

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 1 OF 2011

The Minimum Wages and Conditions of Employment Act
(Laws, Volume 15, Cap. 276)

The Minimum Wages and Conditions of Employment
(Shop Workers) Order, 2011

IN EXERCISE of the powers contained in section *three* of the Minimum Wages and Conditions of Employment Act, the following Order is hereby made:

1. This Order may be cited as the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2010. Title
2. This Order shall apply to employees employed in any shop or in connection with the business of any shop, but shall not apply to— Application
 - (a) a person employed in, or in connection with, the motor trade industry or the petroleum industry;
 - (b) a person employed in— Cap. 269
 - (i) a bazaar or sale of work for charitable or other purposes from which no private profit is derived;
 - (ii) the hawking of newspapers;
 - (iii) the running of coffee stores; or
 - (iv) the sale of agricultural produce on behalf of a *bona fide* farmer or market gardener on any land occupied by the farmer or market gardener or in the hawking of agricultural produce on behalf of the farmer or market gardener;
 - (c) a person who holds a hawker's licence;
 - (d) a person employed in—
 - (i) the manufacture of bread or bread stuff;
 - (ii) the reception, storage and treatment of fresh milk products;

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(iii) the reception, storage and treatment of fish, meat, poultry, game, fruit and other perishable foodstuff;

(iv) the printing of newspapers;

(v) the delivery of ice to hospitals and nursing institutions during the day or at night; or

(vi) the sale, before midnight, of any programmes, catalogues or refreshments in a theatre, concert hall or other place of amusement during any performance;

(e) a person in management; and

(f) employees in occupations where the wages and conditions of employment are regulated through the process of collective bargaining under the Industrial and Labour Relations Act or where employee and employer relationships are governed by specific contracts of employment attested by a proper officer, after the proper officer is satisfied that the minimum conditions as contained in this Order have been met.

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Interpretation

3. In this Order, unless the context otherwise requires—

“assistant bicycle assembler” means an employee who—

(i) assembles perambulators, go carts, scooters, express wagons, cars or any other similar wheeled vehicles or toys propelled by hand or by foot, where the assembling does not involve the adjustment of precision bearings, chains or built in wheels or the setting and tightening of spokes; or

(ii) under general supervision, assembles bicycles from semi knocked down units or any components parts, where the assembling does not involve truing of bicycle wheels, the final adjustment of precision bearings, chains or built in wheels or the setting and tightening of spokes;

“assistant clerk” means an employee engaged in clerical work who has three years experience in such work and whose education qualification is Grade 9;

“assistant dispatch clerk” means an employee who, under the supervision of, and subject to checking by a dispatch clerk, makes up, packs or dispatches goods received or

held in stock for dispatch or who checks or weighs packages and who may, in addition, mark to address packages;

“bicycle assembler” means an employee who assembles or carries out the following operations:

- (a) truing bicycle wheels or making final adjustments to an assembled bicycle; or
- (b) adjusting precision bearings, chains or built in wheels or setting and tightening spokes;

“book keeper” means a person who is employed to record financial transactions and to prepare trial balances and is registered as a technician under the provisions of the constitution of the Zambia Institute of Chartered Accountants;

“check out operator” means an employee engaged in operating a check out point in a self service shop;

“credit controller” means an employee who scrutinises debtors’ and creditors’ accounts and who may exert credit control over accounts;

“dispatch clerk” means an employee who receives goods into, or from, a store warehouse or department for dispatch and makes consignment notes and files dispatch documents;

“employee” means a person employed in a shop or in connection with the business of a shop and who has entered into, or works under, a contract of service whether oral or written and whether express or implied, but excludes an apprentice;

“handy person” means an employee who makes minor repairs or adjustments to machinery, plant or other equipment and makes minor repairs or renovations to, or undertakes maintenance work on, a building owned or occupied by that employee’s employer;

“ledger clerk” means an employee who posts ledgers unassisted and maintains a control account;

“machine operator” means an employee who operates an accounting machine, comptometer or bookkeeping machine but does not include an employee who operates a duplicating machine, typewriter, addressing machine cash register, folding machine or calculating machine;

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“management” has the meaning assigned to it in the Industrial and Labour Relations Act;

“order person” means an employee engaged in an office to office or private house to house round, inviting, soliciting or canvassing orders from persons for the supply to them of goods for their use or consumption and who

(a) collects money on behalf of the employee’s employer; or

(b) takes orders from other persons for the supply to them of goods intended for their consumption, and for the purpose of this definition, “house” includes a residential flat or a boarding house;

“packer” means an employee who breaks down bulk packages, re packs or re bottles goods before they are offered for sale in a shop or prepares or pre packs foodstuff;

“part time employee” means any person employed on a permanent basis who works fewer hours than normal regulated hours, but does not exceed five hours daily;

“punch card machine operator verifier” means an employee who is engaged in punching or verifying cards for use in an automatic tabulation machine;

“sales assistant” means an employee engaged in attending to customers in a shop, but who does not completely effect a credit sale or register cash received;

“sales person” means a person employed in a shop to-

(a) attend to customers in the shop for the purpose of completely effecting a sale;

(b) display goods; or

(c) keep and control stock;

“shelf packer” means an employee who replenishes stock on display in a self- service shop and is responsible for price marking on goods;

“shop” includes any building or portion of a building, structure, room, market stall, tent, booth, vehicle or place used for the sale of goods or merchandise or for the display of samples, and includes a hair dresser and barber salon, whether or not such salons are used for the sale of goods or merchandise or for the display of samples, but does not include a hotel, motel, inn, boarding house, restaurant, tea-

room or any other premises used for the sale or preparation of food or drinks consumed on such premises, or any place licensed to sell intoxicating liquor for consumption on the premises;

“supervisor” means an employee charged with supervisory responsibilities for the conduct of sales, the safe control of stock and the conduct of business with the public within a demarcated section of a shop or a specified class or classes of merchandise in that shop, and who is placed in full or partial supervisory control of at least three employees employed in such section or merchandise;

“tailor” means an employee who is engaged to make up clothes or items from pieces of material for sale in the employer’s shop;

“tailor’s assistant” means an employee who is engaged as an alteration hand or for pressing or ironing articles for sale or display, or both; and

“window dresser” means an employee who is engaged in drawing, painting, making or preparing posters, placards or backgrounds, or set pieces of window, interior or exterior, displays and installing fixtures and arranging displays.

4. With effect from the date of publication of this Order, the minimum wages and conditions of employment for shop workers shall be as set out in the Schedule.

5. The Minimum Wages and Conditions of Employment (Shop Workers) Order, 2006, is hereby revoked.

Revocation of
S.I. No. 56 of
2006

Minimum
wages and
conditions of
employment

SCHEDULE

(Paragraph 4)

- Minimum monthly wage
1. The minimum monthly wages to be paid to employees shall be in accordance with the following tables:
- (a) grade I - four hundred and nineteen thousand kwacha (K419,000.00) per month, for a person engaged in any of the following occupations:
 - (i) bailing or wrapping articles and goods or opening, closing and repairing packages;
 - (ii) delivery vehicle assistant or a general worker, not elsewhere specified;
 - (iii) handy person;
 - (iv) office orderly; or
 - (v) watchperson;
 - (b) grade II - five hundred and ten thousand kwacha (K510,000.00) per month, for a person engaged in any of the following occupations:
 - (i) operating a mechanically operated passenger or goods lift;
 - (ii) driver of a motor cycle, motor scooter or motorised three wheeled vehicle;
 - (iii) sales assistant; or
 - (iv) packer;
 - (c) grade III - six hundred thousand kwacha (K600,000.00) per month, for a person engaged in any of the following occupations:
 - (i) assistant bicycle assembler;
 - (ii) assistant dispatch clerk;
 - (iii) driver of a motor vehicle requiring an ordinary driving licence;
 - (iv) shelf packer;
 - (v) shoe repairer;
 - (vi) tailor's assistant; or
 - (vii) window dresser's assistant;
 - (d) grade IV - six hundred and fifty thousand kwacha (K650,000.00) per month, for a person engaged in any of the following occupations:

- (i) bicycle assembler;
 - (ii) check-out operator;
 - (iii) driver of a motor vehicle requiring a heavy duty or public service vehicle licence;
 - (iv) telephone operator;
 - (v) typist; or
 - (vi) picture framer;
- (e) grade V - eight hundred and sixty-five thousand kwacha (K865,000.00) per month, for a person engaged in any of the following occupations:
- (i) dispatch clerk;
 - (ii) ledger clerk;
 - (iii) costing clerk;
 - (iv) order person;
 - (v) sales person;
 - (vi) tailor; or
 - (vii) upholsterer;
- (f) grade VI - eight hundred and ten thousand kwacha (K810,000.00) per month, for a person engaged in any of the following occupations:
- (i) audio visual equipment repairer;
 - (ii) machine operator; or
 - (iii) watch repairer;
- (g) grade VII - nine hundred and fifty thousand kwacha (K950,000.00) per month, for a person engaged in any of the following occupations:
- (i) credit controller;
 - (ii) supervisor;
 - (iii) window dresser;
 - (iv) shorthand typist; or
 - (v) cashier; and
- (h) grade VIII - nine hundred and ninety thousand kwacha (K990,000.00) per month, for a person engaged as a book keeper.

General provisions

2. (1) The wages or any benefit enjoyed by an employee shall not be reduced or altered adversely as a result of the application of this Order.

(2) Where, prior to the commencement of this Order, an employee was in receipt of a wage in excess of the minimum wage on any grade, the employer shall retain the wage and, in addition, shall increase the wage by thirty three and one third percent which will allow identical credit, for a length of service or experience or both, which the employee earned in that employee's existing grade or category at the date of the commencement of this Order.

(3) An employee shall not suffer any reduction in pay upon transfer from a lower grade to a higher grade.

(4) A part time employee or casual employee shall be paid a wage appropriate to the employee's grade in the proportion that the hours worked by the employee per month bears to one hundred and ninety five hours.

(5) The wages of an employee shall be paid at regular intervals of not later than five days from the date on which the wages are due.

(6) The wages of an employee fall due—

(a) on the last day of each month, in the case of an employee who is paid on a monthly basis; or

(b) on the completion of a specific task or specific piece of work, in the case of an employee who is employed to perform a specific task or a specific piece of work.

(8) An employer shall, when wages fall due, give the employee a pay statement containing the following details:

(a) the employer's name and address;

(b) the employee's name;

(c) the employee's occupation;

(d) the number of ordinary hours worked by the employee;

(e) where applicable, the number of overtime hours worked by the employee;

(f) the employees wages before deductions;

(g) where applicable, the details and amount of deductions made on the wages; and

(h) the actual amount of wages paid to the employee.

(9) An employer shall retain a copy of each pay statement given to an employee.

3. (1) A person shall not employ a person, other than a manager Hours of work
- (a) for more than forty five hours in a week, excluding meal hours;
 - (b) for more than eight and one-half hours in a day, excluding meal hours, except in the case of butcheries, bakeries and dairies who shall complete work within ten and one half hours of commencement of such employee's work;
 - (c) for more than five hours without an interval of at least one hour for a meal;
 - (d) to work after 14.00 hours for more than five days in a week;
 - (e) under sixteen years but not below fifteen years of age, for more than seven hours in a day confined within a period of ten hours; or
 - (f) on a Sunday or a public holiday.

(2) An employee may be employed on a Sunday or a public holiday or beyond the hours prescribed in sub-paragraph (1) for the purpose of stock taking or the sale of perishable food stuff or other emergency work which cannot be carried out during normal working hours.

(3) Weekly hours for a watchperson shall be sixty hours, spread over six days, and any hour worked in excess shall be paid as provided in paragraph 4.

(4) An employee who is required to work between the hours of 19.00 hours and 06.00 hours, shall be paid an hourly rate of pay in accordance with the employee's category and, in addition, the employee shall be paid an hourly rate of five hundred kwacha shift differential for each hour worked between those hours.

4. (1) An employer shall pay an employee who works in excess of forty five hours in a week at one and half times the employee's hourly rate of pay. Overtime

(2) An employee who works on a Sunday or on a public holiday shall be paid at an hourly rate of not less than double the employee's actual hourly rate of pay.

(3) To calculate the hourly rate of pay in a month, the actual amount received by an employee in basic wages for that month shall be divided by one hundred and ninety five hours.

Annual leave

5. (1) An employer shall grant leave of absence on full pay to an employee, other than a part time employee, who has completed six months' continuous service at the rate of two days per month in accordance with the following conditions:

- (a) in computing the period of leave, Sundays and public holidays shall be excluded;
- (b) part time employees shall be given leave of absence on full pay based on the proportion that their number of hours worked per month bears to one hundred and ninety five hours; and
- (c) the employer may give reasonable consideration to the exigencies and interest of the employer's business in agreeing to the date when an employee may take leave.

(2) An employee on paid leave, the journey to whose home in Zambia necessarily involves travelling over two hundred and eighty kilometers from the employee's place of employment and who accumulates sixty days leave, shall be granted travelling time at the rate of one day, on both the homeward and return journey, for each two hundred and eighty kilometers of the distance travelled.

(3) An employee who is proceeding on leave shall be paid all money due to the employee, including holiday allowances, prior to proceeding on leave.

(4) The holiday allowance referred to in sub paragraph (3) shall be one month of the employee's basic pay.

Sick leave

6. (1) An employee who, according to the determination of a registered medical doctor or health facility designated by the employer, is unable to execute the employee's work by reason of illness or accident shall, on producing a medical certificate, be granted sick leave as follows:

- (a) during a probationary period, up to a maximum of twenty six working days on full pay;
- (b) for permanent employees, a maximum of ninety working days on full pay and a further ninety days on half pay; and (c) sick leave shall be computed separately for each year and shall not be cumulative.

(2) An employer shall grant leave of absence to a female employee whose child is ill and has been hospitalised to enable the employee to nurse the child where the child, due to the nature of the illness, requires special attention, and the leave shall not be deducted from the female employee's accrued leave days:

Provided that the employer may, before granting the leave, require the employee to produce a certificate from a registered medical doctor at the health facility at which the child is hospitalised, recommending that the leave be granted.

7. (1) A female employee shall be entitled to one hundred and twenty calendar days maternity leave on production of a medical certificate signed by a registered medical doctor if the employee has completed two years of continuous service from the date of first engagement or since the last maternity leave was taken.

Maternity
leave

(2) The maternity leave granted under sub paragraph (1) shall be in addition to any other leave to which the employee may be entitled.

(3) Where, by reason of illness due to pregnancy, a female employee becomes temporarily incapable of performing that employee's official duties, the employee shall be entitled to sick leave in accordance with paragraph 6.

(4) An employer shall not impose any penalty or disadvantage upon an employee for reasons connected with the employee's pregnancy.

8. (1) An employee who has served with an employer for not less than ten years and has attained the age of fifty five years, shall be entitled to retirement benefits of three months' basic pay for each completed year of service.

Retirement
benefits

(2) Where an employer has established a pension scheme approved by the Minister, the retirement benefits shall be paid in accordance with the pension scheme:

Provided that where the employee separates with the employer other than by resignation or summary dismissal, before qualifying for retirement, the separation benefits shall be not less than two months' basic pay for each completed year of service and any other dues.

9. Where an employee's contract of service is terminated by reason of redundancy, the employee shall be entitled to at least one month's notice and redundancy benefits of not less than two months' basic pay for each completed year of service.

Redundancy
benefits

10. An employee whose employment is terminated on medical grounds as certified by a registered medical doctor shall be entitled to a lump sum of not less than two months' basic pay for each completed year of service.

Medical
discharge

11. (1) Where an employer dismisses an employee summarily and without due notice or payment of wages in lieu of notice, the

Summary
dismissal

employer shall, within five days of such dismissal, deliver to the Labour Commissioner or a labour officer, as the case may be, in the district in which the employee was working, a written report of the circumstances leading to, and the reasons for, such dismissal and the Labour Commissioner or labour officer, shall determine whether the circumstances of the case warrant the summary dismissal of the employee:

Provided that a report delivered through the post shall be deemed to have been delivered to the Labour Commissioner or labour officer, as the case may be, within five days of the dismissal if the envelope within which it is contained bears a postmark dated not later than three days following the dismissal.

(2) The Labour Commissioner or labour officer, as the case may be, shall cause to be entered in a register maintained for the purpose, details of every report delivered to the Labour Commissioner or labour officer, for the purposes of sub-paragraph (1).

(3) Where the Labour Commissioner or labour officer, as the case may be, finds that the circumstances of the case do not warrant summary dismissal of the employee, the employee so dismissed shall be entitled to payment of severance benefits of not less than two months' basic pay of each completed year of service.

Repatriation
benefits

12. An employer shall transport an employee, the employee's family and their personal effects to the employee's place of recruitment, or pay the employee a repatriation allowance sufficient to cover the cost of fares for the employee, the employee's family and their personal effects if the employee

- (a) is discharged on medical grounds;
- (b) is declared redundant;
- (c) retires; or
- (d) dies in service, in which case the benefits shall accrue to the family of the deceased employee.

Funeral
assistance

13. An employer shall, in the event of the death of an employee, the employee's spouse or registered child, provide the following in the form of a funeral grant:

- (a) standard coffin;
- (b) financial assistance towards the funeral expenses of not less than three hundred and fifty thousand kwacha;
- (c) fifty kilogrammes of mealie meal; and
- (d) transport to and from the local cemetery or any amount of money equivalent to hire such transport.

14. An employee whose duty station is beyond a three kilometer radius from the employee's area of residence shall be paid a monthly allowance of one hundred and two thousand, four hundred kwacha for transport expenses, unless the employer provides transport for that employee. Transport allowance
15. An employee shall be entitled to a lunch allowance of one hundred and twenty thousand kwacha per month, unless the employer provides a canteen at which the employee may obtain wholesome and adequate meals provided free of charge. Lunch allowance
16. An employer shall pay an employee who spends a night away from home to attend to any business of the employer, a subsistence allowance of not less than one hundred and ninety-five thousand kwacha per night to cover all expenses: Subsistence allowance
- Provided that where the employee is required to work outside the country, the employee shall be paid subsistence allowance of not less than three hundred and ninety thousand kwacha.
17. An employer who requires an employee to provide the employee's own tools to execute the employee's duties shall pay the employee who provides the tools an allowance of sixty-four thousand kwacha per month. Tool allowance
18. An employer shall provide an employee who does any work which is likely to be injurious to the employee with protective clothing. Protective clothing
19. An employer shall, where the employer does not accommodate an employee, pay the employee a housing allowance at the rate of thirty percent of the employee's basic salary. Housing allowance
20. An employer who requires a tailor engaged by the employer to provide the tailor's machine to execute the tailor's duties, shall pay the tailor who provides the tailor's machine an allowance at the rate of sixty-four thousand kwacha per month for a hand machine, a treadle or electric machine. Machine allowance

LUSAKA
30th December, 2010
[DL/64/9/14]

A. LIATO,
*Minister of Labour
and Social Security*