

LEGAL NOTICE NO. 180

**THE REGULATION WAGES AND CONDITIONS
OF EMPLOYMENT ACT***(Cap. 229)*

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

**THE REGULATION OF WAGES (ROAD TRANSPORT)
ORDER, 1972**

- Citation. 1. This Order may be cited as the Regulation of Wages (Road Transport) Order, 1972, and shall come into effect on 1st September, 1972.
- Application. 2. This Order shall apply to all persons engaged in any undertaking or part of any undertaking which consists in the carriage, for hire or reward, of passengers and goods or either of them by any motor vehicle required to be licensed as a public service vehicle under the Traffic Act, or required to be licensed under a road service licence, or a public carrier's licence, or a limited carrier's licence, granted under the Transport Licensing Act:
- Cap. 403.
- Cap. 404.

Provided that persons employed in an undertaking or part of an undertaking—

- (i) which is operated by the Government, the Community, any local authority, any quasi-government body, any charitable or religious organization, or any educational or medical institution; or
- (ii) which is situated in the North-Eastern Province, the Marsabit District, the Isiolo District, the Tana River District, the Samburu District, the Narok or Kajiado Districts,

shall be excluded.

Basic
minimum
wage.

3. The basic minimum wage to be paid to employees specified in the Schedule to this Order shall be calculated at a rate not less favourable than that specified in the said Schedule:

Provided that, wherever such calculation would result in the payment to any employee of a basic minimum wage less than that prescribed by the Regulation of Wages (General) Order, that employee shall be paid such prescribed basic minimum wage.

Housing
allowance.

4. Every employee who is not provided with free housing accommodation by his employer shall be entitled, in addition to the basic minimum wage prescribed under paragraph 3 of this Order, to a housing allowance not less favourable than forty shillings per month:

Provided that, wherever such calculation would result in the payment to any employee of a housing allowance less than that prescribed by the Regulation of Wages (General) Order, that employee shall be paid such prescribed housing allowance.

5. (1) In respect of each day during which an employee is absent on duty away from his principal area of employment, he shall, unless his employer provides him with free meals during such period of absence, be entitled to the following meals allowance—

Meals and accommodation allowance.

- | | | |
|------------------|---------|-------|
| (a) Morning meal | | Sh. 3 |
| (b) Midday meal | | Sh. 4 |
| (c) Evening meal | | Sh. 5 |

(2) In respect of each complete night's absence on duty away from his principal area of employment, an employee whose employer does not provide him with free accommodation during such period shall be entitled (in addition to subsistence allowance as may be payable under subparagraph (1) of this paragraph) to a night stop allowance as follows—

- (a) for a night stop within Nairobi Area or Mombasa Island by an employee whose principal area of employment is outside Nairobi Area or Mombasa Island as the case may be, a maximum of Sh. 15 on production of a receipt in respect of expenses incurred for accommodation only, or Sh. 10 without such receipt;
- (b) for a night stop elsewhere, away from his principal area of employment, a maximum of Sh. 10 on production of receipt in respect of expenses incurred for accommodation only or Sh. 5 without such receipt.

6. (1) The normal working hours of employees shall be as hereunder specified—

- (a) in respect of depot and maintenance staff and drivers of taxi cabs, the normal working week shall consist of forty-five hours of work spread over six days of the week;
- (b) in respect of passenger bus service operating staff, road haulage operating staff and drivers of private hire cars, the normal working fortnight shall consist of ninety hours of work spread over twelve days of the fortnight;
- (c) in respect of workshop staff, the normal working week shall consist of forty-five hours of work spread over five and a half days of the week.

Hours of work.

(2) In the case of depot and maintenance staff, road haulage operating staff of passenger bus services, employed on shifts of at least seven hours' duration a half-hour rest period shall be allowed in the course of shift.

(3) For the purpose of calculating working hours—

- (a) in respect of drivers of taxi cabs, stand-by periods (other than for fare-earning) up to an aggregate maximum of two hours in any working day shall be excluded;

- (b) in respect of drivers of private hire cars stand-by periods (other than for fare-earning) up to an aggregate maximum of twenty-four hours in any one fortnight shall be excluded.

Overtime.

7. (1) Overtime shall be paid as follows—

- (a) for hours worked in excess of the normal number of hours per week or per fortnight, as the case may be, specified in paragraph 6 hereof, a sum additional to the basic hourly rate which is equal to one-half of the basic hourly rate;
- (b) for hours worked on a Sunday or on a public holiday, where an employee's contract of service does not normally require him to work on such a day, a sum additional to the basic hourly rate which is equal to the basic hourly rate.

(2) For the purpose of calculating payment for overtime in accordance with subparagraph (1) of this paragraph, where the employee is not employed by the hour, the basic hourly rate in relation to any employee shall be taken as are one-hundred-and-ninety-fifth part of the employee's basic monthly wage.

Annual leave.

8. (1) After twelve months' continuous service with an employer an employee shall be entitled to twenty-one consecutive days' leave (exclusive of public holidays) with full pay and such leave may be accumulated by mutual agreement between employer and employee.

(2) Where a contract is terminated before the completion of twelve months' service, otherwise than through breach of contract by the employee or dismissal of the employee on account of gross misconduct within the meaning of section 49 of the Employment Act, the employee shall be entitled to one and a half days' leave with full pay for each completed month of service.

Cap. 226.

Leave travelling allowance.

9. An employee proceeding on leave shall be entitled after every 12 months' continuous service with his employer to a refund of the equivalent of either bus fare or third class rail fare for a single journey only to any destination within the boundaries of Kenya on production of an appropriate receipt to that effect.

Sick leave.

10. After completion of three months' continuous service with an employer an employee shall be entitled to sick leave up to a maximum of thirty days with full pay, and thereafter to sick leave up to a maximum of thirty days on half pay, in each period of twelve months' continuous service, subject to the employee reporting each occurrence of incapacity to his employer within three days of its commencement and producing a certificate of incapacity covering the period of sick leave claimed, signed by a registered medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre.

Maternity leave.

11. An employed woman shall be entitled to unpaid maternity leave up to a maximum period of six weeks, subject to the employee producing a medical certificate signed by a medical practitioner or a person acting on his behalf in charge of a dispensary or medical aid centre:

Provided that—

- (i) childbirth in respect of an employed woman shall not be deemed to be sickness as provided for in paragraph 10 of this Order and the employer shall not be required to meet medical costs incurred thereon;
- (ii) an employed woman in receipt of maternity leave shall not incur any loss of privileges during such period.

12. It shall be a condition in every contract that where the employment of any employee is to be terminated on account of redundancy, the employer shall take cognizance of the principle of seniority in time, in relation to employees of similar ability and in the same occupation and grades.

Redundancy.

13. It shall be a condition in every contract of service of one or more months' duration that the employment shall be terminable by one month's notice to be given by either party in writing, effective from any day of the month, failing which there shall be paid by the party terminating such a contract without such notice, one month's wage in lieu of notice:

Termination
of employment.

Provided that any such contract may include provision for the first three months of employment with the employer to be treated as a probationary period during which the contract may be terminable by either party by forty-eight hours' notice.

14. Where an employee is required to work in full acting capacity for a period of not less than one month in an occupation or grade for which the basic minimum wage prescribed under paragraph 3 of this Order is higher than the basic wage normally earned by the employee, he shall be paid acting allowance at a rate not less than the difference between such higher basic minimum wage and his normal basic wage.

Acting
allowance.

15. An employee employed on a casual basis without entitlement to the notice of termination of employment provided for in paragraph 13 of this Order shall be paid, for each day or shift worked, at a rate of not less than one twenty-fifth part of both the basic minimum wage and the housing allowance specified, respectively, in the Schedule to, and paragraph 4 of this Order.

Casual
labour.

16. The Regulation of Wages (Road Transport) Order, 1968, is hereby revoked.

L.N. 192/1968

SCHEDULE

(para. 3)

BASIC MINIMUM WAGE RATES (EXCLUSIVE OF HOUSING ALLOWANCE) AND CONDITIONS THERETO

ALL AREAS

Sh.
per month

1. OPERATING STAFF—

(a) Driver:

Light Van or Truck not exceeding 4,000 lb. tare weight,
or Light Road Tractor and Trailer: (in both cases
including handling to and from tailboard, and
deliveries); or Taxi cab or Private Hire Car; or
Passenger Bus of seating capacity not exceeding
30 seats

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	<i>Sh. per month</i>
Vehicle over 4,000 lb. tare weight, or Heavy Commercial Vehicle of less than 8 tons capacity with or without Trailer: (in both cases including handling to and from tailboard and deliveries)	323
Articulated Vehicle, or Passenger Bus of seating capacity exceeding 30 seats	355
Heavy Commercial Vehicle, (including handling to and from tailboard, and deliveries)	443
(b) <i>Driver Mechanic</i> : (with Grade II Trade Test Certificate as a Motor Mechanic or Diesel Fitter)	443
(c) <i>Conductor</i> : (Licensed under the Traffic Act, Cap. 403)	247
(d) <i>Driver's Mate or Loader</i>	189
(e) <i>Vehicle Inspector</i>	470
2. DEPOT AND MAINTENANCE STAFF—	
(a) <i>Depot Hand</i> : (Cleaner, Pumpman or Yardman, Warehouse or General Labourer)	189
(b) <i>Office Messenger</i>	189
(c) <i>Maintenance Hand</i> : (Greaser, Tyreman or Battery Man)	218
(d) <i>Nightwatchman or Yard Guard</i>	209
(e) <i>Depot Clerk</i> (General)	276
(f) <i>Depot Clerk</i> (General):	
With K.P.E. Examination	323
With School Certificate Examination	420
3. WORKSHOP STAFF—	
<i>Artisan</i> : (Motor Vehicle Mechanic, Diesel Fitter, Fitter-Turner, Panel Beater, Tinsmith, Blacksmith, Copper-smith or Electrician):	
With Grade I Trade Test Certificate	612
With Grade II Trade Test Certificate	449
With Grade III Trade Test Certificate	387
Without a Trade Test Certificate, but with at least one year's experience	309
4. OTHER TRANSPORT—	
<i>Motor Boat Driver</i>	283

Made this 22nd day of August, 1972.

E. N. MWENDWA,
Minister for Labour.