

LEGAL NOTICE NO.....OF 2023

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

REGULATION OF WAGES (TEXTILE AND APPAREL 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 hereby makes the following Order: -

Citation and Commencement

1. This Order may be cited as the Regulation of Wages (Textile and Apparel Industry) **Order, 2023** and shall be deemed to have come into on the date of publication in the gazette.

Application

2. This Order shall apply to all persons employed in the Textile and Apparel Industry including establishments whose businesses are engaged in the occupations specified in the First Schedule.

Interpretation

3. In this Order, unless the context otherwise requires: -

“blaster” means an employee who operates a sand blasting machine or spray gun to sand blast or spray finished garments according to customer requirements;

“blaster assistant” means an employee who assists a blaster operator in the operation of a sand blasting machine or spray gun to sand blast finished garments according to customer requirements;

“boiler operator/attendant” means an employee who operates a boiler machine;

“boiler assistant” means an employee who assists a boiler operator in the operation of a boiler machine;

“casual employee” means an employee who is employed for not more than twenty four hours at a time;

“cleaner” means an employee who is responsible for the cleaning of a factory, offices, toilets and canteen and who also performs tea making duties;

“continuous employment” has the same meaning as provided for in The Employment Act, 1980 (as amended) or its successor as the case may be;

“cutter” means an employee who is engaged in cutting material by means of a machine in a factory;

“dispatch clerk” means an employee who selects and packs goods according to customers’ orders;

“driver messenger” means an employee in possession of a valid driver’s license who is mainly engaged in conveying messages, delivers and collects goods or mail using a vehicle and also performs simple routine tasks in an office;

“factory clerk” means an employee who is employed in the production area and who is wholly or mainly responsible for the recording of attendance and/or production data which may require further processing by office administration;

“final presser” means an employee who is employed to press completed garments;

“fusers” means an employee who irons pieces of materials through a fusing machine in the preparation section of clothing manufacture;

“handyman” means an employee who carries out different jobs, including simple structural repairs, supervising and allocating work to subordinate staff under his control;

“hand trimmer” means an employee who trims by means of a clipper all excess threads, binding and tapes after all closing operations have been done;

“inline examiner” means an employee who examines the uncompleted garments or parts for flaws or sewing defects;

“inline presser” means an employee who is employed to press parts of garments during the manufacturing process;

“learner sewing machinist A” means an employee with less than 3 months on the job training to be a sewing machinist;

“learner sewing machinist B” means an employee with more than 3 months but less than 6 months training to be a sewing machinist;

“learner mechanic A” means an employee who has less than three months on the job training engaged in mechanical repairing and assembly of machinery;

“learner mechanic B” means an employee with 3 months or more on the job training but less than 6 months’ experience engaged in mechanical repairing and assembly of machinery;

“labourer” means an employee engaged in one or more of the following duties: cleaning and tidying premises, loading or unloading goods, carrying and/or stacking goods, removing refuse and the arrangement and organization of materials;

“layer-up” means an employee who is engaged in the laying of material in one or more thicknesses on the cutting tables and may include the duty of slicing the ends;

“learner” means an employee who is serving probation and is learning on the job to become a machinist, folder, packer, presser, soberer, quality controller, or any unskilled job for a period not exceeding 6 months. The probation period of 3 months shall run concurrently with the learning period;

“mechanic I” means an employee who has more than twelve months experience engaged in mechanical repairing and assembly of machinery;

“mechanic II” means an employee who has more than six months but less than 12 months experience engaged in mechanical, repairing and assembly of machinery;

“office / computer clerk” means an employee who does general clerical duties including invoicing, data capturing and generally works on a computer in the office;

“quality checker” means an employee who is responsible for the activities which ensures that products and services are fit for employer’s quality standards and who is able to identify the specific below standard outcome and to give advice on solution(s) for improvement;

“quality checker finished garments” means an employee who is engaged in checking completed garments to required standards;

“quality auditor” means an employee who is mainly engaged in checking the quality of finished garments and makes 2.5 or 4.0 audit quality level reports on finished products;

“re-cutter” means an employee who is engaged in the cutting out and/or marking-in of materials for replacing damaged or missing parts of a garment;

“supervisor” means an employee who under general supervision is responsible for the efficient performance of the duties of the employees or a section of the employee’s in a factory;

“sewing machinist/rivet” means an employee engaged to operate a sewing machine using a needle and a thread, or an employee operating a rivet machine;

“soberer” means an employee who stamps information on to material or pieces of material by means of a sober gun;

“sorter” means an employee performing the sorting out of garments or parts of garments;

“screen printer” means an employee who is engaged to print designs on a garment by applying ink through a silk screen;

“washer” means an employee engaged to load or unload garments into a washing or drying machine;

Basic Minimum Wage:

4. The Basic Minimum Wage inclusive of rations or cash in lieu thereof to be paid to employees specified in the First Schedule shall be calculated at a rate not less than that specified therein provided that -

(1) an employee who, at the date of commencement of this Order, is in receipt of a higher wage than that prescribed by this Order, shall not suffer any reduction in such wage by reason of this Order.

(2) where no definition of an employee’s duties exists, such employee shall be paid a basic minimum wage applicable to ancillary or similar occupations; and

(3) nothing in this regulation shall prevent an employer if he so wishes from -

a) supplying cooked or uncooked food to an employee in addition to his basic wage; and

b) providing free transport to an employee who works from 6.00a.m to 5.30p.m or free accommodation to its employees.

Statement of condition of Employment

5. (1) The employer shall provide an employee with a written statement at the commencement of his employment, stating whether the employee is employed for an indefinite duration or on a fixed term and or seasonal period, the conditions of the employment, the minimum salary and the validity of the learning period.

(1) The learning period referred to in sub-regulation (1) shall be –

a) six months in the case of the weaving industry, textile and apparel industry, printing industry; and

- b) three months in the case of other occupations.
- (2) For the written statement of employment, the employer shall use the details as specified in the Second Schedule hereto.

Hours of work

6. (1) The normal working week for employees other than security guards and casual employees shall consist of not more than forty-five hours of work spread over a period of 5 days in a week, from Monday to Friday, exclusive of 45 minutes' meal breaks per day.

(2) The normal working week for a casual employee shall consist of not more than twenty four hours at a time.

Overtime –

7. (1) An employee who is engaged other than on shift work or as a security guard and is required to work in excess of the normal daily hours shall be paid overtime as follows:-

- a) for time worked in excess of the normal hours on a weekday, payment shall be at one and half times the basic hourly wage; and
- b) for time worked on a Sunday, payment shall be twice his hourly rate; and
- c) for time worked on a paid public holiday, payment shall be two times or double the hourly rate for each hour worked plus the normal rate applicable to all other employees whether at work or not on that paid public holiday.

(2) An employee employed on shift work, or as a security guard who is required to work on his rest day or on a public holiday specified in Regulation 8, shall be paid for such overtime or alternatively subject to the written consent of the employee be given an equivalent amount of time off in lieu of overtime payment.

(3) For purposes of calculating overtime, the basic hourly wage for an employee who is paid on weekly intervals shall be calculated on dividing such wage by the number of hours the employee normally works in a week.

(4) The basic hourly wage of casual employees shall be calculated by dividing his daily wage by eight hours.

Public Holiday

8.(1) Public holidays shall be observed in line with the Public Holidays Act, No. 71 of 1938 as may be determined by the Minister responsible for public holidays from time to time.

(2) In this Order, employees shall be paid full days' wage on all designated public holidays.

(3) Where a Public Holiday falls on a Sunday, the following day shall be deemed to be a Public Holiday.

Annual Holiday

8. (1) An employee, other than a security guard, shall be entitled to fifteen (15) working days annual leave with full pay after each period of twelve months' continuous employment with an employer.

(2) A security guard shall be entitled to twenty- one calendar days' annual leave with full pay after each period of twelve months continuous employment with an employer.

Sick Leave

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

(2) A certificate issued by a registered Nurse shall be accepted in place of a medical certificate if the Medical Practitioner is not available. Such certificate shall bear the name, qualifications and employment or official address of the nurse issuing it.

Compassionate Leave

11. (1) An employee shall be entitled to compassionate leave as follows:

Widow	-	30 days
Widower	-	7 working days
Child	-	7 working days
Natural Parents	-	7 working days

(2) Payment for compassionate leave shall be at the discretion of the employer.

Maternity Leave

12. (1) Every female employee, whether married or unmarried, who has completed probation shall be entitled to maternity leave of up to twelve weeks (84 calendar days), with at least two weeks full pay upon delivering to her employer-

(a) a certificate issued by a medical practitioner or a midwife setting forth the expected date of her confinement;

(b) a certificate issued by a medical practitioner or a midwife setting forth the actual date of her confinement; or

(c) such other evidence in support of the entitlement to maternity leave as is reasonable, having regard to all circumstances of the case

(2) Notwithstanding subsection (1), a female employee entitled to maternity leave by virtue of subsection (1), shall be so entitled at least once after the lapse of a period of 24 months from the last maternity leave

(3) A female employee shall be entitled to one hour nursing break with pay for three months after maternity leave, which break shall be taken by the employee in agreement with the employer, either in the morning or in the afternoon.

Continuous employment

13. Where, following the sale or takeover of the business of the employer and where the previous employer has not paid the terminal benefits and other applicable dues to its employees an employee enters the service of a new employer without interruption, his service shall be deemed to be continuous service in the employ of the new employer and the business shall be deemed to have been sold or taken over as a going concern.

Short Time

14. (1) If an employer finds it necessary for reasons beyond his control to employ an employee on short time, the employer may do so subject to the Commissioner of Labour consenting in writing to such an arrangement, having satisfied himself that the employees organization recognized in the undertaking has been fully consulted and is aware that the employer intends resuming full time work within three weeks. Where no employee organization is recognized in the establishment the employer shall consult the employees directly.

(2) Where an employee has been placed on short time under sub-regulation (1) the employee shall be paid not less than fifty percent of the employee's weekly wages where the employee is employed to periods which, in aggregate, are equivalent to or less than fifty percent of the employee's normal weekly hours of work.

(3) No reduction shall be made in an employee's earnings where the employee has been placed on short time and works in aggregate of more than fifty percent of his normal weekly hours of work during any week he has been placed on short time.

Piece Work

15. An employee engaged on piece work shall be entitled to wages and conditions of employment not less than those specified in this Order.

Re-imbusement of expenses

16. A salesman, driver or salesman assistant shall be re-imbursed all expenses reasonably incurred on lodging and meals for the period of absence from his place of residence or duty.

Lay-Off

17. (1) By reasons or circumstances beyond the employer's control an employer may lay off employees for up to fourteen working days, without pay-

Provided that at the end of this period the employer shall either re-employ the employees in their original jobs, or give them notice of termination of service in accordance with the provisions of the Employment Act, 1980 (as amended) or its successor.

(2) During the period of any lay-off, the employer shall not engage other employees to replace the employees he has laid off.

(3) The employer shall give;

(a) an employee engaged on an indefinite contract of employment, fourteen (14) days' notice before the lay-off and the employer organization recognized in the undertaking if any shall be consulted and informed before the lay-off; and

(b) a seasonal employee, twenty-four hours notice before the lay-off.

(2) After consultation with an employee's organization if any, an employer may apply to the Minister for a temporary exemption for a specified period according to the circumstance of the employer, from the application of regulation 17(3) (a) for a reduction of the period of notice to be given to employees, before lay-off.

Trade Testing

18. (1) An employer shall grant unpaid leave to an employee who requests to undergo a trade test in a government recognized institution to enable him to take the tests.

(2) An employee who has undergone a trade test shall furnish the employer with the results of his examination.

Protective Clothing

19. An employer shall provide, free of charge, adequate an appropriate personal protective appliance, equipment and clothing to an employee who is performing activities or processes which expose such an employee to wet, dusty or noisy conditions, extreme heat or extreme cold, or to any poisonous, corrosive or injurious substance or material

liable to affect the employee's safety and health or cause undue damage to the employee's clothing.

Revocation of the Regulation of Wages (Textile & Apparel Industry) Order Notice, 2022

20. The Regulation of Wages (Textile and Apparel Industry) Order under Legal Notice No.398 of 2022 is hereby revoked.

FIRST SCHEDULE

BASIC MINIMUM WAGE
(Emalangenzi per week)

For the purpose of this schedule:

Group A shall mean any undertaking that has employed twenty or less people (Small Medium Enterprises).

Group B shall mean any textile company that has employed people under the Cut, Make and Trim category (CMT).

Group C; shall mean any textile company that has employed people under the Free On Board category (FOB).

Category 1	A-SME's	B- CMT's	C-FOB's
Casual Labourer Learner Learner Mechanic A Learner Sewing Mechanic A	393.50	403.07	410.40
Category 2	526.29	539.08	548.88
Cleaner Learner Mechanic B Fusers Labourer Hand Trimmer Inline Examiner Layer-up			

Packer Inline Presser Sorter Screen Printer Washer Soberer Learner Sewing Machinist B			
Category 3 Blaster Factory / Dispatch Clerk Final Presser Quality Checker Re-Cutter Sewing Machinist Boiler Assistant	579.99	594.08	604.88
Category 4 Cutter Driver Mechanic 2 Office/Computer Clerk	652.72	668.59	680.74
Category 5 Quality Auditor	714.36	731.73	745.03
Category 6 Handyman Planer Boiler Operator	765.26	833.65	848.80
Category 7 Mechanic 1	842.35	862.82	878.51

***Set or team Leader or Assistant Supervisor shall earn not less than 20% above the sewing Machinist rate of pay.

***Supervisor shall earn not less than 25% above the Sewing Machinist rate of pay.

***The learning period shall be deemed to be not more than 6 months. Any employee being trained outside of the production line environment, i.e. training school, will be excluded from this Schedule and his/her progress into the schedule shall be based on merit.

***An Employee who at the time of publication of this Order earns higher than the group he/she is categorized under shall be entitled to a 10% increment on his/her current pay.

***A security guard shall be paid as per the Regulation of Wages for Security Industry

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 and which wages are paid
7. Short description of employees' work
-
8. Probation Period
9. Annual Leave Entitlement
10. Paid Public Holiday
11. Payment during sickness
13. Notice employee entitled to receive
14. Notice employer required to give
15. Pension Scheme (if any, other than E.N.P.F. Scheme)
.....
16. Any other matter either party wishes to include.....

(a) An Employee is free to join an industry union which is recognized by the undertaking.

The address of the Industry Union is:
.....

(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 BUTHELEZI (MP)
MINISTER FOR LABOUR & SOCIAL SECURITY