

Statutory Instrument No. 159 of 1982

EMPLOYMENT ACT, 1984  
(29 of 1982)

**EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984**

*(Published on 28th December, 1984)*

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**REGULATION**

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IN EXERCISE of the powers conferred on the Minister of Home Affairs by sections 11 (9), 31 (2), 36 (2), 69, 147 and 175 of the Employment Act, 1982, the following Regulations are hereby made —

1. These Regulations may be cited as the Employment (Miscellaneous Provisions) Regulations, 1984. Citation

2. (1) In the case of an appeal under section 11 (7) of the Act, the document required to be delivered to the Minister by section 11 (8) of the Act shall set forth — Procedure  
for  
hearing  
appeals  
under  
section  
11 (7)

(a) a summary of the grounds on which the appellant is of the opinion that the terms of the direction or prohibition in question are harsh or unreasonable or that the requirements of repair or reconstruction or otherwise specified in the direction cannot be fulfilled within a reasonable time; and

(b) where the direction or prohibition is to remain in abeyance until the appeal is determined by the Minister, the steps that have been taken to safeguard human health, safety, care or welfare pending that determination.

(2) The Minister shall, for the purpose of hearing any appeal under section 11 (7) of the Act, require the appellant and the Commissioner to

appear together before him at a time and place to be specified by the Minister and shall, at that time and place, invite both the appellant and the Commissioner to make oral submissions to him:

Provided that, where the appeal is from a direction given by a labour officer, the Commissioner may direct the labour officer to deputize for him at the hearing of the appeal.

(3) Before determining an appeal under section 11 (7) of the Act, the Minister shall give due consideration to every submission made to him by virtue of subregulation (2) and thereafter shall proceed with all due speed to confirm, rescind or vary the terms of the direction or prohibition from which the appeal is brought.

(4) Where, on an appeal under section 11 (7) of the Act, the Minister confirms or varies the terms of the direction or prohibition from which the appeal is brought the appellant shall, within 7 days immediately after the day on which he was informed of the result of the appeal, lodge with the Minister written confirmation that the occupation or use to which the direction relates has been and remains discontinued or the prohibition is being observed, as the case may be:

Provided that, where such occupation or use is required to be discontinued or observance of the prohibition is required to commence on some day later than the day on which the appellant was informed of the result of the appeal, the appellant shall lodge the confirmation required by this subregulation within 7 days immediately after that later day.

(5) Any appellant who fails, without reasonable excuse, to comply with subregulation (4) shall be guilty of an offence and liable to a fine of P200 and to imprisonment for 6 months.

Form  
of indemnity

3. The form of indemnity to be rendered to an employer in terms of section 31 (2) (a) of the Act shall be as set forth in the First Schedule hereto.

Scale  
of  
medical  
facilities

4. The scale of medical facilities required to be provided by employers by section 36 (1) of the Act shall be as set forth in the Second Schedule hereto:

Provided that, where the provisions of a full-time medical attendant is required in order that reasonable medical facilities may, in all the material circumstances, be provided in accordance with section 36 (1) of the Act, the employer shall provide a full-time medical attendant holding at least the Red Cross Proficiency Certificate, Grade I.

Fees  
for  
attestation  
of certain  
contracts  
of  
employment

5. The fee to be paid to an attesting officer by an employer or a recruiter in respect of each contract of employment attested by him in terms of section 45 of the Act shall be, —

(a) where the period of employment in terms of the contract is not to exceed 4 months or a number of working days equal to a period not exceeding 4 months, P5; or

(b) in the case of any other period of employment in terms of the contract, P10.

Fees  
for  
medical  
examination  
of  
employees

6. The fee to be paid to a medical officer by an employer or a recruiter in respect of each employee in the same undertaking examined by him under section 47 of the Act in any year commencing on 1st January shall not exceed —

(a) 50 thebe in the case of the employee being one of the first 500 of such employees to be so examined; or

(b) 20 thebe in every other case.

7. (1) Every recruiter's licence issued under Part V of the Act shall be either — Recruiters' licences

(a) a type A recruiter's licence, to be held by every recruiter recruiting not more than 100 employees for employment in the recruiter's own undertaking; or

(b) a type B recruiter's licence, to be held by every other recruiter.

(2) Every application in terms of section 56 (1) of the Act for a recruiter's licence to be issued shall be in writing setting forth —

(a) whether the application is for a type A or type B recruiter's licence;

(b) the nature of the proposed employment for which employees are to be recruited;

(c) the wage rates it is proposed to pay different classes of employees in the event of their engagement following recruitment; and

(d) where the application is for a type B recruiter's licence, the full name and postal and locational addresses of the employer or each of the employers for whom it is proposed to recruit the employees,

and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6).

(3) Every application in terms of section 56 (1) read with section 60 of the Act for a recruiter's licence to be renewed shall be in writing setting forth what is required to be set forth in an application for a recruiter's licence to be issued by sub-regulation (2) (b), (c) and (d) and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6) and the licence.

(4) Every application for a recruiter's licence to be renewed shall be lodged with the Commissioner no earlier than 6 or later than 4 weeks immediately before the day on which the licence is due to expire.

(5) An applicant for a recruiter's licence to be issued or renewed shall furnish all such additional information the Commissioner requires of him.

(6) The fee to be paid for the issue or renewal of a type A recruiter's licence shall be P20 and the fee to be paid for the issue or renewal of a type B recruiter's licence shall be P100 and the fee shall be lodged in advance with the Commissioner in accordance with subregulation (2) or (3), as the case may be.

(7) Every type A recruiter's licence shall be in the form set forth in Part I of the Third Schedule hereto and every type B recruiter's licence shall be in the form set forth in Part II of that Schedule.

8. (1) Every recruitment permit issued under Part V of the Act shall be either — Recruitment permits

(a) a type A recruitment permit, to be held by every person assisting in recruitment a recruiter holding a type A recruiter's licence; or

(b) a type B recruitment permit, to be held by every person assisting in recruitment a recruiter holding a type B recruiter's licence.

(2) Every application in terms of section 57 (3) of the Act for a recruitment permit to be issued shall be in writing setting forth —

- (a) whether the application is for a type A or type B recruitment permit;
- (b) the full name of the recruiter it is proposed to assist in recruitment together with the serial number of his recruiter's licence; and
- (c) the proposed method of remuneration of the applicant by the recruiter,

and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6).

(3) Every application in terms of section 57 (3) read with section 60 of the Act for a recruitment permit to be renewed shall be in writing setting forth what is required to be set forth in an application for a recruitment permit to be issued by subregulation

(2) (c) and shall be lodged with the Commissioner together with the appropriate fee prescribed by subregulation (6) and the permit.

(4) Every application for a recruitment permit to be renewed shall be lodged with the Commissioner no earlier than 6 or later than 4 weeks immediately before the day on which the permit is due to expire.

(5) An applicant for a recruitment permit to be issued or renewed shall furnish all such additional information the Commissioner requires of him.

(6) The fee to be paid for the issue or renewal of a type A recruitment permit shall be P5 and the fee to be paid for the issue or renewal of a type B recruitment permit shall be P20 and the fee shall be lodged in advance with the Commissioner in accordance with subregulation (2) or (3), as the case may be.

(7) Every type A recruitment permit shall be in the form set forth in Part I of the Fourth Schedule hereto and every type B recruitment permit shall be in the form set forth in Part II of that Schedule.

9. (1) Every recruiter shall, within 4 weeks immediately after the end of each quarter in every year commencing on 1st January, furnish a written return to the Commissioner setting forth the number of employees recruited by him in any district during that quarter.

(2) Every employer employing recruited employees shall, within 4 weeks immediately after the end of each quarter in every year commencing on 1st January, furnish a written return to the Commissioner setting forth —

- (a) the number of such employees whose wages have been deposited by the employer during that quarter; and
- (b) the aggregate amount of deposited wages of such employees that has been paid out, on or after completion of their contracts of employment, during that quarter.

10. (1) No employer shall, under section 81 (1) (c) of the Act, deduct from the wages or any other payments which may be due to an employee any amount unless the employer forthwith issues to the employee a written statement setting forth —

- (a) the full name and home address of the employee;
- (b) his wage rate;
- (c) the amount and date of the deduction; and
- (d) the full name and address of the person or body to whom the amount deducted is to be or has been remitted on behalf of the employee.

Returns  
to be  
furnished  
in  
connexion  
with  
recruitment

Deductions  
at  
request  
of  
employees

(2) Every employer shall, in respect of each employee from whose wages or any other payments which may have been due to him any amount has been deducted under section 81 (1) (c) of the Act, keep or cause to be kept a separate written record of the particulars referred to in subregulation (1) (a), (b), (c) and (d).

11. (1) Except with the written permission of the Commissioner, the amount of wages which may, in terms of section 88 (2) of the Act, be advanced to an employee at the time of his engagement shall not exceed one third of his total monthly wage together with an amount equal to the total amount due and payable and unpaid by the employee at the time of his engagement under any law relating to taxation.

Advances  
of  
wages

(2) Any advance such as is referred to in subregulation (1) may be repaid in one or more instalments by deduction from the wages of the employee in question.

12. If personal injury arising out of and in the course of his employment is caused to an employee and his employer is not liable to pay compensation to him by virtue of any other written law for the time being in force solely because the employee does not belong to a category of employees in respect of which that other law applies, his employer shall nevertheless be liable to pay compensation to him in terms of that other law as if he did belong to such a category of employees.

Compensa-  
tion  
for  
injury

13. (1) Every employer shall, within 17 days immediately after the day on which the injury was incurred, make a report to the nearest labour officer of every injury caused to an employee arising out of and in the course of his employment which —

Report  
of  
accidents

- (a) results in the employees's death;
- (b) results in or is likely to result in some degree of permanent incapacity to the employee; or
- (c) results in incapacitating the employee from following his normal employment for more than 3 consecutive days;

Provided that this subregulation shall not apply where the employer is required by some other written law for the time being in force to report any such injury to some person other than the nearest labour officer.

(2) Every report required to be made by subregulation (1) shall be in writing setting forth —

- (a) the full name and postal and locational addresses of the employer or of the undertaking in question;
- (b) the employee's full name and address;
- (c) the employee's age, sex and occupation;
- (d) whether the injury resulted in the employee's death or incapacity;
- (e) the full name and address of the employee's next-of-kin;
- (f) whether the next-of-kin has or has not been informed of the employee's death or incapacity and of the injury resulting therein;
- (g) the material circumstances in which the injury resulting in death or incapacity was caused;
- (h) in the case of incapacity, the nature of the injury resulting therein and whether the incapacity is or is not likely to involve any degree of permanent incapacity;
- (i) in the case of what appears to be temporary total incapacity, how long it is likely to last;

Records  
to be  
kept by  
employers  
generally

- (j) the company, if any, with which the employer is insured against injury liability in respect of the employee;
- (k) the full name and postal address of the insurance company; and
- (l) the number of the insurance policy in question.

14. (1) Every employer shall, in performance of the duty imposed on him by section 93 (1) of the Act, keep such records, books and accounts in respect of each employee employed by him as will at all times clearly show —

- (a) the employee's full name and address;
- (b) the employee's age and sex;
- (c) whether the employee is married or single;
- (d) the full name and address of the employee's next-of-kin;
- (e) the nature of the employment on which the employee is engaged;
- (f) the employee's wage rate and the pay interval;
- (g) the period of notice to be given in order to terminate the employee's contract of employment;
- (h) the number of working days leave with at least basic pay to which the employee is entitled in respect of each period of 12 months' continuous employment;
- (i) the number of days paid sick leave to which the employee is entitled in any year;
- (j) the number of paid public holidays to which the employee is entitled each year;
- (k) particulars of the employee's weekly rest period;
- (l) particulars of the employee's weekly and daily hours of work;
- (m) the date on which employment (whether on probation or not) under the employee's contract of employment commenced;
- (n) the date on which the employee's contract of employment terminated and the reason therefor;
- (o) particulars of all payments made to the employee by the employer on the termination of the employee's contract of employment (whether in respect of wages, payment in lieu of notice, leave with pay, severance benefit or otherwise); and
- (p) particulars of the employee's wages in terms of his contract of employment specifying the aggregate of basic pay and each other form of remuneration, such as overtime payments, production bonuses and cost-of-living allowances and other special remuneration arising out of the particular circumstances under which work is carried out or from other considerations attaching thereto.

(2) The records required to be kept by an employer by virtue of this regulation shall include a record in the form set forth in the Fifth Schedule hereto in respect of each month beginning on the 1st.

(3) The records, books and accounts required to be kept by an employer by virtue of this regulation shall be retained by him in safe custody for at least 2 years immediately after the date of the last entry therein:

Provided that, where such records, books and accounts are kept in respect of an employee to whom a minimum wages order applies, they shall be retained by the employer in safe custody for at least 5 years immediately after the date of the last entry therein.

15. (1) Every employer of an employee to whom a minimum wages order applies shall, in performance of the duty imposed on him by section 145 (1) of the Act, indicate in the record of the employee's wage rate required to be kept by virtue of regulation 14 (1) (f) that the wage is a minimum wage by making the entry "SMW" (that is to say, Statutory Minimum Wage) against the recorded wage rate.

Additional information to be recorded by certain employers

(2) Every employer of an handicapped employee holding a permit issued by the Commissioner under section 144 of the Act authorizing his employment for less than the minimum wage shall, in performance of the duty imposed on him by section 145 (1) of the Act, if the employee belongs to a category of employees to whom a minimum wages order applies and is paid less than the minimum wage, indicate in the record of the employee's wage rate required to be kept by virtue of regulation 14 (1) (f) that the wage rate is that of a person holding such a permit by making the entry "SMW-EP" (that is to say, Statutory Minimum Wage — Exemption Permit) against the recorded wage rate.

16. (1) The duties of District Labour Officers shall include the collection of labour statistics on the average wages of and the hours actually worked by employees (other than members of management, including supervisors) and the remaining provisions of this regulation shall apply in respect of such statistics.

Statistics

(2) The statistics shall be compiled on the basis of data relating to a representative sample of the following industrial, commercial and domestic sector —

- (a) mines;
- (b) manufacturing industries and associated engineering and electrical trades;
- (c) motor engineering and road transport;
- (d) building, construction, prospecting and quarrying;
- (e) agriculture;
- (f) hotels, catering and entertainment;
- (g) wholesale, retail and distributive trades;
- (h) bakeries;
- (i) banking;
- (j) insurance;
- (k) communications; and
- (l) domestic employment.

(3) The statistics of average wages shall include —

- (a) specific reference to all employees employed on task or piece work;
- (b) all cash payments and bonuses received by employees from their employers;
- (c) contributions such as social insurance contributions paid by employees and deducted by their employers;
- (d) taxes paid by employees to public authorities and deducted by their employers; and
- (e) deductions from wages other than those referred in paragraphs (c) and (d).

(4) Each District Labour Officer shall collect the statistics of wages and hours of work twice a year and shall start collecting on 1st January and 1st July, or as near thereto as is reasonably practicable, and shall use

his best endeavours to furnish the Commissioner with the statistics before the end of January and the end of July respectively.

(5) Statistics of wages and hours of work shall be collated on the basis of the records, books and accounts employers are required to keep by virtue of regulation 14.

(6) The Commissioner shall use his best endeavours to publish by notice in the Gazette the statistics of wages and hours of work by district and sector before the end of March and the end of September respectively.

17. The Employment Regulations are hereby revoked.

Revocation  
of  
Cap. 47:01  
(Sub. Leg.)

**FIRST SCHEDULE**

(r.3)

**EMPLOYMENT ACT, 1982**

(29 of 1982)

(section 31 (2) (a))

**EMPLOYMENT (MISCELLANEOUS PROVISIONS)  
REGULATIONS, 1984**

(S.I. 159 of 1984)

(regulation 3)

**FORM OF INDEMNITY**

To: .....  
.....

In consideration of your having, as the former employer of ..... (hereinafter referred to as "the former employee"), delivered to me, being a person specified in the First Schedule to the Act, in accordance with section 32 (1) of the Act, certain moneys as payments due to the former employee (the particulars whereof are hereinafter set forth) and certain other property as property of the former employee in your possession (the particulars whereof are also hereinafter set forth), I hereby undertake for and on behalf of the Government of Botswana to indemnify you and keep you indemnified —

- (a) against any claim that may be made against you in respect of a payment hereinbefore mentioned, to the extent of the amount delivered to me as that payment; and
- (b) against any claim that may be made against you in respect of any of the other property hereinfore mentioned, except in so far as the claim relates to any damage or injury caused to that other property prior to its delivery to me.

Particulars of moneys received: .....  
.....  
.....

.....  
.....  
.....  
.....

Particulars of other property received: .....  
.....  
.....  
.....  
.....

DATED at ..... this ..... day of ....., 19.....

.....  
*Signature of Scheduled person.*

.....  
*Title of signatory's office.*

*Office Stamp*

**SECOND SCHEDULE**

(r.4)

**SCALE OF MEDICAL FACILITIES**

*Minimum quantity for less than 20 employees or for every complete number of 20 employees*

|   |          |
|---|----------|
| Copy of reputable first aid manual                                      | 1        |
| Enamelled iron or stainless steel bowl not less than 10 ins in diameter | 1        |
| Small enamelled or stainless steel bowl not less than 4 ins in diameter | 1        |
| Safety pins not less than 1 ins in length                               | 12       |
| Cotton wool   | 11b      |
| Triangular bandages   | 12       |
| Centrimide, 2% solution   | 10 fl oz |

|   |          |
|---|----------|
| Gentian violet, 1% aqueous solution   | 10 fl oz |
| Castor oil  | 12 fl oz |
| Eye drops of pharmaceutical standard contained in a bottle having a pipette incorporated in the stopper | 10 fl oz |
| Complete long, socketed thigh splints each having 3 sections  | 2        |
| Reels of adhesive plaster not less than 3 ins wide  | 1        |
| Blunt ended 5 ins long scissors   | 1        |
| Cough mixture (of a kind approved by a medical officer)   | 1 pt     |
| Epsom salts or sodium sulphate  | 1 lb     |
| Liniment  | 10 fl oz |
| Medicinal kaolin  | 4 oz     |
| Iodoform and kaolin powder  | 2 oz     |
| Mepacrine tablets   | 100      |
| Sulphur ointment  | 4 oz     |
| Zinc ointment   | 2 oz     |
| Aspirin tablets   | 100      |
| Vaseline  | 4 oz     |

|  | <i>Minimum quantity<br/>for less than 20<br/>employees</i> | <i>Minimum quantity<br/>for every complete<br/>number of 20<br/>employees</i> |
|--|--|---|
| Small sterilized dressings for injured fingers       | 12   | 24  |
| Medium sterilized dressing for injured hands or feet | 12   | 24  |
| Large sterilized dressings for other injured parts   | 12   | 24  |

### THIRD SCHEDULE

(r.7 (7))

#### PART I

#### EMPLOYMENT ACT, 1982

(29 of 1982)

(section 56 (1))

#### EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984

(S.I. 159 of 1984)

(regulation 7 (7) (a))

#### TYPE A RECRUITER'S LICENCE

(Not transferable)

Licence No.....

Licence Register Folio.....

Fee: P20

Licence is hereby granted to .....

of .....

to recruit within Botswana not more than 100 employees for employment in his own undertaking.

This licence shall be valid, unless previously cancelled or suspended, during the period of 12 months immediately following the date of its issue.

**CONDITIONS**

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.....

ISSUED at ..... this ..... day of ....., 19.....

.....  
*Commissioner of Labour.*

**PART II**

**EMPLOYMENT ACT, 1982**  
(29 of 1982)

(section 56 (1))

**EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984**

(S.I. 159 of 1984)

(regulation 7 (7) (b))

**TYPE B RECRUITE'S LICENCE**

(Not transferable)

Licence No.....

Licence Register Folio.....

Fee: P100

Licence is hereby granted to .....

of .....  
to engage in recruitment within Botswana.

This licence shall be valid, unless previously cancelled or suspended, during the period of 12 months immediately following the date of its issue.

**CONDITIONS**

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ISSUED at ..... this ..... day of ....., 19.....

.....  
*Commissioner of Labour.*

**FOURTH SCHEDULE**

*(r.8 (7))*

**PART I**

**EMPLOYMENT ACT, 1982**

*(29 of 1982)*

*(section 57 (3))*

**EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984**

*(S.I. 159 of 1984)*

*(regulation 8 (7) (a))*

**TYPE A RECRUITMENT PERMIT**

*(Not transferable)*

Permit No.....

Permit Register Folio .....

Fee: P5

Permission is hereby granted to .....

of .....

to assist in recruitment .....

of .....

who holds Type A recruiter's Licence No.....licensing him to recruit within Botswana not more than 100 employees for employment in his own undertaking.

This permit shall be valid, unless previously cancelled or suspended, during the period of 12 months immediately following the date of its issue.

**CONDITIONS**

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ISSUED at ..... this ..... day of ....., 19.....

.....  
*Commissioner of Labour.*

**PART II**  
**EMPLOYMENT ACT, 1982**  
(29 of 1982)  
(section 57 (3))  
**EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984**  
(S.I. 159 of 1984)  
(regulation 8 (7) (b))  
**TYPE B RECRUITMENT PERMIT**  
(Not transferable)

Permit No.....

Permit Register Folio .....

Fee: P20

Permission is hereto granted to .....  
of .....  
to assist in recruitment .....  
of .....  
who holds type B Recruiter's Licence No..... licensing him to engage in  
recruitment within Botswana.

This Permit shall be valid, unless previously cancelled or suspended, during the  
period of 12 months immediately following the date of its issue.

**CONDITIONS**

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.....  
.....

ISSUED at ..... this ..... day of ....., 19.....

.....  
*Commissioner of Labour.*

**FIFTH SCHEDULE**

*(r.14 (2))*

**EMPLOYMENT ACT, 1982**

*(29 of 1982)*

*(section 93 (1))*

**EMPLOYMENT (MISCELLANEOUS PROVISIONS) REGULATIONS, 1984**

*(S.I. 159 of 1984)*

*(regulation 14 (2))*

**MONTHLY RECORD OF WAGES ETC.**

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |   | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|----|----|----|----|----|
|   |   |   |   |   |   |   | a | b |   |    |    |    |    |    |
|   |   |   |   |   |   |   |   |   |   |    |    |    |    |    |
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|   |   |   |   |   |   |   |   |   |   |    |    |    |    |    |

1. Full name of employee
2. Aggregate of basic pay for month
3. Aggregate amount of any bonuses paid in month
4. Aggregate amount of any cost-of-living allowances paid in month
5. Aggregate amount of any other form of remuneration included in wages for month

6. Aggregate of wages for month
7. Current pay interval
8. Ordinary daily working period in month (a) from (b) to
9. Number of ordinary hours of work worked in month
10. Number of hours overtime worked in month
11. Aggregate number of hours worked in month
12. Number of working days leave with at least basic pay taken in month
13. Number of paid public holidays taken in month
14. Number of days paid sick leave taken in month

MADE this 14th day of December, 1984.

E.M.K. KGABO,  
*Minister of Home Affairs.*

*L2/7/34*