

LEGAL NOTICE NO. 24

THE REGULATION OF WAGES AND CONDITIONS
OF EMPLOYMENT ACT

(Cap. 229)

IN EXERCISE of the powers conferred by section 11 (3) of the Regulation of Wages and Conditions of Employment Act, the Minister for Labour and Manpower Development, having received wages regulation proposals, makes the following Order:—

THE REGULATION OF WAGES (PROTECTIVE SECURITY
SERVICES) ORDER, 1998

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

Citation.

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

Application.

(a) private investigations or security consultancy;

(b) guarding of industrial plants, banks, warehouses, shops, private homes or any other property or establishment against theft, illegal entry or fire; and

(c) escort of money or other valuable property;

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

3. (1) No person to whom this Order applies shall be employed at a basic minimum wage less favourable to him than that which is applicable to him under the First Schedule having regard to his occupation and the area of employment.

Basic minimum wage.

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

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

Casual Employees.

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

5. An employee who is not provided with free housing accommodation by his employer shall, in addition to his basic minimum wage, be paid housing allowance of seven hundred and fifty shillings per month or fifteen per cent of his basic minimum monthly wage, whichever is higher.

House Allowance.

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

Hours of work.

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

Overtime.

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

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

Weekly rest.

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

Public holidays.

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

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

Leave with pay.

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

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

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

Sick leave.

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

Provided that—

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

Maternity leave.

12. A female employee shall be entitled to two months' leave with full pay:

Provided that—

- (a) a female employee who has taken two months maternity leave shall forfeit her annual leave for that year;
- (b) childbirth shall not be deemed to be sickness as provided for under paragraph 11 and the employer shall not be required to meet medical costs incurred in respect thereof;

- (c) a female employee who takes maternity leave shall not incur any loss of privileges during that period.

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

Leave travelling allowance.

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

Compassionate leave.

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

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

Meals and accommodation allowance.

	Sh.
(a) breakfast	80.
(b) lunch	100.
(c) dinner	120.

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

	Sh.
(a) for a night in Nairobi or Mombasa ..	420;
(b) for a night-stop elsewhere	320.

16. (1) Where the employment of an employee is to be terminated on account of redundancy, the following principles shall apply—

Redundancy.

- (a) the union of which the employee is a member labour officer of the area shall be informed of the reasons for and extent of intended redundancy;
- (b) the employer shall have due regard to seniority in time and the skill, ability and reliability of each employee belonging to the particular category of employees affected by the redundancy;
- (c) no employee shall be discriminated against for being or not being a member of a trade union;
- (d) any leave due to any employee who is declared redundant shall be paid in cash;
- (e) a redundant employee shall be entitled to one month's notice or one month's wages in lieu of notice;
- (f) an employee declared redundant shall be paid severance pay at the rate of eighteen days for each completed year of service.

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

Gratuity.

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

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

Provided that—

(a) in the event of a dispute with regard to termination of services on account of ill-health, the decision of an independent, qualified medical practitioner on such a dispute shall prevail; and

(b) the normal retirement age shall be fifty-five years.

Transport to
and from work.

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

Tallying guard.
allowances..

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

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

Transfer
allowance.

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

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

Uniforms.

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

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

(a) cap and or beret;

(b) two pairs of trousers in a year;

(c) two jackets in a year;

(d) a pair of boots every six months;

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

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

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

Death and
bereavement
expenses.

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

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

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

Cap. 236.

23. (1) An employee whose work and conduct is unsatisfactory or who is guilty of misconduct which does not warrant instant dismissal shall be warned in writing and the following procedure shall apply—

Warnings.

(a) the first and second warnings shall be entered in the employee's employment record and the shopsteward of his union or a labour officer of the area shall be informed;

(b) the second warning shall be copied to the branch secretary of his union;

(c) if an employee who has already received two warnings is guilty of further misconduct he may be summarily dismissed:

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

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

Provided that—

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

(b) the employee may be summarily dismissed if he is found guilty of the misconduct.

24. It shall be a condition of every contract of employment that the contract shall be terminable by not less than one month's notice to be given by either party in writing or otherwise by the payment by either party in lieu of notice of not less than one month's wages:

Termination
of employment.

Provided that—

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

be terminable by either party by seven days notice to be given by either party in writing or otherwise by the payment by either party in lieu of notice of not less than seven days' wages; and

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

Medical allowance.
Cap. 226.

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

Clocking allowance.

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

General wage increase.

27. All employees who are in service shall get an ~~eighteen~~ **eighteen** per cent wage increase on the current basic minimum monthly wage.

Revocation of L.N. 178/95.

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

FIRST SCHEDULE

(Para. 3)

BASIC MINIMUM MONTHLY WAGE RATE (EXCLUSIVE OF HOUSING ALLOWANCE)

FOR NEW EMPLOYEES

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Occupation</i>	<i>Nairobi Area and Mombasa Municipality</i>	<i>Areas Within Municipalities, Townships and Urban Councils</i>	<i>All Other Areas</i>
	<i>KSh.</i>	<i>KSh.</i>	<i>KSh.</i>
1. Messengers and cleaners	2,408	2,167	1,803
2. Watchmen/guards	2,686	2,408	2,004
3. Senior guards or watchmen and dog handlers	3,059	2,564	2,139
4. Headguards or watchmen and copy typists	3,121	2,808	2,341
5. Guards or watchmen inspectors	3,342	3,005	2,596
6. General clerks, storekeepers senior typist	3,563	3,207	2,793
7. Tailors, crew commanders	3,777	3,485	3,222

FIRST SCHEDULE—(Contd.)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Occupation	Nairobi Area and Mombasa Municipality	Areas Within Municipalities, Townships and Urban Councils	All Other Areas
	KSh.	KSh.	KSh.
8. General tradesmen (including mechanic electricians carpenters panel-beaters and welders)			
(i) Ungraded tradesmen	3,121	2,843	2,341
(ii) With trade test certificate GRD III	3,787	3,485	3,601
(iii) With trade test certificate GRD II	4,235	3,893	3,601
(iv) With trade test certificate GRD I	4,904	4,798	4,463
9. Drivers	4,904	4,798	4,463
10. Store keepers, receptionists, senior clerks, and telephone operators	4,012	3,610	3,005
11. Book-keepers and cashiers	5,346	4,921	4,547
12. Stenographers	6,685	6,148	5,681

SECOND SCHEDULE

(Para. 9)

PUBLIC HOLIDAYS

New Year's Day.

Good Friday.

Easter Monday.

Labour Day.

Madaraka Day.

Idd-ul-fitr Day.

Moi Day.

Kenyatta Day.

Jamhuri Day.

Christmas Day.

Boxing Day.

Made on the 17th February, 1998.

J. K. NGUTU,
Minister for Labour.