

Namibia

Labour Act, 2007

Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers, 2017

Government Notice 258 of 2017

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Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers, 2017

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Republic of Namibia
Annotated Statutes

Labour Act, 2007

Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers, 2017

Government Notice 258 of 2017

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[\[This is the version of this document at 15 November 2017.\]](#)

[\[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for NamibLII.\]](#)

[issued in terms of section 13 of Labour Act 11 of 2007; came into force on date of publication: 29 September 2017, with the exception of paragraph 4 which came into effect from 1 October 2017 with subsequent increases applicable from 1 October 2018](#)
[The Government Notice which publishes this wage order notes that it was made after considering the report of the Wages Commission. The terms of reference of this Wages Commission are contained in GN 28/2017 \(GG 6245\). The Government Notice which publishes this wage order also repeals GN 258/2014 \(GG 5638\).](#)

1. Definitions

In this Order, a word or an expression to which a meaning has been given in the Act has that meaning and, unless the context otherwise indicates-

“**domestic work**” means work performed in and for a household;

“**domestic worker**” means any person engaged in domestic work in an employment relationship, including a child-minder, cook, driver, gardener or housekeeper;

“**the Act**” means the Labour Act, 2007 (Act [No. 11 of 2007](#));

“**the Regulations**” means the Regulations Relating to Domestic Workers published in Government Notice No. 257 of 29 September 2017; and

“**this Order**” means the Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers.

2. Application of Order

This Order-

- (a) applies to all domestic workers, including domestic workers placed with households by a private employment agency contemplated in section [1](#) of the Employment Services Act, 2011 (Act [No. 8 of 2011](#));
- (b) does not apply to domestic workers covered by any collective agreement in the agricultural sector.

3. Effect of Order

- (1) This Order supplements Chapter 3: Basic Conditions of Employment and Chapter 4: Health and Safety Welfare of Employees, in the Act, which are applicable to all employees including domestic workers.
- (2) The terms and conditions of employment of the domestic worker must not be less favorable than those set out in this Order and in Chapter [3](#) of the Act.
- (3) Every provision of this Order constitutes a term of any contract of employment of domestic workers, except to the extent that the parties agree to more favourable terms.

4. Minimum wage

- (1) With effect from 1 October 2017 the minimum wage for domestic workers, to whom this Order applies, is-
 - (a) N\$ 1 502.05 per month;
 - (b) N\$ 346.89 per week;
 - (c) N\$ 69.37 per day;
 - (d) N\$ 8.67 per hour; and
 - (e) N\$43.35 per day for part-time domestic workers who work five hours or less in any day other than a Sunday or public holiday.
- (2) The minimum overtime pay and minimum pay to be paid to domestic workers for work on Sundays and public holidays are as follows:
 - (a) N\$13.00 per hour for overtime as contemplated in section [17\(2\)](#) of the Act;
 - (b) N\$17.34 per hour for work on Sundays as contemplated in section [21\(5\)](#) of the Act;
 - (c) N\$17.34 per hour for work on public holidays as contemplated in section [22\(7\)](#) of the Act; or
 - (d) N\$86.70 per day for part-time domestic workers who work five hours or less.
- (3) With effect from 1 October 2018, the minimum wage referred to in subparagraph (1) must be increased by one percent plus a percentage equal to the average of the increases in the inflation rates, for the categories “Food and Non-Alcoholic Beverages” and “Housing, Water, Electricity, Gas and other fuels”, published by the Namibia Statistics Agency under the Statistics Act, 2011 (Act [No. 9 of 2011](#)) for the preceding 12 months from the effective date.

5. Duty to pay full monetary remuneration

An employer of a domestic worker-

- (a) must pay the domestic worker the full amount of the minimum wage contemplated in paragraph 4, or a higher wage agreed upon minus lawful deductions as contemplated in section [12](#) of the Act; and

- (b) may not, pursuant to regulation 3 of the Regulations, deduct from the monetary remuneration contemplated in item (a) the value of in-kind payments or contributions, such as food, clothing or housing.

6. Transport allowance

Where public transport is available, a live-out domestic worker is entitled, in addition to the basic wage contemplated in paragraph 5, to receive a transport allowance for travel to and from work in an amount that is equivalent to the cost of a round-trip public transport for each day of work, unless the employer provides transport.

7. Accompanying employer on vacation

If a domestic worker accompanies his or her employer on vacation for the purposes of rendering services to the household, the time spent rendering those services must be treated as working time and all provisions of the Act and of this Order apply.

8. Provision of food

An employer must, without charge, provide suitable food in reasonable quantity to meet the dietary needs of an employee who is a-

- (a) live-in worker; or
- (b) live-out worker who is entitled to a meal interval contemplated in section [18](#) of the Act.

9. Accommodation for live-in domestic workers

- (1) When a domestic worker is required to live at the place of his or her employment, the employer is obliged to provide living quarters without charge to the domestic worker with the following minimum conditions-

- (a) a lockable room, with-
 - (i) a room key;
 - (ii) good ventilation;
 - (iii) electricity, if available to the household;
 - (iv) a bed and mattress;
 - (v) heat, if such is the prevailing condition in the household; and
- (b) access to clean drinking water, toilet and bathing facilities.

- (2) The employee is entitled to receive visitors upon reasonable notice and at reasonable intervals or hours, in consultation with the employer.

10. Health and safety requirements

- (1) An employer of a domestic worker must, without charge-
 - (a) provide to that worker-
 - (i) a uniform; and
 - (ii) appropriate and effective personal protective equipment;
 - (b) replace the uniform and protective equipment contemplated in item (a) at reasonable intervals; and

- (c) provide to that worker a health and safety induction and that induction must include at a minimum-
 - (i) possible hazards relating to the duties of that worker, including potentially dangerous equipment and toxic substances;
 - (ii) proper use and maintenance of personal protective equipment; and
 - (iii) safe work techniques relating to domestic work.
- (2) An employer who hires a domestic worker must comply with all regulations relating to domestic worker made under section [135](#) of the Act.

[The phrase “relating to domestic worker” should be “relating to domestic workers” (plural).]

11. Freedom of association and trade union access

- (1) A domestic worker has a right to be member of a trade union.

[The article “a” should appear before the phrase “member of a trade union”.]

- (2) An employer of a domestic worker or a person acting in the capacity of that employer may not unreasonably deny access to the premises of the employer for trade-union related activities as contemplated in section [65](#) of the Act.

12. Written contract of employment

- (1) An employer must, upon hiring a domestic worker-
 - (a) enter into a written contract, with the domestic worker, on Form DW1 set out in the Annexure which sets out the terms and conditions of employment; and
 - (c) provide to the domestic worker a copy of the contract contemplated in item (a).

[The subparagraphs are mislettered in the *Government Gazette*; there is no paragraph (b).]

- (2) Before signing the contract contemplated in subparagraph (1), the employer must explain or cause to be explained to the domestic worker, the provisions of the contract in a language that the domestic worker understands.
- (3) An employer of a domestic worker must retain copies of the signed contract of employment, contemplated in subparagraph (1) for a period of the most recent five years of employment of the domestic worker by the employer.

13. Code of conduct

Any code of conduct for domestic work issued under section [137\(1\)\(a\)](#) of the Act must be taken into account in interpreting and analysing the provisions of this Order.

14. Review period

The Wages Commission must review this Order every two years.

15. Tax deductions

For purposes of deducting tax from the taxable income of a domestic worker pursuant to the Income Tax Act, 1981 (Act [No. 24 of 1981](#)), an employer of the domestic worker must register the domestic worker as taxpayer.

ANNEXURE

FORM DW1 - STANDARD CONTRACT OF EMPLOYMENT FOR DOMESTIC WORKER

[Editorial note: The forms have not been reproduced]

APPENDIX 1

DOMESTIC WORKER'S JOB DESCRIPTION

[Editorial note: The forms have not been reproduced]

APPENDIX 2

GUIDANCE NOTES ON STATUTORY MINIMUM WAGES AND CONDITIONS OF EMPLOYMENT FOR DOMESTIC WORKERS AND OTHER STATUTORY REQUIREMENTS

The Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers and the Labour Act, 2007 (Act [No. 11 of 2007](#)) stipulate the minimum wages and conditions of employment for domestic workers which are summarized below. Reference is made also to compliance with the Social Security Act, 1994 (Act [No. 34 of 1994](#)) and the Employees Compensation Act, 1941 (Act [No. 30 of 1941](#)).

The parties to the contract are encouraged to negotiate higher wages and more favourable conditions of employment above the minimum wage prescribed but they may not agree to wages and conditions that are less favourable than the minimum wage prescribed.

The employer of the domestic worker is referred to herein as “employer” and the domestic worker as “employee.” A reference to “section” refers to a section of the Labour Act, 2007 whereas reference to “item” refers to a section/item of the Wage Order for Setting Minimum Wage and Supplementary Minimum Conditions of Employment for Domestic Workers, and “regulation” refers to a regulation of the Regulations Relating to Domestic Workers.

1. Ordinary hours of work (section 16) and meal intervals (section 18)

- 1.1 An employee's ordinary hours of work may not be more than 45 hours in any week.
- 1.2 The maximum daily hours are:
 - (a) nine hours on any day if the employee works five days or fewer in a week; or
 - (b) eight hours on any day, if the employee works for more than five days in a week.
- 1.3 An employee is entitled to a meal interval of one (1) hour for every five (5) hours of continuous work.
- 1.4 Any work required of the domestic worker during the mandatory meal interval is regarded as overtime worked (section 17).

2. Monetary remuneration and basic wages (section 11 and item 4)

- 2.1 “Basic Wage” means the employees' minimum wage excluding overtime, night work pay, allowances and bonuses.
- 2.2 Effective 1 April 2015, the minimum wage for domestic worker is:
 - (a) N\$ 12 18.00 per month;
 - (b) N\$ 281.09 per week;
 - (c) N\$ 56.21 per day;

- (d) N\$ 7.02 per hour.
- 2.3 Effective 1 April 2016, the minimum wage must be increased by 5% plus a percentage equal to the increase in the consumer price index for the preceeding 12 months.
- 2.4 If an employee is paid on a basis other than hourly, the basic hourly wage must be determined as follows (section 10):
 - (a) For an employee paid daily-divide the daily rate by the number of ordinary hours of work of each day.
 - (b) For an employee paid weekly-divide the weekly rate by the number of ordinary hours of work of each week.
 - (c) For an employee paid fortnightly-divide the fortnightly rate by two times the number of ordinary hours of work each week.
 - (d) For employees paid monthly -divide the monthly rate by 4.333 times the number of hours ordinary worked each week.
- 3. **Deductions from remuneration (item 5 and regulation 3)**
 - 3.1 The employer must pay to the employee the full amount of the minimum wage or higher wage agreed upon, minus lawful deductions.
 - 3.2 The employer may not deduct from the remuneration of the employee the value of in-kind payments or contributions, such as food, clothing or housing as contemplated in regulation 3.
- 4. **Overtime (section 17)**
 - 4.1 Any work performed in addition to the ordinary working days and ordinary working hours shall be treated as overtime.
 - 4.2 The employer may not assign overtime work unless the employee agrees on each occasion that the employer requests overtime work.
 - 4.3 An employer may not assign or permit an employee to work overtime in excess of three hours per day or a total of ten hours per week.
 - 4.4 The employer must pay for overtime work at the hourly rate of:
 - (a) one-half (1.5) times the hourly basic wage for work on Monday through Saturday;
 - (b) Two (2) times the basic hourly wage for work on a Sunday or public holiday that is not part of the employees' normal schedule;
 - (c) As an alternative to (b) an employer may pay an employee one-half (1.5) times the employees' hourly basic wage for each hour of overtime worked, but only if the employer grants the employee an equal period of time away from work and the employee agree to the arrangement.
 - 4.5 The minimum overtime rates are:
 - (a) N\$ 10.53 per hour for overtime worked on Monday through Saturday; and
 - (b) N\$14.04 per hour for overtime worked on a non-regularly scheduled Sunday or public holidays.
 - 4.6 Where the employee's wage is higher than the minimum overtime must be calculated in accordance with 4.4.
- 5. **Night work (section 19)**

An employer must pay to the employee an additional six percent of the hourly basic wage for each hour of work performed between 20h00 and 07h00.

6. Sunday and Public Holiday Work (section 21 and 22)

- 6.1 An employer must pay to an employee ordinarily scheduled to work on Sunday the total amount of daily remuneration plus the hourly basic wage for each hour worked on a Sunday.
- 6.2 An employer must pay to an employee ordinarily scheduled to work on a public holiday the total amount of daily remuneration plus the hourly basic wage for each hour worked on the public holiday.

7. Transport Allowance (item 6)

Where public transport is available, an employer must pay to a live-out employee a transport allowance for travel to and from work in an amount that is equivalent to the cost of a round-trip transport for each day of work, unless the employer provides transport.

8. Social Security (sections 20 and 21 of the Social Security Act, 1994; sections 68, 69 and 72 of the Employee Compensation Act, 1941)

- 8.1 The employer must register the domestic worker upon hire as a member of the Social Security Maternity, Sick and Death benefit fund and Employee Compensation fund.
- 8.2 The employer and employee must contribute to the funds as required by the above-mentioned statutes.

9. Sick leave (section 24)

- 9.1 An employee is entitled to be paid sick leave for every three-year sick leave cycle as follows:
- (a) Employee with ordinary five-day work week: not less than 30 days;
 - (b) Employee with ordinary six-day work week: not less than 36 days;
 - (c) If the employee ordinarily works fewer than five days per week, sick leave must be calculated on a pro-rata basis.
- 9.2 An employer may require a doctor's certificate for absences of more than two days.

10. Compassionate leave (section 25)

An employee is entitled to five (5) paid days of compassionate leave per year in the event of the death or serious illness of the following family members: child; spouse; parent, grandparent, brother or sister; or father-in-law or mother-in-law.

11. Maternity leave (section 26)

After six (6) months' continuous service in employment, a female employee is entitled to not less than 12 weeks' maternity leave, with at least 4 weeks before confinement and 8 weeks after, as long as she provides a medical certificate of indicating the expected date of delivery before taking leave and a medical certificate of delivery upon return.

12. Vacation/Annual leave (section 23)

- 12.1 Annual leave is calculated as follows:

Number of days ordinary work week	Annual leave entitlement in working days
6	24
5	20
4	16
3	12
2	8
1	4

12.2 The employer may determine when the annual leave is to be taken, provided that it is taken not later than four months after the end of the annual leave cycle (12 consecutive months of employment); or six months after the end of the annual leave cycle, if, before the end of the four months period, the employee agrees in writing to such an extension.

13. Provision of Food (Wage order)

The employer must provide sufficient food to meet the reasonable needs of the employee, if the employee lives in or is entitled to a meal break.

14. Accommodation (item 8)

14.1 The employer must provide accommodation with the following minimum conditions, without charge, to an employee required to live at the place of employment:

- (a) a lockable room, with-
 - (i) room key;
 - (ii) good ventilation;
 - (iii) electricity, if available to the household;
 - (iv) a bed and mattress; and
 - (v) heat, if such is the prevailing condition in the household; and
- (b) access to clean drinking water, toilet and bathing facilities.

14.2 A live-in employee is entitled to be visited by relatives or friends at reasonable intervals or hours outside of working time, after consultation with the employer.

15. Other allowances and benefits

The employer and employee may agree to additional benefits.

16. Health and safety (sections 39 and 135 and item 9)

16.1 The employer must provide the employee with a uniform and appropriate and effective personal protective equipment upon hire, free of charge, and replace them at reasonable intervals.

- 16.2 The employer must provide health and safety induction to the employee upon hire that will include, at a minimum:
- (a) possible hazards relating to the employee's duties, including potentiality dangerous equipment and toxic substances;
 - (b) proper use and maintenance of personal protective equipment; and
 - (c) safe work techniques relating to domestic work.
17. **Freedom of Association (sections 6 and 65 and item 10)**
- 17.1 The employee has the right to be a member of a trade union.
- 17.2 Access to the employer's premises for trade-union related activities shall not be unreasonably denied and shall be treated in accordance with section 65 of the Labour Act, 2007.