

THE WAGES ACT, 1964
(Act No. 16 of 1964)

**THE REGULATION OF WAGES (PRE-SCHOOLS AND DAY-CARE CENTRES
INDUSTRY) ORDER, 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 makes the following Order-

Citation and Commencement

1. (1) This Order may be cited as the Regulation of Wages (Pre-Schools and Day-care Centres Industry) Order, 2023.

(2) This Notice shall come into force on the date of publication in the gazette.

Application

2. This Order shall apply to all persons employed in Pre-Schools and Day-care Centres in respect of basic conditions of employment.

Interpretation

3. In this Order unless the context otherwise requires -

“assistant early childhood Carer” means a person who has an early childhood carer certificate and assists an early childhood carer;

“assistant teacher” means an employee who is engaged as such, and is in possession of a Junior Certificate or O’Level Certificate of Education and or a Pre-school Teacher’s Certificate, who may be in charge of a class in the absence of the class teacher;

“continuous employment” has the same meaning as ascribed to it in the Employment Act No 5 of 1980 or its successor.

“cleaner” means an employee who performs cleaning duties other than those of a labourer;

“clerk” means an employee who is a holder of a Junior Certificate or O’level certificate, who is engaged in secretarial or other general clerical duties;

“cook” means an employee who is engaged to prepare meals in Pre-schools or Day-Care Centres;

“early childhood carer” means a person who takes care of children who are from 0 to 3 years of age and who holds an Early Childhood Carer certificate;

“labourer” means an employee who performs duties pertaining to the tidying of the grounds of the school;

“maintenance worker” means an employee who is engaged to service electrical appliances, furniture, do painting and perform other such duties which involve maintenance of existing infrastructure, fittings and simple machinery or appliances used in the school;

“teacher” means an employee who is engaged to teach in the pre-school, and is in possession of a Junior Certificate or O’Level Certificate or a Pre-School Teachers Certificate;

Basic Minimum Wage

4. (1) The basic minimum wage to be paid to the employees specified in the First shall -

- (a) be calculated at a rate not less than that specified in the schedule;
- (b) Not be reduced by any amount for housing or accommodation or transport which the employer may provide.

(2) Where a cleaner also performs the duties of a labourer, they shall be paid, in addition to their wages, half the wages payable to a labourer.

Hours of work

5. (1) The normal hours of work for an employee, other than a day-care employee, shall be from 0700Hrs to 1330hrs, inclusive of a lunch break of one hour, from Monday to Friday for Pre-school employees.

(2) The hours of work for Day-Care Centre employees shall be from 0700Hrs to 1700Hrs (ten hours), inclusive of a lunch break of one hour from Monday to Friday.

Overtime

6. (1) An employee of a Pre-school, other than a Day-care Centre employee, who is required to work in excess of the hours specified in regulation 5, shall be paid at one and half the basic hourly rate.

(2) Overtime worked on Sundays or Public Holidays shall be paid at twice the employee’s basic hourly rate.

(3) An employer shall consult with the employee to work overtime and such

employee may not unreasonable refuse, except where, the employee's written contract of employment provides that the employee shall avail himself for overtime work as and when required to do so.

Annual Leave

7. (1) An employee of a Pre-school shall be entitled to paid annual leave during the days when schools are closed as per the school calendar. Annual leave applied for and to be taken during the period when schools are opened may be at the discretion of the employer.

(2) An employee of Day-care Centre which close when schools close, shall be entitled to annual leave as in (1) above. An employee of Day-care Centre that does not close when schools close shall be entitled to paid annual leave by the employer as follows -

- (a) An employee who has worked for less than twelve (12) months, leave shall be one day per each completed month;
- (b) An employee who has worked for twelve (12) months but less than three (3) years, annual leave shall be fifteen (15) days;
- (c) An employee who has worked for more than 3 years, annual leave shall be eighteen (18) days.

Provided that the days on which schools are closed or on break shall be included in the computation periods referred to in this paragraph.

(3) Where employment is terminated after three months' service with an employer, an employee shall be entitled to one day's pay in lieu of untaken leave for each completed month of service following that employee's initial engagement.

Sick Leave

8. (1) After three consecutive months of continuous service with an employer, and subject to the submission of a Medical Certificate signed by a Medical Practitioner as defined under the Medical and Dental Practitioners Act, 1970, an employee shall be entitled to sick leave up to a maximum of fourteen days on full pay and thereafter to a maximum of fourteen days on half pay in each period of twelve months' continuous service.

(2) Notwithstanding sub-regulation (1), a certificate issued by a registered Nurse shall be acceptable in the place of a Medical Certificate mentioned in sub-regulation (1) if, at the time the employee goes for medical treatment or examination, a Medical Practitioner is not available.

Maternity Leave

9. (1) A female employee, whether married or unmarried, who has been in the

continuous employment of her employer for twelve months or more shall be entitled to maternity leave for a period not exceeding twelve weeks (84 calendar days) with only 6 weeks on full pay. Payment of wages for the rest of the period shall be at the discretion of the employer. The employee shall furnish the employer with a certificate signed by a Medical Practitioner or a Midwife, stating the expected or actual date of her confinement.

(2) An employee shall not be entitled to maternity leave provided for under sub-regulation (a) for two (2) consecutive years.

(3) An employee who has been on maternity leave shall be entitled, on return from such leave, to a paid nursing break of one hour for a period not exceeding three months. Such nursing break shall not be in lieu of such employee's lunch break.

Written Particulars of employment to be provided

10. An employer shall give an employee a completed copy of the form in the Second Schedule of this Order, in the manner required by the Employment Act, 1980 or its successor.

Public Holidays

11. (1) Public Holidays shall be observed in line with the Public Holidays Act No.17, 1938, as may be determined by the Minister responsible for public holidays from time to time.

(2) Where a public holiday falls on a Sunday, the following day shall be a Public Holiday.

Compassionate Leave

12. (1) An employee who has successfully completed a probation period shall be entitled to compassionate leave as follows:

- | | | | |
|-----|--------------------|---|-------------------------------------|
| (a) | Widow | - | 37 calender days with full pay; |
| (b) | Widower | - | 15 calender days with full pay; |
| (c) | Biological parents | - | 10 calendar days with full pay; and |
| (d) | Biological child | - | 10 calender days with full pay |

(2) Entitlement to compassionate leave in respect of any other immediate family in addition to the above shall be in terms of the Employment Act, 1980 or its successor.

Retirement Age

13. The retirement age for an employee shall be sixty (60) years.

Payment of Severance Allowance

14. Severance allowance calculated as outlined in the Employment Act of 1980 or its successor, shall be payable to an employee.

Casual Work:

15. An employee engaged on casual basis as envisaged in the Employment Act of 1980 or its successor, shall be paid for each day or shift worked at the end of each day's work.

Redundancy

16. An employee who has served the same employer continuously for a period of two (2) years or more and whose employment is terminated for reasons of redundancy shall be paid severance allowance in terms the Employment Act, 1980, or its successor.

Transport

17. An employee who, by the nature of employment is required on any day to remain on duty after 17.30 Hours or is required to start work before 06.00 Hours, shall be provided by the employer, with transport between the place of work and home or place of residence as the case may be or at such point on a public road as may be mutually agreed between the employer and the employee.

Protective Clothing

18. The employer shall supply an employee, free of charge with appropriate clothing to protect the employee from occupational injuries and diseases and other risks associated with such employment.

Existing Conditions of Employment

19. At the commencement of this Order an employee who has been enjoying better terms and conditions of employment than those provided for in this Order, shall not suffer any reduction or unfavourable variation in such terms and conditions as a result of coming into force of this Order.

Revocation of Legal Notice No.251 of 2022

20. The Regulation of Wages (Pre-Schools and Day Care Centres Industry) Order, Legal Notice No.251 of 2022 is revoked.

**FIRST SCHEDULE
BASIC MINIMUM WAGE
(EMALANGENI PER MONTH)**

The areas mentioned in (A) below are for purposes hereof regarded as urban areas.

(A) Bhunya, Big Bend, Havelock Mine, Luyengo, Matata, Malkerns, Manzini, Mbabane, (including establishments situated along and within 5km on either side of the Mbabane /Manzini main road stretching 20 km from Mbabane); Matsapha Industrial Area, Mhlambanyatsi , Mhlume, Ngwenya, Nhlanguano, Piggs Peak, Sidvokodvo, Simunye, Siteki, Tabankulu, Tshaneni, Vuvulane, Nsoko Ngonini, Ebuhleni, Lavumisa, Mankayane, Lomahasha, Ludzeludze, **Siphofaneni**, **Luve**, Mhlaleni and Hlatikulu.

	A Urban areas	B All other areas
Teacher	E2458.71	E2048.91
Assistant Teacher	E2130.92	E1775.83
Maintenance Employee	E1967.05	E1639.19
Cleaner or Labourer	E1639.19	E1366.02
Clerk	E2294.96	E1912.46
Cook	E1967.05	E1639.19
Early Childhood Carer	E1899.39	E1639.19
Assistant Early Childhood Carer	E1639.19	E1366.02

SECOND SCHEDULE
WRITTEN PARTICULARS OF EMPLOYMENT

1. Name of Employer
2. Name of Employee
3. Date Employment began
4. Wage and method of calculation
5. Interval at which wages are paid
6. Short description of employees' work

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7. Probation Period
8. Annual Leave Entitlement
9. Paid Public Holiday
10. Payment during sickness
11. Notice of termination of employment employee entitled to receive
12. Notice of termination of employment employer required to give
13. Social Security Scheme (if any, other than S.N.P.F. Scheme)
14. Any other matter either party wishes to include.....

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

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

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(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 OF LABOUR & SOCIAL SECURITY