

LEGAL NOTICE NO..... OF 2023

THE WAGES ACT, 1964

(Act No. 16 of 1964)

THE REGULATION OF WAGES (DOMESTIC EMPLOYEES) ORDER,

NOTICE, 2023

(Under Section 11)

In exercise of the powers conferred by Section 11 of the Wages Act, 1964, the Minister for Labour and Social Security issues this Order-

Citation and Commencement

1. (1) This Order may be cited as the Regulation of Wages (Domestic Employees) Order, 2023
- (2) This Order shall come into force on the date of publication in the Gazette.

Interpretation

2. In this Order, unless the context otherwise requires-
“caregiver” means any employee who provides direct care for children, elderly people or chronically ill or disabled people;

“primary caregiver” means a house matron who does all the duties done by a caregiver;

“assistant house aunt” being the one who did the cleaning and assisted during the day and who does everthing during the off days of the house mother;

“casual employee” means any employee the terms of whose engagement provides for the payment at the end of each day and is not engaged for a longer period than twenty four (24) hours at a time;

“children’s nurse” means a person that takes care of children and oversees their activities, gives them all necessary assistance, carries out other duties in connection with the care of children, including the washing of clothes, as may be required;

“cook” means a person employed in a household, whose capable of and mainly engaged in the preparing and cooking of meals suitable to the dietary needs of the household may be required to assist in other household duties;

“domestic work” means work performed in or for a household;

“domestic worker” means an employee who performs domestic work in the home of the employer, this may include -

- (a) gardener;
- (b) driver of a motor vehicle; or
- (c) caretaker of children, the aged, the sick, the frail or the disabled, but shall not

include a farm worker;

“driver” means a person who is in possession of a valid driver’s licence to drive a vehicle allocated to him , ensures that it is clean and carries out simple maintenance or service tasks on it.

“gardener” means a person who carries out all gardening activities including the planting and cultivation of flowers, shrubs and vegetables, maintains lawns and paths, attends to cleanliness of compounds or yards and may be required to carry out other duties such as cleaning vehicles;

“herdsman” means a person who looks after domestic animals such as goats, cattle, donkeys and may include any other general domestic duties such as cleaning the yard, mending a kraal and carrying out other duties associated with those of a handyman provided the pastures are protected;

“house attendant” means a person who carries out domestic duties which may include the preparation of food, washing of dishes, cleaning rooms, dusting and polishing furniture, washing windows, washing clothes and textiles by hand and ironing, and making beds;

“laundress” means a person who is mainly employed to carry out washing of clothing using either a washing machine or by hand and ironing using any kind of iron and packing the clothes;

“night work” means work done by a domestic worker between 18:00 and before 06:00 the next day, performed only if agreed to in writing and the worker must be compensated by an allowance; and if the domestic worker resides at the workplace or transport is available between the domestic worker’s place of residence and the workplace at the beginning and the end of the domestic worker’s shift;

“part time employee” means an employee, other than a casual employee, who is employed for less than twenty four (24) hours in a week and whose wages are calculated at a rate similar to the hourly scale of a full time employee;

“public holiday” means a public holiday in terms of the Public Holidays Act No.71 of 1938 or its successor;

“standby” means any agreed period in writing between a domestic worker and the employer between 20:00 and 06:00 the next day, where the domestic worker is required to be at the workplace and is permitted to rest or sleep, but be available if necessary at a payment allowance of at least 25% of the daily rate, the engagement shall not be for more than five (5) times per month;

“watchman” means a person who is responsible for the safeguard of the employer’s property against fire, theft and illegal entry, the employee may carry out other duties similar to a watchman’s responsibilities, as required by the employer.

Application

3. This Order shall apply to employees whose occupation is specified in the First Schedule.

Basic minimum wage

4. (1) The basic minimum wage to be paid to employees, shall be calculated at a rate specified in the First Schedule.

(2) The daily and hourly rates specified in the First Schedule shall apply to part time and casual employees.

Written particulars of employment to be provided

5. An employer shall within two (2) calendar months of the appointed date of engagement give an employee a completed copy of the form as specified in the Second Schedule.

Employment records

6. The employer shall inform the employee of the written terms and conditions of employment in appropriate, clear and easily understandable language in accordance with the national laws.

Hours of work

7. (1) A normal working week in this Order, shall consist of forty-eight (48) hours from Monday to Saturday exclusive of meal breaks of one (1) hour as may be agreed between the employer and the employee.

(2) The employer shall prepare and co-sign with the employee the attendance register as set out in the Third Schedule.

(3) A signing on sheet shall be made available by the employer to specify the period of disposal of the employee to the employer.

Overtime

8. (1) An employee required to work in excess of the hours specified in Order 7 (1) shall be paid at one and half (1 ½) times the basic hourly rate.

(2) Where the overtime is worked on public Holidays or a rest day the employee shall be paid at twice the basic hourly rate.

Annual leave

9. (1) Where an employee completes twelve (12) months' continuous service with an employer, that employee shall be entitled to annual leave of not less than thirteen (13) working days with full pay, to be taken at a time convenient to both parties.

(2) If an employer terminates the services of an employee after three (3) months' service, the employee shall be paid a pro rata cash payment in respect of leave days earned but not taken in service.

(3) The pro rata cash payment in sub-order (2) shall be equal to not less than one (1) day's wage for each month during which leave had been earned but not taken by the employee.

Sick leave

10. (1) Subject to sub-order (3), an employee shall be entitled to sick leave after three (3) consecutive months' of continuous service.

(2) The sick leave in terms of sub-order (1) shall be a maximum of fourteen (14) days' on full wages and after that a maximum of fourteen (14) days on half wages in each period of twelve (12) months continuous service.

(3) An employee before the grant of sick leave, shall produce to the employee a medical certificate signed by a registered medical practitioner.

Public holidays

11. (1) Public holidays shall be observed in line with the **Public Holidays Act No 17, of 1938** as may be determined by the Minister responsible for public holidays from time to time. The employer shall on all designated public holidays, pay an employee a full day's wage.

Transport arrangement

12. Where an employee is required to start work on or before 7.00am and remain on duty after 5.30pm without accommodation, the employer shall -

- (a) provide transport for travel up to sixteen (16) kilometres from the place of work, accessible by road, as may be agreed by the employer and employee;
or
- (b) pay to the employee in addition to wages, an amount equivalent to the cost of payment for transport for sixteen (16) kilometres from the place of work of the employee.

Maternity leave

13. (1) Subject to sub-order (2), an expectant mother in continuous employment for twelve (12) months or more shall be entitled to maternity leave.

(2) The maternity leave shall be for a period not exceeding twelve (12) weeks (84 calendar days') of which full pay is to be made for thirty (30) days', upon delivering to the employer-

- (a) a certificate issued by a registered medical practitioner or registered nurse setting out the expected or actual date of confinement; or
- (b) other evidence in support of the entitlement to maternity leave as is reasonably necessary, having regard to all the circumstance of the case.

(3) A maternity leave shall be in addition to the sick leave an employee may be entitled to under Order 10.

(4) An employee shall not be entitled to maternity leave for two (2) consecutive calendar years.

(5) If an employee has been on maternity leave, on return that employee shall be entitled to a paid nursing break instead of a lunch break, of one (1) hour for a period not exceeding three (3) months.

Uniforms, protective clothing and equipment

14. (1) An employer shall provide an employee with two (2) pairs of a suitable quality uniform or protective clothing, in every two (2) year period.

Compassionate leave

15. (1) An employer after three (3) months' of continuous service to an employer, shall be entitled to compassionate leave with full pay as follows-

- | | | |
|------------------------------|---|---------------------------------|
| (a) widows | - | Thirty-Seven (37) working days; |
| (b) widower | - | Ten (10) working days; |
| (c) natural father or mother | - | Seven (7) working days; |
| (d) natural child | - | Ten (10) working days; or |
| (e) mother or father in-law | - | Seven (7) working days. |

Rest day

16. The employer shall grant the employee one (1) rest day each week, to be fixed by mutual agreement between the parties.

Accommodation

17. If an employer offers an employee accommodation as part of the conditions of employment, the accommodation shall be free of charge.

Revocation of Legal Notice No. 338 of 2022

18. The Regulation of Wages (Domestic Employees) Order, 2022, under Legal Notice No.338 of 2022 is revoked.

FIRST SCHEDULE

(Under Order 4)

Basic Minimum Wage

	Monthly	Daily	Hourly
Cook.....	E1391.00	E79.60	E12.84
Caregiver	E1605.00	E101.65	E16.05
Driver.....	E1605.00	E101.65	E16.05
Gardner.....	E1358.14	E76.00	E11.34
House Attendant.....	E1358.14	E76.00	E11.34
Laundress.....	E1358.14	E76.00	E11.34
Children's nurse.....	E1358.14	E76.00	E11.34
Herdsmen.....	E1358.14	E76.00	E11.34
House Mother.....	E1800.00	E81.00	E11.34
House Aunt.....	E1600.00	E72.72	E11.34

*****10% shall be added to the employee who already earns more than the basic minimum wage

*****Watchman is paid as provided under the Regulation of Wages (Security Services Industry) Order.

*****The monthly rate specified in the first column of the above Schedule shall be the basic minimum wage for employees engaged on a monthly contract.

*****The daily rate specified in the second column of the Schedule shall be the basic minimum wage for part time employees engaged on a daily contract.

*****The hourly rate specified in the third column of the Schedule shall be the basic minimum wage for casual employees paid on an hour.

*****An additional 28% shall be added in each job category to the employee's wages if the employee is made to work more than one job as specified in the job categories.

SECOND SCHEDULE

(Under Order 5)

WRITTEN PARTICULARS OF EMPLOYMENT FORM

1. Name of employer.....
2. Name of employee.....
3. Date of Employment began

4. Wage and method of calculation.....
5. Interval at which wages are paid.....
6. Normal hours of work.....
7. Short description of employee's work.....
8. Probation Period.....
9. Annual Holiday Entitlement.....
10. Paid Public Holidays.....
11. Payment during sickness.....
12. Maternity Leave (if employee female).....
13. Notice employee entitled to receive.....
14. Notice employee required to give.....
15. Notice Scheme (if any, other than S.N.P.F.Scheme).....
16. Any other matter either party wishes to include.....

(a) An Employee is free to join a trade union of his or her own choice.

(b) The grievance procedure in this undertaking requires that a grievance should be first referred to.....

(c) When any heading is inapplicable enter nil

(d) Please give a copy of this form to the employee after it has been duly signed.

Signed..... Employer

..... Employee

..... Witness

..... Date

PHILA W. BUTHELEZI
MINISTER FOR LABOUR AND SOCIAL SECURITY