**LEGAL NOTICE NO: …. OF 2023**

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**THE EMPLOYMENT ACT, 2023**

(Act No. ….. of 2023)

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**THE EMPLOYMENT REGULATIONS, 2023**

(Under section 123 and 158**)**

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In exercise of the powers conferred by section 123 and 158 of the Employment Act, 2023,the Minister for Labour and Social Security issues the following Regulations –

*Arrangement of Regulations*

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**PART I**

**PRELIMINARY**

***Citation and Commencement***

1. (1) These Regulations may be cited as theEmployment Regulations, 2023.

(2) These Regulations shall come into force on the date of publication in the gazette.

***Interpretation***

2. In these Regulations, unless the context otherwise requires –

“Act means the Employment Act No. …. of 2023;

“casual employee” subject to the provisions of section 2 of the Act, a casual employee is a person engaged to work not more than 28 cumulative days in any successive 4 month period.

“ Commissioner” has the same meaning ascribed to it in the Act;

“dependent” has the same meaning ascribed to it in the Retirement Funds Act No.5 of 2005;

“guardian” includes a child care provider envisaged in the Children’s Protection and Welfare Act No. 6 of 2012 or its successor

“hazardous work” means any work for earning performed by a child in any of the sectors prescribed in the First Schedule;

“persons with disabilities” includes persons who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others, and includes person with albinism as contemplated in the Persons with Disabilities Act, No. 16 of 2018;

“undertaking” includes the business of any employer.

***Purpose***

3. The purpose of these Regulations is to provide for all things and matters relating to contracts of employment and allowable types of work that need to be prescribed for the better carrying out of the provisions of the Act.

***Application***

4. These Regulations shall apply to the Government and any other persons, bodies or institutions, including any business carried on not for profit or gain.

**PART II**

**PROHIBITION OF CHILD LABOUR**

***Prohibition of employment of children***

5. (1) A person shall not employ or cause to be employed a child under the age of fourteen.

(2) Without prejudice to the provisions of Part II of the Act, a child of fifteen (15) years of age and above may be employed to perform light work which is not listed in the list of hazardous works for children in a manner set out in the First Schedule.

***Time for rest***

6. Notwithstanding the provisions of regulation 4 (2), a child shall not work for more than three (3) consecutive hours, without at least, an hour rest.

***Hours of work***

7. A child shall not be required or permitted to work -

(a) overtime; or

(b) between 8p.m and 6a.m.

***Lifting of objects***

8. (1) A child who is between fourteen (14) and sixteen (16) years of age shall not be permitted to carry any load weighing more than fifteen (15) kilograms.

(2) A child shall not be permitted to perform strenuous work.

(3) For purposes of sub-regulation (2) an employer shall –

(a) reduce the amount of twisting, stooping and reaching;

(b) ensure that the child voids lifting heavy loads from floor level or above shoulder height;

(c) adjust storage areas to minimize the need for the child to carry loads involving the movements mentioned in paragraph (a) and (b);

(d) ensure that the carrying distance of a load by a child is minimized;

(e) assess the weight to be carried by a child and whether the child can move the load safely or needs any help in which case the load can be broken down to smaller or lighter components.

(4) A child who had has been certified by a registered medical practitioner to be unfit to carry any load weighing more than the load specified in sub-regulations (1).)

(5) Notwithstanding the provision of sub-regulation (1), the employer shall have the burden to prove that the load or object does not exceed the ability of the child.

(6) Notwithstanding anything in this regulation, the Commissioner shall prohibit the employment of children in any case if the Commissioner is satisfied that the conditions of employment of children are unsatisfactory.

***Employer to keep register***

9. (1) An employer shall keep and maintain a register in respect of children employed in their work place.

(2) The register referred to in sub-regulation (1) shall contain the following particulars -

(a) name of the child;

b) date of employment;

(c) date of birth and present age of the child;

(d) place of domicile;

(e) level of education;

(f) type of work performed by child;

(g) particulars of parents or guardians; and

(h) school attendance status of each child.

(3) In addition to the particulars mentioned under sub-regulation (2) the employer shall attach -

(a) certified copies of birth certificates or any other evidence as to the age of the child from relevant authority of all children working at their work place; and

(b) evidence in writing as to the consent of a parent or a guardian of that child.

***Mode of remuneration***

10. (1) In remunerating a child, the employer shall comply with the provisions of the Wages Regulations issued by the Minister from time to time under the Wages Act No. 16 of 1964 or its successor or any collective agreement that may have been entered between the employee and employer.

(2) The employer shall ensure that the parent or guardian of the child is aware of the minimum wage for that industry.

***Contract of employment for a child***

11. (1) Subject to regulation 4, an employment contract of a child granted under these Regulations shall be in writing, express in clear terms the rights and obligations of the parties and the parent or guardian of that child shall be entitled to a copy of the contract before commencing the employment.

(2) A contract for the employment of a child shall not be valid unless it is entered into by or with the consent of the parent or guardian of the child.

(3) A contract of employment granted under sub-regulation (1) shall take into consideration the provisions of the Act, these Regulations, the Law of Contract and the Children’s Protection and Welfare Act No. 6 of 2012 or its successor, and the particulars of employment shall be in the manner and form set out in section 24 and the Second Schedule to the Act.

**PART III**

**EMPLOYMENT OF YOUNG PERSONS**

***Employment of children and young persons***

12. (1) A person shall not employ a young person in an activity set out in the Second Schedule.

(2) A person shall not employ a young person who is under the age of eighteen (18) years.

(3) A person shall not employ a young person except as is provided for in sub-regulation (4) or (5).

(4) A young person who is sixteen (16) years of age and above may perform light work where such work does not prejudice the education, health, safety, social or mental development of that young person.

(5) A young person may be employed in an activity in which that young person receives adequate specific instructions or vocational training in that activity.

***Hours of works***

13. (1) An employer shall not require a young person to work overtime.

(2) A young person shall be entitled to at least one and a half days off each week, at least twenty-four (24) hours of which shall be continuous.

***Contracts of employment***

14. (1) An employer of a young person shall specify in the contract of employment for that young person –

(a) the wages to be paid;

(b) the hours of work;

(c) the days off work; and

(d) any other benefits that may be provided for in any applicable collective bargaining agreement or employment Regulations.

(2) A contract for the employment of a young person shall not be valid unless it is in writing, express in clear terms the rights and obligations of the parties and the particulars of employment shall be in accordance with the manner and form set out in section 24 and the Second Schedule to the Act and is entered into by or with the consent of the parent or guardian of the young person.

(3) A young person shall not be employed to work during a school term, as fixed in terms of the Education Act, 1964 or its successor unless the contract of employment concerned has been approved by the Commissioner.

***Records to be kept***

15. (1) An employer who employs a young person shall keep the following records in respect of such young person -

(a) the name and age of the young person;

(b) the name and address of the parent, guardian or social Welfare Officer of that young person; and

(c) the details of the terms of the contract of employment as required by regulation 13.

(2) Where there is insufficient evidence available on the age of any young person, an employer shall ensure that an affidavit certifying the age of that young person is obtained.

(3) An employer of a young person shall keep the records referred to in sub-regulation (1) for a period of not, less than three (3) years and, on request, shall produce such records to the Commissioner.

***Offences and Penalties***

16. (l) A person who contravenes the provisions of this Part commits an offence and shall on conviction be liable to a fine of not less than Fifteen Thousand Emalangeni (E15 000) or to imprisonment for a period of not less than two (2) years or both.

(2) Notwithstanding subsection (l), any person who contravenes the provisions of regulations 11 commits an offence and -

(a) shall on first conviction is liable to a fine of not less than One Hundred Thousand Emalangeni (E 100 000) or to imprisonment for a term of not less than five (5) years or both; and

(b) on second or subsequent conviction, to imprisonment for a period of ten (10) years without an option of a fine.

**PART IV**

**REGULATION OF CERTAIN TYPES OF WORK**

***Community and communal services***

17, (1) The Commissioner shall develop and issue Guidelines for community or communal service in line with the provisions of the Act and recognized labour standards.

(2) A public or local authority or institution in charge of supervising community service shall comply with the provisions of the Act relating to prohibition of forced labour and the Guidelines issued in terms of sub-regulation (1) and shall submit upon request reports on the details and nature of the work performed under the community service.

(3) A local or traditional structure responsible for overseeing the performance of communal service shall comply with the provisions of the Act relating to prohibition of forced labour and the Guidelines issued in terms of sub-regulation (1) and shall submit to the Commissioner upon request reports on the details and nature of the work performed under the communal service.

(4) Subject to the provisions of section 18 of the Act, community or communal service shall not be regarded as forced labour where the community has been consulted on the manner and extent of such community or communal service by the authority or institution supervising that community or communal service.

***Night work***

18.  (1) Where night work is required in the interest of art, science or education, or any form of public entertainment or for the purposes of making cinematographic films the employer shall apply in writing to the Minister for a license to employ a child for that purpose.

(2) The Minister may grant an application by an employer for a licence to employ a child for night work for purposes of sub-regulation (1) and impose conditions as the Minister may deem fit.

(3) Notwithstanding the provisions of section 11 of the Act and sub-regulation (1) and (2) an employer may employ a child for night work where the Commissioner is satisfied that -

(a) the parent or guardian of the child has been consulted and has approved and or understands the specific nature of night work that the child is employed for;

(b) the employer has developed a comprehensive job description for the child, which does not contravene any provisions of the Act or these Regulations, including any other applicable law in Eswatini;

(c) the night work does not continue for an indefinite period but has an end date, or reasonably ascertainable timelines;

(d) an undertaking by the employer guaranteeing the safety and security of the child and to comply with the provisions of the Children’s Protection and Welfare Act, 2012.

(4) A child shall not be required to perform overtime work for night work allowed in terms of these Regulations.

***Vocational work***

19. (1) Notwithstanding the provisions of regulation (1), a child may be employed to work where that work is in respect of or is part of vocational work or internships.

(2) Where night work is required in terms of sub-regulation (1) the employer shall request in writing for approval from the Commissioner to employ a child for purposes of sub-regulation (1),

(3) The Commissioner shall consult the relevant department of the Ministry of Education prior to issuing an approval in terms of sub regulation (2).

(4) The Commissioner shall, from time to time consult the Ministry responsible for vocational education to ensure that the employment of a child in the course of education or training for which a school or training institution is primarily responsible, course of education or training which is required by that school for purposes of instruction in that course.

***Overtime work***

20. Subject to the provisions of Part VIII of the Act, where an employee is required to work overtime and such overtime work is a shift which occurs both on an ordinary day and on a holiday or weekend, including Sunday, the overtime pay, or lack of overtime pay shall be determined according to the greater portion being equal to 51% or more of the time worked which entitles the employee to overtime pay,

**PART IV**

**EQUALITY AT WORK**

***Plan to eliminate discrimination in the world of work***

21. (1) An employer shall develop and have in place a clearly defined plan to eliminate discrimination in any employment policy or practice and to promote equal opportunity and to eliminate discrimination in the **world of work**.

(2) A plan to eliminate discrimination that is developed by an employer under sub-regulation (1) shall be registered with the Commissioner.

(3) The Commissioner shall provide information and advice to employers and employees on the requirements section 16 of the Act, this regulation and any other law relating to the prohibition of discrimination in the world of work, including applicable International Labour Standards.

(4) The Commissioner shall to conduct an assessment of the stages of implementation of each plan for elimination of discrimination in the world of work.

(5) For purposes of this regulation “employment policy or practice” includes any policy or practice relating to recruitment procedures, advertising and selection criteria, appointments and the appointment process, job classification and grading, remuneration, employment benefits and terms and conditions of employment, job assignments, the working environment and facilities, training and development, performance evaluation systems, promotion transfer, demotion, termination of employment and disciplinary measures.

***Persons with disabilities***

22. (1) Subject to inherent requirements of a particular job, an employer shall when advertising for vacancies encourage persons with disabilities to apply.

(2) An employer shall not, while conducting interviews for employment use screening methods which have the effect of discriminating against a person on the grounds of their disability.

(3) An applicant with any disability shall disclose to the prospective employer the nature of their disability to enable the employer to provide necessary assistance and devices during an interview.

(4) A contract of employment with a person with disability shall include the particulars of the job or post, the working hours, amount of remuneration, transport facilities, and any special privileges which that person shall be accorded by virtue of the employment.

(5) The Minister responsible for persons with disabilities shall, in consultation with the National Council for Persons Disabilities periodically provide to employers, information on necessary assistance and devices with regard to the nature of categories of disabilities.

(6) An employer may consult the Minister responsible for persons with disabilities to certify the requirements to provide services and devices of assistance to persons with disabilities.

(7) The Minister responsible for labour shall compile detailed information on persons with disabilities which shall include -

(a) age;

(b) sex;

(c) nature or type of disability;

(d) educational qualification;

(e) skills; and

(f) location by region.

(8) An employer shall ensure that the physical offices of the workplace are accessible and the employer shall provide assistance and devices required by an employee with a disability to enable that employee to execute their duties.

(9) An employer shall accord persons with disabilities equal opportunities and treatment at the place of work.

(10) In addition to the provisions of the Workmen’s Compensation Act No. 7 of 1983 or its successor, where an employee becomes disabled in the course of their employment and is unable to perform their previous duties, the employer shall subject to availability of alternative positions, re-deploy, re-orient and re-align the employee.

(11) An employer of a person or persons with disabilities shall file annual returns of employment of persons with disabilities to the Minister in the form prescribed in the Third Schedule with a copy to the Minister responsible for persons with disabilities by the end of each financial year.

(12) The annual returns in sub-regulation (11) shall indicate the annual lump sum the employer spent on persons with disabilities.

(13) The employment contract of a person who suffers disability after the employment shall not cease if the residual capacity of that person for work is such that that person can be deployed in the same or some other corresponding job in the same undertaking, but if no such corresponding job can be found, the employment may be terminated by notice.

(14) For purposes of this regulation “employer” includes a private employment agency, labour agent or recruiting agent.

***Measures and policies to prohibit harassment and violence***

23. (1) An employer who does not have in place clearly defined policies that prohibit harassment and violence in the work place, including gender-based violence and harassment, shall, after consulting with the employees or their representatives if any, issue a policy statement on harassment and violence.

(2) The policy statement required under sub regulation (1) may contain any term the employer considers appropriate for the purposes of section 16 of the Act and these Regulations and shall contain -

1. the definition of and instances of gender-based violence and harassment, violence and harassment at the work place;
2. the definition of and instances of harassment and violence at the work place;
3. as specified in the Act and the Fourth Schedule;

(d) a statement –

(i) that every employee is entitled to employment that is free of harassment and violence;

(ii) that the employer shall take steps to ensure that no employee is subjected to harassment and violence;

(iii) that the employer shall take such disciplinary measures as the employer deems appropriate against any person under the employer’s direction, who subjects any employee to harassment and violence;

(iv) explaining how complaints of harassment and violence may be brought to the attention of the employer; and

(v) that the employer shall not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation thereto.

(3) An employer shall bring to the attention of each person under the employer’s direction the policy statement required under sub regulation (1).

(4) The Commissioner shall provide information and advice to employers and employees on the requirements section 16 of the Act, this regulation and any other law relating to the prohibition of harassment and violence including gender-based violence at the work place, including applicable International Labour Standards.

***Pregnant employees***

24. (1) A pregnant employee shall not, as a consequence of pregnancy be obliged to perform work which is harmful to her health.

(2) An employer shall provide a pregnant employee with any of the following options -

(a) flexible hours of work;

(b) lighter work load; or

(c) alternative arrangements of work.

(3) An employer shall not assign, whether permanently or temporarily, a pregnant employee to a post outside their place of residence after the completion of the fourth month of pregnancy, if the assignment, in the opinion of a medical practitioner or midwife, is detrimental to pregnant employee’s health.

***Provision of facilities for illnesses and injury***

25. (1) An employer shall take measures to safe-guard the health and safety of their workers and take reasonable steps to provide facilities for illnesses or injured employees in accordance with the provisions of these Regulations.

(2) An employer shall cause steps to be taken to procure the immediate treatment of all cases of sickness and injury commensurate to the size of the work place.

(3) Deductions shall not be made from the wages of an employee for any medical attention provided by the employer.

(4) Where it is likely to be necessary for an employee to go to a hospital for medical treatment and some form of transport is necessary his employer shall provide such transport as is reasonable.

(5) An employer who employs not less than one hundred employees in any one place shall, where no public hospital or dispensary facilities are readily available near the place of employment, appoint a medical dresser or nurse, or other suitable person to supervise the treatment and care of the sick.

(6) On the discharge of the employee from hospital, if the medical officer is of the opinion that some form of transport is necessary to take the employee back to the place of employment, the medical officer shall inform the employer to make arrangements for the transport, and if the employer cannot be contacted the medical officer may himself make such reasonable arrangements for transportation of the employee at the expense of the employer.

(7) The Commissioner, shall in accordance with the powers given to the Inspector under section 119 of the Act ensure that the provisions under the Occupational Safety and Health Act No. 9 of 2001 or its successor and the Regulations made and Notices issued under that Act are applied.

**PART V**

**EMPLOYMENT RELATIONSHIP**

***Employment Contract***

26. (1) An employment contract -

1. for a period or a number of working days which amounts in the aggregate to the equivalent of three (3) months or more; or
2. which provides for the performance of any specified work which could not reasonably be expected to be completed within a period or a number of working days amounting in aggregate to the equivalent of three months,

shall be in writing.

(2) An employer who employs an employee for a period of more than three months (3) shall be responsible for drawing up the employment contract which shall contain the particulars of the employment set out in the Second Schedule of the Act and consented to by the employee by signature, name or impression of the employees’ thumb or finger in the presence of a person other than the employer.

(3) Where the employee cannot read or write or understand the language in which the contract is written, or the provisions of the employment contract, the employer shall have the contract explained to the employee in a language that the employee understands.

(4) Where any matter stipulated in the contract of employment or particulars of employment changes, the employer shall, in consultation with the employee revise the contract to reflect the changes and notify the employee in writing.

(5) The employer shall keep the written particulars prescribed in sub-regulation (2) for a period of five years after termination of employment.

(6) If in any legal proceedings an employer fails to produce a written contract or written particulars prescribed in sub-regulation (2) the burden of proving or disproving an alleged term of employment stipulated in the contract shall be on the employer.

(7) subject to the provision of Section 32 in relation probation read together with section 80 in respect to notice for suspension or termination of employment, the employee shall be entitled to accumulation of notice upon completing of 1 (one) year of employment with the employer.

***Statement of employee’s rights***

27. (1) Statement of employee’s rights provided for in section 29 of the Act shall be in the manner prescribed in form set out in the Fifth Schedule.

(2) The statement of employee’s rights shall include the following rights as specified in section 29 of the Act -

(a) protection against discrimination in employment and occupation;

(b) the right to occupational safety and health;

(c) the right to organize;

(d) the right to bargain collectively; and

(e) the right to act as a representative of the workers.

(3) An employer shall display a statement of the employee’s rights in the official languages in a conspicuous place.

(4) The statement of employee rights may be revised by the Commissioner from time to time in line with applicable employment standards.

***Payment of remuneration***

28. (1) Notwithstanding the type of contract or the basis of employees’ remuneration, payment thereof shall be done monthly or in any other period agreed by the parties basing on the nature or technical requirements of the job.

(2) Subject to the provision of section 21(2) of the Act, every employee shall be entitled to receive a written statement of particulars that supports remuneration paid.

(3) A written statement of particulars issued under this regulation shall be contained with the following particulars -

(a) name of employee;

(b) date, month and year of payment in respect of which payment is made;

(c) name of employer or logo;

(d) employment or check number;

(e) statutory deductions;

(f) other deductions;

(g) gross or basic salary; and

(h) net salary.

(4) An employer may make representations to the Commissioner to be exempt from the provisions of section 36 and 37 of the Act, including allowing electronic forms of payment of wages.

(5) Nothing in this regulation shall prevent the Commissioner from allowing payment by electronic means at any time of the day.

(6) Payment of wages through electronic means shall not be allowed where the wages are paid after the due date.

***Annual leave***

29. (1) Subject to the provision of Part IX of the Act, employee shall comply with procedures for applying an annual leave which shall be set by employer.

(2) Notwithstanding an agreement to work for payment in lieu of annual leave in terms of section 60 (4) of the Act, an employer shall ensure that no employee is continuously working in any leave cycle without applying for annual leave.

(3) the employer may grant annual leave to an employee prior to such employee working for the employer 6 months or more.

***Maternity leave and Nursing during working hours***

30. (1) Subject to the provision of section 72 of the Act, a female employee shall, for a period of not less than six consecutive months after maternity leave, be allowed to leave the office for a maximum of two hours of her convenience during the working hours for nursing the child.

(2) For purposes of ensuring equality at work, the employer may allow an employee who has adopted a new born child to apply for leave to ensure that the newborn child adapts to the parental or guardian environment. In this respect, the employer shall be at liberty to provide similar leave days and privileges provided for in the Act for maternity leave due to child-birth.

(3) The employer shall require the employee to produce documentary proof of the legal adoption or guardianship prior to granting leave to an employee under sub-regulation (2).

***Repatriation and subsistence expenses***

31. (1) The employer shall provide the means of transport for employees who are being repatriated.

(2) The Commissioner shall take all necessary measures to ensure and may give such directions to the employer or to any person acting on behalf of the employer as will ensure that -

(a) the vehicles or vessels used for the transport of employees are suitable for such transport, are in good sanitary condition and are not overcrowded;

(b) when it is necessary to break the journey for the night, suitable provision in all the circumstances is made for the employees; and

(c) in the case of long journeys, all necessary arrangements are made for the welfare of the employees.

(3) When employees have to make long journeys in groups, they shall be conveyed by a person who, in the opinion of the Commissioner, is fit to assume responsibility.

(4) The subsistence expenses provided for under section 83 of the Act shall be quantified to daily basic wage or as may, from time to time, be determined by the relevant wages council.

(5) In determining the subsistence expenses, the conditions specified under section 112 of the Act shall apply.

(6) The tonnage entitlement for an employee shall be at least one and a half tones.

(7) The rate of tonnage allowance shall be determined by the prevailing transportation costs of that particular time.

***Certificate of employment***

32. (1) An employer shall issue to an employee a certificate of employment upon termination of employment at the request of the employee, unless the employment has continued for a period of less than four (4) consecutive weeks.

(2) Certificate of employment provided for in section 83 of the Act shall be as prescribed in the form set out in the Sixth Schedule.

(3) A certificate of employment shall contain the following particular -

(a) the name of the employer and postal address;

(b) the name of the employee;

(c) the date when employment of the employee commenced;

(d) the nature and usual place of employment of the employee;

(e) the date when the employment of the employee ceased; and

(d) the nature of the work in which the employee was engaged.

(4) A certificate of employment shall contain nothing unfavourable to the employee.

(5) Subject to sub regulation (1), no employer is bound to give to an employee a testimonial, reference or certificate relating to the character or performance of that employee.

(6) An employer who wilfully or by neglect fails to give an employee a certificate of employment in accordance with sub regulation (1), or who in a certificate of employment includes a statement which the employer knows to be false, commits an offence and shall on conviction be liable to a fine not exceeding three thousand Emalangeni or to imprisonment for a term not exceeding one year or to both.

***Transfer of business and contract***

33. (1) An employer shall consult an employee to obtain their consent at least thirty (30) days before the employee is transferred from one employer to another.

(2) Where a business is transferred from one person to another and an employee in the that business continues to be employed in that business, the period of continuous employment immediately preceding the transfer shall be deemed, for the purposes of the Act and these Regulations, to be part of the continuous employment of that employee with the new employer immediately following the transfer.

(3) Where the employee does not consent to the transfer, the employee shall be paid their terminal benefits unpaid wages, outstanding allowances and benefits and accrued leave according to the existing terms of service.

(4) Where an employee is represented by a union at the workplace, the transfer shall be negotiated between the union and the employer.

(5) Where the employee consents to the transfer, the employee’s outstanding claims shall be computed and paid by the new employer within two (2) months in the absence of an agreement between the new employer and the employee to the contrary.

(6) An employer who intends to transfer ownership of their business or trade shall inform the office of the Commissioner at least thirty (30) days before the transfer is effected in the form prescribed in the Seventh Schedule.

(7) The Commissioner shall endorse the contract of employment of an employee who has consented to the transfer.

(8) Prior to endorsing the transfer upon the contract of employment under this regulation, the Commissioner shall satisfy themselves that, the employee has freely consented to the transfer and that the consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake.

***Transferability of earnings and benefits***

34. (1) Where an employee consents to the transfer under regulation 29 (5) the employee’s past services, earnings and benefits with the previous employer shall be ascertained and guaranteed in accordance with the terms of service in the new contract.

(2) Where an employee transfers a contract under regulation 8 and the employee is dismissed by a new employer, the employee shall be paid the outstanding earnings and benefits arising out of the previous service by the previous employer.

(3) An employee who has consented to transfer of contract shall not suffer lower benefits and other conditions of service than the employee has been enjoying with the previous employer.

***Bond paid by unincorporated or non-resident employers***

35. (1) An employer who is not incorporated or resident in Eswatini shall notify the Commissioner in the form prescribed in the Eighth Schedule.

(2) The employer referred to under sub regulation (1) shall pay a bond which shall be assessed at the rate equivalent to three month’s wage or salary of each employee, and shall be paid within one month of the employer’s commencement of operation.

(3) The Commissioner shall operate a special interest-bearing account, which shall not be used for any other purpose other than paying the employee’s wages or salaries and other entitlements in the event of default by the employer.

(4) An employer shall be entitled to a refund of the bond under the following circumstances -

(a) upon incorporation;

(b) upon acquiring residence; and

(c) upon paying all wages or salaries and other entitlements to the employees.

***Death of employer***

36. (1) A contract of employment between an employee and an employer who is an individual shall not be terminated on the death of the employer but shall continue to have effect until the expiration of the period after which it would have terminated had due notice of termination been given on the day on which the employer died, and during such period the employee shall be entitled to such wages and other benefits as are provided for in the employment contract from the person legally representing the deceased employer in his capacity as such.

(2) Sub-regulation (1) shall apply except where more favourable conditions have otherwise been provided for in the employment contract concerned or in terms of any relevant enactment, including any regulations made in terms of this Act, or in any agreement or determination made or given effect to in terms of any enactment,

(3) Where there are no favorable terms referred to in sub-regulation (2), upon the death of an employer, an employee shall be paid all entitlements due at the time of death of the employer by the executor of the estate of the deceased employer.

(4) Where upon the death of an employer, an employee continues to be employed by a partner of the employer, legal representative or trustees of a deceased employer, in their capacity as such, the period of continuous employment immediately preceding the death of that employer shall be deemed, for the purposes of this Act, to be part of the employee's continuous employment with that legal representative or trustee immediately following the death of the employer.

(5) Where there is any change in the partners, legal representative or trustees of the deceased employer who employ any person, that person shall be deemed, for the purposes of the Act or these Regulation, to remain in employment with the same employer and such change shall be deemed, for the purposes of this Act, not to interrupt such employment.

***Insolvency of employer***

37. Upon insolvency or winding up of an employer or employer’s business, the claims, wages and other payments due to an employee, shall be settled within twelve (12) months after the appointment of a liquidator in accordance to laws governing insolvency.

***Termination by reason of redundancy***

38. An employer who contemplates termination of five or more employees shall notify the Commissioner in a form prescribed in the Ninth Schedule and give reasons for termination, the number of workers, age, sex, occupation, wages, duration of employment exact date of termination and provide a report detailing the terminal benefits and plan of payments of those benefits to the affected employees.

***Migrant Worker***s

39. An employer and employee in a migrant work relationship shall comply with the provisions and requirements of the Immigration Act, 1982.

**PART VI**

**PRIVATE EMPLOYMENT AGENCIES**

***Authorization requirements of Private employment agencies***

40. (1) A private employment agency shall not operate unless it is authorized under these Regulations, and has in force an operational licence, issued by the Commissioner.

(2) An application for authorization and operational license, shall be in the form specified in the Tenth Schedule.

(3) The application for authorization shall be accompanied where applicable, by the following -

(a) certificate of incorporation, where applicable;

(b) articles and memorandum of association, where applicable;

(c) founding documents including, partnership agreements, constitutions, trading licenses and trust deeds;

(d) trading license;

(e) where policies are required to be displayed, an undertaking or binding declaration that these policies exist and are on display at the premises of the applicant.

(f) annual financial statements; and

(g) recommendations from at least three (3) referees.

(4) The Commissioner shall direct the inspector to inspect the premises, facilities and the staff of a private employment agency within one (1) month after receipt of an application for registration, prior to granting an application.

(5) The Commissioner shall issue an authorization for registration and operational licence if satisfied with the report of the Inspector that the premises and facilities meet the requirements of a private employment agency.

(6) The authorization 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 persons or employment in respect of which the business may be conducted; and

(f) any conditions subject to which the business may be conducted.

(7) Where the conditions of the grant of an application are not satisfied the application shall be refused and where the application has already been granted, it shall be revoked and the Commissioner shall give reasons for the refusal or revocation.

(8) A person aggrieved by the decision of the Commissioner under this regulation may lodge an appeal with the Minister and the decision of the Minister shall be final.

(9) The criteria for the grant of an application shall include availability of human resources and management capacity of the agency.

(10) Where the applicant complies with the requirements of these Regulations, the Commissioner shall issue a licence in the form prescribed in the Seventh Schedule upon payment of the prescribed fee in the Thirteenth Schedule.

(11) A licence issued under this regulation shall expire on the 31st day of December in the year in which it is issued but may be renewed in accordance with these regulations.

(13) The Commissioner shall notify the public in the Gazette or in a newspaper of wide circulation of the registration and license of the private employment agency stating the name and physical address of the private employment agency.

(14) The Commissioner shall monitor the operations of the private employment agencies to ascertain conformity with the labour standards.

(15) The Commissioner shall have the authority to review and control the activities of private employment agencies.

***Operational requirements for private employment services***

41. (1) A private employment agency shall advertise vacancies in either electronic or print media or on notice boards in public places.

(2) A private employment agency shall put in place the necessary facilities and equipment that will make the service available and accessible to persons with disabilities.

(3) A private employment agency shall keep a record in the prescribed form, giving particulars of each person registered with that employment agency indicating how that person has been placed in employment.

(4) A private employment agency shall file quarterly reports with the Commissioner in a form prescribed in the Twelfth Schedule, showing the business conducted by the employment agency so far as it relates to the employment agency during the quarterly periods ending 31st March, 30th June, 30th September and 31st December in each year.

***Duties of persons conducting employment agencies***

42. (1) A person who conducts or is in charge of an employment agency authorised under the Act shall -

(a) retain any record which by regulations made under this Act he is required to make for a period of three (3) years subsequent to the occurrence of the event recorded;

(b) on demand by a labour officer made at any reasonable time during the said period of three (3) years, produce the said record for inspection; and

(c) furnish to the registrar such statistical information at such times and in such manner as may be prescribed.

***Register of Private Employment Agencies***

43. The Commissioner shall keep a register of all private employment agencies.

***Offences***

44. A person who contravenes this Part commits an offence shall on conviction be liable to a fine not exceeding fifty thousand Emalangeni or imprisonment for a period not exceeding five years or to both such fine and imprisonment.

**PART VII**

**MISCELLANEOUS PROVISIONS**

***General penalty***

45. (1) A person who contravenes these Regulation or obstructs an Inspector in the exercise of the powers conferred by these Regulations commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand Emalangeni or imprisonment for a period not exceeding two (2) years or both.

(2) A director of the body corporate shall be considered to have committed that offence unless the director proves that the offence was committed without the directors consent or connivance or that the director exercised due diligence to prevent the commission of the offence as the director ought to have exercised having regard to the nature of the director's functions and circumstances, and in the case of a partnership or a firm every partner of that partnership shall be considered to have committed that offence and shall on conviction be liable to a fine not exceeding one hundred thousand Emalangeni or imprisonment for a period not exceeding ten (10) years or both.

***Specific penalty***

46. A person who contravenes provisions of these Regulations, where no specific penalty is provided under the Act or these Regulations, shall upon conviction, be liable to a fine not exceeding ten thousand Emalangeni or imprisonment for a period of one year or both.

**FIRST SCHEDULE**

**(Under regulation 3)**

|  |
| --- |
| **Hazardous Work For Children** |
| **LIST OF HAZARDOUS WORK FOR CHILDREN**  **A: AGRICULTURE**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Planting, weeding * Applying pesticides including fertilizers * Preparation of seed beds * Pruning * Harvesting and sorting * Operating farm machinery * Driving farm Vehicle, | * Heavy strenuous physical work * Exposure to pesticides/ fumigant * Exposure to adverse weather condition * Long working * Use of sharp equipment and tools * Inappropriate working tools and equipment * Lack of proper PPE * Poor sanitation in the farms | * Musculoskeletal injuries and diseases * Pesticide Poisoning Food Poisoning * Dehydration, colds and respiratory illnesses * Cuts and Abrasions * Gastrointestinal illnesses * Noise induced hearing loss | | **Task** | **Hazards** | **Physical and/or Psychosocial harm** | | * Assisting technicians in farm workshops * Carrying harvest to transport trucks * Carrying water bucket * Carrying wastes for disposal * Feeding farm animals * Cleaning animal houses * Cleaning spraying equipment * Fetching and carrying fire wood * Cooking for farm * Workers | * Inadequate and poor meals * Exposure to excessive noise * Contaminant drinking water * Fires * Snakes and insects * Poor/awkward work posture * Poisonous plants * Farm machinery * Excessive noise * Exposure to organic dusts * Livestock and wild animals | * Burns and scalds * Poor physical and mental development * Fatal or permanent disability due to injuries * Respiratory diseases e.g., asthma, farmers lung, byssinosis, etc. * Allergic reactions from plant poisons * Skin diseases from infections animal wastes * Chemical poisoning from chemicals used in workshops * Depression * Loss of self esteem * Malnutrition * Fertility disorders |   **B: FISHERY**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Placing and hauling fishnets * Repairing nets * Sorting fish carrying fish baskets * Cooking * Carrying ice blocks * Degutting de-scaling, Bisecting fish | * Strenuous work * Long working hours * Repetitive work * Extreme weather * Sharp knives * Lack of adequate meals * Physical assault * Insect bite * Explosives * Lack of adequate rest * Harsh supervision * Poisoning fish | * Physical and mental fatigue * Injury related to fishing gear, explosion * Cuts and abrasions from knives, equipment * Carpal Tunnel Syndrome * Heat and cold stem * Poisoning from certain fish * Assault by fellow fishermen | | * Fish salting and drying * Draining boats * Deep sea fishing | * Working underwater * Falling from vessel * Lack of clean water * Exposure to burning sun * Inappropriate tools, equipment and PPE * Poor technical condition of fishing vessel * Noise * Vibration * Over exertion | * Malnutrition/under nutrition * Skin diseases * Salt water boils * Allergic reaction due to cattle fish and weed * Conjunctivitis from sun glare * Physical injuries by fish (teeth, gills) * Alcohol and drug abuse * Noise induced hearing loss * Musculoskeletal disorders * Decompression sickness * Fatalities relate to accident at sea e.g. drowning * Poor physical and mental development |   **C: MINING AND QUARRYING**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical/ Mental /Psychosocial harm** | | * Shaft, drift or trench digging * Carrying ore from shaft * Drilling and blasting * Crushing ore * Grinding ore Sifting ore * Panning wet and dry sand * Carrying water * Amalgamation and treating the mineral | * Handling heavy loads * Entering narrow passages * Using inappropriate tools * Falling blocks of ore * Collapsing tunnel * Falling down shaft * Luck of oxygen * Dust * Noise * Flooding and drowning * Heat and Cold * Insufficient light * Physical effort * Awkward work posture | * Injuries, death, or permanent disability * Musculoskeletal disorders * Fatigue * Noise induced hearing loss * Under nutrition * Lung diseases * Sunburn, skin cancer * Water – borne diseases * Mercurial poisoning * Sexually transmitted diseases including HIV/AIDS | | * Stone crushing in quarry * Loading stones in quarrying sites | * Toxic Gases * Explosives * Long time exposure to sun and water * Mercury fumes * Long working hours * Harsh supervision * Physical violence * Gender Based Violence or harassment * Low or no incomes * Vibration * Lack of health service, clean water and family and community support | * Alcohol and drug abuse * Carpal Tunnel Syndrome * Low self esteem * Depression * Physical assault * Poor physical and mental development * Heat stress |   **D: CONSTRUCTION**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Cement mixing * Painting * Brick making (clay or cement) * Trenching * Carrying water * Carrying bricks * Excavation operation * Demolition operations * Motor vehicle helper | * Absence of sanitary facilities * Strenuous physical work * Fire in kiln * Manual lifting of heavy loads * Exposure to extreme weather conditions * Poor scaffolds and ladders * Inadequate or improper PPE | * Poor physical and mental development * Muscular skeletal disorders * Physical and mental fatigue * Infectious diseases eg TB * Malnutrition * Falls causing Injuries and fatalities * Heat or cold stress * Depression | | * Store crushing in quarries and transportations to site * Carpentry * Plumbing * Welding * Masonry work | * Working at height * Poor inadequate meals * Poor wages * Poor working tools * Long working hours without break * Harsh supervision * UV exposure * Trench –cave-in * NOISE * DUST Vibrating * Vibrating tools * Physical violence * Sexual abuse * Migrant workers | * Dermatitis: HIV/AIDS Reproductive ill – health * Respiratory illness asthma, cancer * Back injuries * Noise induced deafness * Vibration associated disorders * Alcohol and drug use * Depression * Assault |   **E: SERVICE SECTOR**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Preparing food * Cleaning kitchen equipment and utensils * Washing clothes, * Hauling market supplier, * Cleaning equipment furniture and furnishings including toilets * Maintaining outside area * Repairing equipment and dwellings | * Sharp utensil * Hot oils/water * Fuels – burning * Low or no pay * Long working hours, few hours sleeping * Strenuous physical work * Poor meals * Work in awkward position * Lack of PPE * Repetitive physical work * Chemical exposure – disinfectants/cleaners * Wet work * Harsh supervision * Physical violence | * Cuts and abrasions * Scalds and Burns * Low morale/depression with multiple mental health problems * Poor mental and physical development * Musculo skeletal illnesses * Chemical poisoning * Skin diseases * Infection eg TB * Pregnancies * STD/HIV/AID * Injuries/ permanent disability even death | | * Giving personal assistance and care * Hauling firewood and other fuel * Providing security | * Sexual abuse * Contact with infectious material * Working at height with ladders * Work with domestic animals or birds | * Contagious diseases * Physical and mental fatigue * Malnourishment * Prostitution * Allergies |   **F: RESTAURANTS/HOTELS/BARS/GUEST HOUSE WORK**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Utensils equipment cleaning * Scrubbing floors * Window cleaning * Cleaning toilets * Bed making * Washing beddings and furnishing maintaining outside areas * Carrying water | * Low or no wages * Long working hours * House dust * Strenuous physical work * Chemical exposure * Awkward work posture * Repetitive physical work * Working at height * Harsh supervision * Wet work * Contact with infective agents | * Low morale/depression with multiple mental health problem * Poor physical and mental development * Musculoskeletal illnesses * Chemical related skin diseases * Inflectional (skin) (fungal/bacteria) | | * Fetching fire wood * Cooking food (street food stalls) | * Physical violence * Sexual abuse * Poor inadequate meals * Street dust * Motor vehicle exhausts | * Fall Injuries * Mental and Physical fatigue * STD/HIV AIDS * Early pregnancy * Physical assault * Physical and mental fatigue, Malnourishment * Alcohol and abuse * Respiratory diseases * Burns and scalds |   **G: SERVICE SECTOR - COMMUNITY SERVICES**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Cobblers * Electrical repair * Auto repair * Painting * Refuse collection * Tyre repairing * Laundry shops * Tailoring shop * Hair Dressing Salon * Barber shop * Shoe polishing | * Low income * Inappropriate equipment and tools * Lack of proper PPE * Heavy strenuous work * Poor working posture * Lack of good sanitation * Poor irregular meals * Physical violence * Inadequate ventilation and lighting * Chemical expose | * Poor mental and physical development * Physical and mental fatigue * Malnourishment * Skin and respiratory diseases * Injuries from sharp objects * Fall from heights * Dehydration * Depression with associated mental health problem | | * Water vending * Scavenging * Street food vending | * Exposure to infectious agents * Working at night * Exposure to adverse weather * Long hours in the sun | * Physical assault * Alcohol and drug use * Heat/cold stress * Chemical intoxications * Musculoskeletal disorders |   **H: TRADE SECTOR**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Carrying and selling merchandise in the streets | * Heavy manual lifting/carrying * Working long hours in adverse weather – hot/cold weather * Exposure to dust and motor vehicle exhaust * Violent/difficult customers * Physical violence * Improper meals * Low financial returns * Poor living condition | * Poor mental and physical development * Physical and mental fatigue * Dehydration * Undernourishment * Heat cold stress * Physical assault * Respiratory diseases * Depression * Diarrheal diseases * Drug/alcohol use |   **I: OTHER INFORMAL SECTOR OPERATIONS**   |  |  |  | | --- | --- | --- | | **Tasks** | **Hazards** | **Physical and/or Psychosocial harm** | | * Carpentry and Fixture workshop * Cotton ginning processing and production of hosiery goods * Detergents manufacturing * Jute textile manufacture and coir making * Lime kilns and manufacture of lime | * Wood dust * Noise * Work posture * Strenuous physical work * Chemical exposures * Hot surfaces * Naked wires * Lack o f first aid * Poor ventilation * Lack of sanitation * Lack of sufficient light * Heavy manual lifting | * Physical and mental fatigue * Poor physical and mental development * Musculoskeletal disorders * Heat stress * Electrocution * Fertility problems * Depression * Visual fatigue * Infectious diseases * Physical assault | | * Redamation of lead * Manufacturing of cement products * Manufacture of dye and dye stuff * Manufacture of and handling of pesticides * Pottery and ceramic manufactures * Metal fabrication * Welding * Shoe making | * Low or no information on safe work practices * Dangerous machines * Lack of PPE * Harsh supervision * Welding fumes * Exposure to excessive heat * Sharp objects * Long working hours * Exposure to organic dust * Exposure to chemicals * Noise | * Necrologies diseases * Noise induced hearing loss * Cancers * Heavy metal poisoning * Chronic lung diseases * Allergic disorders * Injuries, deformities and even deaths | | * Carpet and mattress making * Cloth printing and dying wearing garments * Hand and Power looms * Chemical Formulation * Foundry * Tanning * Gradation and cashew nuts descaling and processing | * Metal fumes * Radiation * Vibration * Repetitive work * Silica dust * Infectious materials |  |   **F: TRANSPORT SECTOR**   |  |  |  | | --- | --- | --- | | Tasks | Hazards | Physical and/or Psychosocial harm | | * Auto repair workshops * Service station * Garage * Carrying luggage * Cleaning vehicles * Loading goods into vehicles | * Strenuous physical work * Inappropriate tools and equipment * Lack of proper PPE * Poor irregular meals * Poor sanitation * Falls from heights * Working with dangerous machinery * Motor vehicle exhaust fumes * Manual handling * Chemical exposure | * Poor mental and physical development * Musculoskeletal disorders * Chemical poisoning * Infertility disorders * Infectious diseases * Respiratory diseases * Injuries/death * Skin diseases * Poor mental and physical fatigue * Under-nutrition | |  | * Asbestos exposure * Oils/lubricants * Exposure * Physical violence * Low pay * Welding fumes * Flying objects * Insects and vermin * Harsh supervision * Long working hours | * Depression * Asbestosis/cancer * Cold/heat stress * Vector borne diseases * Physical assault | |

**SECOND SCHEDULE**

**(Under regulation 11)**

**PROHIBITED EMPLOYMENT ACTIVITIES IN RESPECT OF YOUNG PERSONS**

1. Work which is likely to jeopardize or interfere with the education of the young person.

2. Work involving contact with any hazardous substance or chemicals, article or process including ionizing radiation or the uses of substances and materials that emit, poisonous gases or fumes.

3. Work involving underground mining.

4. Work involving manual lifting of loads the weight of which exceeds twenty-five kilograms

5. Work on scaffolding and other structures at a height exceeding two and a half metres

6. Work that exposes a young person to electrical cutting or grinding blades.

7.Work that exposes a young person to extremes of heat, cold, noise or whole-body vibration.

8. Wok involving night shift work.

9. Work involving felling of timber.

10. Work involving in areas or hotels which are likely to corrupt the moral development of that young person

**THIRD SCHEDULE**

**(Under regulation 16)**

**ANNUAL RETURNS ON EMPLOYED PERSONS WITH DISABILITIES**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Name** | **Age** | **Sex** | **Nature of Disability** | **Educational Qualifications** | **Skill** | **Location by Region** | **Funds Spent in Emalangeni** |
|  |  |  |  |  |  |  |  |
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|  |  |  |  |  |  |  |  |
| **Total Number** |  |  |  |  |  |  |  |

**FOURTH SCHEDULE**

**(Under regulation 17)**

**Definition of and instances of Gender Based Violence at the work place**

An employee shall be deemed to have been sexually harassed if the employer of that employee or a representative of that employer or a co-worker –

(a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express -

(i) promise of preferential treatment in employment;

(ii) threat of detrimental treatment in employment; or

(iii) threat about the present or future employment status of the employee;

(b) uses language whether written or spoken of a sexual nature;

(c) uses visual material of a sexual nature; or

(d) shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee’s employment, job performance, or job satisfaction.

**FIFTH SCHEDULE**

**(Under regulation 23)**

**Statement of Employee Rights**

**PART I: RIGHTS UNDER THE ACT**

1. Right to exercise freedom of association

2. Right to be supplied with the Contract of Service/Statement of Particulars

3. Right to annual leave

4. Right to maternity/paternity/sick leave

5. Right to certificate of service on termination

6. Right to remuneration and written statement of particulars supporting each payment of remuneration

7. Right to payment for the overtime worked and night work allowance

8. Right to daily and weekly rest periods as provided for in the Act

9. Right to be repatriated to place of recruitment on termination

10. Right to daily subsistence allowance between termination date and the date of transporting an employee and family to the place of recruitment

11. Any other rights as provided for under the Act ………………………………………

**PART II: GENERAL RIGHTS UNDER CONTACT OF SERVICE** ……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

**PART III: GENERAL RIGHTS UNDER COLLECTIVE AGREEMENT** ………………………………………………………………………………………………………………………………

Name: ........................................................ Signature:……………………………………………………………………..

Designation: ................................................ Date: ……........................................................................................................

Employer’s Common Seal: ………………………………………………

**\*NOTE: Employer shall display dully filled copy of this form, in a conspicuous place at workplace** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SIXTH SCHEDULE**

**(Under regulation 28)**

**Certificate of Employment**

……………………………………………………………………………………………….

(Employer’s Name and Address)

This is to certify that ……………………………… (employee), has been working with us in the position of……..…….................................………………………………… from…………………. to ……………………..

Name: ......................................................... Signature: .....................................

Designation: ................................................ Date: …….......................................

Employer’s Common Seal/Stamp………………........................................................

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SEVENTH SCHEDULE**

**(Under regulation 29)**

**NOTICE OF TRANSFER OF CONTRACT**

The Commissioner for Labour

………………………………

………………………………

I/(We)……………………………..located at Plot……………………Tel. No.

being the registered holder(s) of business ……………., Certificate No……….

intend to transfer my (our)business and contract of service with the

persons(employees) listed in the schedule hereto

to……………………………………………(the new employer) located at Plot

……………………Tel. No.……………………………….

The affected employees have been consulted and given notice of 30 days in

accordance with section 92 (2) of the Employment Act 2023 and regulation 29

of the Employment Regulations, 2023.

1. I/(We) hereby declare that all outstanding claims (wages, workers

compensation1, annual leave and other allowances) have been settled as

indicated in the schedule.

*(Delete if necessary)*

2. The outstanding claims (wages, annual leave and other allowances) shall

be transferred to the new employer.

3. The effective date of transfer of service is………………………………

Yours truly,

Faithfully,

……………………………… ………………………

*Name (Employer) Name( New Employer)*

………………………………. …………………………

*Signature Signature*

Copied to: The Labour Union (if any)

The Workers' Representative

\_\_\_\_\_\_\_\_\_\_\_

1Claims for workers Compensation are not transferable nor are they supposed to be assigned or attached.

2The Schedule of names of the employees shall be attached to the Notice of Transfer.

**NOTICE OF TRANSFER OF CONTRACT**

**NAMES OF EMPLOYEES**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| ***Name*** | ***Age*** | **Sex** | ***Occupation*** |  |  |  |  |
|  |  |  |  | ***Wages*** | ***Annual Leave*** | ***Worker Compensation*** | ***Other Allowances*** |
|  |  |  |  |  |  |  |  |
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**EIGHT SCHEDULE**

**(Under regulation 31)**

**BOND**

I/We………………………………… Employer(s) not incorporated or resident

in Uganda hereby bind myself/ourselves to the Government of Eswatini for the

payment to the said Government of the sum of E…………………………….

Sealed with my /our seal(s) this day of ………………………………………..

The above obligation shall remain in force until I/We

………………………Employer(s) become incorporated or acquire residence

and pay allowances/salaries and other entitlements to the employee(s).

I/we understand that upon submission of satisfactory evidence, the refund of

the Bond shall be made.

Signed, sealed and delivered by the above-named employer………………….

In the presence of:

………………………………………….

*Name and Signature*

*Commissioner for Labour*

*Date*……………………………..

**NINTH SHEDULE**

**(Under regulation 30)**

**NOTIFICATION OF COLLECTIVE TERMINATIONS, SECTION 84 OF THE EMPLOYMENT ACT 2023 AND THE EMPLOYMENT REGULATIONS, 2023**

To: The Commissioner for Labour

…………………………………

…………………………………

…………………………………

I/We do hereby notify you that as a result of restructuring /or …………………...with effect from……………day of ……….. 20…, …………………..*(number)* of our employees listed in the attached schedule will have their services terminated.

The employees affected and the labour union (if any and give names of the Union representatives) have been consulted.

The terminal benefits of the employees have been paid/shall be paid as indicated in the attached Schedule.

…………………………………………………..

*Name and Signature of the Employer*

**EMPLOYEES AFFECTED**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Name | Occupation | Age | Sex | Period/Date of Termination | Terminal Package /Date of Payment | Name of Union Representative |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
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**TENTH SCHEDULE**

**(Under Regulation 35 (2))**

**APPLICATION FORM FOR**

**REGISTRATION OF A PRIVATE EMPLOYMENT AGENCY**

To:

The Commissioner of Labour,

…………………………………..

…………………………………..

Under Section 118 of the Employment Act, 2023, I (we) apply for the registration of a private employment agency and for the issue of an operational license and submit the following particulars in this regard -

1. Name of the private employment agency

…………………………………………………………………………

2. Physical address or premises where the business of the private employment agency will be conducted.…………………………………………………

3. Head office……………………………………………………………….

4. Branch/branches (if any) ………………………………………………

5. Nature of employment (e.g Executive and professional staff or unskilled labour) ……………………………………………………………….

6. Type of employment service (e.g temporary or permanent) …………….

7. Business sector in which it will be operating (e.g IT sector) …………….

8. Bank Account Number ………………………………………………….

9. Payroll system used ……………………………………………………

10. Number of people to be employed by the office according to gender

11. Date on which applicant desires to commence business ………………

12. Attachments required by regulation 32 of these regulations -

(a) Certificate of Registration;

(b) Articles and Memorandum of Association;

(c) Trading license;

(d) Audited Books of Accounts; and

(e) Recommendations from at least three (3) referees.

Yours Sincerely,

……………………………….

*Applicant’s signature*

**ELEVENTH SCHEDULE**

**(Regulation 35 (10)**

**AUTHORIZATION OF OPERATION TO PRIVATE EMPLOYMENT AGENCY**

A licence is granted to ……………………………………………………………. located at …………………………………………………to operate as a private employment agency for the period of one year commencing on *(date)*…………………. and termination on *(date)*……………………., operating recruitment of (profession and executive staff/unskilled or manual labour) fill appropriately in……………………………Region.

This license is issued subject to provisions of the Employment Act, 2023 and the Employment Regulations, 2023.

…………………………………………………………..

*Commissioner of Labour*

**TWELTH SCHEDULE**

**(Under regulation 36)**

**QUARTERLY REPORT**

**PRIVATE EMPLOYMENT AGENCIES**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| OCCUPATIOAL CODE | EDUCATIONAL LEVELS /SKILLS ATTACHED THIS QUARTER | JOB SEEKERS THIS QUARTER |  | VACANCIES THIS QUARTER |  |
|  |  | Placed in Jobs  Female Male | Unplaced  Female Male | Identified | Filled |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
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**THIRTEENTH SCHEDULE**

**(Under regulation 35 (1))**

**PRIVATE EMPOLYMENT AGENCIES REQUIREMENTS FOR**

**REGISTERING AND AUTHORIZATION**

**FEES**

Application Fee:

1. On application of the private employment agency, a fee of E------------------- (----------------Emalangeni only), shall be payable to paid to the authorized officer.

License Fees

Category A:

Where a private employment agency engages in the recruitment of executive and professional staff including managers, accountants, administrators, engineers, social workers, economists, bankers etc. that private employment agency shall pay an annual licence fee of E……………… (…………………………. Emalangeni only).

Category B:

Where a private employment agency engages in the recruitment of unskilled or manual workers including housemaids, porters, cleaners, casual workers, a gardener, grounds man etc, it shall pay an annual licence fee of E…………………………. (……………………………. Emalangeni only).

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PHILA BUTHELEZI

***MINISTER FOR LABOUR AND SOCIAL SECURITY***