2(c), L.N. 97/1987, s. 2(c).]

8. Holidays with full pay

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

9. Annual leave

(1) Every employee shall be entitled—

- (a) after every twelve consecutive months of service with his employee 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 subsection (1) shall be additional to all public holidays, weekly rest days and any side 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. Acting allowance

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.

[Subsidiary]**11. Compassionate leave**

(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.

(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. Sick leave

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:

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. Maternity leave

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

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. Safari allowance

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

	<i>KSh</i>	<i>cts.</i>
(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.

15. Redundancy

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 fifteen days' pay for each completed year of service.

[L.N. 185/1994, s. 2.]

16. Warning system

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.

17. Termination of employment

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.

18. Revocation

The Regulation of Wages (General) Order is revoked.

[Subsidiary]

FIRST SCHEDULE

[L.N. 80/1985, s. 2, 122/1987, s. 2, L.N. 189/1989, s. 2, L.N. 207/1990, s. 2, L.N. 206/1991, s. 2, L.N. 107/1992, s. 2, Corr. No. 46/1992, L.N. 454/1992, s. 2, L.N. 93/1993, s. 2, L.N. 163/1994, s. 2, Corr. No. 39/1994, L.N. 193/1995, Corr. No. 45/1995, L.N. 113/1996, s. 2, L.N. 345/1997, s. 2, L.N. 346/1997, s. 2, L.N. 67/1998, s. 2, L.N. 50/1999, s. 2, L.N. 61/2000, s. 2, L.N. 87/2001, s. 2, L.N. 86/2002, s. 2, L.N. 48/2003, s. 2, Corr. No. 63/2003, L.N. 36/2004, s. 2, L.N. 42/2005, s. 2, L.N. 38/2006, 2, L.N. 70/2009, s. 2, L.N. 98/2010, s. 2, L.N. 64/2011, s. 2; L.N. 70/2012, s. 2, L.N. 71/2012, s. 2.]

(1) BASIC MINIMUM MONTHLY WAGES (EXCLUSIVE OF HOUSING ALLOWANCE)

(2) MINIMUM DAILY AND HOURLY RATES (INCLUSIVE OF HOUSING ALLOWANCE)

COLUMN 1 Occupation	COLUMN 2 Nairobi, Mombasa and Kisumu cities			COLUMN 3 All other municipalities and Mavoko, Ruiru and Limuru town councils			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
	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.
(a) General labourer including cleaner, sweeper, gardener, children's ayah, house servant, day watchman, messenger	8,579.80	412 80	76 70	7,915.90	379 30	70 10	4,577.20	232 00	42 85
(b) Miner, stone cutter, turnboy, waiter, cook, logger line cutter	9,266.30	445 40	83 50	8,221.20	393 80	71 00	5,288.60	261 40	47 80
(c) Night watchman	9,571.65	459 30	86 30	8,873.80	428 00	78 55	5,459.30	263 40	50 40
(d) Machine attendant, sawmill Sawyer, machine assistant, mass production machinist, shoe cutter, bakery worker, bakery assistant, tailor's assistant	9,724.30	467 20	89 60	9,049.10	437 60	79 30	7,334.50	354 20	65 90

FIRST SCHEDULE—continued

COLUMN 1 Occupation	COLUMN 2 Nairobi, Mombasa and Kisumu cities			COLUMN 3 All other municipalities and Mavoko, Ruiru and Limuru town councils			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
	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.
(e) Machinist (made to measure), shoe upper preparer, chaplis maker, vehicle service worker (petrol and service stations), bakery plant hand, laundry operator, junior clerk, wheeled tractor driver (light)	11,100.80	534 90	99 60	10,384.80	499 90	83 50	8,490.40	410 60	76 70
(f) Printing machine operator, bakery machine operator, plywood machine operator, sawmill dresser, shop assistant, machine tool operator, doughmaker, table hand baker or confectioner, copy-typist, driver (cars and light vans)	11,580.30	556 90	104 20	10,687.95	513 60	95 10	8,834.20	424 50	78 55
(g) Pattern designer (draughtsman), garment and dress cutter, single hand oven man, charge-hand baker, general clerk, telephone operator, receptionist, storekeeper....	13,214.60	635 30	119 10	12,081.30	581 10	95 70	10,301.15	493 80	92 50

[Subsidiary]

FIRST SCHEDULE—continued

COLUMN 1 Occupation	COLUMN 2 Nairobi, Mombasa and Kisumu cities			COLUMN 3 All other municipalities and Mavoko, Ruiru and Limuru town councils			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
	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.
(h) Tailor, driver (medium sized vehicle)	14,563.90	700 90	129 60	13,385.40	64 70	119 20	11,935.40	582 80	107 00
(i) Dyer, crawler tractor driver, salesman	16,078.30	771 10	144 50	15,001.60	721 90	134 40	13,539.20	649 90	119 00
(j) Saw doctor, caretaker (buildings)	17,792.90	856 80	160 15	16,614.40	800 00	149 10	15,477.70	744 00	138 40
(k) Cashier, driver (heavy commercial vehicle), salesman driver production machinist, shoe cutter, bakery worker, bakery assistant, tailors assistant	19,360.50	932 10	174 40	18,219.30	877 00	164 70	17,082.60	821 10	153 65
(l) Ungraded artisan	11,580.30	556 90	104 20	10,687.95	513 60	95 10	8,834.20	424 50	78 55
Artisan Grade III	14,563.90	700 90	129 60	13,385.40	644 70	119 20	11,912.80	582 80	107 05
Artisan Grade II	15,729.90	771 10	144 50	15,001.60	781 35	134 40	13,539.20	649 90	119 50
Artisan Grade I	19,360.50	932 10	174 40	18,219.30	877 00	164 70	17,082.60	821 10	153 65

SECOND SCHEDULE

[L.N. 80/1985, s. 2, L.N. 189/1989, s. 2, L.N. 207/1990, s. 2, L.N. 206/1991, s. 2, L.N. 107/1992, s. 2, Corr. No. 46/1992, L.N. 454/1992, s. 2, L.N. 93/1993, s. 2, L.N. 163/1994, s. 2, Corr. No. 39/1994, L.N. 193/1995, Corr. No. 45/1995, L.N. 113/1996, s. 2, L.N. 346/1997, s. 2, L.N. 67/1998, s. 2, L.N. 49/1999, s. 2, al.n. 50/1999, s. 2, L.N. 61/2000, s. 2, L.N. 87/2001, s. 2, L.N. 86/2002, s. 2.]

(1) BASIC MINIMUM MONTHLY WAGES (EXCLUSIVE OF HOUSING ALLOWANCE)

(2) MINIMUM DAILY AND HOURLY RATES (INCLUSIVE OF HOUSING ALLOWANCE)

EMPLOYEES AGED 18 YEARS

COLUMN 1	COLUMN 2			COLUMN 3			COLUMN 4		
	Nairobi Area and Mombasa Municipalities			All other municipalities and Mavoko and Ruiru town councils			All other areas		
Occupation	Monthly contract per month	Daily rate	Hourly rate	Monthly contract per month	Daily rate	Hourly rate	Monthly contract per month	Daily rate	Hourly rate
	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.	KSh.	KSh. cts.	KSh. cts.
1. Labourer (light work), messenger, house servant, ayah	2,418	116 35	21 70	2,124	102 55	19 25	1,336	64 30	12 20
2. Machine attendant, laundryman, waiter	2,606	124 60	23 95	2,301	110 95	20 75	1,514	72 50	13 80
3. Cook (domestic)	2,794	135 45	24 15	2,452	118 30	21 70	1,647	79 10	15 10
4. Shop assistant, telephone operator, receptionist	3,626	174 10	32 10	3,174	150 95	27 90	2,474	118 65	21 80
5. Ungraded artisan, machine operator, copy typist	3,185	153 05	28 45	2,765	133 05	24 40	2,172	104 80	19 50
6. Junior clerk	2,919	140 45	26 05	2,514	117 55	22 45	1,966	94 20	17 50

[Subsidiary]

THIRD SCHEDULE

[Paragraph 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 deposits; 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 vehicle)” means a person employed to drive a vehicle over 2 tons 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;

“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 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, 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; set 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;

[Subsidiary]

“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;

“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

[Paragraph 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.
Moi Day.

FIFTH SCHEDULE

Deleted by s. 2(d) of L.N. 97/1987

**REGULATION OF WAGES (BAKING, FLOUR CONFECTIONERY AND BISCUIT
MAKING TRADES) ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Public holidays.
8. Annual leave.
9. Sick leave.
10. Termination of employment.
11. Maternity leave.
12. Casual labour.
13. Redundancy.
14. Acting allowance.
15. Revocation of L.N. 8/1966.

SCHEDULES

- FIRST SCHEDULE – BASIC MINIMUM WAGES AND CONDITIONS
THERETO
- SECOND SCHEDULE – HOLIDAYS WITH FULL PAY
-

[Subsidiary]**REGULATION OF WAGES (BAKING, FLOUR CONFECTIONARY AND BISCUIT MAKING TRADES WAGES COUNCIL ESTABLISHMENT) ORDER***[Date of commencement: 1st November, 1967.]*

[Cap. 229, sub. leg, section 11, L.N. 225/1967, Corr. No. 87/1967.]

1. Citation

This Order may be cited as the Regulation of Wages (Baking, Flour Confectionery and Biscuit Making Trades) Order.

2. Application

This Order shall apply to all persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of any of the following activities, that is to say, the baking or preparation of bread, pastries, cakes or other flour confectionery, or the manufacture of other cooked cereals or farinaceous foodstuffs intended for human consumption:

Provided that persons employed in any undertaking or part of an undertaking—

- (i) which supplies its products mainly for consumption on the premises; or
- (ii) which is operated by the Government, any local authority, any quasi-government body or any charitable organization,

shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the First Schedule shall be calculated at a rate not less favourable than that specified, in relation to the area of employment, in that Schedule:

Provided that wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed in relation to the area of employment by a Regulation of Wages (General) Order that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance at a rate not less favourable than either—

- (a) the appropriate monthly rate of housing allowance prescribed by the Regulation of Wages (General) Order (L.N. 31/1963) (now revoked) for the particular area within which the employee is employed; or
- (b) seventeen shillings and fifty cents per month where the employee is employed in an area not affected by a Regulation of Wages (General) Order.

5. Hours of work

The normal working week shall consist of forty-eight hours of work spread over six days or shifts:

Provided that a rest period of not less than fifteen minutes duration shall be granted to every employee in each period of eight hours' continuous working.

6. Overtime

(1) Overtime shall be paid as follows—

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, at one and one-half times the employee's basic hourly rate;

- (b) for time worked on the employee's normal rest day, at twice the employee's basic hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), where the employee is not employed by the hour, the basic hourly rate in relation to any employee shall be taken as one two-hundred-and-eighth of the basic monthly wage payable to the employee.

7. Public holidays

(1) The days specified in the Second Schedule shall be holidays with full pay.

(2) Where an employee is required to work on a day which, by virtue of subparagraph (1), is a holiday with full pay he shall be entitled either—

- (a) to be paid in respect of any time so worked at the rate specified in paragraph 6(1)(b); or
- (b) to be given equivalent time off with full pay in lieu of any overtime payment due to him in accordance with subparagraph (2).

8. Annual leave

An employee shall be entitled—

- (a) after every twelve consecutive months' service with an employer to eighteen consecutive days' leave with full pay; and
- (b) where employment is terminated after the completion of two or more consecutive months' service during any twelve months' leave-earning period, to one and one-half days' leave with full pay for each completed month of service in such period;
- (c) after every twelve months' consecutive service with an employer to payment by his employer when proceeding on annual leave of a thirty shillings travelling allowance.

9. Sick leave

(1) After two consecutive months' service with an employer an employee shall be entitled to sick leave with full pay up to a maximum of fifteen days with full pay, and thereafter to sick leave up to a maximum of fifteen days with half pay, in each period of twelve months' consecutive service, subject to the employee producing a certificate of incapacity signed by a qualified medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre.

(2) An employee shall not be eligible for sick leave in respect of any incapacity due to gross neglect on his own part.

10. Termination of employment

It shall be a condition in every contract, other than contracts for wages calculated in accordance with paragraph 12, that such contract shall be terminable by not less than one month's notice to be given by either party:

Provided that—

- (i) the first two months of employment with any employer may be treated as a probationary period, and during such period the contract shall be terminable by either party by fourteen days' notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

[Subsidiary]

11. Maternity leave

An employed woman shall be entitled to unpaid maternity leave up to a maximum period of six weeks, subject to the employee producing a medical certificate signed by a qualified medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for in paragraph 9, and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period.

12. Casual labour

An employee employed on a casual basis without entitlement to the notice of termination of employment provided for in paragraph 10 shall be paid, for each day or shift worked, at a rate of not less than one twenty-fourth of both the basic minimum wage and the housing allowance specified, respectively, in the First Schedule, and in paragraph 4.

13. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupation and grade.

14. Acting allowance

Where an employee is required to work in full acting capacity for a period of not less than nine days 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 acting allowance at a rate not less than the difference between such higher basic minimum wage and his normal basic wage with effect from the tenth day of such full acting capacity.

15. Revocation of L.N. 8/1966

The Regulation of Wages (Baking, Flour Confectionery and Biscuit Making Trades) Order, 1966 is revoked.

FIRST SCHEDULE

[Paragraph 3.]

[Corr. No. 87/1967.]

BASIC MINIMUM WAGES AND CONDITIONS THERETO

PART I – BASIC MINIMUM WAGES (EXCLUSIVE OF HOUSING ALLOWANCE)

	Nairobi Area and Mombasa Municipality	Eldoret, Kisumu, Kitale, Nakuru and Thika Municipalities, the Urban Councils of Kericho, Masaku, Nanyuki, Nyeri, Thomson's Falls, the former township of Naivasha	All other areas
	<i>Shillings per month</i>		
Bakery worker, vanman/ driver's mate, bakery assistant, watchman, cycleman ...	167.65	157.50	150.75

FIRST SCHEDULE—continued

	Nairobi Area and Mombasa Municipality	Eldoret, Kisumu, Kitale, Nakuru and Thika Municipalities, the Urban Councils of Kericho, Masaku, Nanyuki, Nyeri, Thomson's Falls, the former township of Naivasha	All other areas
	<i>Shillings per month</i>		
Driver	258.75	219.40	213.90
Salesman driver	290.25	245.15	225.00
Maintenance artisan	413.90	383.80	354.75
Bakery storekeeper, clerk, telephonist/ receptionist	354.75	332.90	290.25
Plant hand, doughmaker's assistant, mechanic's assistant	193.50	183.40	174.40
First hand bakery worker, machine operator, doughmaker, table hand baker/confectioner, cream mixer	290.25	245.15	220.50
Chargehand baker/confectioner, ovenman, single hand baker/confectioner	354.75	323.25	297.00

PART II – DEFINITIONS

In this Schedule—

“**adult**” for the purpose of this Part, means any person who has attained the age or apparent age of eighteen years;

“**bakery storekeeper**” means an employee who is in charge of a materials store, with responsibility for stocks, orders, issues and maintenance of records;

“**bakery worker**” means an employee working in any bakery or allied undertaking who performs work incidental to the production processes, that is to say, work such as slicing, wrapping, storing, handling, cleaning, greasing, etc.:

Provided that nothing in this definition shall be taken to classify as a bakery worker an employee engaged in an artisan trade referred to under “maintenance artisan”;

“**clerk**” means an employee engaged full-time in clerical and records work in a bakery or allied undertaking;

Provided that an employee who is required to keep simple records in the course of his manual or supervisory duties shall not be deemed to be a clerk;

“**chargeband baker/confectioner**” means an adult employee who is in charge of bakers or confectioners in any bakery or allied undertaking, with some responsibility for control of work, staff and quality of production, under the supervision of a master baker or foreman or manager;

“**doughmaker**” means an adult employee who is engaged for more than half his working shift in the mixing of doughs for bread production by mechanized plant;

“**doughmaker's assistant**” means an employee engaged in assisting a doughmaker, for the purpose of learning the doughmaker's duties or who is acting as an occasional relief doughmaker;

[Subsidiary]FIRST SCHEDULE—*continued*

“**driver**” means an adult employee whose duties, in addition to being in charge of a motor vehicle, include such other tasks as are necessary for the collection or delivery of bakery or allied products including loading and unloading;

“**first hand bakery worker**” means an adult employee who is in charge of a group of bakery workers as defined under “bakery worker”;

“**machine operator**” means an adult employee who has completed his service as bakery assistant and is fully responsible for the operation of a machine used in bread, cake or biscuit production or handling, and whose duties include regulation and adjustment of the machine’s controls and cleaning of its working parts;

“**maintenance artisan**” means an employee with a Trade Test Certificate issued by the Ministry of Labour in a mechanical, electrical or other artisan trade and engaged in a bakery or allied undertaking to work exclusively on the maintenance, repair, assembly or making of plant, building or equipment;

“**mechanic’s assistant**” means an employee who does semi-skilled work as an assistant to a qualified mechanic or plant engineer;

“**ovenman**” means an adult employee who is mainly engaged in controlling and operating an oven (or ovens) in connection with bread, cake or biscuit production, and whose duties include setting, draining, firing, etc., but exclude maintenance or repair of any oven;

“**plant hand**” means an adult employee who has completed his service as a bakery assistant and is engaged in any aspect of bread, cake or biscuit production by automatic plant;

“**salesman driver**” means an adult employee, who in addition to the duties of driver as specified under “driver” above, is engaged in actual sales of bakery or allied products;

“**single hand baker/confectioner**” means a trained adult employee who 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;

“**table hand baker/confectioner**” means an adult employee who is engaged in the production of bread and/or cakes, biscuit, etc., in a bakery or allied undertaking without fully automatic plant, and whose duties including moulding, sealing, etc., by hand and/or assisting the ovenman, mixer or decorator, under supervision from a foreman or manager;

“**telephonist/receptionist**” means an employee whose full-time duties consist of the operation of a telephone switchboard and/or the manning of a public reception desk;

“**vanman/driver’s mate**” means an employee engaged as a junior assistant to a driver or salesman driver, but who has no responsibility for the driving.

SECOND SCHEDULE

[Paragraph 7.]

HOLIDAYS WITH FULL PAY

New Year's Day.
Good Friday.
Easter Monday.
Labour Day.
Madaraka Day.
Kenyatta Day.
Idd-ul-Fitr Day.
Independence Day.
Christmas Day.
Boxing Day.
Moi Day.

REGULATION OF WAGES (HOTEL AND CATERING TRADES) ORDER**ARRANGEMENT OF ORDERS***Order*

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Weekly rest day.
7. Overtime.
8. Public holidays.
9. Annual leave.
10. Leave travelling.
11. Maternity leave.
12. Sick leave.
13. Compassionate leave.
14. Meals and accommodation allowance.
15. Redundancy.
16. Warning system.
17. Acting appointment.
18. Temporary or seasonal employment.
19. Retirement benefits.
20. Termination of employment.
21. Revocation of L.N. 34/1974.

SCHEDULES

- | | | |
|-----------------|---|--------------------------|
| FIRST SCHEDULE | – | BASIC MINIMUM WAGE RATES |
| SECOND SCHEDULE | – | BASIC MINIMUM WAGE RATES |
| THIRD SCHEDULE | – | HOUSING ALLOWANCE |
| FOURTH SCHEDULE | – | HOLIDAYS WITH FULL PAY |
-

[Subsidiary]**REGULATION OF WAGES (HOTEL AND CATERING TRADES) ORDER***[Date of commencement: 1st December, 1981.]*

[Cap. 229, sub. leg, L.N. 173/1981.]

1. Citation

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

2. Application

(1) This Order shall apply to all persons engaged in an undertaking or part of an undertaking which consists in the carrying on (whether for profit or not) of one or more of the following activities, that is to say, the supply of food or drink for immediate consumption or the provision of living accommodation for guests or lodgers:

Provided that persons employed in, an undertaking or part of an undertaking—

- (i) which provides living accommodation for less than five adult guests or lodgers; or
- (ii) which is operated by the Government, a local authority, a charitable or religious organization, or an educational or medical institution,

shall be excluded.

(2) For the purpose of this paragraph the expression “undertaking” includes any person, firm, business, company or club and the activities of any body whether corporate or unincorporated whether carried on by way of trade or not.

3. Basic minimum wage

(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 occupation and the area of employment specified in those Schedules.

(2) No employee shall be deemed to be a learner for a longer period than twelve months unless he is under eighteen years of age.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance not less favourable than that specified in the Third Schedule.

5. Hours of work

(1) The normal hours of work in respect of every worker, except a gardener, shall consist of fifty-two hours spread over six days of the week.

(2) The normal hours of work in respect of a person employed as a gardener shall consist of forty-eight hours of work spread over six days of the week.

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

(4) The normal hours of work of any employee whose rest day is deferred in accordance with paragraph 6(1)(i) shall not exceed sixty-one hours of work in any week in which the rest day is deferred.

6. Weekly rest day

(1) An employee shall be entitled to one rest day per week:

Provided that—

- (i) an employer and his employee may, by mutual consent, agree to the deferment of the employee's rest days in alternate weeks and their accumulation subject to a maximum of fourteen rest days at any one time to be taken as holidays with full pay in addition to the employee's entitlement to annual leave with full pay;
- (ii) when an employee's rest day falls on a day specified in the Fourth Schedule and the employee works on that day he shall be paid for time worked at the overtime rate specified in paragraph 8(3), and his rest day shall be deemed to have been deferred;
- (iii) a rest day that has been deferred without the consent of the employee shall be granted within fourteen days from the date of such deferment;
- (iv) the weekly rest day of a person under the age of sixteen years shall not be deferred.

(2) Where an employee's rest day falls on a day specified in the Fourth Schedule and the employee does not work on that day, nothing in this paragraph shall be so construed as to deem his rest day to have been deferred.

7. Overtime

(1) Every employee shall be entitled to be paid overtime as follows—

- (a) in respect of any time worked in excess of the normal hours per week specified in paragraph 5(1), (2) and (4) employees shall be paid overtime at twice the basic hourly rate;
- (b) where an employee works on his rest day he shall be paid for each hour worked at twice his basic hourly rate.

(2) For purposes of calculating payment for overtime under subparagraph (1)—

- (a) the basic hourly rate of employees whose normal working week consists of forty-eight hours shall be deemed to be one two-hundred-eightieth of the employee's basic monthly wage;
- (b) the basic hourly rate of employees whose normal working week consists of fifty-two hours shall be deemed to be one-two-hundred and twenty-fifth of the employee's basic monthly wage;
- (c) the basic hourly rate of employees whose working week consists of sixty-one hours, by virtue of the deferment of the rest day, shall be deemed to be one-two hundred and fifty-fifth of the employee's basic monthly wage.

8. Public holidays

(1) The days specified in the Fourth Schedule, including any other day that may subsequently be gazetted as a public holiday shall be holidays with full pay.

(2) Where an employee is required to work on a day which, by virtue of subparagraph (1), is a holiday with full pay he shall be paid in respect of any time worked at double his normal basic hourly rate in addition to the payment he would have received had he not been required to work on that particular day or be given equivalent time-off with full pay within fourteen days in lieu of the overtime payment.

(3) Where an employee is required to work on a public holiday, which falls on his rest day he shall be paid for the hours worked at twice his basic hourly rate, and be given another day off in lieu of his rest day.

[Subsidiary]**9. Annual leave**

(1) An employee shall be entitled—

- (a) after every twelve consecutive months of service with an employer to not less than twenty-four working days leave with full pay and that leave may, in exceptional circumstances and subject to mutual agreement, be accumulated;
- (b) where the 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 two days leave with full pay in respect of each completed month of service in that period.

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

10. Leave travelling allowance

(1) After each period of twelve months continuous service with an employer an employee shall be entitled, when proceeding on annual leave, to a travelling allowance of one hundred and fifty shillings.

(2) In the event of an employee accumulating annual leave, travelling allowance shall also be accumulated and paid for when proceeding on such leave.

11. Maternity leave

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

Provided that—

- (i) a woman who has taken two months maternity leave shall forfeit her annual leave in that year but shall be paid her leave travelling allowance provided for under paragraph 10(1);
- (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 other loss of privileges during such period.

12. Sick leave

(1) After two months continuous service with an employer an employee with less than ten years service shall be entitled to a maximum of thirty days sick leave with full pay and thereafter to thirty days sick leave with half pay in each period of twelve months consecutive service.

(2) An employee with ten or more years of service shall be entitled to a maximum of sixty days sick leave with full pay and thereafter to a maximum of sixty days sick leave with half pay in each period of twelve months consecutive service:

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 centre, or by a person authorized by him in writing and acting on his behalf; and
- (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. Compassionate leave

(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.

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

14. Meals and accommodation allowance

An employee whose duties occasionally require him to work away from his principal place of employment for a period including an overnight stay shall, unless his employer provides free meals and accommodation, be paid subsistence and accommodation allowance of sixty shillings per day:

Provided that where an employee incurs expenditure in excess of sixty shillings during that period he shall be refunded such excess expenditure on production of receipts.

15. Redundancy

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

- (a) the union or the labour officer of the area shall be informed in writing, at least a month before the date of the intended redundancy of the reasons for and the 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 the particular category of employees affected by the redundancy;
- (c) the redundant employee shall be entitled to the appropriate period of notice or pay in lieu thereof as provided for under paragraph 20;
- (d) any leave due to an employee who is declared redundant including leave travelling allowance shall be paid in cash;
- (e) an employee declared redundant shall be entitled to severance pay at the rate of twelve days wages for each completed year of service.

16. Warning system

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 warning shall be entered in the employee's employment record and copies of the warning shall be forwarded to the shop-steward of his union and that warning shall be valid for nine months from the date of issue;
- (b) the second and third warnings shall be copied to the shop-steward and the branch secretary of his union;
- (c) if an employee with three warnings commits a further default within two hundred and ninety-two working days the employer shall be entitled to summarily dismiss him:

Provided that if the employee completes two hundred and ninety-two working days from the date of the third warning without committing any further default, any warning entered in his employment record shall be cancelled and cease to be valid.

[Subsidiary]**17. Acting appointment**

Where an employee is required to work for a period of not less than fifteen days 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 acting allowance at a rate not less than the difference between such higher basic minimum wage and his basic wage.

18. Temporary or seasonal employment

(1) No person shall be employed on temporary or seasonal terms of employment for a period exceeding six months.

(2) An employee on temporary or seasonal terms of employment shall be deemed to have been converted to regular terms of employment on completion of six months' continuous service.

19. Retirement benefits

A male employee who attains the age of sixty years, or fifty-five years in the case of female employees, may retire or be retired from employment on grounds of age:

Provided that—

- (i) an employee who was in the employment of the same employer before the introduction of the National Social Security Fund shall be paid retirement benefits at the rate of fifteen days' pay for every completed year of service prior to the introduction of the Fund and the retirement benefits shall be based on the employee's wages at the time of introduction of the Fund;
- (ii) an employee whose services are terminated by the employer otherwise than for gross misconduct before attaining the retirement age, shall be entitled to be paid a gratuity equal to fifteen days' pay for every completed year of service prior to the introduction of the National Security Fund, and the gratuity shall be based on the employee's wages at the time of introduction of the Fund.

20. Termination of employment

(1) Every contract of employment shall be terminated in the following manner—

- (a) in the case of an employee who has completed ten years continuous service with the employer by not less than three months' 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 three months' wages;
- (b) in the case of an employee who has completed five years continuous service with the employer by not less than two months' 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 two months' wages;
- (c) in the case of an employee who has completed the probationary period but less than five years continuous service with the employer, 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.

(2) Notwithstanding the provisions of subparagraph (1), the first two months of employment may be treated as a probationary period and during such period the contract may be terminated by not less than fourteen days' notice to be given by either party in writing or otherwise by the payment by either party, in lieu of notice, of fourteen days' wages.

[Subsidiary]

(3) Nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

21. Revocation of L.N. 34/1974

The Regulation of Wages (Hotel and Catering Trades) Order, 1974 is revoked.

FIRST SCHEDULE

[Paragraph 3.]

BASIC MINIMUM WAGE RATES

BASIC MINIMUM WAGES (EXCLUSIVE OF HOUSE ALLOWANCE) FOR EMPLOYEES IN ESTABLISHMENTS COVERED BY THE HOTELS AND RESTAURANTS ACT (Cap. 494)

	(1) Nairobi Area and the Mombasa Municipality	(2) Municipalities of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru and Thika. the Urban Councils of Kericho, Masaku, Nanyuki, Nyahururu, Kisii, Malindi and Mamburui and the former Township of Naivasha	(3) All Other Areas
	Sh. cts.	Sh. cts.	Sh. cts.
1. Head receptionist, cashier, storekeeper, housekeeper-executive security guard, maintenance artisan (grade I)	1,106 70	772 95	716 85
2. Head barman, housekeeper, telephone operator (grade A), chief clerk, receptionist, purchasing clerk, cashier, wages clerk, bond clerk, general clerk, book-keeper, accounts clerk, swimming pool cashier, typist, store-keeper/stores clerk, artisan (grade II)	927 20	721 55	612 20
3. Driver: vehicles 12 tons and over	1,106 70	772 95	716 85
vehicles 2 tons and over but under 12 tons, boat driver	810 10	624 65	593 45
Cars and light vans (under 2 tons)	618 10	587 25	537 35
4. Room service clerk, kitchen clerk, telephone operator (grade B), linen room clerk, artisan (grade III), assistant housekeeper, head porter	810 10	624 65	593 45
5. Barman, telephone operator (grade C), trainee clerk, linen repairer, cleaner (supervisor), head bedroom steward, floor supervisor, boilerman, ungraded artisan, dhobi in charge	618 10	587 25	537 35
6. Assistant electrician, wine waiter, cellarman, head messenger, cook (trainee), head gardener, florist	464 35	412 15	366 30

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—continued

	(1) Nairobi Area; and the Mombasa Municipality	(2) Municipalities of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru and Thika. the Urban Councils of Kericho, Masaku, Nanyuki, Nyahururu, Kisii, Malindi and Mamburui and the former Township of Naivasha	(3) All Other Areas
	Sh. cts.	Sh. cts.	Sh. cts.
7. Full time petrol station attendant	558 00	521 80	427 00
8. Storeman, linen attendant, waiter, bedroom steward, hall porter, luggage store porter, lift attendant, syce, office messenger, security guard (watchman), swimming pool attendant, kitchen-hand, laundry hand, kitchen cleaner, pantry/still room hand, boat cleaner, sanitary sweeper	464 35	412 15	326 65
9. Gardener (shamba worker).....	464 35	412 15	305 10
10. Learner (pantry, kitchen or general) (for a maximum period of one year) labourer:			
(a) over 18 years of age	464 35	412 15	305 10
(b) under 18 years of age	328 85	301 70	292 35
11. Musicians:			
(a) able to read and transcribe music	1,069 00	989 00	958 40
(b) not able to read and transcribe music	723 10	691 30	611 90

Special All Areas

	Head Cook	Assistant Head Cook	Cook	Assistant Cook
	Sh. cts.	Sh. cts.	Sh. cts.	Sh. cts.
A LA CARTE				
Over 200 beds/covers	1,304 95	864 85	723 10	562 00
150 beds/covers	1,242 55	785 45	691 30	537 00
100 beds/covers	1,131 40	753 70	611 90	518 35
less than 100 beds/covers	1,069 00	723 10	586 85	470 05
TABLE D' HOTE				
over 200 beds/covers	1,131 40	753 70	611 90	518 35
150 beds/covers	1,069 00	723 10	586 95	470 05
100 beds/covers	958 40	691 30	562 00	452 70
less than 100 beds/covers	896 05	611 90	573 00	432 70

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—continued

Special All Areas

	Head Waiter i/c		Assistant Head Waiter		Head Senior Waiter	
	Sh.	cts.	Sh.	cts.	Sh.	cts.
A LA CARTE						
over 200 covers	1,304	95	864	85	562	00
150 covers and over	1,242	55	785	45	537	00
100 covers and over	1,131	40	753	70	518	35
50 covers and over	1,069	00	723	10	470	05
Under 50 covers	611	90	550	05	—	
TABLE D' HOTE						
Over 200 covers	927	20	611	20	518	36
150 covers and over	896	05	586	95	470	75
100 covers and over	785	45	561	40	452	00
50 covers and over	611	90	537	00	—	
under 50 covers	549	95	533	10	—	

SECOND SCHEDULE

BASIC MINIMUM WAGE RATES

BASIC MINIMUM WAGES (EXCLUSIVE OF HOUSING ALLOWANCE) FOR
EMPLOYEES IN ALL ESTABLISHMENTS NOT COVERED BY THE HOTEL AND
RESTAURANTS ACT (Cap. 494)

	(1)	(2)	(3)
	Nairobi Area; and the Mombasa Municipality	Municipalities of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru and Thika. the Urban Councils of Kericho, Masaku, Nanyuki, Nyahururu, Kisii, Malindi and Mamburui and the former Township of Naivasha	All Other Areas
	Sh.	Sh.	Sh.
	cts.	cts.	cts.
1. General labourer			
(a) under 18 years of age	308	283	274
(b) 18 years of age and over	436	387	286
2. Learner (pantry, kitchen or general) (for maximum period of one year):			
(a) under 18 years of age	308	283	274

Labour Institutions

[Subsidiary]

SECOND SCHEDULE—continued

	(1) Nairobi Area; and the Mombasa Municipality	(2) Municipalities of Nakuru, Kisumu, Kakamega, Eldoret, Kitale, Nyeri, Embu, Meru and Thika. the Urban Councils of Kericho, Masaku, Nanyuki, Nyahururu, Kisii, Malindi and Mamburui and the former Township of Naivasha	(3) All Other Areas
	Sh. cts.	Sh. cts.	Sh. cts.
(b) 18 years of age and over	436 00	387 00	286 50
3. Head gardener, storeman, waiter, bedroom steward, hall porter, lift attendant, office messenger, swimming pool attendant, kitchen cleaner, pantry/still-room-hand, watchman, dhobi, sanitary sweeper, syce, boat cleaner, luggage porter	436 00	387 00	306 70
4. Full time petrol station attendant	524 00	490 00	401 00
5. Head bedroom steward, dhobi-in-charge, barman, head porter (minimum of ten porters), telephone operator (grade C), trainee clerk, linen repairer, boilermen, swimming pool cashier, cleaner (supervisor)	580 40	551 40	504 55
6. Drivers:			
cars and light vans (under 2 tons)	508 40	551 40	504 55
vehicles (over 2 tons but under 12 tons), boat driver	760 65	586 55	557 25
vehicles (over 2 tons)	1,039 15	725 80	673 10
7. Artisans:			
ungraded	580 40	551 40	504 55
grade III trade tested	760 65	586 55	557 25
grade II trade tested	870 60	687 20	574 85
grade I trade tested	1,039 15	725 80	673 10
8. Room service clerk, kitchen clerk, telephone operator (grade B), tailor, assistant housekeeper	760 65	586 55	557 25
9. Head barman, housekeeper, cashier, receptionist, typist, book-keeper, telephone operator (grade A), wages clerk, general clerk, accounts clerk, store-keepers, store clerk, purchasing clerk, chief clerk	870 60	687 20	574 85

Labour Institutions

[Subsidiary]

SECOND SCHEDULE—continued

Special All Areas

	Head Cook		Assistant Head Cook		Cook		Assistant Cook	
	Sh.	cts.	Sh.	cts.	Sh.	cts.	Sh.	cts.
Over 100 beds/covers	1,062	35	707	70	574	55	486	70
Under 100 beds/covers	1,003	75	678	95	551	15	441	25
					Head Waiter		Assistant Head Waiter	
					Sh.	cts.	Sh.	cts.
50 covers and over					678	95	551	15
Under 50 covers					574	55	516	50

THIRD SCHEDULE

[Paragraph 4.]

HOUSING ALLOWANCE

Area	Employees aged 18 years and over		Employees aged under 18 years	
	Sh.	cts.	Sh.	cts.
Nairobi Area and Mombasa Municipality	170	00	115	00
Municipalities of Nakuru, Kisumu, Kitale, Eldoret, Kakamega, Embu, Meru, Thika and Nyeri	145	00	90	00
Urban Councils of Kericho, Kisii, Nanyuki, Nyahururu, Masaku, Malindi and the former Township of Naivasha	145	00	90	00
All other areas	130	00	65	00

FOURTH SCHEDULE

[Paragraph 8.]

HOLIDAYS WITH FULL PAY

New Year's Day.
 Good Friday.
 Easter Monday.
 Labour Day.
 Madaraka Day.
 Kenyatta Day.
 Idd-ul-Fitr Day.

[Subsidiary]

Independence Day.
Christmas Day.
Boxing Day.

REGULATION OF WAGES (MOTOR ENGINEERING TRADES) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Casual employees.
5. Housing allowance.
6. Hours of work.
7. Overtime.
8. Weekly rest.
9. Public holidays.
10. Annual leave.
11. Leave travelling allowance.
12. Travelling time.
13. Sick leave.
14. Maternity leave.
15. Safari allowance.
16. Redundancy.
17. Acting allowance.
18. Protective clothing.
19. Termination of employment.
20. Revocation of L.N. 17/1973.

SCHEDULES

- FIRST SCHEDULE – BASIC MINIMUM WAGE AND CONDITIONS
THERETO
- SECOND SCHEDULE – HOLIDAYS WITH FULL PAY
-

[Subsidiary]**REGULATION OF WAGES (MOTOR ENGINEERING TRADES) ORDER**

[Cap. 229, sub. leg, section 11, L.N. 298/1987.]

1. Citation

This Order may be cited as the Regulation of Wages (Motor Engineering Trades) Order.

2. Application

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

- (a) the retail supply of motor vehicles, agricultural machinery or mobile construction plant, or the repair, servicing, assembly or adaptation of such vehicles, machinery, or plant on behalf of other persons or undertakings;
- (b) spray painting of motor vehicles, agricultural machinery or mobile construction plant on behalf of other persons or undertakings;
- (c) the panel beating of motor vehicles, agricultural machinery or mobile construction plant on behalf of other persons or undertakings;
- (d) the supply of batteries, radiators or the repair, manufacturing, assembly or adaptation of such batteries and radiators on behalf of other persons or undertakings;
- (e) the supply of tyres, or the repair, manufacturing, retreading or adaptation of such tyres on behalf of other persons or undertaking:

Provided that persons employed in any undertaking or part of any undertaking which is operated by the Government, any local authority, any quasi-Government body and any charitable institution shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the First Schedule shall be calculated at a rate not less favourable than that specified in the First Schedule:

Provided that wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed by a Regulation of Wages (General) Order that employee shall be paid such prescribed basic minimum wage.

4. Casual employees

(1) A person employed as a casual employee shall be paid for each day worked at a rate of one-twenty-second of both the monthly wage and housing allowance applicable to him under paragraph 5 having regard to his occupation and the area of employment.

(2) A casual employee shall be confirmed to regular monthly terms of employment after working consecutively or intermittently for ninety days in any one year.

5. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled in addition to the basic minimum wage prescribed under paragraph 3 to a housing allowance at a rate not less favourable than—

- (a) a hundred and twenty shillings per month;
- (b) fifteen percent of his basic minimum wage as housing allowance per month, whichever is higher.

6. Hours of work

The normal working week shall consist of forty-four hours of work spread over six days of the week comprising five days of eight hours of work per day and one day of four hours of work:

Provided that—

- (i) in the case of day security staff the normal working week shall be fifty-two hours of work spread over six days so the week;
- (ii) in the case of night security staff, the normal working week shall be five shifts of twelve hours each.

7. Overtime

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

- (a) for time worked in excess of the normal number of hours specified in paragraph 6, at one-half times the normal hourly rate;
- (b) for time worked on a Sunday or on the employee's normal rest day, and on statutory public holidays, at twice the normal hourly rate.

(2) For the purpose of calculating payments for overtime in accordance with subparagraph (1) the normal hourly rate of wages shall be deemed to be not less than one-one-hundred and ninetieth of the employee's monthly wages, exclusive of housing allowance:

Provided that—

- (i) in the case of day security staff the normal hourly rate shall be deemed to be not less than one-two-hundred and twenty-fifth of the employee's monthly wage, exclusive of housing allowance;
- (ii) in the case of night security staff the normal hourly rate shall be deemed to be not less than one-two-hundred and sixtieth of the employee's monthly wage, exclusive of housing allowance.

8. Weekly rest

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

9. Public holidays

(1) The days specified in the Second Schedule including any other day that may subsequently be gazetted as a public holiday shall be holidays with full pay.

(2) Where an employee is required to work on a day which by virtue of subparagraph (1) is a holiday with full pay he shall be paid in respect of any time so worked at double his normal rate of wages per hour, in addition to the payment he would have received had he not been required to work on that particular day.

10. Annual leave

(1) After each period of twelve consecutive month's service with an employer—

- (a) an employee with one and up to ten years continuous service shall be entitled to twenty-one working days leave with full pay; and
- (b) an employee with more than ten years continuous service shall be entitled to twenty-five working days leave with full pay:

Provided that—

- (i) in the event of a public holiday falling within the leave period, such public holiday shall be added to the leave entitlement;

[Subsidiary]

- (ii) after nine month's consecutive service, an employee may, at the discretion of the employer, be granted the full period of annual leave in advance;
- (iii) annual leave may be allowed, at the employer's discretion, to be accumulated up to a maximum of two years' annual leave entitlement.

(2) Where employment is terminated before the completion of any twelve months leave earning period, the employee shall be entitled to one and three-quarters days leave with full pay for each completed month of service.

11. Leave travelling allowance

An employee proceeding on annual leave shall be entitled to payment by his employer of two hundred shillings travelling allowance after every twelve months consecutive service.

12. Travelling time

An employee proceeding on leave shall be entitled to a period of not more than four days' unpaid leave as travelling time, in addition to his annual leave entitlement specified in paragraph 10.

13. Sick leave

(1) After two months continuous service with an employer an employee with up to two years service shall be entitled to one month's sick leave with full pay and thereafter to one month's sick leave with half pay in each period of twelve months consecutive service:

Provided that—

- (i) an employee with more than two and up to five years service shall be entitled to one month sick leave with full pay and thereafter to two months sick leave with half pay in each period of twelve months consecutive service;
- (ii) an employee with more than five years service shall be entitled to two months sick leave with full pay and thereafter to three months sick leave with half pay in each period of twelve months consecutive service;
- (iii) he 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 qualified medical practitioner or a person authorized by him in writing and acting on his behalf, in charge of a dispensary or medical aid centre;
- (iv) an employee shall not be eligible for sick leave under this paragraph in respect of any incapacity suffered due to gross neglect on his part.

(2) An employee who qualifies for sick leave with full pay provided for in subparagraph (1), and who is in consequence detained in hospital, shall be entitled to an extension of such sick leave with full pay for a period not exceeding sixty days, whilst so detained in hospital.

14. Maternity leave

A woman employee shall be entitled to two months maternity leave with full pay:

Provided that—

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

[Subsidiary]

- (ii) child birth in respect of an employed woman shall not be deemed to be sickness as provided for in paragraph 13, and the employer shall not be required to meet medical costs incurred thereon;
- (iii) female employees in receipt of maternity leave shall not incur any loss of privileges during such period.

15. Safari allowance

(1) An employee who is required to perform work away from his principal place of employment shall be entitled to be paid subsistence allowance as follows:

	<i>Sh.</i>
Breakfast	15
Lunch	20
Supper	20

(2) In respect of each complete night's absence from his principal place of employment, an employee shall, in addition to the subsistence allowance provided for in subparagraph (1), be paid a night stop allowance of Sh. 75.

16. Redundancy

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 reason for and the extent of the intended redundancy;
- (b) the employer shall have due regard to seniority in time and 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 be paid in lieu of notice of the appropriate notice period provided for under paragraph 19;
- (f) an employee declared redundant shall be entitled to be paid severance pay at the rate of fifteen days for each completed year of service.

17. Acting allowance

Where an employee is required to act in a higher grade for a period of not less than eight days, he shall be paid, in addition to his basic minimum wage, an acting allowance equal to either twenty-five per cent of the basic wage of the employee for whom he is acting or to the full basic wage of that employee, whichever is the lesser amount.

18. Protective clothing

(1) All employees the nature of whose work necessitates the wearing of protective clothing, shall be provided with two sets of uniforms per year and two bars of soap per month by the employer at his own expense.

(2) The protective clothing shall remain the property of the employer, but the employee shall be responsible for the cleanliness of the uniform issued to him.

[Subsidiary]

19. Termination of employment

(1) Every contract of employment shall be terminated in the following manner—

- (a) in the case of an employee who has completed one month and up to five years continuous service with an employer, one months notice to be given in writing by either party or otherwise by the payment by either party in lieu of notice of one months wages;
- (b) in the case of an employee who has completed more than five years and up to fifteen years continuous service with an employer, two months notice to be given in writing by either party, or otherwise by the payment by either party in lieu of notice of two months wages;
- (c) in the case of an employee who has completed more than fifteen years continuous service with an employer, three months notice to be given in writing by either party or otherwise by the payment by either party in lieu of notice of three months wages.

(2) Nothing in this section shall prejudice the right of either party to terminate a contract summarily for lawful cause.

20. Revocation of L.N. 17/1973

The Regulation of Wages (Motor Engineering) Order, 1973 is revoked.

FIRST SCHEDULE

BASIC MINIMUM WAGE AND CONDITIONS THERETO

PART I – BASIC MINIMUM MONTHLY WAGES RATES (EXCLUSIVE OF HOUSING ALLOWANCE)

Occupation	Nairobi Area; Mombasa Municipality.	Municipal and Town Councils of: Eldoret, Kitale, Nakuru, Meru, Kakamega, Embu, Nyeri, Thika, Masaku, Kericho, Bungoma, Nanyuki, Nyahururu, Murang'a, Naivasha, Kisii, Kiambu, Malindi	All Other Areas
		<i>Shillings per Month</i>	
Unskilled labour (including cleaner, general labourer, manual office worker, messenger)	880	864	850
Semi-skilled labour (including car polisher, assistant petrol pump attendant, assistant greaseman, assistant batteryman or employee engaged in rubbing down a motor vehicle)	935	911	894
Drivers:			
(a) Cars and light vans	955	932	913
(b) Medium sized vehicles	1,046	1,018	992
(c) Heavy commercial vehicles including recovery vehicles	1,400	1,369	1,340

FIRST SCHEDULE—continued

Occupation	Nairobi Area; Mombasa Municipality.	Municipal and Town Councils of: Eldoret, Kitale, Nakuru, Meru, Kakamega, Embu, Nyeri, Thika, Masaku, Kericho, Bungoma, Nanyuki, Nyahururu, Murang'a, Naivasha, Kisii, Kiambu, Malindi	All Other Areas
Miscellaneous:		<i>Shillings per Month</i>	
(a) Greaseman, batteryman, tyreman, petrol pump attendant, assistant tyre and tube repairer, assistant buffer, assistant solution sprayer or brusher, assistant chemical weigher, assistant extruder operator, assistant tyre builder, assistant tyre trimmer and painter	1,041	1,017	996
(b) Clerk, storekeeper telephone operator, trimmer and painter, tyre fitter, chemical weigher, solution sprayer or brusher, tyre and tube repairer, tyre builder, tyre balancer, tube and hose puller, fitter dough mixing operator, loader, branding machine operator	1,255	1,203	1,164
(c) Tyre buffer and measurer, tyre examiner, rubber mixture and mill operator, rubber extruder operator, mould operator, relluger, regroover, chamber operator, hose building machine operator, radiator pipe builder, retread tyre final examiner	1,331	1,203	1,164
(d) Learner clerk (for a maximum period of 2 years), learner storekeeper, learner telephone operator	931	911	893
(e) Assistant clerk, assistant storekeeper, assistant telephone operator	1,016	991	968
(f) Day security staff	944	924	905
(g) Night security staff	954	932	913

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—continued

Occupation	Nairobi Area; Mombasa Municipality.	Municipal and Town Councils of: Eldoret, Kitale, Nakuru, Meru, Kakamega, Embu, Nyeri, Thika, Masaku, Kericho, Bungoma, Nanyuki, Nyahururu, Murang'a, Naivasha, Kisii, Kiambu, Malindi	All Other Areas
<i>Shillings per Month</i>			
Artisan labour (including motor vehicle mechanic, diesel fitter-turner, panel beater, tinsmith, coppersmith, blacksmith, electrician, spray painter, carpenter, mason, interior decorator, metal worker, welder):			
(a) Learner artisan for a maximum period of 2 years	880	864	850
(b) Artisan without Trade Test Certificate	954	932	913
(c) With Grade III Trade Test Certificate	1,138	1,104	1,072
(d) With Grade II Trade Test Certificate	1,331	1,283	1,239
(e) With Grade I Trade Test Certificate	1,518	1,467	1,410

PART II – DEFINITIONS

In this Schedule—

- (i) **“Greaseman”** means an employee wholly or mainly engaged in lubricating vehicles, including operating the necessary equipment either solely or in charge of other employees.
- (ii) **“Tyreman”** means an employee wholly or mainly engaged in repairing tyres and tubes, including the operating of the necessary equipment either solely or in charge of other employees.
- (iii) **“Batteryman”** means an employee wholly or mainly engaged in the servicing and maintenance (including charging) of batteries, either solely or in charge of other employees.
- (iv) **“Petrol pump attendant”** means an employee wholly or mainly engaged in the operation of petrol pumps and ancillary equipment either solely or in charge of other employees.
- (v) **“Assistant greaseman, assistant tyreman, assistant batteryman, assistant petrol pump attendant”** means an employee who assists persons in carrying out any of the duties set out in paragraphs (i), (ii), (iii) and (iv) above.
- (vi) **“Storekeeper”** means an employee who is in charge of materials store with responsibility for stocks, orders, issues and maintenance of records.
- (vii) **“Assistant storekeeper”** means an employee who is engaged to assist the storekeeper in carrying out his duties and who may be required to keep records.

FIRST SCHEDULE—*continued*

- (viii) **“Learner storekeeper”** means an employee who is engaged to learn the duties of storekeeper in carrying out his duties in materials store (for a maximum period of two years).
- (ix) **“Clerk”** means an employee engaged full time in clerical and records work, provided that an employee who is required to keep simple records in the course of his manual or supervisory work shall not be deemed to be a clerk.
- (x) **“Telephone operator”** means an employee whose full time duties consist of the operation of a telephone switchboard.
- (xi) **“Chemical weigher”** means an employee who is wholly or mainly engaged in weighing small quantities of chemicals, fillers and rubber as per specified — daily requirements.
- (xii) **“Rubber mix mill operator”** means an employee who is wholly or mainly engaged in operating a machine which kneads, mixes, blends or warms raw rubber or rubber compounds for further processing on other machines.
- (xiii) **“Extruder operator”** and **“Hose building machine operator”** means an employee who is wholly or mainly engaged in operating a machine from which compounded rubber is extruded. There are different extruder configurations producing tubes, hoses and profiles, using appropriate dyes as specified.
- (xiv) **“Spreading machine operator”** means an employee who is wholly or mainly engaged in operating the spreader which spreads rubber dough onto textile, to specified thickness.
- (xv) **“Radiator pipe builder or curer”** means an employee who is wholly or mainly engaged in the mounting of extruded hose onto mandrels, checking quality, labelling.
- (xvi) **“Tyre acceptance examiner”** means an employee who is wholly or mainly engaged in examining the condition of tyre casings and accepting those which meet the required standard for retreading.
- (xvii) **“Tyre buffer and measures”** means an employee who wholly or mainly operates a tyre buffing machine to remove the worn tyre tread and prepare it for tread building and retreading.
- (xviii) **“Filler and trimmer”** means a person who wholly or mainly skives, spots, fills and trims minor damage on a tyre casing prior to retread building.
- (xix) **“Solution sprayer or brusher”** means a person who is wholly or mainly engaged in applying rubber solution to buffed and repaired retread casings.
- (xx) **“Tyre builder”** means an employee who wholly or mainly operates any type of machine used for building unvulcanized rubber onto prepared tyre casings prior to retreading.
- (xxi) **“Relugger or regroover”** means a person who is wholly or mainly engaged in building and shaping unvulcanised rubber by hand onto prepared tyre casings to form a replacement tread pattern prior to curing.
- (xxii) **“Tyre mould operator”** means an employee who wholly or mainly operates tyre vulcanizing presses and moulds and who also loads pneumatic rubber tyres for vulcanization in pot heaters, setting curing conditions as specified.
- (xxiii) **“Tyre trimmer and painter”** means a person who is wholly or mainly engaged in trimming “flash rubber” from tyres after vulcanizations and who applies the final coat of tyre paint to the retread tyre after final examination.
- (xxiv) **“Tyre final examiner”** means an employee who is wholly or mainly engaged in making final examination of retread tyres to make sure that it has been retreaded to required standard before it is released for sale.

[Subsidiary]

SECOND SCHEDULE

[Paragraph 9.]

HOLIDAYS WITH FULL PAY

New Year's Day.

Good Friday.

Easter Monday.

Labour Day.

Madaraka Day.

Kenyatta Day.

Independence Day.

Christmas Day.

Boxing Day.

Idd-ul-Fitr.

Moi Day.

REGULATION OF WAGES (PROTECTIVE SECURITY SERVICES) ORDER**ARRANGEMENT OF ORDERS***Order*

1. Citation.
2. Application.
3. Basic minimum wage.
4. Casual employee.
5. House allowances.
6. Hours of work.
7. Overtime.
8. Weekly rest.
9. Public holidays.
10. Leave with pay.
11. Sick leave.
12. Maternity leave.
13. Leave travelling allowance.
14. Compassionate leave.
15. Meals and accommodation allowance.
16. Redundancy.
17. Gratuity.
18. Transport to and from work.
19. Tallying guard allowance.
20. Transfer allowance.
21. Uniforms.
22. Death and bereavement expenses.
23. Warnings.
24. Termination of employment.
25. Medical allowance.
26. Clocking allowance.
27. General wage increase.
28. Revocation of L.N. 178/1995.

SCHEDULES

- FIRST SCHEDULE – BASIC MINIMUM MONTHLY WAGE RATE
(EXCLUSIVE OF HOUSING ALLOWANCE) FOR NEW
EMPLOYEES
- SECOND SCHEDULE – PUBLIC HOLIDAYS
-

[Subsidiary]

REGULATION OF WAGES (PROTECTIVE SECURITY SERVICES) ORDER

[Cap. 229, sub. leg. section 11(3), L.N. 8/1988, L.N. 24/1998, L.N. 53/2003, Corr. No. 63/2003.]

1. Citation

This Order may be cited as the Regulation of Wages (Protective Security Services) Order, 1998.

2. Application

This Order shall apply to all persons employed directly or indirectly by an undertaking or part of an undertaking which is involved in the carrying on of any of the following activities—

- (a) private investigations or security consultancy;
- (b) guarding of industrial plants, banks, warehouses, shops, private homes or any other property or establishment against theft, illegal entry or fire; and
- (c) escort of money or other valuable property;

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, a local authority, a quasi-governmental body, a charitable or religious organization or an educational body, or a medical institution shall be excluded.

3. Basic minimum wage

(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 Schedule having regard to his occupation and the area of employment.

(2) An employee shall be issued on pay day with a pay slip indicating all earnings due to him and deductions made therefrom in respect of any matter.

4. Casual employees

(1) A person employed as a casual employee shall be paid for each day or shift worked at a rate of one-twenty-second of both the monthly wage and housing allowance applicable to him under paragraph 5 having regard to his occupation and area of employment.

(2) A casual employee shall be confirmed to regular monthly terms of employment after working consecutively or intermittently for ninety days in any one year.

5. House allowance

An employee who is provided with free housing accommodation by his employer shall, in addition to his basic minimum wage, be paid housing allowance of one thousand shillings per month or fifteen per cent of his basic minimum monthly wage, whichever is higher.

[L.N. 53/2003, s. 2.]

6. Hours of work

The normal working week of all employees including day and night guards shall be fifty-two hours of work spread over six days of the week.

7. Overtime

(1) An employee who works for any time in excess of the normal hours of work specified in paragraph 6 shall be entitled to be paid for the overtime thereby worked at the following rates—

- (a) one-and-a half times his normal rate of wages per hour in respect of any time worked in excess of the normal hours of work; and

- (b) twice the normal rate of wages per hour in respect of any time worked on a rest day.

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

8. Weekly rest

An employee shall be entitled to one whole rest day each week.

9. Public holidays

(1) The days specified in the Second Schedule including any other day that may subsequently be gazetted as a public holiday shall be holidays with full pay.

(2) Where an employee is required to work on a day which by virtue of subparagraph (1) is a holiday with full pay, the employees shall be paid, in respect of any time so worked, at double the normal rate of wages per hour in addition to the payment the employee would have received had he not been required to work on that particular day.

10. Leave with pay

(1) An employee shall be entitled to twenty-six working days' leave with full pay after each period of twelve months consecutive service.

(2) Where an employment is terminated before the completion of any twelve months leave earning period, the employee shall be entitled to three days' leave with full pay in each completed month of service.

(3) The leave referred to in this paragraph shall be additional to all public holidays and any sick leave taken by an employee in accordance with paragraph 11.

11. Sick leave

After two months continuous service with an employer, an employee shall be entitled to fifty days sick leave with full pay and thereafter to fifty days sick leave with half pay in each period of twelve months consecutive services:

Provided that—

- (a) an employee shall not be entitled to sick leave unless he produces to the employer a certificate of incapacity covering the period of sick leave claimed, signed by a medical practitioner or by a person acting on his behalf in charge of a dispensary or medical-aid centre;
- (b) an employee shall not be eligible for sick leave in respect of any capacity due to gross neglect on his part.

[L.N. 53/2003, s. 3.]

12. Maternity leave

A female employee shall be entitled to two months leave with full pay in addition to her annual leave for that year:

Provided that—

- (a) childbirth shall not be deemed to be a sickness as provided for under paragraph 11 and the employer shall not be required to meet medical costs incurred in respect thereof;
- (b) a female employee who takes maternity leave shall not incur any loss of privileges during that period.

[L.N. 53/2003, s. 4.]

[Subsidiary]

13. Leave travelling allowance

After each period of twelve months continuous service with an employer, an employee shall be paid one thousand one hundred shillings travelling allowance when proceeding on leave.

[Corr. No. 53/2003.]

14. Compassionate leave

(1) An employee desiring to take leave on compassionate grounds shall by prior arrangement with the employer be granted that leave up to his earned leave entitlement under paragraph 10 and the leave thus taken may subsequently be set off against his annual leave.

(2) In addition to the leave provided for in subparagraph (1) an employee may be granted twenty days compassionate leave without pay in any one year.

15. Meals and accommodation allowance

(1) In respect of each day or part thereof during which an employee is required to work away from his principal place of work, he shall be paid subsistence allowance as follows—

	<i>KSh.</i>
(a) breakfast	95
(b) lunch	115
(c) dinner	120

(2) In respect of each complete night on duty away from his principal place of employment, an employee whose employer does not provide him with free accommodation shall, in addition to the subsistence allowances provided for in subparagraph (1), be paid accommodation allowance as follows—

	<i>KSh.</i>
(a) for a night in Nairobi or Mombasa	440
(b) for a night-stop elsewhere	340

[L.N. 53/2003, s. 5, Corr. No. 63/2003.]

16. Redundancy

(1) 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 labour officer of the area shall be informed of the reasons for and extent of intended redundancy;
- (b) the employer shall have due regard to seniority in time and the skill, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) no employee shall be discriminated against 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 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 paid severance pay at the rate of eighteen days for each completed year of service.

(2) Payment of benefits under this paragraph shall be made in cash before redundancy takes effect.

17. Gratuity

(1) After five years' service with an employer, the employee shall be entitled to eighteen days pay for every completed year of service by way of gratuity based on the employee's wage at the time of termination of service.

(2) An employee who is summarily dismissed for lawful cause or who terminates his services for any reason other than certified ill-health or retirement age shall not be entitled to a gratuity:

Provided that—

- (a) in the event of a dispute with regard to termination of services on account of ill-health, the decision of an independent qualified medical practitioner on such a dispute shall prevail; and
- (b) the normal retirement age shall be fifty-five years.

18. Transport to and from work

Employers shall endeavour to assign work to guards or watchmen near their places of residence but where it is not possible to do so, an employer shall either provide transport to and from the employees' places of work or pay them a minimum public transport allowance.

[L.N. 53/2003, s. 6.]

19. Tallying guard allowance

(1) A tallying guard shall be paid an allowance of eighteen shilling per shift in addition to his minimum wage.

(2) For the purpose of this paragraph—

"a tallying guard" means a guard who, in addition to his normal duties, is responsible for checking on contents of goods-carrying vehicles and comparing these contents with relevant documents in respect of vehicles leaving or entering the premises he is guarding.

20. Transfer allowance

(1) Where an employee is transferred to a branch of the employer's business or to a place either within or outside the district, and the transfer results in disturbance to housing arrangements, the cost of transporting the employee's personal and household effects, his wife and up to three children (if living with him) shall be borne by the employer.

(2) In addition to the amount payable under subparagraph (1) the employee shall be paid one hundred and fifty shillings per day for the first fifteen days.

[L.N. 53/2003, s. 7.]

21. Uniforms

(1) Guards and other employees the nature of whose work necessitates the wearing of protective clothing shall be provided with two sets of uniforms per year and half-kilogram of good quality bar soap per month by the employer at his own expense.

(2) For the purposes of this paragraph, uniforms shall comprise—

- (a) cap and or beret;
- (b) two pairs of trouser in a year;
- (c) two jackets in a year;
- (d) a pair of boots every six months.

[Subsidiary]

(3) The ideal fabric for uniforms shall be a mixture of cotton and polyester in the percentage range of fifty to seventy per cent polyester and fifty to thirty per cent cotton.

(4) All uniforms shall be surrendered by employees on termination of employment.

22. Death and bereavement expenses

(1) If an employee is killed or dies while on duty, the employer shall at his own expenses provide a coffin and transport the deceased and his belongings to his place of burial:

Provided that in the event of an employee dying or being killed while not on duty the employer shall at his own expense provide a coffin and pay six thousand and five hundred to the deceased's family for transportation purposes.

(2) Where transport is provided, instead of six thousand and five hundred shillings, an employer shall pay bereavement allowance to the family of the deceased equal to two-and-a-half months' wages of the deceased.

(3) The benefits payable under this paragraph shall not be set off against any claim that arises under the provision of the Workmen's Compensation Act (Cap. 236).

[L.N. 53/2003, s. 8.]

23. Warnings

(1) An employee whose work and conduct is unsatisfactory or who is guilty of misconduct which 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 or a labour officer of the area shall be informed;
- (b) the second warning shall be copied to the branch secretary of his union;
- (c) if an employee who has already received two warnings is guilty of further misconduct he may be summarily dismissed:

Provided that if an employee completes two hundred and ninety-two working days from the date of the last warning without further misconduct, any warning entered in the employment record shall be cancelled and shall not be taken into account in determining any further question of dismissal under this section.

(2) If any employee is suspected of being guilty of gross misconduct, he may be suspended for two months on half pay with house allowance in full pending investigations:

Provided that—

- (a) the employee shall be reinstated without loss of benefits, and be paid the remaining half of his two months' wages if he is found not guilty of the misconduct; and
- (b) the employee may be summarily dismissed if he is found guilty of the misconduct.

24. Termination of employment

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:

Provided that—

- (a) the first two months of employment may be treated as probationary period and during that probationary period the contract may be terminable by either

[Subsidiary]

party by seven days 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 seven days' wages; and

- (b) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

25. Medical allowance

All employees shall be provided with free medical attention when they fall sick while in service as specified in the Employment Act (Cap. 226).

26. Clocking allowance

Guards who are required to clock at their working places shall be entitled to a clocking allowance of ten shillings per shift.

27. General wage increase

All employees who are in service shall get a ten per cent wage increase on the current basic minimum monthly wage.

[L.N. 53/2003, s. 9.]

28. Revocation of L.N. 178/1995

The Registration of Wages (Protective Security Services) Order, 1995 is revoked.

[L.N. 178/1995.]

SCHEDULE

FIRST SCHEDULE

BASIC MINIMUM MONTHLY WAGE RATE (EXCLUSIVE OF HOUSING ALLOWANCE) FOR NEW EMPLOYEES

[L.N. 53/2003, s. 10, Corr. No. 63/2003.]

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Occupation</i>	<i>Nairobi, Mombasa and Kisumu cities</i>	<i>Areas within Municipalities, Townships and Urban Councils</i>	<i>All other areas</i>
	<i>KSh.</i>	<i>KSh.</i>	<i>KSh.</i>
1. Messenger and cleaners	3,913	3,521	2,930
2. Watchmen/guards	4,416	3,913	3,256
3. Senior guards or watchment and dog handlers	4,971	4,266	3,476
4. Headguards or watchment and copy typists	5,072	4,563	3,804
5. Guards or watchment inspectors ..	5,431	4,883	4,218
6. General clerks, storekeepers and senior typist	5,790	5,211	4,539
7. Tailors, crew commanders	6,138	5,663	5,236

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—*continued*

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Occupation</i>	<i>Nairobi, Mombasa and Kisumu cities</i>	<i>Areas within Municipalities, Townships and Urban Councils</i>	<i>All other areas</i>
	<i>KSh.</i>	<i>KSh.</i>	<i>KSh.</i>
8. General tradesmen (including mechanic electricians, carpenters, panel-beaters and welders:			
(i) Ungraded tradesmen	5,072	4,620	3,804
(ii) With trade test certificate GRD III	6,154	5,663	5,852
(iii) With trade test certificate GRD II	6,881	6,326	5,852
(iv) With trade test certificate GRD I	7,969	7,797	7,252
9. Drivers	7,969	7,797	7,252
10. Store keepers, receptionist, senior clerks and telephone operators	6,519	5,866	4,883
11. Book-keepers and cashiers	8,687	7,997	7,389
12. Stenographers	10,863	9,990	9,232

SECOND SCHEDULE

[Paragraph 9.]

PUBLIC HOLIDAYS

- | | |
|---------------------|----------------------|
| 1. New Year's Day. | 7. Kenyatta Day. |
| 2. Good Friday. | 8. Independence Day. |
| 3. Easter Monday. | 9. Christmas Day. |
| 4. Labour Day. | 10. Boxing Day. |
| 5. Madaraka Day. | 11. Moi Day. |
| 6. Idd-ul-Fitr Day. | |

**REGULATION OF WAGES (WHOLESALE AND RETAIL
DISTRIBUTIVE TRADES) ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Travelling allowance.
10. Sick leave.
11. Maternity leave.
12. Safari allowance.
13. Redundancy.
14. Termination of employment.
15. Casual labour.
16. Revocation of L.N. 116/1968.

SCHEDULES

FIRST SCHEDULE

**SECOND SCHEDULE – HOUSING ALLOWANCE (APPLICABLE TO
COLUMNS (2) AND (3) OF THE FIRST SCHEDULE
ONLY**

[Subsidiary]**REGULATION OF WAGES (WHOLESALE AND RETAIL
DISTRIBUTIVE TRADES) ORDER***[Date of commencement: 1st December, 1973.]*

[Cap. 229, sub. leg., L.N. 249/1973.]

1. Citation

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

2. Application

This Order shall apply to all persons engaged in an undertaking or part of an undertaking which consists in the carrying on of one or more of the following activities, that is to say—

- (a) the retail supply of goods or merchandise of any description;
- (b) the wholesale supply of goods or merchandise of any description;
- (c) operations such as warehousing, storing, packing or other work which are associated with such retail or wholesale supply:

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

- (i) in any trade, industry, or occupation affected by any other wages council order made under the Act; or
- (ii) which is operated by the Government, any local authority, any quasi-Government body, any charitable or religious organization, or any educational or medical institution,

shall be excluded.

3. Basic minimum wage

The basic minimum wage or the basic minimum consolidated wage to be paid to employees specified in the First Schedule shall be calculated at a rate not less favourable than that specified, in relation to the area of employment, in that Schedule:

Provided that, wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed, in relation to the area of employment, by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance not less favourable than that specified in the Second Schedule:

Provided that where an employee is employed in an area other than that specified in columns (2) and (3) of the First Schedule, and such employee receives a basic minimum wage per month inclusive of housing allowance (hereinafter referred to as monthly consolidated wage)—

- (a) the employer shall be entitled to deduct a housing allowance of twenty-five shillings per month in respect of housing made available to such employee;
- (b) such employee shall not be entitled to the housing allowances prescribed in the Second Schedule.

5. Hours of work

The normal working week shall consist of forty-five hours of work:

Provided that—

- (i) an employee shall be entitled to not less than one rest day in each week;
- (ii) in the case of day or night security staff the normal working week shall be six shifts of ten hours each.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, at one and half times the normal hourly rate;
- (b) for time worked on Sunday or on the employee's normal rest day, and on statutory public holidays, at twice the normal hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), the normal hourly rate of wages shall be deemed to be not less than one one-hundred-and-ninety-fifth of the employee's basic monthly consolidated wage as the case may be:

Provided that in the case of both day and night security staff the normal hourly rate shall be deemed to be not less than one two-hundred-and-sixtieth of the employee's monthly wage exclusive of housing allowance, or the monthly consolidated wage as the case may be.

(3) Where an employee is remunerated otherwise than at a monthly rate of wages, his normal hourly rate shall be calculated in proportion, save that where the employee is remunerated at an hourly rate such hourly rate shall form the basis of calculation.

7. Holidays with full pay

The normal working hours occurring on public holidays shall, unless paid for as overtime, be granted as time off with full pay.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve months consecutive service with an employer, to annual leave for a period covering twenty-one consecutive days, with full pay;
- (b) where employment is terminated after the completion of six or more consecutive months service during any twelve months leave earning period, to one-and-three-quarter days leave with full pay for each completed month of service in such period.

Provided that in the event of a public holiday falling within the leave period, such holiday will be added to the leave entitlement.

9. Travelling allowance

After each period of twelve months consecutive service with an employer, an employee shall be entitled, when proceeding on annual leave, to a travelling allowance of thirty-five shillings.

10. Sick leave

After three consecutive months service with an employer an employee shall be entitled to sick leave with full pay up to a maximum of twenty-one days, and thereafter to sick

[Subsidiary]

leave up to a maximum of twenty-one days with half pay, in each period of twelve months continuous service, subject to the employee producing a certificate of incapacity covering each period of sick leave claimed, signed by a medical practitioner or person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that an employee shall not be eligible for such leave in respect of any incapacity due to gross neglect on his own part.

11. Maternity leave

An employed woman shall be entitled to unpaid maternity leave up to a maximum period of twelve weeks, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for under paragraph 10, and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period.

12. Safari allowance

An employee who is required to perform work away from his principal place of employment shall be entitled to be paid subsistence allowance as follows—

	<i>Sh. cts.</i>
(a) for any such period of duty exceeding six hours but less than twelve hours	6 00
(b) for any such period of duty exceeding twelve hours, not including an overnight stop	12 00
(c) for any such period of duty exceeding twelve hours and including an overnight stop	25 00

13. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupation and grades:

Provided that where the employment of any employee is terminated on account of redundancy after the completion of twelve months continuous service with an employer, he shall be entitled to ten days pay for every completed year of service.

14. Termination of employment

It shall be a condition in every contract that such contract shall be terminable by not less than one months 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 months wages:

Provided that—

- (i) the first three months employment with any employer may be treated as a probationary period, and during such probationary period the contract may be terminable by either party by twenty-four hours notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

15. Casual labour

An employee employed on a casual basis without entitlement to the notice of termination of employment provided for in paragraph 14 shall be paid, for each day or shift worked, at a rate of not less than one twenty-second of the monthly consolidated wage; or both the basic minimum wage and the housing allowance specified, respectively, in the Schedule and in paragraph 3 thereof.

16. Revocation of L.N. 116/1968

The Regulation of Wages (Wholesale and Retail Distributive Trade) Order, 1968, is hereby revoked.

SCHEDULES

FIRST SCHEDULE

PART I – BASIC MINIMUM WAGES AND BASIC MINIMUM CONSOLIDATED WAGES

Basic Minimum Wages (Exclusive of Housing Allowance in Respect of Columns (2) and (3))

Basic Minimum Consolidated Wages (Inclusive of House Allowance in Respect of Column (4))

COLUMN (1)	COLUMN (2)	COLUMN (3)	COLUMN (4)
	Nairobi Area; and the Mombasa Municipality.	Eldoret, Kisumu, Kitale, Nakuru, Thika, Kakamega, Meru, Embu and Nyeri, Municipalities; the Urban Councils of Malindi, Kisii Masaku, Kericho, Nanyuki and Nyahururu, the former Township of Naivasha.	All Other Areas
<i>Shillings per Month</i>			
1. General labour (including sweeper, cleaner, shopman)	195	189	163
2. Messenger	200	194	168
3. Heavy duty labourer	205	199	173
4. Day or night security staff	217	210	183
5. Artisans—			
(a) without Trade Test Certificate	222	215	188
(b) with Grade III Trade Test Certificate	353	347	316
(c) with Grade II Trade Test Certificate	550	500	420
(d) with Grade I Trade Test Certificate	700	640	590
6. Drivers:			
(a) Vehicles up to 4,000 lb. tare weight	274	267	236

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—*continued*

COLUMN (1)	COLUMN (2)	COLUMN (3)	COLUMN (4)
	Nairobi Area; and the Mombasa Municipality.	Eldoret, Kisumu, Kitale, Nakuru, Thika, Kakamega, Meru, Embu and Nyeri, Municipalities; the Urban Councils of Malindi, Kisii Masaku, Kericho, Nanyuki and Nyahururu, the former Township of Naivasha.	All Other Areas
	<i>Shillings per Month</i>		
(b) Vehicles exceeding 4,000 lb. tare weight	308	301	270
7. Junior clerk (with C.P.E. Examination pass)	296	290	259
8. Copy typist	331	324	293
9. General clerk	376	369	338
10. (a) Junior shop assistant and junior salesman	319	312	281
(b) shop assistant	433	426	395
11. Telephone switchboard operator	331	324	293
12. Storekeeper	473	466	452
13. (a) Salesman	528	521	492
(b) Salesman driver	583	576	537
14. Cashier	583	576	537
15. Retail butcher's assistant	473	466	452
16. Turnboy	195	189	163
17. Cycle deliveryman	205	199	173

PART II – DEFINITIONS

In this Schedule—

“**artisan**” (with Grade III Trade Test Certificate) means an employee who is in possession of a Grade III Trade Test Certificate issued by the Ministry of Labour for a particular trade and who is required to carry out repair and maintenance work;

“**cashier**” means an employee who is principally employed in keeping records of cash transactions, receiving incoming cash, issuing change, cashing cheques, and preparing cash for bank deposits; and whose additional duties may include the verifying of cash held against records which are subject to audit, the operation of adding, calculation or preparing of wage or salary payments;

“**copy typist**” means an employee wholly or mainly engaged in typing letters, memoranda and similar matter, on paper or other material, and who may be required to type particulars on forms, bills or invoices, provided that such typist is capable of a minimum typing speed of 25 words per minute;

FIRST SCHEDULE—*continued*

“driver” means an adult employee whose duties, in addition to being in charge of a motor vehicle, include handling to and from the tailboard, the daily maintenance and cleaning of, and minor repairs to, such vehicle;

“general clerk” means an employee wholly or mainly engaged in performing miscellaneous clerical tasks, including mail sorting, preparation of outgoing correspondence, typing, filing, postage account recording, preparation of invoices, keeping stock records, sales or purchase day-books or petty cash book, and writing out of receipts and the issue of stationery and other similar transactions;

“heavy duty labourer” means an employee wholly or mainly engaged in the handling, loading, unloading and stocking of heavy packages or goods items;

“junior clerk” means an employee wholly or mainly engaged in performing clerical tasks, including the sorting of incoming mail, preparation of outgoing documents and correspondence, filing, assisting in the checking and preparation of invoices and who may be required to perform duties such as simple typing, operation of any copying or duplicating machine, relief duties on a telephone switchboard, cutting addressograph plates and addressing envelopes by machine;

“messenger” means an employee wholly or mainly engaged in carrying out errands, mail deliveries and simple routine tasks in the employer’s office or shops;

“retail butcher’s assistant” means a skilled employee principally engaged in preparing (including the preparation of small goods such as cooked meat and sausages) and jointing meat into the various cuts recognized by the trade for eventual sale to customers;

“salesman” means an employee whose duty is to promote sales of his employer’s merchandise on a wholesale or retail basis;

“shop assistant” means any person wholly or mainly employed for the purpose of transacting business with customers in that department of an undertaking to which customers have access but who is not in charge of such department;

“storekeeper” means an employee who is in charge of a goods or materials store, with responsibility for stocks, orders, issues and maintenance of records;

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

“salesman driver” means an employee whose duties, in addition to promoting sales of his employer’s merchandise on wholesale or retail basis, is in charge of a motor vehicle carrying such merchandise.

SECOND SCHEDULE

HOUSING ALLOWANCE (APPLICABLE TO COLUMNS (2) AND (3) OF THE FIRST SCHEDULE ONLY)

Area	Male employees aged 18 years and above	All other employees
	<i>Sh.</i>	<i>Sh.</i>
Nairobi Area	45	31
Mombasa Municipality	45	31
Eldoret Municipality	40	28

Labour Institutions

[Subsidiary]

SECOND SCHEDULE—*continued*

Area	Male employees aged 18 years and above	All other employees
	<i>Sh.</i>	<i>Sh.</i>
Kisumu Municipality	40	28
Kitale Municipality	40	28
Nakuru Municipality	40	28
Thika Municipality	40	28
Meru Municipality	40	28
Kakamega Municipality	40	28
Embu Municipality	40	28
Nyeri Municipality	40	28
Kericho Urban Council	40	28
Masaku Urban Council	40	28
Nanyuki Urban Council	40	28
Nyahururu Urban Council	40	28
The area of the former Township of Naivasha	40	28
Malindi Urban Council	40	28
Kisii Urban Council	40	28

**REGULATION OF WAGES (TAILORING, GARMENT MAKING AND ASSOCIATED
TRADERS) ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Travelling allowance.
10. Compassionate leave.
11. Sick leave.
12. Piece work or task work.
13. Maternity leave.
14. Redundancy.
15. Warning system.
16. Termination of employment.
17. Revocation of L.N. 70/1969.

SCHEDULE

[Subsidiary]**REGULATION OF WAGES (TAILORING, GARMENT MAKING AND ASSOCIATED TRADERS) ORDER***[Date of commencement: 1st September, 1972.]*

[Cap. 229, sub. leg, section 11, L.N. 169/1972.]

1. Citation

This Order may be cited as the Regulation of Wages (Tailoring, Garment Making and Associated Trades) Order.

2. Application

This Order shall apply to all persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities, that is to say tailoring, dressmaking or garment making, the making up of soft furnishings and the making up of canvas goods:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation, or any educational or medical institution, shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the Schedule shall be calculated at a rate not less favourable than that specified, in relation to the area of employment, in that Schedule:

Provided that, whenever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed, in relation to the area of employment by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with a free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance at a rate not less favourable than either—

- (a) the appropriate monthly rate of housing allowance prescribed by a Regulation of Wages (General) Order, for the particular area within which the employee is employed; or
- (b) fifteen shillings per month, where the employee is employed in any other area not affected by a Regulation of Wages (General) Order.

5. Hours of work

The normal working week shall consist of forty-five hours of work spread over six days of the week, comprising, unless agreed otherwise by the parties, five days of eight hours work per day and one day of five hours work.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, at one and a half times the normal hourly rate;
- (b) for time worked on Sunday or the employee's normal rest day and on statutory public holidays at twice the normal hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), the normal hourly rate shall be deemed to be not less than one two hundredth of the employee's monthly wage exclusive of housing allowance, and in the case of employees remunerated otherwise than at a monthly rate, it shall be calculated in proportion, save that where the employee is remunerated at an hourly rate of wages such hourly rate shall form the basis of calculation.

7. Holidays with full pay

The normal working hours occurring on statutory public holidays shall, unless paid for as overtime, be granted as time off with full pay.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months service with an employer, to annual leave for a period covering twenty-four consecutive days, with full pay;
- (b) where employment is terminated after the completion of three or more consecutive months service during any twelve months leave-earning period, to two days leave with full pay for each completed month of service in such period.

9. Travelling allowance

(1) After each period of twelve months consecutive service with an employer, an employee shall be entitled, when proceeding on annual leave, to a travelling allowance of thirty shillings:

Provided that—

- (i) if an employee is requested by his employer not to proceed on leave when due, such employee shall be paid in cash, his leave days, plus travelling allowance.
- (ii) if an employee elects on his own accord, not to proceed on leave but to continue working, he shall forfeit his entitlement to travelling allowance, but shall nevertheless be paid in cash his leave days.

10. Compassionate leave

An employee may be granted compassionate leave without pay, at the sole discretion of his employer, but permission for such leave shall not be unreasonably withheld.

11. Sick leave

After three consecutive weeks service with an employer an employee shall be entitled to sick leave with full pay up to a maximum of thirty days, and thereafter to sick leave up to a maximum of twenty-one days with half pay, in each period of twelve months consecutive service:

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 qualified medical practitioner or a person authorized by him in writing and acting on his behalf, in charge of a dispensary or medical aid centre;
- (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.

[Subsidiary]**12. Piece work or task work**

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

13. Maternity leave

An employed woman shall be entitled to unpaid maternity leave up to a maximum period of twelve weeks, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for under paragraph 11, and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period

14. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy the following principles shall apply—

- (a) the employee's union shall be informed the reasons for and the extent of the intended redundancy;
- (b) the employer shall not only be guided by the criteria of seniority in time but shall also have due regard to the skill, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) any leave due to any employee who is declared redundant shall be paid for in cash;
- (d) the redundant employees shall be entitled to one months notice or one month's wages in lieu of notice;
- (e) an employee declared redundant shall be entitled to severance pay at the rate of eleven days pay for every completed year of service;
- (f) notwithstanding the provisions of paragraph (e), an employee's length of service shall be calculated with effect from 1st January, 1963.

15. Warning system

(1) An employee whose work or conduct is unsatisfactory or who otherwise commits a default 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 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 default he shall be liable to summary dismissal:

Provided that if an employee completes three hundred and sixty-five consecutive days, from the date of the second warning without further default, any warning entered in his employment record shall be cancelled.

16. Termination of employment

It shall be a condition in every contract that such contract shall be terminable by not less than one months notice to be given by either party in writing or otherwise by payment by either party, in lieu of notice, of not less than one months wages:

Provided that—

- (i) the first three weeks of employment with an employer may be treated as a probationary period, and during such probationary period the contract shall be terminable by either party by giving the other verbal notice that the contract will end at the conclusion of the normal working hours of the day of the notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

17. Revocation of L.N. 70/1969

The Regulation of Wages (Tailoring, Garment Making and Associated Trades) Order, 1969 is revoked.

SCHEDULE

[Paragraph 3.]

BASIC MINIMUM WAGE RATES AND CONDITIONS THERETO

[L.N. 209/1973, s. 2.]

PART I – BASIC MINIMUM WAGE RATES (EXCLUSIVE OF HOUSING ALLOWANCE)

	Nairobi Area; and Mombasa Municipality	Eldoret, Kisumu, Kitale, Meru, Kakamega, Embu, Nyeri, Nakuru and Thika Municipalities; the Urban Councils of Malindi, Masaku, Kericho, Nanyuki, Nyahururu, Kisii, and the former Township of Naivasha	All Other Areas
	<i>Shillings per Month</i>		
1. GARMENT MAKING AND DRESS MAKING:			
Unskilled labourer	211	208	200
(a) Machinist assistant—			
first year	211	208	200
thereafter	226	222	215
(b) Learner machinist—			
first six months	211	208	200
second six months	226	222	215
(c) Mass production machinist—			
first year	234	230	222
second year	251	241	242
thereafter	272	267	256
Cutter to pattern	272	267	256

Labour Institutions

[Subsidiary]

SCHEDULE—continued

	Nairobi Area; and the Mombasa Municipality	Eldoret, Kisumu, Kitale, Meru, Kakamega, Embu, Nyeri, Nakuru and Thika Municipalities; the Urban Councils of Malindi, Masaku, Kericho, Nanyuki, Nyahururu, Kisii, and the former Township of Naivasha	All Other Areas
	<i>Shillings per Month</i>		
(d) Machinist assistant (made to measure)—			
first year	211	208	200
second year	226	222	215
thereafter	240	236	227
(e) Machinist (made to measure)—			
first year	293	289	278
thereafter	304	300	288
(f) Cutter (made to measure)	328	323	313
2. BESPOKE TAILORING TRADE:			
Unskilled labourer	211	208	200
(a) Tailor's assistant—			
first year	211	208	200
second year	234	230	222
thereafter	272	267	256
(b) Learner tailor—			
first year	215	212	204
second year	234	230	222
third year	287	281	271
fourth year	314	309	298
thereafter	366	361	353
(c) Tailor with trade test certificate grade III	391	385	369
(d) Tailor with trade test certificate grade II	423	417	399
(e) Tailor with trade test certificate grade I	502	493	471
Cutter Class II	411	407	398
Cutter Class I	517	513	496
3. SOFT FURNISHINGS MAKING:			
(a) Learner—			
first year	211	208	200

Labour Institutions

[Subsidiary]

SCHEDULE—continued

	Nairobi Area; and the Mombasa Municipality	Eldoret, Kisumu, Kitale, Meru, Kakamega, Embu, Nyeri, Nakuru and Thika Municipalities; the Urban Councils of Malindi, Masaku, Kericho, Nanyuki, Nyahururu, Kisii, and the former Township of Naivasha	All Other Areas
	<i>Shillings per Month</i>		
(b) Skilled worker—			
first year	272	267	256
thereafter	290	286	274
(c) Loose cover maker—			
first year	294	290	279
thereafter	305	301	289
4. CANVAS GOODS MAKING:			
(a) Semi-skilled labourer	211	209	201
(b) Skilled labourer	226	222	215
(c) Machinist Grade III	226	222	215
(d) Machinist Grade II	272	267	256
(e) Machinist Grade I	302	298	286
(f) Cutter Grade II	342	341	328
(g) Cutter Grade I	423	417	399
(h) Leading hand	681	670	641
5. SHIRT MANUFACTURING INDUSTRY:			
General labourer	211	208	200
Machinist Assistant—			
first year	211	208	200
thereafter	226	222	215
Leaner machinist—			
first six months	211	208	200
second six months	226	222	215
Machinist shirt production—			
first year	234	230	222
second year	251	247	242
thereafter	272	267	256
Cutter to pattern	272	267	256
Cutter to pattern, draughtsman and designer	367	363	352
Masterhand	474	469	459

Labour Institutions

[Subsidiary]

SCHEDULE—continued

	Nairobi Area; and the Mombasa Municipality	Eldoret, Kisumu, Kitale, Meru, Kakamega, Embu, Nyeri, Nakuru and Thika Municipalities; the Urban Councils of Malindi, Masaku, Kericho, Nanyuki, Nyahururu, Kisii, and the former Township of Naivasha	All Other Areas
	<i>Shillings per Month</i>		
6. GENERAL:			
Driver—			
(a) of vehicles less than 7 tons capacity	323	318	305
(b) of vehicles 7 tons capacity and over	373	368	353
Clerk	280	277	272
Messenger or Cleaner	240	236	227
Sweeper (sanitary)	264	261	251
Salesman	355	350	341
Shop assistant	240	236	227
General clerk	410	407	400
Copy typist	383	379	371
Salesman driver	496	493	485
Watchman	264	261	252

An employee whose present wage rate is above the new minimum wage rates, shall be entitled to an increase of twenty shillings.

PART II – DEFINITIONS

1. (1) “**Garment making and dressmaking**” means the making, altering or repairing of any type of garment or wearing apparel, but excluding the bespoke tailoring trade;

“**unskilled labourer**” means an employee who is wholly or mainly engaged in handling of materials or finished products, cleaning operation, folding and bundling of part of fully finished product, and or acting as driver’s mate (turn-boy).

(2) In relation to garment making and dressmaking—

“**learner machinist**” means an employee wholly or mainly engaged in sewing by any type of machine any one or more types of garment or wearing apparel or portion of such garment or wearing apparel, or altering or repairing any second-hand clothing;

“**machinist assistant**” means an employee wholly or mainly engaged in any of the processes of button and button-hole sewing (by hand or machine), simple hand-stitching, pressing or knife-cutting;

“**machinist assistant: made-to-measure**” means an employee wholly or mainly engaged, in relation to made-to-measure garments (including uniforms), in any of the processes of button and button-hole sewing (by hand or machine), simple hand-stitching, pressing, or knife-cutting;

SCHEDULE—continued

“**machinist: made-to-measure**” means an employee wholly or mainly engaged in the making up, by hand and/or machine sewing, of complete garments or wearing apparel to measure, from materials already cut out and to varying specifications and who has completed one year as a learner machinist;

“**mass production machinist**” means any employee wholly or mainly engaged in the mass production by hand and/or machine sewing of any type of garment or wearing apparel or portion of such garment or wearing apparel, or altering or repairing any second hand clothing, and who has completed one year as a learner machinist;

2. (1) “**Bespoke tailoring trade**” means that part of the tailoring industry in which the employees are wholly or mainly engaged in the bespoke tailoring of any of the following clothes—

lounge suits, overcoats, jackets, waistcoats, trousers, breeches, gowns, costumes or mantles of woollen, part-woollen, cord or other materials,

and is hereinafter referred to as “the trade”.

(2) In relation to the bespoke tailoring trade—

“**cutter class I**” means an employee wholly or mainly engaged in cutting materials prior to and during the course of conversion into finished, made-up articles, in accordance with written or verbal instructions.

“**cutter class II**” means an employee wholly or mainly engaged in assisting a cutter class I, and carrying out himself the more simple cutting operations, including cutting from pattern, prior to and during the course of conversion of material into finished made-up articles;

“**learner tailor**” means an employee who is being taught to tailor complete items of clothing in the trade whilst engaged in production work, whether under written or verbal contract;

“**tailor**” means an employee who has been employed as a learner tailor for not less than four years;

“**tailor’s assistant**” means an employee engaged in the trade for all or any of the following ancillary work—

hand-sewing of buttons, button-holes, linings, straps, padding, trouser flies, waistbands, or hems and joins, pressing, darning and mending;

“**trade test certificate**” means a certificate of artisan grade I, II or III standard, as the case may be, issued by the Ministry of Labour;

3. (1) “**Soft furnishings making**” means the making up, altering or repairing of any of the following—

curtains, pelmets, blinds, loose covers, loose cushions, pillows, mattresses, bolsters, bedspreads, eiderdowns, mosquito net or bed or table linen.

(2) In relation to soft furnishings making—

“**learner**” means an employee wholly or mainly engaged in any of the processes of straight sewing by hand or machine of hems; and joins, button-holes, climps, fasteners and tapes, pressing or knife-cutting;

[Subsidiary]

SCHEDULE—*continued*

“loose cover maker” means an employee who has completed at least two years as a skilled worker and who is wholly or mainly engaged in and competent for cutting and making up loose covers, including the matching of joins in patterned materials;

“skilled worker” means an employee who has completed one year as a learner and who is wholly or mainly engaged in and competent for the cutting of materials for and making up complete articles (other than loose covers) and sewing pleats, tucks, folds and frills, piping and other trimmings.

4. (1) **“Canvas goods making”** includes the making, altering and repairing of any type of tent, sail, tarpaulin, groundsheet or any goods made of canvas, or part of such equipment.

(2) In relation to canvas goods making—

“cutter class I” means an employee wholly or mainly engaged in cutting materials prior to and during the course of conversion into finished, made-up articles in accordance with written or verbal instructions;

“cutter class II” means an employee wholly or mainly engaged in assisting a cutter class I, and carrying out himself the more simple cutting operations including cutting from patterns, prior to and during the course of conversion of material into finished made-up articles;

“leading hand” means an employee who has been engaged in all the stages of production and achieved a degree of competency to enable him to supervise and control, with limited responsibility the work of the various classes of employees under the direction and control of the factory superintendent and who is so employed;

“machinist grade I” means an employee wholly or mainly engaged in the assembly of all types of tents, marquees, awnings, made-to-measure protective covers of all kinds and canvas work of a complex nature, including sails;

“semi-skilled labourer” means an employee wholly or mainly engaged in assisting other employees in the handling of canvas or other materials, fitting of eyelets, splicing of ropes, bobbin winding, simple hand-stitching, folding, packing, seam dressing and simple cutting operations;

“skilled labourer” means an employee wholly or mainly engaged in supervision of semi-skilled labourers, sewing machine maintenance, awning erection under supervision.

5. In relation to the shirt manufacturing industry—

“cutter to pattern” means an employee wholly or mainly engaged in cutting to pattern laid-up fabric by scissors or by cutting machine;

“draughtsman and designer” means an employee wholly or mainly engaged in the work of designing, draughting, and the cutting of patterns;

“general labourer” means an employee wholly or mainly engaged in handling of materials or finished products, cleaning operations, folding, bundling of part or fully finished products, laying of material, trimming and turning collar and cuffs and thread cutting and packing;

“learner machinist” means an employee wholly or mainly engaged in sewing any type of shirt or portion of shirt or altering or repairing any second-hand shirt;

“machinist assistant” means an employee wholly or mainly engaged in any of the processes of button and button-hole sewing by machine, straight ironing;

SCHEDULE—continued

“**machinist shirt production**” means an employee wholly or mainly engaged in the mass production by machine sewing of any type of shirt or altering or repairing any second-hand shirt and who has completed one year as a learner machinist;

“**master hand**” means an employee who is capable of performing any of the duties in a shirt factory and who has, at least five years’ experience in the shirt manufacturing industry.

6. “**Salesman**” means an employee employed at a whole-time basis by a manufacturer in the garment and dressmaking industry, and whose duty it is to sell his employer’s products on a wholesale basis to retail traders.

7. “**Shop assistant**” means any person wholly or principally employed for the purpose of transacting business with customers in that part of the premises of a garment or dressmaking establishment to which customers have access, but who is not in charge of such department.

8. “**Salesman driver**” means an employee in charge of a motor vehicle employed on a whole time basis by any of the manufacturers covered by this Order for the purpose of selling his employer’s products on a wholesale basis to retail traders.

9. “**Copy typist**” means an employee capable of a minimum typing speed of 25 words per minute, wholly or mainly engaged in typing letters, memoranda and similar matters, on paper or other material, and who may be required to type particulars on forms, bills or invoices.

10. “**General clerk**” means an employee wholly or mainly engaged in performing miscellaneous clerical tasks, including mail sorting, preparation of outgoing correspondence, typing, filing, postage, account recording, preparation of invoices, keeping stock records, sales or purchase day-books or petty cash books, and writing out of receipts and the issue of stationery and other similar transactions.

PART III – CONDITIONS APPLYING TO BASIC MINIMUM WAGE RATES

(1) *Previous Experience to Count*.—In the event of an employee to whom this Order applies changing employment from one employer to similar employment with another employer, he shall be entitled to the appropriate rate of wages, having regard to each completed year of service in the same type of employment with his previous employer:

Provided that where such a change in case of a learner tailor in the Bespoke Tailoring Trade, involves a break of service exceeding six months, the first year of previous service as a learner shall not count for incremental purpose.

(2) *Proportionate Rates of Pay*.—Remuneration otherwise than at monthly rates of wages shall not be less than proportionate to the basic minimum wage rate prescribed in the Schedule:

Provided that in respect of casual or part-time workers only—

- (i) daily rates of wages shall be calculated at not less than one twenty-second of both the basic monthly minimum and housing allowance herein prescribed;
- (ii) hourly rates shall be taken as not less than one-hundred-and-seventy-sixth of both the basic monthly minimum wage rates and housing allowance herein prescribed.

REGULATION OF WAGES (ROAD TRANSPORT) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Meals and accommodation allowance.
6. Hours of work.
7. Overtime.
8. Annual leave.
9. Leave travelling allowance.
10. Sick leave.
11. Maternity leave.
12. Redundancy.
13. Termination of employment.
14. Acting allowance.
15. Casual labour.
16. Revocation of L.N. 192/1968.

SCHEDULE – BASIC MINIMUM WAGE RATES (EXCLUSIVE OF HOUSING ALLOWANCE) AND CONDITIONS THERETO

REGULATION OF WAGES (ROAD TRANSPORT) ORDER*[Date of commencement: 1st September, 1972.]*

[Cap. 229, sub. leg, L.N. 180/1972.]

1. Citation

This Order may be cited as the Regulation of Wages (Road Transport) Order.

2. Application

This Order shall apply to all persons engaged in any undertaking or part of any undertaking which consists in the carriage, for hire or reward, of passengers and goods or either of them by any motor vehicle required to be licensed as a public service vehicle under the Traffic Act (Cap. 403), or required to be licensed under a road service licence, or a public carrier's licence, or a limited carrier's licence, granted under the Transport Licensing Act (Cap. 404):

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation, or any educational or medical institution, shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the Schedule shall be calculated at a rate not less favourable than that specified, in that Schedule:

Provided that, whenever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed by the Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance not less favourable than forty shillings per month:

Provided that, wherever such calculation would result in the payment to any employee of a housing allowance less than that prescribed by the Regulation of Wages (General) Order, that employee shall be paid such prescribed housing allowance.

5. Meals and accommodation allowance

(1) In respect of each day during which an employee is absent on duty away from his principal area of employment, he shall, unless his employer provides him with free meals during such period of absence, be entitled to the following meals allowance—

	Sh.	cts.
(a) morning meal	3	00
(b) midday meal	4	00
(c) evening meal	5	00

(2) In respect of each complete night's absence on duty away from his principal area of employment, an employee whose employer does not provide him with free accommodation during such period shall be entitled (in addition to subsistence allowance as may be payable under subparagraph (1)) to a night stop allowance as follows—

- (a) for a night stop within Nairobi Area or Mombasa Island by an employee whose principal area of employment is outside Nairobi Area or Mombasa Island, as the case may be, a maximum of fifteen shillings on production of receipt in respect of expenses incurred for accommodation only, or ten shillings without such receipt;

- (b) for a night stop elsewhere, away from his principal area of employment, a maximum of ten shillings on production of receipt in respect of expense incurred for accommodation only, or five shillings without such receipt.

6. Hours of work

(1) The normal working hours of employees shall be as hereunder specified—

- (a) in respect of depot and maintenance staff and drivers of taxi cabs, the normal working week shall consist of forty-five hours of work spread over six days of the week;
- (b) in respect of passenger bus service operating staff, road haulage operating staff and drivers of private hire cars, the normal working fortnight shall consist of ninety hours of work spread over twelve days of the fortnight;
- (c) in respect of workshop staff, the normal working week shall consist of forty-five hours of work spread over five and a half days of the week.

(2) In the case of depot and maintenance staff, road haulage operating staff of passenger bus services, employed on shifts of at least seven hours duration a half-hour rest period shall be allowed in the course of shift.

(3) For the purpose of calculating working hours—

- (a) in respect of drivers of taxi cabs, stand-by periods (other than for fare-earning) up to an aggregate maximum of two hours in any working day shall be excluded;
- (b) in respect of drivers of private hire cars stand-by periods (other than for fare-earning) up to an aggregate maximum of twenty-four hours in any one fortnight shall be excluded.

7. Overtime

(1) Overtime shall be paid as follows—

- (a) for hours worked in excess of the normal number of hours per week or per fortnight, as the case may be, specified in paragraph 6, a sum additional to the basic hourly rate which is equal to one-half of the basic hourly rate;
- (b) for hours worked on a Sunday or on a public holiday, where an employee's contract of service does not normally require him to work on such a day, a sum additional to the basic hourly rate which is equal to the basic hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), where the employee is not employed by the hour, the basic hourly rate in relation to any employee shall be taken as one-hundred-and ninety-fifth part of the employee's basic monthly wage.

8. Annual leave

(1) After twelve months continuous service with an employer an employee shall be entitled to twenty-one consecutive days leave (exclusive of public holidays) with full pay and such leave may be accumulated by mutual agreement between employer and employee.

(2) Where a contract is terminated before the completion of twelve months service, otherwise than through breach of contract by the employee or dismissal of the employee on account of gross misconduct within the meaning of section 17 of the Employment Act (Cap. 226), the employee shall be entitled to one and a half days leave with full pay for each completed month of service.

[Subsidiary]

9. Leave travelling allowance

An employee proceeding on leave shall be entitled after every twelve months continuous service with his employer to a refund of the equivalent of either bus fare or third class rail fare for a single journey only to any destination within the boundaries of Kenya on production of an appropriate receipt to that effect.

10. Sick leave

After completion of three months continuous service with an employer an employee shall be entitled to sick leave up to maximum of thirty days with full pay, and thereafter to sick leave up to a maximum of thirty days on half pay, in each period of twelve months continuous service, subject to the employee reporting each occurrence of incapacity to his employer within three days of its commencement and producing a certificate of incapacity covering the period of sick leave claimed, signed by a registered medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre.

11. Maternity leave

An employed woman shall be entitled to unpaid maternity leave up to a maximum period of six weeks, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for in paragraph 10 and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period.

12. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupation and grades.

13. Termination of employment

It shall be a condition in every contract of service of one or more months duration that the employment shall be terminable by one months notice to be given by either party in writing, effective from any day of the month, failing which there shall be paid by the party terminating such a contract without such notice, one months wages in lieu of notice:

Provided that any such contract may include provision for the first three months of employment with the employer to be treated as a probationary period during which the contract may be terminable by either party by forty-eight hours notice.

14. Acting allowance

Where an employee is required to work in full acting capacity 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 acting allowance at a rate not less than the difference between such higher basic minimum wage and his normal basic wage.

15. Casual labour

An employee employed on a casual basis without entitlement to the notice of termination of employment provided for in paragraph 13 shall be paid, for each day or shift worked, at a rate of not less than one twenty-fifth part of both the basic minimum wage and the housing allowance specified, respectively, in the Schedule and paragraph 4.

SCHEDULE

[Paragraph 3.]

**BASIC MINIMUM WAGE RATES (EXCLUSIVE OF HOUSING ALLOWANCE) AND
CONDITIONS THERETO**
All Areas
*KSh.
per month*
1. OPERATING STAFF*Driver*

light van or truck not exceeding 4,000 lb. tare weight, or light road tractor and trailer: (in both cases including handling to and from tailboard, and deliveries); taxi cab or private hire car; or passenger bus of seating capacity not exceeding 30 seats	292
vehicle over 4,000 lb. tare weight, heavy commercial vehicle of less than 8 tons capacity with or without trailer: (in both cases including handling to and from tailboard and deliveries)	323
articulated vehicle, passenger bus of seating capacity exceeding 30 seats	355
heavy commercial vehicle (including handling to and from tailboard, and deliveries)	443
<i>Driver mechanic:</i> (with Grade II Trade Test Certificate as a motor mechanic or diesel fitter)	443
<i>Conductor:</i> (Licensed under the Traffic Act) (Cap. 403)	247
<i>Driver's mate or loader</i>	189
<i>Vehicle inspector</i>	470

2. DEPOT AND MAINTENANCE STAFF

<i>Depot hand:</i> (cleaner, pumpman or yardman, warehouse or general labourer)	189
<i>Office messenger</i>	189
<i>Maintenance hand:</i> (greaser, tyreman or battery man)	218
<i>Night watchman or yard guard</i>	209
<i>Depot clerk</i> (general):	276
<i>Depot clerk</i> (general):	
with C.P.E. examination	323
with School Certificate examination	420

3. WORKSHOP STAFF

<i>Artisan:</i> (motor vehicle mechanic, diesel fitter, fitter-turner, panel beater, tinsmith, blacksmith, coppersmith or electrician):	
with Grade I Trade Test Certificate	612
with Grade II Trade Test Certificate	449

Labour Institutions

[Subsidiary]

SCHEDULE—*continued*

	<i>KSh. per month</i>
with Grade III Trade Test Certificate	387
without a Trade Test Certificate, but with at least one year's experience	309
4. OTHER TRANSPORT	
Motor boat driver	283

REGULATION OF WAGES (TIMBER AND SAWMILLING TRADES) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum consolidated wage.
4. Deductions for housing provided by an employer.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Compassionate leave
10. Sick leave.
11. Maternity leave.
12. Redundancy.
13. Safari allowance.
14. Retirement benefit.
15. Acting Allowance.
16. Termination of employment.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE – **MAXIMUM PERMISSIBLE HOUSING ALLOWANCE
DEDUCTIONS**

THIRD SCHEDULE – **HOLIDAYS WITH FULL PAY**

[Subsidiary]**REGULATION OF WAGES (TIMBER AND SAWMILLING TRADES) ORDER***[Date of commencement: 6th April, 1973.]*

[Cap. 299, sub. leg. L.N. 65/1973.]

1. Citation

This Order may be cited as the Regulation of Wages (Timber and Sawmilling Trades) Order.

2. Application

This Order shall apply to all persons employed in any undertaking or part of any undertaking which consists in the carrying on of one or more of the following activities—

- (a) timber felling, logging, transportation of timber, sawmilling, plywood production, pitsawing or maintenance of any timber, pulp, fibreboard, particleboard or paper making;
- (b) selling, storing, processing, reconversion or packing of any timber or any other work associated with the sale of timber:

Provided that persons employed in any undertaking or part of an undertaking—

- (i) which is affected by any other Wages Council Order made under the Act; or
- (ii) which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation or any educational or medical institution,

shall be excluded.

3. Basic minimum consolidated wage

The basic minimum consolidated wage to be paid to employees specified in the First Schedule shall be calculated at a rate not less favourable than that specified in relation to the area of employment, in that Schedule:

Provided that, whenever such calculation would result in the payment to any employee of a basic minimum consolidated wage less than that prescribed, in relation to the area of employment by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum consolidated wage.

4. Deductions for housing provided by an employer

Every employer who provides housing accommodation for any of his employees shall be entitled to deduct from the basic minimum consolidated wage the appropriate rate of housing allowance specified in the Second Schedule.

5. Hours of work

The normal working week shall consist of forty-five hours of work spread over six days of the week:

Provided that—

- (i) in the case of both day and night security staff the normal working week shall be six shifts of twelve hours each;
- (ii) in case of adverse weather conditions, the employer may for so long as bad weather persists either vary hours of work, during day time only or employees so affected, or provide protective clothing suitable for working in such weather conditions or give the employees so affected alternative work.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, at one and one-half times the normal hourly rate;
- (b) for time worked on Sundays, and on statutory public holidays, at twice the normal hourly rate.

(2) For the purpose of calculating payments for overtime in accordance with subparagraph (1), the normal hourly rate of wages shall be deemed to be not less than one-one-hundred-and-ninety-fifth part of the employee's basic minimum consolidated wage:

Provided that in the case of both day and night security staff the normal hourly rate shall be deemed to be not less than one three-hundred-and-twelfth part of the employee's minimum consolidated wage.

7. Holidays with full pay

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

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months' service with an employer, to annual leave for a period covering twenty-one consecutive days (exclusive of holidays specified in the Third Schedule) with full pay;
- (b) where employment is terminated before the completion of any twelve months' leave-earning period, to one and three-quarter days leave with full pay for each completed month of service in such period;
- (c) to a ration allowance when proceeding on annual leave where such employee normally derives rations in addition to his wages in the course of his employment;
- (d) after each period of twelve months' consecutive service with an employer, to payment by the employer of the reasonable cost of travel to the employee's home, and, if his service continues, to such payment at the time of return to work, of the reasonable cost of the journey back from home to the employee's place of employment.

9. Compassionate leave

An employee may be granted compassionate leave, at the discretion of his employer, up to a maximum of fourteen days in any one year:

Provided that such leave shall not be unreasonably withheld and shall be granted without pay but without loss of privileges.

10. Sick leave

After completion of one month's service with an employer, an employee shall be entitled to sick leave up to maximum of twenty days with full pay, and thereafter to sick leave up to a maximum of twenty days with half pay, in each period of twelve months continuous service, subject to the employee producing a certificate of incapacity covering each period of sick leave claimed, signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

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

[Subsidiary]**11. Maternity leave**

An employed woman shall be entitled to one month ante-natal, and two months' post-natal maternity leave, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that such leave shall be granted without pay but without loss of privileges.

12. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the following principles shall apply—

- (a) the employee's union shall be informed of the reasons for and the extent of the intended redundancy;
- (b) the employer shall not only be guided by the criteria of seniority in time but shall also have due regard to the skill, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) the redundant employees shall be entitled to one month's notice or one month's wages in lieu of notice.

13. Safari allowance

An employee who is required to perform work away from his principal place of employment shall be entitled to be paid subsistence allowance as follows—

	<i>Sh.</i>	<i>cts.</i>
(a) for any such period of duty of eight hours, while working in an area specified in column (3) of the First Schedule	3	00
(b) for any such period of duty of eight hours, while working in an area specified in columns (1) or (2) of the First Schedule	4	00
(c) for any such period of duty exceeding eight hours and including an overnight stop while working in an area specified in column (3) of the First Schedule	14	00
(d) for any such period of duty exceeding eight hours and including an overnight stop, while working in an area specified in column (1) or (2) of the First Schedule	17	00

14. Retirement benefit

(1) An employee on completion of one year's continuous service with an employer shall be entitled to seven days pay for every completed year of service by way of gratuity to be based on the employee's wages at the time of the termination of his services:

Provided that for the avoidance of doubt where any employee has already received gratuity for any relevant period prior to the commencement of this Order he shall not be entitled to any further payment in respect of that period.

(2) The effective date for the purpose of working out benefits under this paragraph shall be 1st January, 1961; and service prior to 1st January, 1961 or subsequent to the introduction of National Social Security Fund (1st July, 1966), shall not rank for calculation of retirement benefits under this paragraph.

15. Acting allowance

Where an employee is required to act in a higher grade for a period of not less than fourteen days he shall be paid, in addition to his basic minimum consolidated wage, an acting allowance equal to half the difference of the basic minimum consolidated wage of the employee for whom he is acting plus his normal basic minimum consolidated wage.

16. Termination of employment

It shall be a condition in every contract that such contract shall be terminable by not less than one month's notice to be given by either party in writing or otherwise by payment by either party, in lieu of notice, of not less than one month's wages:

Provided that—

- (i) the first two months of employment with an employer may be treated as a probationary period, and during such probationary period the contract may be terminable by either party by seven days notice to be given by either party, in writing or otherwise by payment by either party, in lieu of notice of not less than seven days wages;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

FIRST SCHEDULE

[Paragraph 3.]

PART I – BASIC MINIMUM CONSOLIDATED WAGE RATES

		(1) Nairobi Area; and Mombasa Municipality	(2) Municipalities of Eldoret, Kisumu, Nakuru, Thika, Nyeri, Embu, Meru Kakamega and Kitale; the Urban Councils of Kericho, Masaku, Nanyuki, Thomson's Falls, Kisii and Naivasha	(3) All Other Areas
		Sh. cts.	Sh. cts.	Sh. cts.
A.	1. General labourers, cleaners, sweepers, deliverymen, office messenger, watchman, pruners, line cutters, office assistant	226 80	205 60	151 00
	2. Labourers (heavy duty)	268 70	243 30	163 00
	3. General tradesman (machine operators, carpenters, electricians, welders, painters, mechanics), learner tradesman (for a period of 18 months)	226 80	205 60	151 00
	Ungraded tradesman	268 70	243 30	163 00
	With Grade III Trade Test Certificate	304 80	276 10	216 50
	With Grade II Trade Test Certificate	396 40	359 30	275 00
	With Grade I Trade Test Certificate	516 20	467 50	335 00
	4. Planning—moulding machine operator	268 70	243 30	165 00
	5. Senior sawyer	396 40	359 30	225 00

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—continued

		(1) Nairobi Area; and Mombasa Municipality	(2) Municipalities of Eldoret, Kisumu, Nakuru, Thika, Nyeri, Embu, Meru Kakamega and Kitale; the Urban Councils of Kericho, Masaku, Nanyuki, Thomson's Falls, Kisii and Naivasha	(3) All Other Areas
		<i>Sh. cts.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>
A	6. Sawyer	268 70	243 30	185 00
	7. Assistant sawyer	226 80	205 60	163 00
	8. Clipper, dryer, sander, splicer, glue spreader, presses	396 40	359 30	225 00
	9. Assistant (clipper, dryer, sander, splicer, glue spreader, presses) .	304 80	276 10	165 00
	10. Learner (clipper, dryer, sander, splicer, glue spreader, presses) .	268 70	243 30	163 00
	<i>Clerical Grades</i>			
B.	1. Senior clerical	516 00	467 50	335 00
	2. Junior clerk	268 70	243 30	165 00
	3. General clerks (gatekeeper clerk, invoice clerk, export clerk, accounts clerk, clerk typist, telephone operator)	396 40	359 30	225 00
	4. Assistant gatekeeper	304 80	276 10	185 00
	5. Storekeeper	304 80	276 10	185 00
	6. Assistant storekeeper	268 70	243 30	163 00
	7. Storeman	226 80	205 60	151 00
	8. Senior tally clerk	396 40	359 30	305 00
	9. Tally clerk	304 80	276 10	185 00
	10. Assistant tally clerk	226 80	205 60	151 00
	11. Saw doctor	516 20	467 50	305 00
	12. Assistant saw doctor	268 70	243 30	165 00
	13. Learner saw doctor (for a maximum period of 18 months)	226 80	205 60	151 00
	14. Draughtsman	396 40	359 30	225 00
	15. Assistant draughtsman	268 70	243 30	165 00
	16. Sales counterman	516 20	467 50	305 00
	<i>Drivers</i>			
C.	1. Crawler tractor driver D8 and over	516 20	467 50	305 00
	2. Crawler tractor driver D5 to D7 ..	396 40	359 30	225 00
	3. Crawler tractor driver up to D4 ...	304 80	276 10	185 00
	4. Wheeled tractor driver	304 80	276 10	185 00

FIRST SCHEDULE—continued

		(1) Nairobi Area; and Mombasa Municipality	(2) Municipalities of Eldoret, Kisumu, Nakuru, Thika, Nyeri, Embu, Meru Kakamega and Kitale; the Urban Councils of Kericho, Masaku, Nanyuki, Thomson's Falls, Kisii and Naivasha	(3) All Other Areas
		<i>Sh. cts.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>
	5. Licensed grader	304 80	276 10	185 00
	6. Lorry driver over 8 tons (load with or without trailer)	516 20	467 50	335 00
	7. Lorry driver 5 to 8 tons (load)	304 80	276 10	225 00
	8. Trucks under 5 tons (load)	268 70	243 30	216 00
	9. Driver's mate or loader	226 80	205 60	163 00
	<i>Miscellaneous</i>			
D.	1. Foreman	396 40	359 30	225 00
	2. Headman (Nyapara)	304 80	276 10	185 00
	3. Assistant headman	268 70	243 30	163 00
	4. Watchman (active duties)	268 70	243 30	163 00
	5. Cedar wood oil men	268 70	243 30	163 00
	6. Engine attendant	268 70	243 30	163 00
	7. Pencils slat sorter	268 70	243 30	163 00
	8. Pressure impregnation plant operator	268 70	243 30	163 00
	9. Chargehands (forest and mill) ...	268 70	243 30	181 00
	10. Chargehand (yard)	268 70	243 30	163 00
	11. Qualified dresser	304 80	276 10	185 00
	12. Dresser	268 70	243 30	163 00
	13. Feller—power saw	304 80	276 10	185 00
	14. Cross cutter-power	304 80	276 10	185 00

PART II – DEFINITIONS

In this Schedule—

“**labourer (heavy duty)**” means an employee whose main duties consist of felling of logs with an axe or cross cutting of lots with a hand saw;

“**cross cutter–feller–power saw**” means an employee who is wholly or mainly engaged in cutting of timber with an electrical or engine powered saw;

“**line cutter**” means an employee who is wholly or partly engaged in clearing of a passage for a tractor in the forest;

[Subsidiary]

FIRST SCHEDULE—*continued*

“**saw doctor**” means an employee who is wholly or partly engaged in sharpening of saws;

“**clipper**” means an employee whose duties consist of operation of a clipper saw;

“**splicer**” means an employee who is wholly or mainly engaged as a splicer saw operator;

“**tally clerk**” means an employee whose duties consist of recording and taking measurement of time, stock-taking and keeping records of timber production;

“**draughtsman**” means an employee who is wholly or partly engaged in drawing of plans of saw mill repairs;

“**crawler tractor driver**” means an employee who is engaged in driving a steel wheeled tractor;

“**chargehand**” means an employee who is engaged in supervising a limited number of unskilled workers in the forest, mill or yard.

SECOND SCHEDULE

[Paragraph 4.]

MAXIMUM PERMISSIBLE HOUSING ALLOWANCE DEDUCTIONS

Nairobi Area; and Mombasa Municipality	Municipalities of Kisumu, Eldoret, Kitale, Nakuru, Meru, <u>Kakamega, Embu</u> , Nyeri, Thika; the urban Councils of Masaku, Kericho, Nanyuki, Naivasha, Kisii	All Other areas
<i>Sh.</i> 35	<i>Sh.</i> 30	<i>Sh.</i> 26

THIRD SCHEDULE

[Paragraph 7.]

HOLIDAYS WITH FULL PAY

New Year's Day.

Good Friday.

Easter Monday.

Labour Day.

Madaraka Day.

Kenyatta Day.

Independence Day.

Idd-ul-Fitr.

Christmas Day.

Boxing Day.

Moi Day.

REGULATION OF WAGES (ELECTRICAL CONSTRUCTION INDUSTRY) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Public holidays.
8. Annual leave.
9. Leave travelling allowance.
10. Sick leave.
11. Maternity leave.
12. Safari allowance.
13. Transfer allowance.
14. Redundancy.
15. Warning and suspension.
16. Termination of employment.
17. Retirement benefits.
18. Revocation of subsidiary legislation.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE – MINIMUM PERMISSIBLE HOUSE ALLOWANCE
DEDUCTIONS (PER MONTH)

THIRD SCHEDULE – HOLIDAYS WITH FULL PAY

[Subsidiary]**REGULATION OF WAGES (ELECTRICAL CONSTRUCTION INDUSTRY) ORDER**

[Date of commencement: 1st July, 1982.]

[Cap. 229, sub. leg, L.N. 94/1982.]

1. Citation

This Order may be cited as the Regulation of Wages (Electrical Construction Industry) Order.

2. Application

This Order shall apply to all persons (other than managers) employed in an undertaking or part of an undertaking which consists in the carrying on of one or more of the following activities—

- (a) construction, installation, assembling, maintenance or repair of electrical and electronic systems and equipment;
- (b) electrical rewinding and auto-electrical work:

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

- (i) which is affected by any other wages council order, made under the Act; or
- (ii) which is operated by the Government, a local authority, a quasi-government body or any charitable or religious organization,

shall be excluded.

3. Basic minimum wage

(1) No person to whom this Order applies shall be employed at a basic minimum consolidated wage less favourable to him than that which is applicable to him under the First Schedule having regard to his occupation and the area of employment.

(2) No employee shall be deemed to be a learner for a longer period than two and half years.

4. Housing allowance

Every employer who provides housing accommodation to any of his employees shall be entitled to deduct the appropriate rate of housing allowance specified in the Second Schedule.

5. Hours of work

The normal working week shall consist of forty-five hours of work spread over six days of the week as follows—

Monday to Friday – 8 working hours per day;

Saturday – 5 working hours.

6. Overtime

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

- (a) for time worked in excess of the normal working hours per day specified in paragraph 5 at one and one-half times the normal hourly rate;
- (b) for time worked on Sundays or on public holidays, at twice the normal hourly rate.

[Subsidiary]

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), where the employee is not employed by the hour, the basic hourly rate in relation to the employee shall be deemed to be not less than one hundred and ninety-fifth part of the employee's basic minimum consolidated monthly wage.

7. Public holidays

The days specified in the Third Schedule as well as any other day that may subsequently be gazetted as a public holiday shall be holidays with full pay.

8. Annual leave

(1) After each period of twelve consecutive months' service with an employer—

- (a) an employee with one and up to six years' continuous service shall be entitled to twenty-three working days leave with full pay; and
- (b) an employee with more than six years continuous service shall be entitled to twenty-five working days leave with full pay.

(2) An employee whose services are terminated before the completion of any twelve months' leave earning period shall be entitled to two days' leave with full pay for each completed month of service.

9. Leave travelling allowance

After each period of twelve months' continuous service with an employer an employee shall be entitled, when proceeding on annual leave, to a travelling allowance of one hundred and sixty shillings.

10. Sick leave

(1) After two months' continuous service with an employer an employee with up to five years continuous service shall be entitled to thirty days sick leave with full pay, and thereafter to thirty days sick leave with half pay in each period of twelve months' consecutive service.

(2) An employee with more than five days continuous service with an employer shall be entitled to sixty days sick leave with full pay and thereafter to sixty days sick leave with half pay in each period of twelve months consecutive service:

Provided that—

- (i) an employee shall not be entitled to sick leave unless he produces to the employer a certificate of incapacity, covering the period of sick leave claimed, signed by a medical practitioner or a person acting on his behalf, in charge of a dispensary or medical centre, or a person authorized by him in writing and acting on his behalf;
- (ii) an employee shall not be eligible for sick leave in respect of any incapacity due to gross neglect on his part.

11. Maternity leave

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

Provided that—

- (i) a woman who has taken two months' maternity leave shall forfeit her annual leave in that year;
- (ii) childbirth in respect of a woman employee shall not be deemed to be sickness as provided for under paragraph 10 and the employer shall not be required to meet medical costs incurred thereon;

[Subsidiary]

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

12. Safari allowance

(1) An employee who is required to perform work away from his principal place of employment shall be paid—

- (a) a subsistence allowance of ten shillings for any period of duty of not less than eight hours;
- (b) a subsistence allowance of twenty shillings for any period of duty exceeding eight hours but not including a complete night's absence;
- (c) a subsistence allowance of twenty-eight shillings for any period of duty exceeding eight hours including a complete night's absence plus forth shillings accommodation allowance.

(2) The subsistence and accommodation allowance payable under subparagraph (1) shall cease to be payable to an employee after seven consecutive days away from his principal place of employment; and the employee shall thereafter be entitled to be paid thirty-five shillings per day for each day of absence from his principal place of employment.

13. Transfer allowance

(1) Where an employee is permanently transferred to a branch of the employer's business or to a place, either within or outside the district, and such transfer results in a disturbance to housing arrangements the cost of transporting the employee's personal and household effects, his wife, and up to three children (if living with him) shall be borne by the employer.

(2) The employee shall, in addition to the amount payable under subparagraph (1), be paid four hundred shillings in cash as a transfer allowance before the transfer takes place.

14. Redundancy

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 as well as the labour officer of the area shall be informed of the reasons for and the extent of the intended redundancy;
- (b) the employer shall have due regard to seniority in time, the skill, ability and reliability of each employee belonging to the 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) the redundant employee shall be entitled to severance pay at the rate of fifteen days' pay for each completed year of service.

15. Warning and suspension

(1) An employee whose work or conduct is unsatisfactory or who is otherwise in a breach of contract which, in the opinion of the employer, does not warrant dismissal, shall be given a warning in writing by his employer and each warning shall be entered in the employee's employment record.

(2) If an employee receives three warnings within one year he shall on commission of a fourth offence be liable to dismissal:

Provided that if an employee completes one year from the date of the third warning without further default any warning entered in his employment record shall be cancelled and shall not be taken into account in determining any further question of dismissal under this paragraph.

(3) An employee who is charged in a court of law with a criminal offence (other than an offence under the Traffic Act) (Cap. 403) may be suspended without pay until judgement is delivered:

Provided that in the event of the employee being acquitted he shall be reinstated without loss of privileges.

16. Termination of employment

(1) The first month of employment with an employer may be treated as a probationary period and during such period the contract may be terminable by not less than seven days 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 seven days' wages:

Provided that—

- (i) in the case of an employee who has completed the probationary period, 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;
- (ii) in any case where, for any reason beyond the control of the employer, work ceases in the section on which an employee, other than an employee on probation, has been engaged and no alternative work is available, the contract shall be terminable by not less than one day's notice to be given by the employer in writing and expiring at the end of normal hours of work on any day and by payment of not less than twenty-eight days' wages.

(2) Nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

17. Retirement benefits

(1) In any case where the services of an employee who has been in continuous employment for five years or more is terminated for reasons other than gross misconduct, the employee shall be entitled to a gratuity calculated at the rate of ten days' wages for each completed year of service based on the employee's basic rate of wages at the time of termination of service.

(2) The effective date for the purpose of working out benefits under this paragraph shall be 1st January, 1960.

(3) An employee who resigns or is dismissed summarily for lawful cause shall not be entitled to a gratuity.

(4) The benefits payable under this paragraph shall be deemed to have ceased with the implementation of the National Social Security Fund except that an employee shall continue to benefit under the scheme for services rendered up to the date of implementation of the National Social Security Fund.

18. Revocation of subsidiary legislation

The Regulation of Wages (Electrical Construction Industry) Order is revoked.

Labour Institutions

[Subsidiary]

FIRST SCHEDULE

[Paragraph 3.]

PART I – BASIC MINIMUM CONSOLIDATED HOURLY RATES

	Nairobi Area and Mombasa Municipality	Municipal Councils and Townships of Eldoret, Embu, Kisumu, Thika, Kitale, Nanyuki, Kakamega, Malindi, Meru, Naivasha, Nakuru, Kisii, Kericho, Nyeri, Nyahururu, Machakos,	Municipal and Urban Councils and Townships of Busia, Bungoma, Murang'a, Homa Bay, Kiambu, Karatina, Kilifi, Kerugoya, Kitui, Lamu and Ruiru.	All other Areas
	Sh. cts.	Sh. cts.	Sh. cts.	Sh. cts.
(a) Labourer	3 53	3 45	3 29	3 15
(b) Office messenger, cleaner, sweeper, watchman, learner sign maker, learner glass blower, learner rigger's mate, electrician's mate	4 54	4 43	4 23	4 05
(c) Assistant sign maker, assistant glass blower, assistant rigger	5 34	5 23	5 03	4 95
(d) Motor vehicle driver, storeman, sign maker, glass blower, rigger	5 91	5 48	5 23	5 23
(e) Leading sign maker, leading glass blower, leading rigger	6 50	6 08	5 78	5 78
(f) General tradesmen— Including electricians, welders, lift mechanics, radio repairmen, television mechanics, refrigeration mechanics, electrical equipment assemblers, electrical motor fitters, electrical transformer mechanics, coil winder mechanics electrical switch- gear fitters, electronics fitters, learner tradesman (for a period of 2½ years) ..	4 54	4 43	4 23	4 05
Ungraded tradesman	5 34	5 23	5 03	4 95
Tradesman with Grade III Trade Test Certificate or equivalent experience	5 91	5 48	5 23	5 23

FIRST SCHEDULE—continued

	Nairobi Area and Mombasa Municipality	Municipal Councils and Townships of Eldoret, Embu, Kisumu, Thika, Kitale, Nanyuki, Kakamega, Malindi, Meru, Naivasha, Nakuru, Kisii, Kericho, Nyeri, Nyahururu, Machakos,	Municipal and Urban Councils and Townships of Busia, Bungoma, Murang'a, Homa Bay, Kiambu, Karatina, Kilifi, Kerugoya, Kitui, Lamu and Ruiru.	All other Areas
	<i>Sh. cts.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>
Tradesman with Grade II Trade Test Certificate or equivalent experience	6 50	6 08	5 78	5 78
Tradesman with Grade I Trade Test Certificate or equivalent experience	7 77	6 98	6 92	6 67
(g) Miscellaneous (basic minimum monthly consolidated wage rates)—				
(i) junior clerk, telephone operator, copy typist	894 00	874 00	834 00	794 00
(ii) general clerk storekeeper, salesman	1,179 70	1,159 70	1,104 70	1,054 70
(iii) cashier clerk Grade II	1,404 40	1,369 40	1,304 40	1,244 40
(iv) Clerk Grade I	1,678 30	1,638 30	1,558 30	1,488 30

PART II – DEFINITIONS

“**cashier**” means an employee who is principally employed in keeping records of cash transactions, receiving incoming cash, issuing change, cashing cheques, and preparing cash for bank deposit, and whose additional duties may include transaction of business with customers and issuing of sales receipts;

“**clerk grade I**” means an employee mainly engaged in supervision and co-ordination of clerical work, supervision of operation of books of account, correspondence records, keeping of control accounts, reconciliation of bank statements and other similar transactions;

“**clerk grade II**” means an employee mainly engaged in performing clerical duties includes verification of accuracy of documents relating to records, and recording a company's financial transactions such as accounts receivable and accounts payable;

“**copy typist**” means an employee mainly engaged in typing letters, memoranda, invoices, bills and similar matters on paper or other material, provided that such copy-typist is capable of a minimum typing speed of 25 words per minute;

[Subsidiary]

FIRST SCHEDULE—*continued*

“**general clerk**” means an employee mainly engaged in performing general, clerical duties including mail sorting, filing, postage account recording, preparation of invoices, keeping stock records, purchase day books, petty cash books, writing out receipts and issue of stationary;

“**junior clerk**” means an employee mainly engaged in performing clerical tasks including filing, operation of duplicating machines, sorting and registration of incoming and outgoing mails, assisting in the checking and preparation of invoices, and may be required to assist in typing and telephone operation;

“**store-keeper**” means an employee who is in charge of goods or a materials store, with responsibility for stocks, orders, issues, maintenance of record and supervision of store staff;

“**storeman**” means an employee who is mainly engaged to assist the store-keeper, particularly in checking and assembling material before issue and filing, and may be required to undertake minor clerical tasks;

“**telephone operator**” means an employee whose full time duties consists of operation of a telephone switchboard.

SECOND SCHEDULE

[Paragraph 4.]

MINIMUM PERMISSIBLE HOUSE ALLOWANCE DEDUCTIONS (PER MONTH)

	<i>Employees aged 18 Years and Over</i>	<i>Employees under 18 Years</i>
Nairobi Area and Mombasa Municipality	Sh. 52	Sh. 33
The Municipalities or Townships of—		
Eldoret, Kisumu, Kakamega, Kitale, Nakuru Thika, Meru, Embu, Nyeri, Kericho, Nanyuki, Malindi Kisii, Nyahururu Naivasha, Machakos,	46	26
The Municipalities, Urban Councils or Townships of—		
Busia, Gilgil, Homa bay, Karatina, Kerugoya, Kilifi, Kitui, Lamu, Ruiru, Bungoma, Murang'a and Kiambu ..	39	26
All other areas	20	15

THIRD SCHEDULE

[Paragraph 7.]

HOLIDAYS WITH FULL PAY

New Year's Day.

Good Friday.

Easter Monday.

Labour Day.

Madaraka Day.
Kenyatta Day.
Idd-UI-Fitr.
Independence Day.
Christmas Day.
Boxing Day.
Moi Day.

**REGULATION OF WAGES (LAUNDRY, CLEANING AND
DYEING TRADES) ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum consolidated wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Sick leave.
10. Meals and accommodation allowance.
11. Redundancy.
12. Acting allowance.
13. Termination of employment.
14. Casual labour.
15. Warning system.

SCHEDULES

FIRST SCHEDULE

**SECOND SCHEDULE – MAXIMUM PERMISSIBLE HOUSING ALLOWANCE
DEDUCTIONS**

[Subsidiary]**REGULATION OF WAGES (LAUNDRY, CLEANING AND
DYEING TRADES) ORDER***[Date of commencement: 1st July, 1971.]*

[Cap. 229, sub. leg, L.N. 26/1971.]

1. Citation

This Order may be cited as the Regulation of Wages (Laundry, Cleaning and Dyeing Trades) Order.

2. Application

This Order shall apply to all persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities, that is to say, the laundering, cleaning or dyeing of clothes, fabrics, bedding or textile furnishings, or the furnishings of such articles after such processing:

Provided that persons employed in any undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation, or any educational or medical institution, shall be excluded.

3. Basic minimum consolidated wage

(1) The basic minimum consolidated wage to be paid to employees specified in the First Schedule shall be calculated at a rate not less favourable than that specified in relation to the area of employment in that Schedule:

Provided that wherever such calculation would result in the payment to any employee of a basic minimum consolidated wage less than that prescribed, in relation to the areas of employment by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum consolidated wage.

(2) For the purpose of this Order a consolidated basic minimum wage means a basic minimum wage rate inclusive of housing allowance.

4. Housing allowance

Any employer who provides housing accommodation for any of his employees employed on a monthly contract and not otherwise, shall be entitled to deduct the appropriate rate of housing allowance specified in the Second Schedule.

5. Hours of work

The normal working week shall consist of forty-five hours of work spread over six days of the week, comprising, unless agreed otherwise by the parties, five days of eight hours' work per day and one day of five hours' work:

Provided that in the case of watchmen the normal working week shall be six days of ten hours work per day.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, at one and one-half times the normal hourly rate;
- (b) for time worked on the employee's normal rest day (which may or may not be a Sunday) and on statutory public holidays, at twice the normal hourly rate.

[Subsidiary]

(2) For the purpose of calculating payment for overtime in accordance with paragraph (1), where the employee is not employed by the hour, the basic hourly rate in relation to any employee shall be deemed to be not less than one one-hundred-and-ninety-fifth part of the employee's basic minimum consolidated monthly wage.

7. Holidays with full pay

The normal working hours occurring on statutory public holidays shall, unless paid for as overtime, be granted as time off with full pay.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months' service with an employer, to annual leave for a period covering twenty-one consecutive days (exclusive of public holidays) with full pay and such leave may be accumulated to a maximum of two years' entitlement by mutual agreement between the employer and the employee;
- (b) after each period of twelve months' consecutive service with an employer, an employee shall be entitled, when proceeding on annual leave, to a travelling allowance of fifty shillings; and an employee who shall be entitled to *pro rata* leave shall also be entitled to *pro rata* leave travelling allowance;
- (c) on termination of his services after the completion of six consecutive months' service with an employer, to one and a half days' leave with full pay for each completed month of service:

Provided that this subparagraph shall not apply to an employee whose services are terminated due to gross misconduct or who resigns on his own accord.

9. Sick leave

After completion of one month's service with an employer, an employee shall be entitled to sick leave up to a maximum of thirty days with full pay, and thereafter to sick leave up to a maximum of thirty days with half pay, in each period of twelve months' continuous service, subject to the employee producing a certificate of incapacity covering each period of sick leave claimed, signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) an employee shall not be eligible for sick leave in respect of any incapacity due to gross neglect on his part;
- (ii) childbirth in respect of an employed woman shall be deemed to be sickness as provided for in this paragraph, except that the employer shall not be required to meet medical costs incurred thereon.

10. Meals and accommodation allowance

(1) In respect of each period of twenty-four hours absence on duty away from his principal area of employment, an employee whose employer does not provide him with free meals and free accommodation during such period shall be entitled to an allowance of twenty-five shillings.

(2) In respect of each day, or part of a day, during which an employee is absent on duty away from his principal place of employment, he shall, unless his employer provides him with free meals during such period of absence, be entitled to the following meals allowances—

- | | |
|--------------------------|-------|
| (i) morning meal | Sh. 2 |
| (ii) mid-day meal | Sh. 3 |
| (iii) evening meal | Sh. 5 |

[Subsidiary]

Provided that such meals allowances payable to an employee shall not be in addition to the allowance payable under subparagraph (1).

11. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the following principles shall apply—

- (a) the union shall be informed of the reasons for and the extent of the intended redundancy;
- (b) the principle of “last in first out” shall be adopted in relation to the particular category of employees affected subject to all other factors such as skill, relative merit, ability and reliability being equal;
- (c) the redundant employee shall be entitled to the appropriate period of notice or pay in lieu;
- (d) *pro rata* leave shall be paid to the employee affected and any other remuneration that he/she is entitled to;
- (e) the redundant employee shall be entitled to severance pay as follows—
 - (i) from one year to ten years of service, ten days' completed year's pay for every completed year of service;
 - (ii) from eleven years and above of completed service, fourteen days' pay for every completed year of service.

12. Acting allowance

Where an employee is required to work in full acting capacity for a period of not less than twenty-one consecutive days in an occupation or grade for which the consolidated basic minimum wage prescribed under paragraph 3 is higher than the consolidated basic wage normally earned by the employee, he shall be paid acting allowance at a rate not less than the difference between such higher consolidated basic minimum wage and his normal consolidated basic minimum wage.

13. Termination of employment

(1) It shall be a condition in every contract, other than contracts for wages calculated in accordance with paragraph 14, that such 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:

Provided that—

- (i) the first month of employment with any employer may be treated as a probationary period, and during such probationary period and contract may be terminable by either party by forty-eight hours' notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

(2) It shall be a condition in every contract that an employee who is provided with housing accommodation by his employer and whose employment is about to be, or has been terminated shall be entitled to remain in normal occupation of such housing accommodation—

- (a) until the expiry of the period during which the employment continues under any notice of termination given by either party; or
- (b) until the expiry of the period represented by any consolidated basic wages payable by the employer in lieu of notice of termination; or

[Subsidiary]

- (c) for a period not exceeding twelve days where the employment is terminated summarily by the employer on grounds other than gross misconduct as defined in section 17 of the Employment Act.

14. Casual labour

An employee employed on a casual basis without entitlement to the notice of termination of employment provided for in paragraph 13 shall be paid, for each day or shift worked, at a rate of not less than one-twenty-second part of the consolidated basic minimum wage specified in section 3.

15. Warning system

(1) An employee who is guilty of an offence other than gross misconduct or other lawful cause of dismissal may be given a written warning which shall be entered in the employee's employment record card and shall remain valid for a period of 12 months from the date of issue; and if, within the twelve months' period, the employee commits a similar or any other offence which does not warrant dismissal, he shall be further warned in writing and the warning entered in his employment record card, and the two warnings shall remain valid from their respective dates of issue; or if, within the twelve months' period of the second warning the employee commits a similar or any other offence which does not warrant dismissal, he shall be further warned in writing and the warning entered in his employment record card, and the warnings shall remain valid for a period of twelve months from the date of the second warning; and if, within the last twelve months' period the employee commits a further offence which does not warrant dismissal, he will be issued with a final letter of warning which will make him liable to summary dismissal for any other offence which he may commit thereafter.

(2) A final letter of warning shall remain valid for a period of one year from the date of issue.

(3) A copy of the final warning shall be sent to the general secretary of the union concerned.

16. Revocation of L.N. 367/1968

The Regulation of Wages (Laundry, Cleaning and Dyeing Trades) Order, 1968 is hereby revoked.

SCHEDULES

FIRST SCHEDULE

PART I – BASIC CONSOLIDATED MINIMUM WAGE RATES

Category of employee	Nairobi Area and Mombasa Municipality	All other areas
	<i>Shillings per month</i>	
A.—Labourer, shaker-out, driver's mate, messenger, tea maker, folder	241 00	218 00
B.—Shopman, hydro-extractor operator, wet cleaner, artisan's assistant, calender operator, button replacer	258 00	235 00
C.—Laundry ironer, laundry washing-machine operator, laundry presser, garment repairer, rough spotter, vanman, checker, boilerman, marking-machine operator	275 00	261 00
D.—Dry cleaning machine operator, dry cleaning ironer, dry cleaning press operator	306 00	280 00

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—*continued*

<i>Category of employee</i>	<i>Nairobi Area and Mombasa Municipality</i>	<i>All other areas</i>
	<i>Shillings per month</i>	
E.—Clerk, driver, storekeeper, shop assistant, telephone operator	346 00	318 00
F.—Silk spotter, dyer, artisan	445 00	412 00
G.—Watchman	300 00	274 00

PART II – DEFINITIONS

In this Schedule—

“**artisan’s assistant**” means an employee who assists a laundry or dry cleaning undertaking’s artisan in carrying out his duties;

“**boilerman**” means an employee who is wholly or mainly engaged in attending to and operating steam-raising equipment;

“**button replacer**” means an employee who is wholly or mainly engaged in the simple function of replacing buttons or tacking cuffs on articles of wearing apparel;

“**calender operator**” means an employee who is wholly or mainly engaged in feeding or folding articles of laundry into or from a calender;

“**checker**” means an employee who is wholly or mainly engaged in the checking and/or packing of soiled or finished articles received or being despatched from either laundry or dry cleaning;

“**clerk**” means an employee engaged full-time in clerical and records work:

Provided that an employee who is required to keep simple records in the course of his manual or supervisory duties shall not be deemed to be a clerk;

“**driver**” means an adult employee whose duties, in addition to being in charge of a motor vehicle, may include such other tasks as are necessary for the collection or delivery services of a laundry or cleaning undertaking, including loading and unloading;

“**driver’s mate**” means an employee who is wholly or mainly engaged in assisting the driver in such tasks as are necessary for the collection or delivery services of a laundry or dry cleaning undertaking including loading, unloading and simple counting of pieces, excluding the driving of the vehicle;

“**dry cleaning ironer**” means an employee who is wholly or mainly engaged in the ironing of dry cleaned articles by hand;

“**dry cleaning machine operator**” means an employee who is wholly or mainly engaged in the simple mechanical operation of a dry cleaning machine;

“**dry cleaning presser**” means a person who is wholly or mainly engaged in the operation of a dry cleaning press;

“**dyer**” means an employee wholly or mainly engaged in the work of dyeing and who is capable of selecting and using dyestuffs and able to match required shades on all textiles;

“**folder**” means an employee who is wholly or mainly engaged in folding and stacking items of clothing, towels or any other finished articles;

“**garment repairer**” (excluding invisible mender) means an employee who is wholly or mainly engaged in the minor repairing and sewing of articles of laundry or dry cleaning;

FIRST SCHEDULE—*continued*

“hydro-extractor operator” means an employee who is wholly or mainly engaged in the simple mechanical operation of a hydro-extractor and the loading and unloading thereof;

“laundry ironer” means an employee who is wholly or mainly engaged in the ironing of articles of laundry by hand;

“laundry presser” means an employee who is wholly or mainly engaged in the operation of a laundry press;

“laundry washing-machine operator” means an employee who is wholly or mainly engaged in the simple mechanical operation of a washing machine and/or the loading and unloading of a washing machine;

“marking machine operator” means an employee who is wholly or mainly engaged in the simple operations necessary for affixing marks to items of laundry or dry cleaning and the counting of such articles or bundles;

“rough spotter” means an employee who is wholly or mainly engaged in the removal of stains from articles other than those made of silk or synthetic fibres;

“shaker-out” means an employee who is wholly or mainly engaged in preparing or shaking out articles of laundry into a suitable condition for calender finishing;

“shop assistant” means any person wholly or principally employed for the purpose of transacting business with customers in that department of an undertaking to which customers have access;

“shopman” means a person employed in that department of an undertaking to which customers have access, and whose duties are mainly the handling, wrapping and handing-over of customer’s goods, together with general shop duties, exclusive of the handling of cash, under direction of a shop assistant or manager;

“silk spotter” means an employee wholly or mainly engaged in removing stains from articles made of silk or synthetic fibre;

“storekeeper” means an employee who is in charge of a materials store, with responsibility for stocks, orders, issues and maintenance of records;

“turnboy” means an employee engaged as a junior assistant to a driver, for wholly manual work, excluding the driving of the vehicle;

“vanman” means an employee wholly or mainly engaged in the outside collecting and delivery services of a laundry or dry cleaning undertaking, but not in driving a motor vehicle;

“wet cleaner” means an employee who is wholly or mainly engaged in washing articles by hand.

SECOND SCHEDULE

MAXIMUM PERMISSIBLE HOUSING ALLOWANCE DEDUCTIONS

Area	<i>Male employees aged</i>	
	<i>18 years and over</i>	<i>All other employees</i>
The Nairobi Area	35 00	21 00
Mombasa Municipality	35 00	21 00
All other areas	30 00	18 00

REGULATION OF WAGES (PETROL AND SERVICE STATIONS) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Night work allowance.
7. Overtime.
8. Annual leave.
9. Sick leave.
10. Redundancy and severance pay.
11. Acting allowance.
12. Leave travelling allowance.
13. Maternity leave.
14. Termination of employment.
15. Revocation of L.N. 183/1969.

SCHEDULE – BASIC MINIMUM WAGE RATES AND CONDITIONS THERETO

[Subsidiary]**REGULATION OF WAGES (PETROL AND SERVICE STATIONS) ORDER***[Date of commencement: 1st March, 1974.]*

[Cap. 229, sub. leg, L.N. 42/974.]

1. Citation

This Order may be cited as the Regulation of Wages (Petrol and Service Stations) Order.

2. Application

This Order shall apply to all persons engaged in an undertaking or part of an undertaking which consists of a petrol station or service station, and which carries on for gain, one or more of the following activities, that is to say, the retail supply of fuel oils and lubricants, spares and accessories, the light servicing of vehicles and ancillary services:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organization or any educational or medical institution shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the Schedule shall be calculated at a rate not less favourable than that specified in that Schedule:

Provided that, wherever such calculation would result in payment to any employee of a basic minimum wage less than that prescribed by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance not less than forty shillings per month:

Provided that, wherever such calculation would result in the payment to any employee of a housing allowance less than that prescribed by a Regulation of Wages (General) Order that employee shall be paid such prescribed housing allowance.

5. Hours of work

(1) The normal working week shall consist of forty-eight hours of work, including shift work, spread over six days of the week.

(2) The normal working week shall in the case of a person employed on night work, consist of eighty-four hours of work, spread over six nights in any one week:

Provided that every employee shall be entitled to not less than one whole rest day in each week.

6. Night work allowance

Employees who are engaged on night work consisting of eighty-four hours spread over six days in any one week shall, in addition to their basic remuneration, receive a night allowance of one shilling and fifty cents per night.

7. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5 at one and one-half times the normal hourly rate;

- (b) for time worked on Sunday, or the employee's normal rest day, and on statutory public holidays, at twice the normal hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1) the normal hourly rate shall be deemed to be not less than one two-hundred-and-eighth part of the employee's monthly wage, exclusive of house allowance, and in the case of employees whose hours of work are specified in paragraph 5(2), the normal hourly rate shall be deemed to be not less than one three-hundred-and-sixty-fourth part of the employee's monthly wage, exclusive of housing allowance and the night work allowance payable under paragraph 6.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months' service with an employer, to annual leave for a period covering twenty-one consecutive days, with full pay;
- (b) where employment is terminated after the completion of six or more consecutive months' service during any twelve months' leave period, to one and one-half days' leave with full pay for each complete month of service, in such period:

Provided that in the event of a public holiday falling within the leave period such holiday will be added to the leave entitlement.

9. Sick leave

After completion of two months' continuous service with an employer an employee shall be entitled to sick leave up to a maximum of thirty days with full pay, and thereafter to sick leave up to a maximum of thirty days with half pay, in each period of twelve months' continuous service, subject to the employee reporting each occurrence of incapacity to his employer within three days of its commencement and producing certificate of incapacity covering the period of sick leave claimed, signed by a medical practitioner or person acting on his behalf in charge of a dispensary or medical aid centre.

10. Redundancy and severance pay

It shall be a condition in every contract of employment that 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 shall be informed of the reasons for, and the extent of, the intended redundancy;
- (b) the employer shall have due regard to seniority in time, the skill, relative merit, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) the redundant employee shall be entitled to an appropriate period of notice or pay in lieu of notice;
- (d) an employee declared redundant after completion of one year's continuous service with an employer shall be entitled to severance pay, at the rate of ten days' wages for each completed year of service subject to a maximum payment equivalent to five months' pay;
- (e) service prior to 1st January, 1967, shall not be taken into account when calculating payment under this paragraph.

11. Acting allowance

Where an employee is required to act in a higher grade for a period of not less than fifteen days, he shall be paid in addition to his basic minimum wage, an acting allowance equal either to twenty-five per cent of the basic wage of the employee for whom he is acting, or to full basic wage of the employee whichever is the lesser amount.

[Subsidiary]

12. Leave travelling allowance

An employee proceeding on annual leave shall be entitled to payment by his employer of twenty-five shillings travelling allowance or to reimbursement of the actual third class rail or bus fare within Kenya.

13. Maternity leave

A female employee shall be entitled to six weeks' unpaid maternity leave, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre.

14. Termination of employment

It shall be a condition in every contract of employment that such 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:

Provided that—

- (a) the first two months' employment with an employer may be treated as a probationary period, and during such probationary period, the contract may be terminable by either party by forty-eight hours' notice;
- (b) nothing in this section shall prejudice the right of either party to terminate a contract summarily for lawful cause.

15. Revocation of L.N. 183/1969

The Regulation of Wages (Petrol and Services Stations) Order, 1969 is hereby revoked.

SCHEDULE

[Paragraph 3.]

BASIC MINIMUM WAGE RATES AND CONDITIONS THERETO

PART I – BASIC MINIMUM WAGE RATES (EXCLUSIVE OF HOUSING ALLOWANCE)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Category of the Employees	Nairobi Area; and Mombasa Municipality	Municipalities; of Eldoret, Kisumu, Kitale, Nakuru, Meru, Kakamega, Embu, Nyeri, Thika, and Urban Councils of Masaku, Kericho, Naivasha, Nyahururu, Nanyuki	All Other Areas
	<i>Shillings per month</i>		
1. General labour: including gardener and office messenger	180	170	150
2. Vehicle cleaner and tyreman	180	170	160

Labour Institutions

[Subsidiary]

SCHEDULE—continued

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Category of the Employees	Nairobi Area; and Mombasa Municipality	Municipalities; of Eldoret, Kisumu, Kitale, Nakuru, Meru, Kakamega, Embu, Nyeri, Thika, and Urban Councils of Masaku, Kericho, Naivasha, Nyahururu, Nanyuki	All Other Areas
	<i>Shillings per month</i>		
3. Drivers:			
(a) light vans up to 1,780 kg. tare weight.	235	225	210
(b) commercial vehicles over 1,780 kg. tare weight including recovery and breakdown vehicles	285	280	260
4. Lubrication pump attendant	195	180	170
5. Pump attendant	180	175	160
6. Senior pump attendant	215	215	195
7. Cashier	485	480	460
8. Assistant accounts clerk	340	340	310
9. Watchman	200	185	175
10. Artisan:			
(a) With Grade I Trade Test Certificate	610	590	570
(b) With Grade II Trade Test Certificate	450	430	410
(c) With Grade III Trade Test Certificate	420	400	380
(d) without Trade Test Certificate but with at least two years experience	250	230	210

PART II – DEFINITIONS

In this Schedule—

“**assistant accounts clerk**” means an employee who is a general assistant to the accounts clerk and station management, and who keeps accounts and stores records in addition to the performance of general duties; and

“**artisan**” (with a trade test certificate) means an employee who is in possession of a trade test certificate in either grade I, II or III issued by the Ministry of Labour for a particular trade and whose duties include repair and maintenance work at a petrol station;

“**cashier**” means an employee who is responsible for receiving cash from the senior pump attendant who is responsible for accounting for the same to the station accounts clerk and for preparing cash summaries at such intervals as the station management may require;

[Subsidiary]

SCHEDULE—*continued*

“lubrication bay attendant” means an employee who is wholly or mainly engaged in carrying out light servicing of all common types of motor vehicles including the oiling and greasing, changing of oil filters, servicing air cleaners and such other services as are commonly carried out in a lubrication bay;

“pump attendant” means an employee who is wholly or mainly engaged in operating fuel and lubricant pumps and ancillary equipment and providing such other services to customers’ vehicles as are required;

“senior pump attendant” means an employee who in addition to carrying out the duties of a pump attendant also performs the following duties—

- (a) the making out of cash sale receipts and credit invoices;
- (b) the collecting of cash from customers;
- (c) the responsibility for sale of petrol, lubricants and such other articles for retail as are in his charge;
- (d) the responsibility for the conduct and behaviour of pump attendants working under him;

“tyreman” means an employee who is wholly or mainly engaged in removing, repairing and refitting tyres and tubes including removing of wheels on vehicles;

“vehicle cleaner” means an employee who is wholly or mainly engaged in washing and cleaning of vehicles including the engine.

REGULATION OF WAGES (BUILDING AND CONSTRUCTION INDUSTRY) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application
3. Basic minimum wage
4. Housing allowance
5. Hours of work
6. Overtime
7. Holiday with pay
8. Annual leave
9. Leave travelling allowance
10. Compassionate leave
11. Sick leave
12. Safari allowance
13. Transfer
14. Maternity leave
15. Redundancy
16. Retirement terminal benefits
17. Warning procedure
18. Acting allowance
19. Termination of employment
20. Continuity of service
21. Tools allowance
22. Absence from duty
23. Protective clothing, uniform and other equipment
24. Certificate of service
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26. Safety and health
27. Letter of appointment
28. Religious holidays
29. Workmen's Compensation Act (Cap. 236)
30. Payment of wages
31. Medical treatment
32. Death in service
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SCHEDULES

- FIRST SCHEDULE – BASIC MINIMUM RATE OF WAGES (PER DAY, PER
SHIFT AND PER MONTH) EXCLUSIVE OF HOUSING
ALLOWANCE
- SECOND SCHEDULE – HOLIDAYS WITH FULL PAY
-

[Subsidiary]

REGULATION OF WAGES (BUILDING AND CONSTRUCTION INDUSTRY) ORDER

[Cap. 229, sub. leg, section 11(3), L.N. 94/2004.]

1. Citation

This Order may be cited as the Regulation of Wages (Building and Construction Industry) Order, 2004.

2. Application

This Order shall apply to all persons (other than managerial and executive staff) employed in an undertaking which consists in the carrying on, for gain of one or more of the following activities—

- (a) the construction, structural alteration, maintenance or repair of any building, the demolition of any building and the preparation for, and laying the foundation of, any intended building; or
- (b) the construction of any railway line or siding, and the construction, structural alteration or repair or the demolition of any airfield, dock harbour, wharf, quay, pier, inland navigation works, road tunnel, bridge, viaduct, waterworks, dam, reservoir, pipeline, aqueduct, sewer, sewage works or lattice work structure designed solely for the support of electricity lines; or
- (c) electrical installation, lift installation, plumbing installation, painting and decorating works and allied building activities.

3. Basic minimum wage

The basic wage to be paid to any employee shall not be less favourable than that specified, in relation to category of employee and to the area of employment, in the First Schedule:

Provided that—

- (a) an employee whose present daily or monthly wage is above that specified in the Regulation of Wages (Building and Construction Industry) Order, 1998 (now revoked) shall be entitled to a wage increase of a rate not less than the difference between that wage and the amount specified in this Order;
- (b) an employee who is taken by his employer to another area shall not be paid less than the basic minimum wage payable in the area where the employer engaged him; and
- (c) where an employee, excluding a watchman, is required to work on night shift, he shall be paid an allowance of five per cent of his basic daily or monthly wage for the night shift.

4. Housing allowance

(1) An employee who is not provided with a reasonable free housing accommodation by his employer shall be entitled in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance at the following rates:

	<i>KSh.</i>
(a) Nairobi, Mombasa and Kisumu (per month)	1,300
(b) all municipalities, towns, urban centres and all other areas (per month)	1,000

Provided that:

(2) In respect of employees who are employed for a period of time less than one calendar month, the daily rate of housing allowance shall be deemed to be not less than the following rates:

	KSh.
(a) Nairobi, Mombasa and Kisumu (per day)	50
(b) all municipalities, towns, urban centres and all other areas (per day) ..	38.50

Provided that:

(3) No employee shall be paid housing allowance of less than 20 per cent of his rate of wages.

5. Hours of work

(1) The normal working week shall consist of forty-five hours of work at the rate of eight hours of work per day from Monday to Friday inclusive, and five hours on Saturday:

Provided that—

- (a) in the case of a watchman the normal hours of work per week shall be sixty hours consisting of six shifts of ten hours each;
- (b) in the event of inclement weather conditions, the employer may prevent or stop any employee from working for any time during the normal hours of work per day and the employee shall, if he has reported for duty and remains available for work during such time, be deemed to have worked for one-half of such time at his normal rate of wages per day, except that nothing in this paragraph shall be construed so as to prevent an employee from reporting for duty each morning.

(2) For the purpose of subparagraph (1), any employer who prevents or stops his employees from reporting for work for any period of time due to inclement weather conditions shall treat such employees as having reported for duty and pay them as stipulated in that subparagraph.

(3) Except as provided in subparagraph (2) and without prejudice to any contract of service being terminable by either party in accordance with paragraph 18, no contract of service shall be for less than the normal hours of work per week or in the case of an employee engaged after the start of the week, for less than the normal hours of work per day on each of the remaining days of the week, and any employee who is forced by his employer to work less than normal hours of work per day shall be paid at a rate not less than the employee's daily rate of wages.

(4) An employee who is stopped from working by his employer for any period of time for any reason other than termination of employment, dismissal or inclement weather conditions, shall be entitled to his full rate of wages per hour or per day, as the case may be.

6. Overtime

(1) Every employee who works for any time in excess of the normal hours of work specified in paragraph 5 shall be entitled to be paid for the overtime thereby worked at the following rates—

- (a) one and a half times his normal rate of wages per hour in respect of any time worked in excess of the normal hours of work; and
- (b) twice the normal rate of wages per hour in respect of any time worked on a Sunday.

(2) For the purpose of calculating payment for overtime in respect of those employees in receipt of monthly rates of wages, the normal hourly rate of wages shall be deemed to

[Subsidiary]

be not less than one-one hundred and ninety-five ($\frac{1}{195}$ th) of the employee's monthly wages and one-eighth ($\frac{1}{8}$) in respect of those employees in receipt of daily rates of wages.

(3) Watchmen (security guards) who are paid on ten hours shift basis shall be paid overtime at one-and-a-half times the normal rate of wages for any time worked in excess of sixty hours during any one week:

Provided that the basis of calculating payment for overtime in respect of watchmen shall be deemed to be less than one-tenth of the watchman's shift rate.

7. Holiday with pay

(1) The days specified in the Second Schedule as well as any holiday that may subsequently be Gazetted as a public holiday shall be holidays with full pay.

(2) Where an employee is required to work on a day which by virtue of subparagraph (1) is a holiday with full pay, he shall be paid in respect of any time so worked at double his normal rate of wages per hour, in addition to the payment he would have received had he not been required to work on that particular day.

8. Annual leave

(1) After each period of twelve months' consecutive service with an employer, an employee shall be entitled to annual leave for a period covering twenty-six (26) working days, with full pay, and such leave may be taken at any time during the ensuing twelve months.

(2) Where employment is terminated before the completion of any twelve (12) months' leave-earning period, the employee shall be entitled to two and a quarter days' leave with full pay for each month of service completed since the start of such leave earning period.

(3) Any *pro rata* leave earned within a period of twelve months at the time of termination of service shall be paid for in cash.

(4) For the purpose of this paragraph, Saturdays shall be regarded as any other working day.

9. Leave travelling allowance

After every twelve (12) months' continuous service with an employer, an employee shall be entitled to a minimum leave travelling allowance of either two hundred shillings or to payment by the employer of the actual cost of travel by the most economical and available means of travel to the employee's home (within the boundaries of Kenya) in advance and if his service continues, to such payment at the time of return to work of the actual cost of the return journey from such home to the place of employment, whichever payment is greater.

10. Compassionate leave

An employee desirous of taking leave on compassionate grounds shall, by prior arrangement with the employer, be granted such leave up to his earned leave entitlement under paragraph 8 and the leave shall be set-off against his annual leave and in addition the employee may be granted ten (10) days' compassionate leave without pay and without loss of seniority in any year.

11. Sick leave

(1) An employee shall be entitled to forty (40) days' sick leave with full pay and thereafter to a minimum of fifty (50) days' sick leave with half pay in each period of twelve (12) months' service.

[Subsidiary]

(2) An employee shall not be entitled to such payment unless he produces to the employer a certificate of incapacity, covering the period of absence, signed by a medical practitioner in charge of a dispensary or medical centre or by a person authorized by him in writing and acting on his behalf.

(3) An employee shall not be eligible for payment under this paragraph in respect of any incapacity due to gross neglect on his part.

(4) When an employee, who is in receipt of a housing allowance in accordance with paragraph 4 is absent from work due to illness or other physical incapacity, he shall continue to be paid housing allowance in full.

12. Safari allowance

(1) An employee who is required to perform work away from his principal area of employment shall be entitled to be paid subsistence and accommodation allowances as follows:

	KSh.
(a) Breakfast (applicable only to overnight stop)	55
(b) Lunch (applicable only to overnight stop)	88
(c) Supper (applicable only to overnight stop and where an employee does not return to his principal area of employment by 8.00 p.m.)	105
(d) For an overnight stop in Nairobi, Mombasa and Kisumu an employee shall be entitled to accommodation allowance of	264
(e) For an overnight stop elsewhere an employee shall be entitled to accommodation allowance of	237
(f) For a night stop when the employer provides accommodation, the rate will be equivalent to the total amount of (a), (b) and (c) above and as they may be applicable	248

(2) The subsistence and accommodation allowance payable under subparagraph (1) of this paragraph shall cease to be payable to an employee after thirty consecutive days of absence on duty from his principal area of employment and thereafter an agreement in respect of additional accommodation and subsistence allowance shall be negotiated between the employer and the employee(s) or employees' representative.

13. Transfer

Where an employee is to be transferred to another branch or site of the employer's business, such employee—

- (a) shall be given reasonable notice of the intended transfer;
- (b) shall be provided with satisfactory transport by his employer for himself and his personal effects;
- (c) may be eligible to receive salary advance which would be recoverable in reasonable instalments, but such instalments shall not exceed four instalments:

Provided that no employee shall be regarded as having been transferred to another branch or site of the employer's business if the duration of such transfer will be of a period of less than thirty (30) days;
- (d) shall be paid transfer allowance at the rate of 30% of the employees basic monthly salary provided that the allowance is not applicable on return to the original place of employment.

[Subsidiary]

14. Maternity leave

A woman employee shall be entitled to twelve leave weeks' maternity leave eight of which shall be paid for:

Provided that—

- (a) a woman who has taken twelve weeks' maternity leave shall not forfeit her annual leave in that year;
- (b) child-birth in respect of a woman employee shall not be deemed to be sickness as provided under paragraph 11 and the employer shall not be required to meet medical costs incurred thereon; and
- (c) a female employee who takes maternity leave shall not incur any loss of privileges during the period of the maternity leave.

15. Redundancy

(1) It shall be a condition of every contract that, 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 shall be informed of the reason for, and the extent of the intended redundancy seven days prior to the issue of notice;
- (b) the employer shall have due regard to the seniority in time, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) any leave due to any employee who is declared redundant shall be paid for in cash;
- (d) an employee declared redundant shall be entitled to severance pay at the rate of sixteen days' pay for each completed year of service;
- (e) any redundant employee with less than four years' continuous service with an employer shall be entitled to one month's notice in writing or one month's wages in lieu of notice; and
- (f) an employee with four or more years continuous service shall be entitled to two months notice in writing or two months wages in lieu of notice.

(2) For the purpose of this paragraph—

- (a) **“redundancy”** means the termination of employment by an employer before work is completed on the section of which an employee was engaged;
- (b) loss of employment caused by closure or sale of an undertaking or part of the undertaking shall be deemed to be redundancy.

16. Retirement terminal benefits

(1) On completion of four years' service with an employer, an employee shall be entitled to twenty days' pay for every completed year of service by way of gratuity to be based on the employee's wages at the time of termination of his service.

(2) An employee who resigns for reasons, other than certified ill health or old age, or is dismissed summarily for any lawful cause, shall not be entitled to gratuity:

Provided that—

- (a) in the event of any dispute as regards resignation on medical grounds, the verdict of a qualified medical practitioner shall prevail;

- (b) the normal retirement age shall be 55 years provided that the employee has the option of retiring at the age of 50 years;
- (c) on retirement, the employee shall be paid one way travelling allowance to his home area.

(3) In case of the death of an employee, the retirement benefits provided for under this paragraph shall be paid by the employer to the labour officer of the area or to the district commissioner for payment to the lawful heirs of the deceased.

(4) The employment shall be terminable by not less than two months' notice in writing to be given by either party or otherwise by payment by either party in lieu of notice of not less than two months' wages.

17. Warning procedure

An employee whose work or conduct is unsatisfactory or commits a default which does not warrant summary 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 copies of the warnings shall be forwarded to the shop-steward and such warnings shall be valid for twelve months from the date of their issue; and
- (b) if within the twelve months' period referred to in the above paragraph the employee commits a further default which does not warrant instant dismissal, a final warning, which shall make him liable to instant dismissal for any other default, shall be issued and a copy of the final warning shall be copied to the area branch secretary of the union:

Provided that if the employee completes twelve months from the date of the issue of the first, second or final warning without committing a further default, any warning entered in his employment records shall be cancelled and cease to be valid.

18. Acting allowance

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

19. Termination of employment

(1) The first two weeks of employment with the employer may be treated as a probationary period and during such period the contract may be terminated by not less than one day's notice to be given by either party or one day's pay in lieu of notice, such notice to expire at the end of the normal hours of work on any day:

Provided that—

- (a) in the case of an employee who has completed two weeks but less than two months' continuous service with the employer, the employment shall be terminable by not less than seven days notice in writing to be given by either party, or otherwise by the payment by either party in lieu of notice of not less than seven days month's wages;
- (b) in the case of an employee who has completed two months but less than three years' continuous service with an employer, the contract shall be terminable by not less than one month's notice in writing to be given by either party or otherwise by the payment by either party in lieu of notice of not less than one month's wages;

[Subsidiary]

- (c) in the case of an employee who has completed three years' service with an employer, the contract shall be terminable by not less than two months' notice in writing to be given by either party or otherwise by payment by either party in lieu of notice of not less than two months' wages; and
- (d) in the case of an employee's service being terminated at the initiative of the employer after completion of two years' continuous service, such employee shall be entitled to payment at the rate of fourteen (14) days' salary for every completed year of service by way of gratuity to be based on the employee's wages at the time of termination of his services.

(2) Nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for any lawful cause.

20. Continuity of service

The service of an employee, who is transferred to a different site as a result of completion or mere completion of work at any particular site where such employee had been engaged, shall be deemed to be continuous and unbroken.

21. Tools allowance

Machine tools shall be provided by the employer in an established workshop. Where tools are not provided by the employer, the employee shall be paid tools allowance if he has tools as specified in the list of the Director of Industrial Training or that the employee has the necessary tools required by the employer for the work assigned to the employee at the following rates:

Category	KSh. per month
Mechanics	210
Carpenters, joiners, electricians, plumbers	145
Mason, stone dressers, bricklayers, plasterers, terrazzo paviours, steel fixers, steel erectors, metal workers	125
Painters, decorators, benders, twistors, asphaltes, floorlayers, roofers	105

Provided that in the case of painters, brushes will be supplied by the employers.

22. Absence from duty

No employee shall suffer dismissal termination of employment on grounds of absence from duty provided that such absence does not exceed seven (7) continuous working days and provided further that the employee has sufficient and convincing reasons for the absence and no payment shall be due to the employee during the period of such absence.

23. Protective clothing, uniform and other equipment

The employer shall provide protective clothing, uniform and other necessary equipment to his employees as specified here below and such protective clothing and uniform shall be maintained and cleaned by the employer who may opt to provide a bar of washing soap or its equivalent in a month to each employee using such protective clothing and uniform—

- (a) watchman (security guards) shall be issued with torch, whistle and heavy overcoat;
- (b) light overalls shall be issued to painters, mechanics, assistant mechanics, boilermen, welders, drillers and sanitary sweepers, greasers in motor workshops, carpenters and masons in established workshops;
- (c) light over jackets shall be issued to store-keepers and laboratory staff;

- (d) uniforms shall be issued to messengers and drivers;
- (e) gumboots shall be issued to terrazzo paviours, sanitary sweepers asphalters and concrete block makers;
- (f) Motor cycle drivers will be issued with uniforms and will also be given raincoats, hand gloves and helmets:

Provided that the above items shall be replaced as and when the issues are inadequate for the purpose for which they were intended.

24. Certificate of service

(1) Every employee shall be given a certificate of service by his employer upon termination of employment and every such certificate shall contain the following particulars—

- (a) the name of the employer and his postal address;
- (b) the name of the employee;
- (c) the date when the employment commenced;
- (d) the nature and usual place of employment; and
- (e) the date when employment ceased.

(2) Subject to subparagraph (1), no employer is bound to give any employee any terminal reference or certificate relating to the performance of such employee.

(3) Any employer who wilfully or by neglect fails to comply with the requirements of this paragraph or who includes a statement which he knows to be false shall be guilty of an offence.

25. Transportation

Employees shall be provided by the employer with reasonable and adequate healthy means of transport from an agreed point to their working place and from their working place to an agreed point; and for the purpose of implementation of this section an agreed point shall be the point agreed upon between the employer and employees' representatives.

26. Safety and health

(1) The employer shall make every reasonable effort to provide safe and healthy conditions of work for employees at all job sites and workshops and shall provide employees with any necessary protective equipment.

(2) The employer shall ensure that there are properly cleaned and maintained toilets for employees at all job sites and workshops as provided for in the Factories and Other Places of Work Act (Cap. 514).

27. Letter of appointment

Each employee shall be issued with a letter or document of appointment by the employer indicating the following—

- (a) the name and address of employer;
- (b) the name of the employee;
- (c) the date of engagement; and
- (d) the nature of work or occupation.

[Subsidiary]

28. Religious holidays

An employee deciding to take time off for religious purpose shall be granted such time off without pay, or alternatively, such employee shall have the option of having the number of days taken for religious purpose set off against his annual leave entitlement.

29. Workmen's Compensation Act (Cap. 236)

Any employee injured while on employer's business shall be treated and paid in accordance with the Workmen's Compensation Act (Cap. 236) and while the assessment is being processed the injured person shall receive half pay and employment of such employee shall not be terminable before obtaining a certificate of incapacity from the doctor who is treating the employee.

30. Payment of wages

(1) Payment of wages shall be made on a working day during working hours and at the place of employment.

(2) The method or mode of payment of wages shall in no way prejudice the right of an employee to enjoy any or all fringe benefits stipulated in this Order, for this purpose and no matter how an employee is employed or paid, such an employee shall be entitled to all benefits earned by him.

(3) Where an employer pays wages outside working hours, the time spent in paying wages shall be regarded and paid for as overtime in accordance with paragraph 6 of this Order.

31. Medical treatment

An employee who falls sick and requires medical treatment shall be entitled to reimbursement of expenses incurred in respect of such medical treatment up to Sh. 12,000 in a period of 12 months on production of receipts issued by registered medical practitioners.

32. Death in service

In case of death of an employee, the employer shall pay towards the funeral expenses an amount of not less than KSh. 14,000

33. Revocation of L.N. 153/1998

The Regulation of Wages (Building and Construction Industry) Order, 1998 is revoked.

FIRST SCHEDULE

[Paragraph 3.]

BASIC MINIMUM RATE OF WAGES (PER DAY, PER SHIFT AND PER MONTH)
EXCLUSIVE OF HOUSING ALLOWANCE

<i>Occupation</i>	<i>Nairobi, Mombasa and Kisumu cities</i>	<i>All Municipalities, all towns and urban councils and all other areas</i>
1. Labourers	224.85	221.80
2. General tradesmen (artisans): (Carpenters, joiners, masons, stone dressers, bricklayers, plasterers, electricians, decorators, metal workers, terrazo paviours, painters, steel fixers, benders and twistors, asphalters. Floor-layers, sign-writers, glaziers, roofers and steel erectors, drilling rig operators, pipe fitters, plumbers) learner tradesman (for a maximum of 2 ½ years)	271.40	265.50
Ungraded tradesman	302.60	290.90
Grade III trade tested	396.00	375.30
Grade II trade tested	441.80	425.30
Grade I trade tested	546.00	526.05
3. Plant Operators: Greasers, plant operators and jackhammer operators to one pneumatic jack-hammer weighing 27 kilos and over) Dumper driver 2 tons and under	271.40	268.60
4. Light plant operator: Class I (Agricultural tractors, roller dumpers)	250.15	247.85
Class II (light tracked tractors D4s, etc.)	283.00	275.35
Heavy plant operators D8 tractors, graders, excavators and over head crane driver, well drillers	285.25	280.60
5. Vehicle operators: Driver's mates, greasers and tyre men	547.85	524.50
Drivers: Trucks up to 2 tons	271.40	268.60
Trucks over 2 to 8 tons	291.35	279.20
Trucks over 8 to 15 tons (load) with or without trailer	381.40	361.25
Trucks over 15 to 25 tons (load) with or without trailer	546.25	526.00
Trucks over 25 tons	553.65	546.25
6. Mechanic and fitters: Greasers	557.20	561.25
Ungraded	271.40	268.65
Grade III trade tested	302.60	290.95
Grade II trade tested	395.95	375.30
Grade I trade tested	441.75	425.30
7. Welders: Learner welder (for a maximum period of 2½ years)	546.00	526.05
	271.40	268.65

Labour Institutions

[Subsidiary]

FIRST SCHEDULE—continued

<i>Occupation</i>	<i>Nairobi, Mombasa and Kisumu cities</i>	<i>All Municipalities, all towns and urban councils and all other areas</i>
Ungraded	302.60	290.95
Grade III trade tested	395.95	375.30
Grade II trade tested	441.75	425.30
Grade I trade tested	546.00	526.05
8. Junior headmen	250.15	247.85
Senior headmen	276.55	270.85
9. Miscellaneous:		
Chainman, laboratory attendants, office messenger, fuel pump attendant, scaffolder boilerman, checker and sweeper (sanitary)	250.15	247.85
10. Watchmen (basic minimum wage rates per 10 hours shift)	295.15	291.45
11. Clerical categories:		
Basic minimum rate per month (exclusive of housing allowance), junior clerk and storemen	8,433	8,433
Telephone operator, copy typist, general clerk and storekeeper	10,390	10,390
Grade II	12,025	12,025
Grade I	13,783	13,783
12. Steel fabricators, steel shop/workshop:		
Mobile crane drivers	334.05	334.05
Learner platers	258.90	258.90
Platers	334.05	334.05
Learner machine operators	258.90	258.90
Machine operators	307.80	307.80
13. Soil laboratory:		
Laboratory technician	10,716	10,716
Soil technician	7,282	7,282
Survey crew: Learner surveyor	7,282	7,282
Assistant surveyor/leveller	10,393	10,393
Surveyor	12,774	12,774
14. Draftsmen:		
Plan tracer	10,393	10,393
Learner draftsmen	7,282	7,282
Draftsmen	12,774	12,774
15. Junior foremen:		
Labour comp. supervisor, security officer and canteen/mess supervisor	12,774	12,774

Note:

The basic minimum wage to be paid to an employee shall be not less favourable than that specified in relation to the category of an employee and to the area of employment as specified in this Order provided that:

- (a) An employee who is taken by his employer to another area shall not be paid less than the basic minimum wages payable in the area where the employer engaged him.

FIRST SCHEDULE—*continued*

- (b) Where an employee (excluding watchmen) is required to work a night shift, he shall be paid an allowance of five per cent (5%) of his daily or monthly rate on top of his minimum wage to cover such night work.

SECOND SCHEDULE

HOLIDAYS WITH FULL PAY

New Year's Day.
Good Friday.
Easter Monday.
Labour Day.
Madaraka Day.
Idd-ul Fitr Day.
Moi Day.
Kenyatta Day.
Jamhuri Day.
Christmas Day.
Boxing Day.

REGULATION OF WAGES (KNITTING MILLS) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Leave travelling allowance.
10. Sick leave.
11. Acting allowance.
12. Maternity leave.
13. Redundancy.
14. Termination of employment.
15. Revocation of subsidiary legislation.

SCHEDULE – BASIC MINIMUM WAGE RATES AND CONDITIONS THERETO

[Subsidiary]**REGULATION OF WAGES (KNITTING MILLS) ORDER***[Date of commencement: 1st December, 1966.]*

[Cap. 229, sub. leg, L.N. 341/1966.]

1. Citation

This Order may be cited as the Regulation of Wages (Knitting Mills) Order.

2. Application

This Order shall apply to all persons employed in any undertaking or part thereof which consists wholly or mainly of the manufacture of hosiery by machine knitting, or the preparation of raw material for knitting.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the Schedule shall be calculated at a rate not less favourable than that specified in the said Schedule:

Provided that, wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance at a rate not less favourable than either—

- (a) the appropriate monthly rate of housing allowance prescribed by the Regulation of Wages (General) Order for the particular area within which the employee is employed; or
- (b) seventeen shillings and fifty cents per month where the employee is employed in an area not affected by a Regulation of Wages (General) Order.

5. Hours of work

The normal working week shall consist of forty-five hours of work:

Provided that—

- (i) except in the case of shift work, an employee's normal working hours shall be eight hours per day on five days of the week and five hours on one day of the week;
- (ii) an employee shall be entitled to not less than one and one-half rest days in each week.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5 at one and one-half times the normal hourly rate;
- (b) for time worked on the employee's normal rest day (which may or may not be a Sunday) and on statutory public holidays at twice the normal hourly rate.

(2) In calculating payment for overtime for the purposes of subparagraph (1), where the employee is not employed by the hour, the basic hourly rate in relation to any employee shall be deemed to be not less than one one-hundred-and-ninety-fifth of the employee's basic monthly wage.

7. Holidays with full pay

The normal working hours occurring on statutory public holidays shall, unless paid for as overtime, be granted as time off with full pay.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months' service with an employer, to annual leave for a period covering twenty-one consecutive days (exclusive of public holidays) with full pay;
- (b) where employment is terminated after the completion of two or more consecutive months' service during any twelve months' leave-earning period, to one and three-quarter days' leave with full pay for each completed month of service in such period.

9. Leave travelling allowance

An employee shall be entitled after each period of twelve months' consecutive service with an employer, when proceeding on annual leave, to a leave travelling allowance of twenty-five shillings.

10. Sick leave

After two months' consecutive service with an employer an employee shall be entitled to sick leave with full pay up to a maximum of twenty-one days with full pay, and thereafter to sick leave up to a maximum of ten days with half pay, in each period of twelve months' consecutive service:

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 qualified medical practitioner or a person authorized by him in writing and acting on his behalf, in charge of a dispensary or medical aid centre;
- (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.

11. Acting allowance

Where an employee is required to work in full acting capacity for a period of not less than ten days 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 acting allowance at a rate not less than the difference between such higher basic minimum wage and his normal basic wage.

12. Maternity leave

An employed woman shall be entitled to unpaid maternity leave up to a maximum period of sixty days, subject to the employee producing a medical certificate, signed by a medical practitioner or a person acting on his behalf, in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for in paragraph 10, and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period.

[Subsidiary]**13. Redundancy**

It shall be a condition in every contract that, where the employment of any employee is to be terminated on account of redundancy, the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupations and grades.

14. Termination of employment

It shall be a condition in every contract that such contract shall be terminable by not less than one month's notice to be given by either party, or otherwise by the payment by either party, in lieu of notice of not less than one month's wages:

Provided that—

- (i) the first two months' employment with any employer may be treated as a probationary period, and during such probationary period the contract shall be terminable by either party by twenty four hours' notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

15. Revocation of subsidiary legislation

The Regulation of Wages (Knitting Mills) Order is revoked.

SCHEDULE

[Paragraph 3.]

BASIC MINIMUM WAGE RATES AND CONDITIONS THERETO**PART I – BASIC MINIMUM WAGE RATES (EXCLUSION OF HOUSING ALLOWANCE)**

<i>Category of Employee</i>	<i>All Areas KSh. per month</i>
Turner (by hand or machine), folder, packer, trimmer, ironer, cutter (by hand or machine)	145
Sanitary attendant, messenger, office cleaner, stamper, door-man, layer, general labourer	167
Turnboy, watchman, runner/floorman	175
Assistant maintenance artisan	183
Calendar machine operator, blow room attendant, carding machine attendant, drawing frame attendant, ring frame attendant, speed frame attendant, winder, knitting machine feeder, boiler attendant—	
trainee (for the first six months)	165
for the ensuing 12 months	175
thereafter	185
Sewing machine operator—	
Trainee (up to a maximum of six months)	155
Assistant sewing machine operator (for the first six months only as an assistant)	170
thereafter	185
Cutter to pattern (by hand or machine)	195
Knitting machine attendant—	
trainee (for the first six months)	205
First year	240
Thereafter	370

SCHEDULE—continued

	<i>KSh. per month</i>
Chargehand, telephone/receptionist	290
Stores clerk, clerk, salesman	300
Carpenter, painter, mason— with trade test certificate	300
Maintenance artisan, storekeeper, foreman	340
Driver	245
Salesman/driver	340

PART II – DEFINITIONS

In this Schedule—

“**assistant maintenance artisan**” means an employee wholly or mainly engaged in assisting a knitting mill maintenance artisan in carrying out his duties;

“**blow room attendant**” means an employee wholly or mainly engaged in opening cotton or staple fibre bales, feeding cotton or staple fibre to the opening machines and taking out laps of staple fibre or cotton from the lap machine and stacking the laps or racks;

“**boiler attendant**” means an employee wholly or mainly engaged in attending to and operating steam raising equipment in a knitting mill;

“**calender machine operator**” means an employee wholly or mainly engaged in calendering knitting fabric on a calendering machine;

“**carding machine attendant**” means an employee wholly or mainly engaged in feeding laps into the carding machine, joining ends of broken sliver and taking out full sliver cans;

“**chargehand**” means an employee who is in charge of workers in a knitting mill, with some responsibility for control of work, staff and production as instructed or guided by a foreman or manager;

“**clerk**” means an employee wholly or mainly engaged in clerical and records work in a knitting mill:

Provided, however, that an employee who is required to keep simple records in the course of manual or supervisory duties shall not be deemed to be a clerk;

“**cutter**” means an employee wholly or mainly engaged in cutting fabric or garment ends by scissors or machine;

“**cutter to pattern**” means an employee wholly or mainly engaged in cutting to pattern laid-up fabric by scissors or by cutting machines;

“**drawing frame attendant**” means an employee wholly or mainly engaged in feeding sliver to a drawing machine, joining up new or broken sliver ends, switching the machine on or off as necessary and taking the finished sliver cans out of machine;

“**driver**” means an employee whose duties, in addition to being in charge of a motor vehicle, include other such tasks as are necessary for the collection or delivery of knitwear products and raw materials, including loading and unloading and the transport of personnel;

“**folder**” means an employee wholly or mainly engaged in folding and stacking fabric in specified lengths, or folding and stacking garments and cutting the ends of such garments or fabric by scissors or hand-cutting machine;

[Subsidiary]

SCHEDULE—*continued*

“ironer” means an employee wholly or mainly engaged in ironing sewn knitwear articles;

“knitting machine attendant” means an employee wholly or mainly engaged in knitting fabric from yarn on a knitting machine, detecting broken or defective needles and replacing them, filling in new needles and carrying out minor adjustments and repairs on the machines in accordance with instructions from his superiors;

“knitting machine feeder” means an employee wholly or mainly engaged in feeding knitting yarn packages to a knitting machine, joining up new or broken yarn ends, switching the machine on or off as necessary and notifying his superiors of defects in the knitted fabric or machine;

“layer” means an employee wholly or mainly engaged in laying-up fabric by hand or machine;

“maintenance artisan” means an employee in a mechanical, electrical or other artisan trade and engaged in a knitting mill to work exclusively on maintenance and repairs of plant;

“packer” means an employee wholly or mainly engaged in packing finished knitwear articles by hand or machine;

“ring frame attendant” means an employee wholly or mainly engaged in feeding roving to ring spinning frames, joining broken ends of yarn, replacing defective travellers and drafting rubber bands, and putting empty bobbins on the spindles;

“runner/floorman” means an employee wholly or mainly engaged in keeping the line of production fed with raw materials and/or goods-in-process, including records of the process;

“sewing machine operator” means an employee wholly or mainly engaged in sewing, by machine, knitwear articles and/or parts of such articles and/or assembly of such parts;

“speed frame attendant” means an employee wholly or mainly engaged in feeding sliver to speed frames, joining broken or new ends of both sliver and roving, doffing full roving bobbins and inserting empty bobbins;

“stamper” means an employee wholly or mainly engaged in stamping knitwear articles and/or parts thereof;

“storekeeper” means an employee who is in charge of material stores, with responsibility for stocks, orders, receipts and issues and maintenance of records in a knitting mill;

“stores clerk” means an employee who assists the storekeeper in the execution of his duties, but who is not in charge of the stores in a knitting mill;

“trimmer” means an employee wholly or mainly engaged in trimming, by scissors or machine, loose thread ends of sewn knitwear articles and/or parts thereof;

“turner” means an employee wholly or mainly engaged in turning and/or stacking knitwear articles and/or parts thereof by hand or machine;

“winder” means an employee wholly or mainly engaged in winding knitting yarn to form a knitting package on a winding machine.

REGULATION OF WAGES (FOOTWEAR INDUSTRY) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Holidays with full pay.
8. Annual leave.
9. Sick leave.
10. Redundancy.
11. Termination of employment.
12. Piecework and mass-production industry.
13. Revocation of L.N. 41/1967.

SCHEDULE – BASIC MINIMUM WAGES AND CONDITIONS RELATING
THERETO

REGULATION OF WAGES (FOOTWEAR INDUSTRY) ORDER*[Date of commencement: 1st April, 1970.]*

[Cap. 229, sub. leg, section 11, L.N. 54/970.]

1. Citation

This Order may be cited as the Regulation of Wages (Footwear Industry) Order.

2. Application

This Order shall apply to all persons engaged in any undertaking or part of an undertaking which consists in the carrying on, for gain, of one or other of the following activities, that is to say, the manufacture of footwear or the repair or alteration thereof:

Provided that persons employed in an undertaking or part of an undertaking which is operated by the Government, any local authority, any quasi-government body, any charitable or religious organisation, or any educational or medical institution, shall be excluded.

3. Basic minimum wage

The basic minimum wage to be paid to employees specified in the Schedule shall be calculated at a rate not less favourable than that specified in the said Schedule:

Provided that—

- (i) wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed in relation to the area of employment, by a Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.
- (ii) every employer shall pay his or her employees wages at the end of each monthly contract.

4. Housing allowance

Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3, to a housing allowance at a rate not less favourable than—

- (a) the appropriate housing allowance prescribed by a Regulation of Wages (General) Order for the particular area within which the employee is employed; or
- (b) thirteen shillings per month when the employee is employed in any other area not affected by a Regulation of Wages (General) Order.

5. Hours of work

The normal working hours shall consist of forty-five hours of work as follows—

Monday to Friday	8 a.m.	to	1 p.m.
	2 p.m.	to	5 p.m.
Saturday – 5 working hours	8 a.m.	to	1 p.m.

Provided that an employee shall be entitled to one whole and one-half rest days in each week.

6. Overtime

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

- (a) for time worked in excess of the normal number of hours per week specified in paragraph 5, occurring from Monday to Saturday at one and one-half times the basic hourly rate;

- (b) for time worked on Sundays and statutory public holidays at twice the basic hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1), the normal hourly rate of wages shall be deemed to be not less than one two-hundredths of the employee's monthly wage exclusive of housing allowance.

(3) Where an employee is remunerated otherwise than at a monthly rate of wages, his normal hourly rate shall be calculated in proportion, save where the employee is remunerated at an hourly rate such hourly rate shall form the basis of calculation.

7. Holidays with full pay

The normal working hours occurring on statutory public holidays shall, unless paid for as overtime, be granted as time off with full pay.

8. Annual leave

An employee shall be entitled—

- (a) after each period of twelve consecutive months' service with an employer, to annual leave for a period covering eighteen consecutive days (exclusive of public holidays) with full pay;
- (b) where employment is terminated after the completion of two or more consecutive months' service during any twelve months' leave-earning period, to one and one-half days' leave with full pay for each completed month of service in such period.

9. Sick leave

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

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 qualified medical practitioner or a person authorized by him in writing and acting on his behalf, in charge of a dispensary or medical aid centre;
- (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.

10. Redundancy

It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupations and grades:

Provided that where the employment of an employee is to be terminated on account of redundancy the union to which he belongs shall be informed of the reasons for the proposed termination of employment.

11. Termination of employment

It shall be a condition in every contract that such contract shall be terminable by not less than one month's notice to be given by either party, or otherwise by the payment by either party, in lieu of notice of not less than one month's wages:

[Subsidiary]

Provided that—

- (i) the first one month of employment with any employer may be treated as a probationary period, and during such probationary period the contract shall be terminable by either party by giving twenty four hours' notice;
- (ii) nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

12. Piecework and mass-production industry

An employee engaged at piece rates or in the manufacture of footwear by mass-production methods, shall be entitled to the wages and conditions of employment not less favourable than those specified in this Order.

SCHEDULE

[Paragraph 3.]

BASIC MINIMUM WAGES AND CONDITIONS RELATING THERETO*Basic Minimum Wage Rates (Exclusive of Housing Allowance)*

	<i>Nairobi Area and Mombasa Island</i>	<i>All other Areas</i>
	<i>Sh. cts.</i>	<i>Sh. cts.</i>
HANDMADE FOOTWEAR INDUSTRY—		
(a) Unskilled Labourer	148 05	139 65
(b) Low Grade Footwear, e.g.		
“Koria” Footwear Learner shoemaker:		
for the first six months	144 90	139 65
for the ensuing six months	156 45	148 05
shoemaker	168 00	159 60
A shoemaker engaged in the production of low grade shoes shall receive, in addition to the basic minimum wage, for every pair of low grade shoes produced in excess of 35 pairs per month the sum of	(4/85 per pair)	(4/60 per pair)
Chaplis maker, maker of shoe uppers, repairer of low grade shoes	168 00	159 60
(c) High Quality Footwear, i.e.		
“normal” footwear normal shoemaker	196 35	187 95
A shoemaker engaged in the production of high quality shoes shall receive, in addition to the basic minimum wage, for every pair of high quality shoes produced in excess of 27 pairs per month the sum of .	(8/70 per pair)	(7/50 per pair)
Maker of shoe uppers with Grade I Trade Test Certificate	231 00	222 60
Chaplis maker, repairer of high quality shoes, maker of shoe uppers	196 00	187 95

REGULATION OF WAGES (AGRICULTURAL INDUSTRY) ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation.
2. Application.
3. Basic minimum consolidated wage.
4. Deduction for accommodation provided by the employer.
5. Hours of work.
6. Overtime.
7. Holidays with pay.
8. Leave with full pay.
9. Compassionate leave.
10. Sick leave.
11. Maternity leave.
12. Safari allowance.
13. Refund of fare.
14. Acting appointment.
15. Redundancy.
16. Severance pay.
17. Cultivation of plots.
18. Procedure in case of misconduct not warranting dismissal.
19. Termination of employment.
20. Revocation of L.N. 73/1980.

SCHEDULES

- FIRST SCHEDULE –
- SECOND SCHEDULE – HOLIDAY WITH FULL PAY
-

[Subsidiary]**REGULATION OF WAGES (AGRICULTURAL INDUSTRY) ORDER**

[Cap. 229, sub. leg, L.N. 121/1982, L.N. 81/1985, L.N. 123/1987, L.N. 190/1989, L.N. 208/1990, L.N. 207/1991, L.N. 106/1992, L.N. 453/1992, Corr. No. 46/1992, L.N. 92/1993, L.N. 162/1994, L.N. 194/1995, L.N. 114/1996, L.N. 345/1997, L.N. 66/1998, L.N. 49/1999, Corr. No. 37/1999, L.N. 60/2000, L.N. 86/2001, L.N. 85/2002, L.N. 47/2003, Corr. No. 63/2003, L.N. 35/2004, L.N. 41/2005, L.N. 37/2006; L.N. 69/2007, L.N. 97/2010, L.N. 63/2011, L.N. 70/2012.]

1. Citation

This Order may be cited as the Regulation of Wages (Agricultural Industry) Order.

2. Application

This Order shall apply to all agricultural employees (excluding directors and managers) who are employed in an undertaking or part of an undertaking which consists in the carrying on, for gain, of one or more of the following activities—

- (a) the cultivation of land and use of land for any purpose of husbandry including horticulture, fruit growing and seed growing;
- (b) dairy farming and livestock breeding and keeping;
- (c) the use of land as grazing land, meadow land, market gardens or nursery grounds;
- (d) the use of land for woodlands when that use is ancillary to the use of land for other agricultural purposes.

3. Basic minimum consolidated wage

No person to whom this Order applies shall be employed at a basic minimum consolidated wage less favourable to him than that which is applicable to him under Part I of the First Schedule having regard to his age and to his occupation as specified therein to be determined by reference to the definitions contained in Part II of that Schedule.

4. Deductions for accommodation provided by the employer

An employer who provides housing accommodation which has been approved by a Medical Officer of Health for the area in which the accommodation is situated may deduct from the wages of any employee in occupation of the accommodation a sum not exceeding thirty shillings.

5. Hours of work

(1) The normal hours of work in respect of stockmen, herdsmen and watchmen shall be sixty hours of work spread over six days of the week.

(2) The normal hours of work in respect of all workers except those specified in subparagraph (1) shall be forty-six hours of work spread over six days of the week.

(3) Every employee shall be entitled to at least one rest day in every period of seven days.

(4) An employee who is stopped from working by his employer or any reason other than the termination of his employment or dismissal shall be deemed to have worked as if the stoppage had not occurred and be paid in full notwithstanding the fact that the stoppage was occasioned by a breakdown of the plant or inclement weather conditions.

6. Overtime

Every employee who works for any time in excess of the normal hours of work per week as specified in paragraph 5 shall be paid for the overtime thereby worked at the following rates—

- (a) one and a half times the basic hourly rate in respect of any time worked in excess of the normal hours of work; and

- (b) twice the basic hourly rate in respect of any time worked on a rest day.

7. Holidays with pay

- (1) The days specified in the Second Schedule shall be holidays with full pay.

(2) Where an employee, other than a stockman, herdsman or watchman, is required to work on a day which by virtue of subparagraph (1) is a holiday with full pay he shall be paid in respect of any overtime so worked at twice the basic hourly rate.

(3) Stockmen, herdsman and watchmen shall be paid for any time worked on a day which by virtue of subparagraph (1) is a holiday with full pay at one and one-half times the basic hourly rate.

8. Leave with full pay

- (1) Every employee shall be entitled—

- (a) to not less than twenty-one working days' leave with full pay after every twelve consecutive months of service with his employer; or
- (b) where the 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' leave with full pay in respect of each completed month of service in such period.

(2) Notwithstanding the provisions of subparagraph (1), an employer and his employee may agree on the dates on which leave may be taken; and in the event of an employee being required to work for a whole calendar year without leave, he shall be paid his normal wages plus an extra sum calculated on the basis of his daily wages in respect of leave due to him.

(3) The leave referred to in subparagraph (1) shall be additional to all public holidays, weekly rest days and any sick leave taken by an employee in accordance with paragraph (10).

9. Compassionate leave

(1) An employee may, at the discretion of the employer, be granted compassionate leave.

(2) Compassionate leave shall not be unreasonably refused and may, by prior arrangement by the employee with the employer, be treated as paid leave and subsequently set off against the employee's annual leave.

10. Sick leave

(1) After one month's continuous service with an employer an employee shall be entitled to sick leave with full pay up to a maximum period of thirty days, and thereafter to sick leave with half pay up to a maximum period of thirty days, in each period of twelve months' continuous service.

(2) An employee claiming to be entitled to sick leave under subparagraph (1) shall produce a certificate of incapacity signed by a medical practitioner, or a person acting on his behalf, in charge of a dispensary or a health centre covering the period for which the sick leave is claimed.

(3) An employee shall not be entitled to sick leave where the incapacity is due to gross neglect on his part.

(4) An employee's absence from duty on account of illness shall not be a reason for his dismissal.

[Subsidiary]

11. Maternity leave

Female employees shall be entitled to two months' maternity leave with full pay:

Provided that—

- (i) a female employee who has taken two months' maternity leave shall forfeit her annual leave in that year;
- (ii) a female employee on maternity leave shall not incur any loss of privileges by reason of her being on such leave.

12. Safari allowance

An employee who is required to perform work away from his principal place of employment shall be entitled to be paid safari allowance as follows—

	<i>Sh.</i>	<i>cts.</i>
(a) for any period not exceeding his normal daily hours of work	7	00
(b) for any period exceeding his normal daily hours of work including an overnight stop in the Nairobi area or Mombasa Municipality	50	00
(c) for any period exceeding his normal daily hours of work and including an overnight stop elsewhere	40	00

13. Refund of fare

Where an employee proceeds on annual leave he shall be entitled to a refund by the employer of the bus fare or third-class rail fare to and from his home in respect of himself and his wife; except that an employee shall not qualify for a refund under this paragraph unless he produces receipts to indicate that the fares in respect of which a refund is sought have been paid.

14. Acting appointment

Where an employee is required to act in a grade higher than that in which he is normally employed, he shall work at his normal rate of pay for the first ten days and thereafter at the basic minimum wage for that higher grade, and shall also be entitled to any other benefits or privileges attached to that higher grade.

15. Redundancy

(1) It shall be a condition in every contract that where the employment of an employee is to be terminated on account of redundancy the following principles shall apply—

- (a) the employee's union shall be informed of the reasons for and the extent of the intended redundancy;
- (b) the employer shall have due regard to the seniority in time and to the skill, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) the redundant employee shall be entitled to one month's notice or one month's wages in lieu of notice;
- (d) an employee declared redundant shall be entitled to 15 days' pay for each completed year of service as an *ex gratia* payment.

(2) An employee declared redundant shall be allowed to stay on the farm up to a maximum period of three months from the date of notice and in the case of transfer of ownership of the farm the grace period of three months shall not apply but instead the employee shall, if so required, vacate the farm within a period of thirty days from the date of notice.

(3) Notwithstanding anything contained in subparagraph (2) payment of benefits under this paragraph shall only be made after the employee has left the farm if required to do so.

[L.N. 184/1994, s. 2]

16. Severance pay

(1) An employee shall be entitled to seven days' pay for every completed year of service if his services are terminated by the employee otherwise than for gross misconduct, except that—

- (a) the qualifying period for any entitlement under this paragraph shall be seven years' continuous service;
- (b) the payment of benefits under this paragraph shall only be for services rendered up to the 1st July, 1966.

(2) Notwithstanding anything contained in subparagraph (1) payment of benefits under this paragraph shall only be made after the employee has left the farm if required to do so.

17. Cultivation of plots

Where an employee is permitted to cultivate a piece of land for his personal use on his employer's property a deduction of a sum not exceeding five shillings per month for each one-half acre of land so cultivate may be made from the employee's wages.

18. Procedure in case of misconduct not warranting dismissal

(1) An employee whose work or conduct is unsatisfactory or who is otherwise in breach of contract which in the opinion of the employer does not warrant 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 the union;
- (c) if an employee who has already received two warnings commits a third breach of contract he shall be liable to summary dismissal.

(2) Where an employee completes two hundred and ninety-two working days from the date of the second warning without further unsatisfactory work or conduct or breach of contract any warning entered in his employment record shall be cancelled.

19. Termination of employment

(1) Every contract of employment shall be terminated in the following manner—

- (a) in the case of an employee who has completed more than five years' continuous service with the employer, forty-five days' notice shall be given by either party in writing or otherwise by the payment by either party, in lieu of notice, of not less than thirty days' wage;
- (b) in the case of an employee who has completed the probationary period and up to five years' continuous service with an employer, thirty days' notice shall be given by either party in writing or otherwise by the payment by either party, in lieu of notice, of not less than thirty days' wages.

(2) Notwithstanding the provisions of subparagraph (1) the first two months with an employer may be treated as a probationary period and during that period the contract may be terminated by either party giving twenty-four hours' notice.

(3) Nothing in this paragraph shall prejudice the right of either party to terminate a contract summarily for lawful cause.

[Subsidiary]

20. Revocation of L.N. 73/1980

The Regulation of Wages (Agricultural Industry) Order, 1980 is revoked.

FIRST SCHEDULE

[L.N. 81/1985, s. 2, L.N. 123/1987, s. 2, L.N. 190/1989, s. 2, L.N. 208/1990, s. 2, L.N. 207/1991, s. 2, L.N. 106/1992, s. 2, L.N. 453/1992, s. 2, L.N. 92/1993, s. 2, L.N. 162/1994, s. 2, L.N. 194/1995, s. 2, L.N. 114/1996, s. 2, L.N. 345/1997, s. 2, L.N. 66/1998, s. 2, L.N. 49/1999, s. 2, Corr. No. 37/1999, L.N. 60/2000, s. 2, L.N. 86/2001, s. 2, L.N. 85/2002, s. 2, L.N. 47/2003, s. 2, Corr. No. 63/2003, L.N. 35/2004, s. 2, L.N. 41/2005, s. 2, L.N. 37/2006, s. 2, L.N. 69/2007, s. 2, L.N. 97/2010, s. 2, L.N. 63/2011, s. 2, L.N. 70/2012, s. 2.]

BASIC MINIMUM CONSOLIDATED WAGES

PART I

Occupation	<i>Per Month</i>	<i>Per Day</i>
	<i>KSh. cts.</i>	<i>KSh. cts.</i>
1. Unskilled employees	4,258 20	178 80
2. Stockman, herdsman, watchman	4,917 60	208 30
<i>Skilled and Semi-skilled employees</i>	<i>Per Month</i>	<i>Per Day</i>
	<i>KSh. cts.</i>	<i>KSh. cts.</i>
3. House servant or cook	4,861 00	185 10
4. Farm foreman	7,681 75	324 60
5. Farm clerk	7,681 75	324 60
6. Section foreman	4,973 00	211 50
7. Farm artisan	5,089 50	216 40
8. Tractor driver	5,397 10	229 25
9. Combine harvester driver	5,945 70	252 30
10. Lorry driver or car driver	6,239 70	264 50

PART II – DEFINITIONS

In this Schedule—

“**combine harvester driver**” means a person who can fulfil the requirements of a tractor driver and who is also able to operate a self-propelled combine harvester;

“**farm artisan**” means a person who is capable of carrying out the elementary tasks of either masonry, plumbing, carpentry or vehicle mechanics associated with work on a farm with a reasonable proficiency, but does not include employees erecting ordinary fencing on farms;

“**farm clerk**” means a person who is employed full time in the farm office and who is capable of keeping farm records and of maintaining accurately books of account; and to qualify for the minimum wage as a farm clerk the employee must be in possession of a certificate to the effect that he has passed the Certificate of Primary Education examination and gained not less than fifteen points;

“**farm foreman**” means a person who is in overall control of all labour on a farm or, in the case of larger farms a person who is in overall control of one section of the farm’s activities but in either event a farm foreman shall be required to be sufficiently trained and experienced in his job so as to be left in complete charge for limited periods;

[Subsidiary]

“lorry driver or car driver” means a person employed as either a driver of a load-carrying vehicle or of a car and who is in possession of a current driving licence for the class of vehicle concerned;

“section foreman” means a person to whom supervisory responsibilities have been delegated (as opposed to a foreman commonly known as a *“Nyapara”* whose normal task is only to supervise the work of a limited number of unskilled workers in the field) and includes a senior pigman or senior poultryman who is in charge of a substantial number of livestock and who has under him one or more labourers;

“tractor driver” means a person who has completed six months as a learner driver and has satisfied his employer that he is able to take complete charge of a tractor and operate it and all implements associated with it so as to complete a given task in the field without supervision; and includes an employee in charge of a harvester which is not self-propelled but which is drawn by a tractor.

SECOND SCHEDULE

[Paragraph 7.]

HOLIDAYS WITH FULL PAY

New Year's Day.	Idd-ul-Fitr Day.
Good Friday.	Independence Day.
Easter Monday.	Christmas Day.
Labour Day.	Boxing Day.
Madaraka Day.	Moi Day.
Kenyatta Day.	

REGULATION OF WAGES (APPRENTICES AND INDENTURED LEARNERS) ORDER

[Date of commencement: 1st August, 1967.]

[Cap.229, sub. leg. section 12, L.N. 165/1967.]

1. This Order may be cited as the Regulation of Wages (Apprentices and Indentured Learners) Order.

2. This Order shall apply to all apprentices and indentured learners registered under the Industrial Training Act:

Provided that apprentices and indentured learners employed in any undertaking or part of an undertaking in any trade, industry or occupation affected by any other wages regulation order made under the Act, shall continue to receive not less favourable conditions of employment (other than wages for which provision is made under paragraph 4 as may be provided under any such order.

3. Notwithstanding the provisions of any other law for the time being in force, any term of a contract of apprenticeship or indentured learnership which—

- (a) provides that the whole or any part of the wages of an apprentice or indentured learner shall be based upon the quantity of the work done; or
- (b) requires an apprentice or indentured learner under the age of seventeen years to work overtime,

shall be null and void, for the purpose of this Order.

4. (1) No person shall employ an apprentice or indentured learner in the areas specified in the Schedule at a basic minimum consolidated wage (inclusive of housing allowance) less favourable than that specified in that Schedule.

(2) Any employer who provides housing accommodation for any apprentice or indentured learner employed on a registered contract, and not otherwise, in all areas shall be entitled to deduct twenty shillings per month in respect of housing supplied to such apprentice or indentured learner.

5. Nothing contained in any Regulation of Wages (General) Order made under the Act shall apply to any person to whom this Order applies.

SCHEDULE

[Paragraph 4.]

BASIC CONSOLIDATED MINIMUM WAGES

Area	All Apprentices and Indentured Learners
All areas of Kenya	For the 1st year of apprenticeship and indentured learnership KSh. 140 per month.
	For the 2nd year of apprenticeship and indentured learnership KSh. 175 per month.
	For the 3rd year of apprenticeship and indentured learnership KSh. 215 per month.
	For the 4th year of apprenticeship and indentured learnership KSh. 260 per month.
	For the 5th year of apprenticeship and indentured learnership KSh. 325 per month.

REGULATION OF WAGES (EXHIBITION OF NOTICES) RULES

[Cap. 299, sub. leg, section 26, G.N. 1145/1952.]

1. These Rules may be cited as the Regulation of Wages (Exhibition of Notices) Rules.
2. Where—
 - (a) under section 11(2) of the Act, notice of any wages regulation proposals is published in the *Gazette* by a wages council; or
 - (b) under section 11(5) of the Act, a wages regulation order is published in the *Gazette* by the Minister,

every employer having in his employ any employees who are affected by such wages regulation proposals or wages regulation order, as the case may be, shall, on the publication, post up and keep posted up in his premises or in the premises under his control, in such number and in such manner and for such period as may be necessary to bring the same to the knowledge of all such employees of his as aforesaid, copies of a notice setting out such wages regulation proposals or, as the case may be, such wages regulation order.

3. Copies of such notices shall be issued by the wages council concerned to employers on application therefor.
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REGULATION OF WAGES (MEETINGS OF BOARDS) RULES

[Cap. 299, sub. leg, L.N. 383/1956.]

RULES UNDER PARAGRAPH 5 OF THE FIRST SCHEDULE

1. These Rules may be cited as the Regulation of Wages (Meetings of Boards) Rules, and shall apply to the meetings and procedure of the General Wages Advisory Board and the Agricultural Wages Advisory Board.
 2. In these Rules, the "Board" means the General Wages Advisory Board or the Agricultural Wages Advisory Board.
 3. The meetings of the Boards shall be convened at such times and at such places as the chairman or, in his absence, the deputy chairman decides.
 4. The Board shall not at any meeting exercise the powers conferred upon it by the Act, unless there are present at the meeting—
 - (a) the chairman or deputy chairman; and
 - (b) one independent member; and
 - (c) one member representing employers; and
 - (d) one member representing employees.
 5. (1) The chairman or, in his absence, the deputy chairman may call upon the members of the Board to vote on any matter before the Board.

(2) In the event of the numbers of the employer representatives and employee representatives present at a meeting being unequal, and if the employer and employee representatives respectively are unanimous in their voting, the chairman or deputy chairman shall reduce the total votes of the members constituting the larger of such numbers by the amount by which those members exceed numerically the other representative members, so as to maintain equality of voting strength between employer and employee representatives.

(3) The independent members shall have one vote each.

(4) When the votes of the members of the Board are equally divided, the chairman or, in his absence, the deputy chairman shall have a casting as well as a deliberative vote.
 6. The secretary of the Board shall keep records of all meetings of the Board, and the chairman or, in his absence, the deputy chairman shall send a copy of such records duly certified by him as correct, subject to confirmation at the next meeting, to the Minister and the Labour Commissioner immediately after the close of every meeting.
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REGULATION OF WAGES (WAGES COUNCILS) RULES

[Cap. 229, sub. leg, L.N. 497/1956.]

RULES UNDER PARAGRAPH 7 OF THE SECOND SCHEDULE

1. These Rules may be cited as the Regulation of Wages (Wages Councils) Rules.
2. The quorum necessary for the transaction of the business of every wages council shall be—
 - (a) the chairman or deputy chairman; and
 - (b) at least one-third of the employer representatives; and
 - (c) at least one-third of the employee representatives.
3. (1) Subject to paragraphs (2) and (3), every member of a wage council shall have a vote.
(2) The chairman or, in his absence, the deputy chairman may call upon the members to vote on any question before the wages council:
Provided that, if he is so requested by more than half of either the side representing employers or the side representing employees, he shall take such vote by sides and, in such event, the vote of the majority of the members on one side present and voting shall be the vote of that side.
(3) Whenever a vote is taken by sides under paragraph (2), the independent members shall not vote upon the question unless the result of the vote shows a disagreement between the sides, in which event the question shall be decided by the votes of the independent members, or, if only the chairman or deputy chairman is present, then by the vote of the chairman or deputy chairman.
4. The secretary of a wages council shall keep records of all meetings of the Council, and shall upon demand by the Labour Commissioner send him a copy of such records as soon as practicable after the close of every meeting.
5. (1) Where owing to absence from Kenya or for other cause, an independent member is likely to be absent from any meeting or meetings, the Minister may appoint a deputy to act on behalf of such independent member, and such deputy shall, while so acting, possess all the powers and be entitled to perform all the duties of an independent member of the wages council.
(2) Where a member representing employers or employees is likely to be absent from any meeting or meetings, he may suggest the name of a person to be appointed as deputy to act on his behalf while he is absent, and, upon the Minister appointing such deputy and notifying the appointment to the wages council, the deputy shall, while so acting, possess all the powers and be entitled to perform all the duties of a representative member.
6. No member of the general public or representative of the press may be admitted to a meeting of a wages council without the permission of the chairman or the deputy chairman.

THE INDUSTRIAL COURT (PROCEDURE) RULES

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Interpretation.
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5. Verifying affidavit to accompany a statement of claim.
6. Statement of claim issued pursuant to the Labour Relations Act (No. 14 of 2007).
7. Statement of claim issued under any other written law.
8. Appeals.
9. Institution of suits by several employees.
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15. Setting down the case for hearing.
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17. Pre-trial procedure.
18. Case management.
19. Witness summons.
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21. Determination by documentary evidence.
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25. Close of hearing.
26. Submissions.
27. Decision of the court.
28. Costs and Interest.
29. Record of proceedings and decision.
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31. Execution and warrants.
32. Review.
33. Correction of errors.
34. Seal of the Court.
35. Collective Agreements.
36. Court to regulate its procedure.
37. Registration of collective agreements.
38. Revocation of L.N. 186/1965 and L.N. 118/1973.

[Subsidiary]

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE – FEES

INDUSTRIAL COURT (PROCEDURE) RULES

[Section 21 (4), L. N. 78/2010.]

1. Citation

These Rules may be cited as the Industrial Court (Procedure) Rules, 2010.

2. Interpretation

In these Rules, unless the context otherwise requires—

“affidavit of service” means an affidavit of service in the form prescribed in these Rules;

“appeal” means an appeal made to the Court by a party against an order, a decision or proceedings under any written law;

“appellant” means a party who initiates an appeal;

“claim” includes any claim, complaint, application, reference, motion or trade dispute referred to the Court by a party for adjudication under any written law;

“claimant” means a party who files a claim, with the Court under any written law;

“Court” means the Industrial Court and includes a judge of the Industrial Court duly appointed under the Act;

“division” means a division of the Court, established by the Principal Judge, under section 16(1) of the Act;

“Judge” means a Judge of the Court appointed under the Act and includes the Principal Judge;

“member” means a member of the Court appointed under section 17 of the Act;

“notice” includes a notice of motion;

“notify” means to give a notice in writing;

“party” means a person, a trade union, an employer, employer’s organization or any corporate body directly involved or affected by an appeal, or claim to which the Court has taken cognizance or who is a party to a collective agreement referred to Court for registration;

“pleading” includes the statements in writing of the claim or demand of an applicant, and the defence by a respondent thereto, the reply of the applicant to any defence or a counterclaim of a respondent.;

“Registrar” includes a Deputy Registrar;

“registry” means any office designated by the Court for the purposes of filing pleadings under these Rules;

“respondent” means a person against whom a suit has been instituted in the Court or who replies to any pleadings in Court and includes any interested party to a suit;

“statement of claim” means a memorandum of claim filed in Court by a party under rule 4;

[Subsidiary]

“**suit**” means a claim, an appeal, or any proceedings before the Court for determination;

“**summon**” means a notice requesting a party or a witness to appear before the Court.

3. Sittings of the Court

The Court may sit in any division of the Court established by the Principal Judge under section 16(1) of the Act.

4. Institution of claim

A party who wishes to refer a dispute to the Court under any written law shall file a statement of claim setting out—

- (a) the name, the physical and the mailing address and full particulars of the claimant;
- (b) the name, the physical and mailing address and the description of the respondent;
- (c) the name, the physical and mailing address of any other party involved in the dispute;
- (d) the facts and grounds for the claim specifying issues which are alleged to have been violated, infringed, breached or not observed and in the case of trade dispute the rights of the employees not granted or to be granted, any other employment benefits sought and the terms of collective bargaining agreement on which the jurisdiction of the Court is being invoked;
- (e) any principle or policy, convention, law or industrial relations issue or management practice to be relied upon; and
- (f) the relief sought.

5. Verifying affidavit to accompany a statement of claim

(1) A statement of claim filed under rule 4 shall be accompanied by an affidavit verifying the facts relied on.

(2) Where a claimant, in the course of hearing seeks to adduce additional evidence, the claimant may, with the leave of the Court, file a further affidavit or adduce oral evidence.

6. Statement of claim issued pursuant to the Labour Relations Act (No. 14 of 2007)

(1) Where a trade dispute is referred to the Court in accordance with the provisions of the Labour Relations Act (No. 14 of 2007)—

- (a) the statement of claim shall be signed by the authorized representative of the party referring the trade dispute to the Court; or
- (b) where the trade dispute has been a subject of conciliation, the statement of claim shall be accompanied by—
 - (i) a report by the conciliator on the conciliation process supported by minutes of the conciliation meetings; and
 - (ii) a certificate of conciliation issued by the conciliator under section 69 (a) of the Labour Relations Act (No. 14 of 2007).

(2) Where the trade dispute has been a subject of conciliation and the conciliator has not issued a certificate, the statement of claim shall be accompanied by an affidavit sworn by the claimant or by the representative of that claimant attesting to the reasons why the conciliator has not issued a certificate of conciliation.

(3) Where no conciliation has taken place at all, the statement of claim shall be accompanied by an affidavit sworn by the claimant or by the representative of that claimant attesting to the reasons why the conciliation had not taken place.

7. Statement of claim issued under any other written law

Where a claim is referred to the Court in accordance with the provisions of any written law, other than the Labour Relations Act (No. 14 of 2007), the statement of claim shall—

- (a) be signed by the claimant or by the advocate of that claimant; or
- (b) if the claimant is a body corporate, be signed by an authorized officer of the body corporate or its advocate.

8. Appeals

(1) Where any written law provides for an appeal to the Court, an aggrieved person shall file a memorandum of appeal with the Court within the time specified for that appeal under the written law.

(2) Where no period of appeal is specified in the written law, an appeal shall be filed within thirty days from the date the decision that is the subject of appeal was delivered.

(3) A memorandum of appeal shall be in Form 1 set out in the First Schedule.

(4) A memorandum of appeal shall be accompanied by copies of all documentary evidence that an appellant wishes to rely on in the appeal and a verifying affidavit.

(5) The Court may decline to hear an appeal where the memorandum of appeal filed is not in the prescribed form.

9. Institution of suits by several employees

(1) In a suit where more than one employee is instituting a claim against one employer in respect of breach of contract, the judge may permit one employee and one statement of claim to be filed by a labour officer or by one of the claimants in the suit on behalf of all other claimants.

(2) The claim filed under paragraph (1) shall be proved by the labour officer or by the claimant authorized by the Court.

(3) The statement of claim shall be accompanied by a schedule of the names of other claimants in the suit, their address and descriptions and the details of wages due to or the particulars of any other breaches and reliefs sought by each claimant.

(4) All claims referred to in paragraph (1) shall rank equally between the claimants, and shall be paid in full, unless the amount recovered from the respondent is less than the total amount of the claims with costs.

(5) After payment of the costs, all the claims shall abate in equal proportions among the claimants and be paid accordingly.

(6) The claimants, or any one of them, shall pay any costs given against them in a proportion as the Court shall direct.

10. Filing procedure

(1) The Court shall maintain a separate filing system for claims and appeals.

(2) A party filing a suit shall file six original copies of pleadings under these Rules by depositing them at the registry and pay the prescribed.

[Subsidiary]

(3) Notwithstanding paragraph (2), the Court may, depending on the number of parties, require a party to file additional copies of any pleading.

(4) A party shall indicate the physical and mailing address of that party on all filed pleadings.

(5) The Court shall allocate a cause number or appeal number to a statement of claim or appeal at the time of filing.

(6) Where a party intends to file a pleading in more than one cause or appeal, the party shall submit a sufficient number of copies for each cause or appeal.

(7) The claimant shall, after filing a statement of claim or an appeal as the case may be, cause the statement of claim or appeal to be served on the respondent by a qualified process server.

11. Service of summons

(1) The Court shall issue summons in Form 2 set out in the First Schedule.

(2) A claimant shall serve the summons issued under paragraph (1) to the respondent together with the statement of claim or the appeal.

(3) Where a respondent files pleadings in response to any pleading filed by a claimant or an appellant, the respondent shall have the pleadings served on the claimant or the appellant by a qualified process server within fourteen days of filing.

(4) A party shall, upon effecting service of pleadings on any other party, prepare and file in Court an affidavit of service in Form 3 set out in the First Schedule.

(5) An affidavit of service shall be accompanied by evidence of acknowledgement of receipt of the served document signed by the recipient, respondent, claimant or appellant as the case may be or the persons accepting service on their behalf.

(6) If for any reason the signature of the recipient cannot be secured, the process server shall state so in the affidavit of service.

(7) Where service of pleadings under these Rules is effected through the post, the affidavit of service shall be accompanied by the certificate of mailing.

(8) The Court may effect service on behalf of any party upon, request in writing, made by the party in Form 4 as set out in the First Schedule and upon payment of a prescribed fee.

12. Service on a corporate body

(1) Service on a corporate body may be effected—

- (a) on the secretary, the director or any other principal officer of the corporate body;
- (b) where the process server is unable to find any of the officers of the corporate body mentioned in subparagraph (a), by—
 - (i) leaving the pleadings with an employee of the corporate body to be identified by the process server; or
 - (ii) leaving the pleadings at the registered office of the corporate body; or
 - (iii) sending the pleadings by prepaid registered post to the registered postal address of the corporate body; or
 - (iv) leaving the pleadings at the place where the corporate body carries out business; or

- (v) sending the pleadings by registered post to the last known postal address of the corporate body if the corporate body does not have a registered office or postal address.

(2) Notwithstanding anything contained in this Rule, a party may, with leave of the Court, effect service of process by any other method of service.

13. Response to pleadings

(1) If a party served with a with a statement of claim or a memorandum of appeal intends to respond to the claim or appeal, the party shall, within fourteen days from the date of service file and serve a response to the claim or appeal.

(2) A respondent's statement of response shall contain—

- (i) the respondent's name and address for purposes of service of process;
- (ii) a reply on issues raised in the statement of claim or appeal;
- (iii) any admission of statement of facts set out in the statement of claim or appeal as the respondent admits, and a denial of any statements made in the statement of facts or appeal that the respondent does not admit;
- (iv) any additional statements of facts which the respondent may wish to make in support of its reply;
- (v) grounds upon which the respondent may wish to rely;
- (vi) any principle or policy, convention, law or industrial relations or management practice to be relied upon;
- (vii) a counterclaim; or
- (viii) relief that might be sought by the respondent against the claimant or the appellant.

(3) A party may respond to an application by filing grounds of opposition to the application verified by an affidavit.

(4) The Court may, on application by a party to any proceedings, extend or reduce the time within which a responding party may respond to a pleading.

14. Pleadings generally

(1) A pleading shall be divided into paragraphs numbered consecutively, each allegation being so far as appropriate contained in a separate paragraph.

(2) Dates, sums and other numbers shall be expressed in figures and not words save for where a party is quoting a passage from a secondary document.

(3) A party may through pleadings raise any point of law or quote any provision, statement or principle of law.

(4) Pleadings may contain evidence:

Provided that the Court may require the evidence to be verified by an affidavit or sworn oral evidence.

(5) A party may, by notice, object to a pleading stating grounds of objection:

Provided that no objection may be raised to any pleading on the ground of any want of form.

(6) A party may, with the leave of the Court, amend pleadings:

Provided that where leave is granted to a party to amend any pleading, a responding party shall have a corresponding right of to amend that party's pleadings.

[Subsidiary]

(7) Where the Court, on its own motion or on application by a party, is satisfied that a pleading does not adequately set the particulars required by the Court, or for any other reason the Court requires clarification of any pleading or submission by a party, the Court may request the party to provide further details as it may consider necessary within such period as it may determine or specify.

(8) A party requested to provide further details shall provide to the Court and the other party the details required.

(9) A party shall notify the Court when submitting a statement of claim or a response to a statement of claim under rule 4 and rule 11(1) of any witnesses a party proposes to call in support of that party's submissions and shall, at the same time notify the other party of the same.

(10) A party may, with the leave of the Court, call other witnesses.

15. Setting down the case for hearing

Upon expiry of fourteen days from the date of filing and serving response to a statement of claim or a response to memorandum of appeal or such period as may be fixed by the Court, a party may apply to the Court to issue directions on hearing of the case:

Provided that the Court may, on application of either party give direction within the shortest period possible.

16. Interlocutory application and temporary injunctions

(1) An interlocutory application shall be by notice of motion and shall be heard in an open Court.

(2) A party shall, before filing a motion, notify all the parties of the intended motion:

Provided that the Court may, if satisfied that the delay caused by proceedings in the ordinary way would cause irreparable or serious mischief, may make an order *ex parte* upon terms as to costs or otherwise and subject to such undertaking, if any, as the Court considers just, and a party affected by that order may move to set it aside.

(3) In a suit where an injunction is sought, a claimant or an applicant may, irrespective of whether he is seeking compensation, any time after the commencement of the suit apply to the Court for an interim or temporary injunction to restrain the respondent from committing a breach of contract or an injury complained, or any injury of a like kind arising out of the same contract or relating to the same property or right.

(4) Where an application is made to the Court under paragraph (3) for a temporary or an interim injunction, the Court may, by order, grant an injunction on such terms as the Court thinks fit.

(5) A notice of motion shall state in general terms the grounds of the application and where the motion is supported by an affidavit, both the notice of motion and a copy of the affidavit shall be served.

(6) Where a motion or any other application is served either without a hearing date or more than seven days before the date fixed for its hearing, a respondent who wishes to oppose the application shall, within seven days of service, file and serve on the applicant, in addition to any affidavit, a statement of the grounds upon which the respondent will oppose the application.

(7) Where the subject matter of a suit can be disposed by hearing and determining the suit without prejudicing the applicant, the Court may discourage interlocutory proceedings.

(8) Notwithstanding anything contained in this provision—

- (a) the Court shall not grant an *ex parte* order that reinstates into employment an employee whose services has been terminated; and
- (b) an *ex parte* order shall be granted once for a period of fourteen days and shall not be extended.

17. Pre-trial procedure

(1) Where a party intends to rely on a document that has not been identified in a verifying affidavit filed as part of the pleading or where no verifying affidavit is filed, a party shall make sufficient copies of each document for the Court and serve the other party with a copy before the case is set down for hearing.

(2) A party shall submit to the Court original documents or where the original is not available, a certified copy of the original.

18. Case management

(1) The Court may, on its own motion and where considers it fit, serve a pleading on any other party whom it is satisfied may be interested in the matter being considered.

(2) The Court may summon any person or expert for the purposes of an examination of facts and full adjudication of a dispute.

(3) A party may request the Court that a particular expert, if any, who took part in and is conversant with particulars of any matter in issue makes representation in writing or be called upon to attend the hearing of the case and give evidence.

(4) The Court may serve the parties in a suit with pleadings and documents.

(5) The Court shall encourage parties to proceedings before it to enter into conciliation, negotiations and agreements and where a consensus is reached, consent to that effect shall be recorded by the Court at any time before conclusion of the hearing of the proceedings and the Court shall adopt the consent reached by the parties as its own ruling in that matter.

19. Witness summons

(1) The Court may, on its own motion or at the request of a party, summon for examination any person who has information relevant to any of the issues before the Court.

(2) The summons for examination shall be signed by the Registrar and shall—

- (a) require the person named in the summons to appear before the Court;
- (b) state the date, time and the place at which the person must appear; and
- (c) sufficiently identify any book, a document or an object required to be produced by that person.

(3) The Court may direct the party at whose request summons is issued to pay, at a reasonable rate determined by the Court, witness fees, travel and subsistence allowances to a person summoned to appear before the Court.

(4) The Court may administer an oath or accept an affirmation from a person summoned to give evidence before it.

(5) Witness summons shall be in Form 5 set out in the First Schedule.

20. Notice of hearing

(1) The Court shall, with due regard to the convenience of all parties, fix a date, time and place for hearing.

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(2) The Court not less than twenty-one days before the date fixed for hearing, cause to be sent to each party a hearing notice specifying the date, time and place of hearing:

Provided that the Court may for reasons to be recorded, fix an earlier hearing date or may proceed with a case on priority basis.

21. Determination by documentary evidence

The Court may, subject to an agreement by all parties, proceed to determine a suit before it on the basis of pleadings, affidavits, documents filed and submissions made by the parties.

22. Proceedings in the absence of either party

Where a hearing notice was served on the parties, the Court may proceed with the case before it in the absence of any party thereto if—

- (a) that party has indicated that, that party does not wish to attend the hearing;
- (b) that party fails to appear for the hearing without providing any reasons; or
- (c) the Court is satisfied that the reasons forwarded to it by that party are not of such a nature as to prevent the attendance of that party.

23. Consolidation of cases

The Court may consolidate suits if it appears that in any number of suits—

- (a) some common question of fact or law arises; or
- (b) it is practical and appropriate to proceed with the issues raised in the suits simultaneously.

24. Hearing procedure

(1) The Court shall give directions as may be necessary to enable the parties to prepare for the hearing.

(2) The Court shall, at the beginning of the hearing, explain the order of the proceedings which the Court proposes to adopt.

(3) The Court shall not be bound by rules of evidence under the Evidence Act (Cap. 80):

Provided that the claimant or the appellant shall be given the first opportunity to present that claimant's or that appellant's case.

(4) Evidence before the Court may be given orally or if the Judge so orders, by affidavit or a written statement and the Court may at any stage of hearing, require the attendance of a deponent or an author of a written statement if the attendance is required for the purposes of examination of the facts deposed or written.

(5) The Court shall conduct the hearing in a manner it considers most suitable to the just handling and recording of proceedings and shall, if appropriate, avoid legal technicalities and formalities.

(6) The Court may use electronic modes of presentation and recording of evidence.

(7) The Court may require a witness to give evidence on oath or affirmation and the Court may, for that purpose, administer the oath or the affirmation.

(8) The Court may at its own request or at the request of a party to a suit be provided with visual demonstration facilities for the display of any maps, photographs, charts, diagrams and demonstrations or illustrations of texts and any other documents that are to be used for the purposes of making a finding in the matter for determination before it.

25. Close of hearing

(1) Upon completion of the hearing and presentation of the facts and evidence and statements by parties, witnesses and experts, if any, the Court shall declare the hearing closed.

(2) The Court shall not re-open hearing or review facts unless it, for sufficient reason, considers it fit to do so or as provided for in rule 32(1).

26. Submissions

(1) Upon hearing all facts and evidence and the consideration of the matters in question, the parties may orally submit or file written submissions, summing up their respective cases before the Court.

(2) Where written submissions are made, three original copies of the submission shall be filed with the Court and additional copies served on each party to the proceedings.

27. Decision of the court

(1) The Court shall, after considering all relevant facts and supporting documents and in accordance with the procedures set in these Rules—

- (a) where the suit was originated by a statement of claim, deliver an award;
- (b) where the suit was originated by a memorandum of appeal, deliver a judgment; or
- (c) in any other proceedings, deliver a ruling:

Provided that, subject to these Rules and to any other written law, the Court may at any time in the conduct of its proceedings issue—

- (a) an injunctive order;
- (b) a prohibitory order;
- (c) a declaratory order;
- (d) an order for specific performance;
- (e) an order for payment of costs;
- (f) an order for payment of interest on any principal sum awarded by the Court; or
- (g) any other order to meet the ends of justice.

(2) A decision of the Court shall contain concise statement of facts and the reasons for the decision.

(3) The decision of the Court shall be in writing and signed by the Judge sitting with two members and duly sealed:

Provided that where the parties have, by consent, agreed that the judge sits alone or with one member, the judge sitting or the judge and the sitting member shall sign the award.

(4) A party may appeal against the decision of the Court on matters of law.

28. Costs and interest

(1) The Court shall be guided by section 12(8) of the Act in awarding costs to a party.

(2) The Court shall not award exemplary or punitive costs.

(3) Where a suit involves a liquidated amount that is claimed and specified at the time of filing a statement of claim and the Court orders that the amount claimed or part of the

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amount be paid to the claimant, the Court may in addition to that order, direct that interest be paid on the liquidated amount awarded at applicable interest rates as if the suit was filed in the High Court.

29. Record of proceedings and decision

(1) The Registrar shall cause a record of the proceedings and the decisions of the Court to be made.

(2) The record of the proceedings and decisions of the Court shall be made available to any interested person upon request and upon payment of the prescribed fee.

(3) The record of proceedings and decisions of the Court referred to in paragraph (1) shall be kept in accordance with the provisions of the Act and any other written law governing the keeping of judicial records.

(4) An award, a judgment, a ruling, an order or a decision of the Court certified, signed and sealed by the Registrar shall be conclusive evidence of the existence of the award, the judgment, the ruling, the order or the decision of the Court.

30. Decree

(1) The Registrar shall draw, seal, and issue an order and a decree of the Court.

(2) An order or a decree shall be drawn in accordance with the decision of the Court and shall specify clearly in paragraphs the relief granted and any other determination and costs, if any.

31. Execution and warrants

(1) The Registrar shall issue an execution order and a warrant of arrest.

(2) Rules on execution of an order and a decree applicable in the High Court shall be applicable to an order and a decree of the Court.

32. Review

(1) A person who is aggrieved by a decree or an order of the Court may apply for a review of the award, judgment or ruling—

- (a) if there is a discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made; or
- (b) on account of some mistake or error apparent on the face of the record; or
- (c) on account of the award, judgment or ruling being in breach of any written law; or
- (d) if the award, the judgment or ruling requires clarification; or
- (e) for any other sufficient reasons.

(2) An application for review of a decree or order of the Court under subparagraphs (b), (c), (d), or (e), shall be made to the judge who passed the decree, or made the order sought to be reviewed.

(3) A party seeking review of a Court decree or order of the Court shall apply to the Court in Form 6 set out in the First Schedule.

(4) An application under paragraph (3) shall be accompanied by a memorandum supporting the application and the Court shall proceed to hear the parties in accordance with section 26 of the Act.

(5) The Court shall, upon hearing an application for review, deliver a ruling allowing the application or dismissing the application.

(6) Where an application for review is granted, the Court may review its decision to conform to the findings of the review or quash its decision and order that the suit be heard again.

(7) An order made for a review of a decree or order shall not be subject to further review.

33. Correction of errors

The Court shall cause any clerical mistake, incidental error or omission to be rectified without reference to the parties and shall notify the parties of the mistake, incidental error or omission.

34. Seal of the Court

(1) The Seal of the Court shall be authenticated by the signature of the Registrar.

(2) In the absence of the Registrar, a Deputy Registrar designated by the Principal Judge for that purpose, may authenticate the Seal of the Court.

35. Collective Agreements

(1) An employer or an organization of employers that have entered into a collective agreement shall lodge a copy of the agreement with the Minister within fourteen days of its execution.

(2) The Minister shall furnish the Court with a copy of each collective agreement that has been lodged with the Minister pursuant to this Rule, and the Minister may also furnish the Court with such information and comments as the Minister considers necessary.

(3) Where the Minister objects to the registration of a collective agreement, a copy of the agreement furnished to the Court shall be accompanied by a statement of the objection giving reasons for objection.

(4) The Court shall maintain a register of collective agreements that have been accepted by the Court for registration.

(5) A collective agreement shall not take effect until it has been registered by the Court.

36. Court to regulate its procedure

Subject to these Rules, the Court may regulate its own procedure.

37. Registration of collective agreements

The Fees chargeable by the court for filing pleadings, instruments and procedures shall be as set out in the Second Schedule as amended from time to time:

Provided that the court may, on application by a party, waive all or any fee chargeable.

38. Revocation of L.N. 186/1965 and L.N. 118/1973

Industrial Court (Procedure) Rules and The Trade Unions (Appeals) (Amendment) Rules are revoked.

Labour Institutions

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FIRST SCHEDULE

FORM 1

(r. 8 (3))

IN THE INDUSTRIAL COURT OF KENYA

APPEAL UNDER SECTION OF

APPEAL NO. OF

IN THE MATTER OF APPEAL OF

[NAME OF APPELLANT] APPELLANT

AND

[NAME OF THE INSTITUTION OR AUTHORITY
AGAINST WHOSE DECISION APPEAL IS LODGED] RESPONDENT

OR

[NAME OF INTERESTED PARTY [IF APPLICABLE] SECOND RESPONDENT

1. Take Notice that the Appellant appeals against the decision of the
2. The Appeal relates to
3. The decision Appealed against is
4. The Appeal is to be determined by the Industrial Court at a date, time and place to be set by Notice to the Parties.

- (2) The Appeal is based on the following grounds [set out each ground concisely]

.....

(attach any relevant documents)

- (3) The decision sought for is:

.....

- (4) And take note that the Appellant appoints
as Appellant's representative in this matter

- (5) Take note also that the Appellant shall accept services of all documents on the above matter at the Appellant's address which is set below:

.....

Signed and dated at this day of

.....
Appellant/Advocate

FIRST SCHEDULE—continued

FORM 2

(r. 11 (1))

NOTICE OF SUMMONS

To
(name)

of
(address)

Take notice that a statement of claim/memorandum of appeal has been filed in the Industrial Court at in Cause/Appeal No. 20 in which you are named as Respondent. Service of the summons on you was ordered to be by this notice.

A copy of the summons and the Statement of Claim/Memorandum of Appeal is herewith attached.

Unless you file a Response within fourteen days from the date of this summon, the suit will be heard and determined in your absence.

Dated at this day of 20

.....
Registrar

FORM 3

(r. 11 (4))

AFFIDAVIT OF SERVICE

I of
an *advocate/a police officer/a process server of the court make oath and say as follows:

- (1) On , 20 at (time) I
served the summons in this suit on at (place) by
tendering a copy thereof to *him/her and requiring a signature on the original.

*He/She *signed/refused to sign the summons. He/She was personally known to me/was
identified to me by and
admitted that *He/She was the Respondent.

- (2) Not being able to find the Respondent
on , 20 at (time) I
served the summons on (name) an employee of the
Respondent who is working with the Respondent.

- (3) (Otherwise specify the manner in which the summons was served).

SWORN by the said this day of , 20

Before me

.....
A Commissioner of Oaths/Magistrate

* Delete as necessary

[Subsidiary]

FIRST SCHEDULE—*continued*

FORM 4

(r. 11 (8))

REQUEST TO THE COURT TO EFFECT SERVICE

To the Registrar

Industrial Court of Kenya

1. The *Claimant/Appellant/Respondent hereby requests the Registrar to effect service of process on the *Claimant/Appellant/Respondent.
2. The Physical address of the *Claimant/Appellant/Respondent for purpose of this suit is as follows:

.....

3. The *Claimant /Appellant/Respondent has paid the requisite fee for service.

Dated at NAIROBI this day of 20

* Claimant/Appellant/Respondent

* Delete as necessary

FORM 5

(r. 19 (5))

IN THE INDUSTRIAL COURT OF KENYA

FORM OF PLEADINGS

INDUSTRIAL COURT CAUSE/APEAL NO.* OF

IN THE MATTER OF APPEAL OF CAUSE/APEAL

BETWEEN

[NAME OF CLAIMANT/APELLANT*] CLAIMANT/APELLANT

AND

[NAME OF RESPONDENT] RESPONDENTS

SUMMONS FOR ATTENDANCE

You are hereby summonsed to appear in person before the above-named Court at
 on day of and thereafter to remain
 in attendance until excused by the Court in regard to all matters within your knowledge relating to
 the matter pending before the Court wherein the Claimant/Appellant/Applicant* is seeking as follows

.....

YOU ARE REQUIRED to bring and produce to the Court the following;

[insert accurately the document, book or thing to be produced]

- 1
- 2

FIRST SCHEDULE, FORM 5—*continued*

BE INFORMED that should you on any account neglect to comply with any of the provisions of this summons the Court will be left with no option but to resort to the provisions of rule 32 of the Industrial Court Rules.

(*delete whichever is not applicable)

Signed and dated at this day of

.....
Registrar

FORM 6

(r. 32 (3))

CAUSE/APEAL NO. OF 20

IN THE MATTER OF APPLICATION FOR REVIEW
BETWEEN

[Name of Applicant] Applicant

[Name of Respondent] Respondent

The Registrar

The Industrial Court

P.O. Box 47606

NAIROBI

REVIEW OF AWARD

We/I the Applicant party
being aggrieved by the award, in Cause No. dated
submit(s) that the award requires review and enclose herewith the requisite memoranda in support of
the application for review. The Applicant party wishes/does not wish to be heard in respect of the
application for review and intends/does not intend to call witnesses in support of its claim.

Dated at this day of 20

.....
Applicant/Advocate

Drawn & Filed by:

(Applicant on the review application)

To be served upon:

(Respondent to the review application)

Labour Institutions

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SECOND SCHEDULE

[Rule 37.]

FEES

<i>No.</i>	<i>Pleading</i>	<i>KSh.</i>
1.	Sale of forms:	
	per form	5
	per 50 forms	150
2.	On filing a statement of claim	
	(a) Individuals employees	
	(i) Fee on statement of claim	200
	(ii) Supporting affidavit	75
	(iii) Annexure	20
	(b) Any other party	
	(i) Fee on statement of claim	500
	(ii) Supporting affidavit	75
	(iii) Annexure (per document)	10
	(c) Filing reply to claim	500
	(d) Replying affidavit	75
	(e) Annexure (per document)	10
3.	(a) On filing interlocutory application	250
	(b) Affidavits in support of applications	75
	(c) Annexure (per document)	10
4.	(a) On filing grounds of opposition	250
	(b) Replying affidavits	75
	(c) Annexure (per document)	10
5.	(a) On filing application for review of the award	500
	(b) Affidavits in support of application	75
	(c) Annexure (per document)	10
6.	(a) On filing response to application for review	500
	(b) Affidavit in support of application	75
	(c) Annexure per document	10
7.	(a) On filing appeals from the decision of registrar of trade unions.	5000
	(b) Affidavit in support of appeals	75
	(c) Annexure per document	10
8.	(a) On filing appeals from the decision of the Minister.	2,000
	(b) Affidavit in support of appeal.	75
	(c) Annexure per document.	10
9.	(a) On filing appeals other than appeals from the decision of the Registrar of Trade Unions or the Minister.	1,000
	(b) Affidavit in support of appeal.	75
	(c) Annexure (per document.)	10
10.	(a) On filing memorandum of reply to any appeal.	1,000
	(b) Replying affidavit.	75
	(c) Annexure per document	10
11.	(a) On filing affidavit of service, supplementary or further Affidavits.	75
		10
12.	Issue of summons/notice of appearance.	50

SECOND SCHEDULE—*continued*

<i>No.</i>	<i>Pleading</i>	<i>KSh.</i>
13.	Taking out witness summons or any other summons not provided for	100
14.	Filing memorandum of appearance of notice of appointment of advocates	100
15.	For filing any document for which no fee is prescribed under this schedule	75
16.	Certification/attestation of documents	75
17.	For swearing an affidavit (Cap. 15)	50
18.	Certification/attestation of documents	75
19.	For swearing an affidavit (Cap. 15)	50
20.	On filing matter under certificate of urgency	550
21.	On application for adjournment at time of hearing.	400
22.	On filing consent orders.	150
23.	(a) On filing application for execution	250
	(b) Issuance of execution order	150
	(c) Notice to show course	150
	(d) Issuance of notice to show course	150
	(e) Issue of attachment warrant	50
	(f) Issue of sale warrant.	50
24.	Application of decree	100
25.	On filing a bill of costs.	250
26.	Application for judgment	30
27.	Application to draw/be issued with Court order	50
28.	Issue of a certificate by registrar after award is given by the Court	100
29.	On filing any application for which no provision is made under this schedule	1,000

