

ORDERS UNDER SECTION 11

REGULATION OF WAGES (GENERAL) ORDER

ARRANGEMENT OF SECTIONS

SECTION

1. Citation.
2. Application.
3. Basic minimum wage.
4. Housing allowance.
5. Hours of work.
6. Overtime.
7. Weekly rest.
8. Holidays with full pay.
9. Annual leave.
10. Acting allowance.
11. Compassionate leave.
12. Sick leave.
13. Maternity leave.
14. Safari allowance.
15. Redundancy.
16. Warning system.
17. Termination of employment.

SCHEDULES

FIRST SCHEDULE

- (1) *Basic Minimum Monthly Wages (Exclusive of Housing Allowance)*
- (2) *Minimum Daily and Hourly Rates (Inclusive of Housing Allowance)*

SECOND SCHEDULE

- (1) *Basic Minimum Monthly Wages (Exclusive of Housing Allowance)*
- (2) *Minimum Daily and Hourly Rates (Inclusive of Housing Allowances)*
Employees aged below 18 years

THIRD SCHEDULE

Definitions

FOURTH SCHEDULE

Holidays with Full Pay

REGULATION OF WAGES (GENERAL) ORDER

[L.N. 120 of 1982, L.N. 80 of 1985, L.N. 17 of 1987, L.N. 97 of 1987, L.N. 122 of 1987, L.N. 189 of 1989, L.N. 207 of 1990, L.N. 206 of 1991, L.N. 107 of 1992, L.N. 454 of 1992, L.N. 93 of 1993, L.N. 163 of 1994, L.N. 185 of 1994, L.N. 193 of 1995, L.N. 113 of 1996, L.N. 346 of 1997, L.N. 67 of 1998, L.N. 50 of 1999, L.N. 87 of 2001, L.N. 86 of 2002, L.N. 48 of 2003, L.N. 36 of 2004, L.N. 38 of 2006.]

1. Citation

This Order may be cited as the Regulation of Wages (General) Order.

2. Application

- (1) This Order shall not apply to workers in the agricultural industry.
- (2) The provisions of this Order relating to the basic minimum wage rates and conditions of employment shall apply to all employees including employees to whom other wages regulation orders made under the Act apply if the minimum wage rates and conditions of employment set forth in such Orders are less favourable than those set forth in this Order.

3. Basic minimum wage

(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 or Second Schedule, having regard to his age and to the circumstances of his employment by reference to columns 2, 3 and 4 thereof and to the nature of his occupation, as listed in column 1 thereof to be determined by reference to the definitions contained in the Third Schedule.

(2) An employer shall ascertain the basic minimum wage to which any person employed by him is entitled under the provisions of this order by reference to the particulars of his birth or apparent age.

4. Housing allowance

An employee on a monthly contract who is not provided with free housing accommodation by his employer shall, in addition to the basic minimum wage prescribed in the First or Second Schedule, be paid housing allowance equal to fifteen percent of his basic minimum wage.

5. Hours of work

(1) The normal working week shall consist of not more than fifty-two hours of work spread over six days of the week.

(2) Notwithstanding subsection (1) the normal working week of a person employed on night work shall consist of not more than sixty hours of work per week.

(3) No person under the age of sixteen years shall be required to work for more than six hours in any day.

6. Overtime

(1) Overtime shall be payable at the following rates—

- (a) for time worked in excess of the normal number of hours per week at one and one-half times the normal hourly rate;

- (b) for time worked on the employees normal rest day or public holiday at twice the normal hourly rate.

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

(3) Notwithstanding subsection (1) and (2) of this section and section 5, overtime plus time worked in normal hours per week shall not exceed the following number of hours in any period of two consecutive weeks—

- (a) one hundred and forty-four hours for employees engaged in night work;
 (b) one hundred and sixteen hours for all other adult employees.

7. Weekly rest

Every employee shall be entitled to one whole rest day in each week:

Provided that—

- (i) an employer and his employee may, by mutual consent, agree to the deferment of the employee's rest day and the rest day so deferred may be taken by the employee on a subsequent day or may, subject to a maximum accumulation of fourteen such rest days at any one time, be accumulated and taken, as leave with full pay in addition to the employee's entitlement to annual leave with full pay under section 9;
- (ii) the weekly rest day of a person under the age of sixteen years shall not be so deferred.

8. Holidays with full pay

The days specified in the Fourth Schedule shall be holidays with full pay.

9. Annual leave

(1) Every employee shall be entitled—

- (a) after every twelve consecutive months of service with his employee to not less than twenty-one working days leave with full pay;
- (b) where employment is terminated after the completion of two or more consecutive months of service during any twelve months leave earning period, to not less than one and three-quarter days of leave with full pay in respect of each completed month of service in such period, to be taken consecutively.

(2) The leave referred to in subsection (1) shall be additional to all public holidays, weekly rest days and any side leave, whether fixed by law or agreement, in respect of which an employee is not required to work.

(3) For the purposes of this paragraph "full pay" includes wages and salary at the basic minimum rate excluding any deductions from wages made by virtue of section 6 of the Employment Act.

10. Acting allowance

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

11. Compassionate leave

(1) An employee desiring to take leave on compassionate grounds shall by prior arrangement with the employer, be granted such leave up to his earned leave entitlement under section 9 and the leave taken shall be subsequently set off against his annual leave.

(2) An employee may, in addition to the leave provided for in subsection (1), be granted five days compassionate leave without pay in any one year.

12. Sick leave

After two months' continuous service with an employer, an employee shall be entitled to a maximum of thirty days' sick leave with full pay and thereafter to a maximum of fifteen days sick leave with half pay in each period of twelve months' consecutive service:

Provided that—

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

13. Maternity leave

A woman employee shall be entitled to two months' maternity leave with full pay:

Provided that—

- (i) a woman who has taken two months' maternity leave shall forfeit her annual leave in that year;
- (ii) child-birth in respect of a woman employee shall not be deemed to be sickness as provided for under section 12, and the employer shall not be required to meet medical costs incurred thereon;
- (iii) a female employee who takes maternity leave shall not incur any loss of privileges during such period.

14. Safari allowance

(1) An employee who is required to work away from his principal area of employment shall be paid subsistence and accommodation allowance as follows—

	<i>KSh</i>	<i>cts.</i>
(a) for any period of duty exceeding six hours but not exceeding twelve hours	5	00
(b) for any period of duty exceeding twelve hours but not including an overnight stop	10	00
(c) for any period of duty exceeding twelve hours and including an overnight stop in Nairobi Area or Mombasa Municipality	25	00
(d) for any period of duty exceeding twelve hours and including an overnight stop elsewhere	20	00
(e) for an overnight stop when the employer provides accommodation	10	00

(2) The subsistence and accommodation allowance payable under subsection (1) shall cease to be payable to an employee after thirty consecutive days' absence on duty from his principal area of employment and thereafter the employee shall be treated as permanently transferred.

15. Redundancy

Where the employment of an employee is to be terminated on account of redundancy, the following principles shall apply—

- (a) the union of which the employee is a member or the Labour Officer of the area shall be informed of the reasons for and extent of, the intended redundancy;

[L.N. 185 of 1994.]

- (b) the employer shall have due regard to seniority in time and to the skill, ability and reliability of each employee belonging to particular category of employees affected by the redundancy;
- (c) no employee shall be placed at a disadvantage 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 for 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 entitled to severance pay at the rate of fifteen days' pay for each completed year of service.

16. Warning system

An employee whose work or conduct is unsatisfactory or who otherwise commits a misconduct which, in the opinion of the employer, does not warrant instant dismissal shall be warned in writing and the following procedure shall apply—

- (a) the first and second warnings shall be entered in the employee's employment record and the shop steward of his union shall be informed accordingly;

CAP. 229

Regulation of Wages and Conditions of Employment Act – Subsidiary Legislation

- (b) the second warning shall be copied to the branch secretary of his union;
- (c) if an employee who has already received two warnings commits a third misconduct he shall be liable to summary dismissal:

Provided that where an employee completes two hundred and ninety-two working days from the date of the second warning without further misconduct any warning entered in his employment record shall be cancelled.

17. Termination of employment

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; but nothing shall prejudice the right of either party to terminate a contract summarily for lawful cause.
