

GOVERNMENT OF ZAMBIASTATUTORY INSTRUMENT NO. 3 OF 2011**The Minimum Wages and Conditions of
Employment Act****(Laws, Volume 15, Cap. 276)****The Minimum Wages and Conditions of
Employment (Domestic Workers) Order, 2011****ARRANGEMENT OF PARAGRAPHS***Paragraph*

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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 (Domestic Workers) Order, 2011.

Title

2. This Order shall apply to domestic workers but shall not apply to employees -

Application

(a) in any occupation where wages and conditions of employment are regulated through the process of collective bargaining conducted under the Industrial and Labour Relations Act; and

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(b) in a sector where the Minister has prescribed the minimum wage.

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

Interpretation

“child” means a person under the age of fifteen years;

“Domestic Worker” includes-

(a) a person who takes care of a child, an aged person, a sick person, a frail person or a person with a disability, within a household; and

(b) a gardener.

“employer” means any person who has entered into a contract of service with a domestic worker;

“minimum conditions of employment” means the minimum terms and conditions of employment which may be offered to a domestic worker;

“minimum wages” means the lowest wages which may be paid to a domestic worker;

“paid public holiday” means any day declared as a public holiday under section two of the Public Holidays Act and includes a public holiday declared as a paid public holiday under section fifteen of the Employment Act; and

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“summary dismissal” means the termination of a contract of employment without notice due to gross misconduct and fundamental breach of the employment contract by the employee

4. With effect from the date of publication of this Order, the minimum wages and conditions of service for a domestic worker shall be as prescribed in this Order.

Minimum wages
and conditions of employment

5. (1) The minimum wage for a domestic worker, excluding any amount paid in lieu of rations, shall not be less than two hundred and fifty thousand kwacha per month.

wages

(2) Where, prior to the commencement of this Order, a domestic worker was in receipt of a wage in excess of the minimum wage, the domestic worker shall on the date of commencement of this Order, retain the wage.

(3) The wages of a domestic worker shall be paid at regular intervals not being later than the five days after the date on which the wages fall due as follows:

(a) the wages will fall due from month to month, on the last day of each month, in the case of a monthly paid domestic worker; and

(b) in the case of a domestic worker who is employed to perform a task or piece work, wages will fall due on the completion of such task or work.

6. The normal weekly working hours for domestic worker shall not exceed forty-eight hours.

Hours of work

7. (1) A domestic worker who works in excess of the prescribed hours of work shall be paid, for each hour of work, at one and a half times the domestic worker’s hourly rate of pay.

Overtime

(2) A domestic worker who works on a paid public holiday or on a Sunday where a Sunday does not form part of the normal working week shall be paid, for each hour of work, at double the domestic worker’s hourly rate of pay:

Provided that where a domestic worker is required to work in excess of the prescribed period of hours of work, the employer may agree with the domestic worker to pay the domestic worker an overtime allowance, or to grant the domestic worker time off in lieu of overtime allowance.

8. An employer shall grant to a domestic worker leave of absence on full pay to a domestic worker of not less than two days per month, subject to, and in accordance with, the following conditions:

Annual leave

- (a) except on termination of a domestic worker's service, the domestic worker shall be entitled to leave only on the completion of six months' continuous service with that employer;
- (b) paid public holidays and Sundays shall not be included when computing the period of leave; and
- (c) the employer shall have the right to give reasonable consideration to the exigencies and interests of the household in agreeing to the dates when such leave may be taken.

9. (1) A domestic worker who is unable to execute the domestic worker's duties due to illness or accident not occasioned by the default of the domestic worker shall, on production of a medical certificate from a registered medical doctor or health facility designated by the employer, be granted paid sick leave at full pay for a period not exceeding one month.

Paid sick leave

(2) Notwithstanding sub-paragraph (1), where a domestic worker does not recover from illness or accident after one month from the date of illness or accident, the employer may discharge the domestic worker, whereupon the domestic worker's entitlement to sick leave shall cease.

(3) A female domestic worker shall be granted leave of absence without loss of pay to enable the domestic worker nurse the domestic worker's sick child who has been hospitalised if due to the nature of illness the child requires special attention:

Provided that an employer may, before granting such leave, require the domestic worker to produce a certificate from a health facility as evidence that the child is sick and requires special attention.

(4) Days taken as leave under sub-paragraph (3) shall not be deducted from the domestic worker's accrued leave days.

10. (1) A female domestic worker shall be entitled to one hundred and twenty calendar days maternity leave on

Maternity leave

production of a medical certificate signed by a registered medical doctor if the domestic worker has completed two years of continuous service from the date of first engagement or since the last maternity leave was taken.

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

(3) Where, by reason of illness due to pregnancy, a female domestic worker becomes temporarily incapable of performing that domestic worker's duties, the domestic worker is entitled to sick leave in accordance with paragraph 9.

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

(5) A domestic worker shall not be entitled to receive a salary during the time that the domestic worker is on maternity leave.

Separation package

11. Where a domestic worker's contract is terminated by any reason other than by resignation or summary dismissal, the domestic worker shall be entitled to separation benefits of not less than one month's basic pay for every two completed years of service and any other dues.

Transport allowance

12. A domestic worker whose duty is beyond a three kilometre radius from the 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 domestic worker.

Protective clothing

13. A domestic worker who does any work likely to be injurious to the domestic worker shall be provided with protective clothing.

Prohibition of child labour

14. A person shall not employ a child as a domestic worker.

A. Liato

Minister of Labour and Social Security

LUSAKA

30th December, 2010

[DL/64/9/14]

