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[ACT 16/85

Labour Relations (Domestic Workers) Employment
Regulations, 1992

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ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE: Grading and wages.

SECOND SCHEDULE: Allowances.

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IT is hereby notified that the Minister of Labour, Manpower Planning and Social Welfare has, in terms of section 17, as read with subsection (2) of section 77 of the Labour Relations Act, 1985, made the following regulations:—

Title

1. These regulations may be cited as the Labour Regulations (Domestic Workers) Employment Regulations, 1992.

Application

2. These regulations shall apply to—
 - (a) all employers of domestic workers throughout Zimbabwe; and
 - (b) persons in the area of Zimbabwe whose occupations are listed in the First Schedule.

Interpretation

3. In these regulations—
 - “allowance” means an allowance of any description, including any commission, bonus or overtime allowance, but does not include any refund of expenses incurred by a domestic worker in the course of his duties as such;
 - “baby-minder” means any domestic worker whose responsibilities include in any way and to any extent taking care of, or watching over, any child or children under the age of seven years, regardless of whether or not that person is additionally employed as a garden worker and, additionally or alternatively, as a cook/housekeeper;
 - “casual worker” means a person whose engagement is for a period not exceeding six weeks in any three successive calendar months;
 - “cook/housekeeper” means any domestic worker whose main responsibilities include or involve house-keeping, house-cleaning, laundry, ironing, cooking, dish-washing, food-preparation or food-service, regardless of whether or not that person also acts as garden worker but does not include any worker whose responsibilities include baby-minding;

“domestic worker” means a person employed in any private household to render services as a yard/garden worker, cook/housekeeper or baby-minder irrespective of whether or not the place of employment is in an urban or rural area;

“part-time worker” means a person employed on an hourly, daily or weekly basis and paid not less than double the hourly, daily or weekly rate specified in the First Schedule for his grade;

“piece-work” means any system by which earnings are calculated wholly on the quantity or output of work done irrespective of the time spent on such work;

“task-work” means a stated task which is set by an employer for a domestic worker and which has to be completed as a condition of earning a wage;

“ticket-system” means a system whereby an employee is engaged at a rate of wage calculated by reference to the completion of a ticket of an agreed number of days worked or a record based on the number of days worked;

“wage” means the earnings of a domestic worker, but does not include any payment in respect of overtime, bonus or other like payment;

“yard/garden worker” means a person whose duties are limited to taking care of any or all of the yard, lawn, shrubs, hedges, fences and garden of any private household or the property of a welfare organization.

Grading and wages

4. (1) Every employer shall place a domestic worker in any of the grades specified in the First Schedule appropriate to his occupation, and shall pay a wage of at least the amount prescribed therein for the domestic worker's grade, and no employee shall accept any amount less than the amount prescribed in respect of his grade.

(2) A domestic worker who, on the date these regulations came into operation, is in receipt of a higher wage for his occu-

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pation than the wage prescribed in terms of this section shall not, by reason of these regulations, suffer any reduction in his wage.

(3) On promotion to a higher grade, a domestic worker shall be paid not less than—

- (a) the minimum wage applicable to such grade; or
- (b) the wage which he has received prior to his promotion;

whichever is the greater.

(4) A domestic worker who is required to perform work in a lower grade than that in which he is normally employed shall be paid the wage applicable to the grade of work which he normally performs.

(5) A domestic worker who is required to perform work in a higher grade than that in which he is normally employed shall be paid for all the hours worked in such higher grade not less than—

- (a) the minimum wage applicable to such higher grade; or
- (b) the wage which he last received prior to working in such higher grade;

whichever is the greater.

(6) No employer shall reduce the wages of a domestic worker for any time not worked if the employee was able and willing to work and was present at his place of work but the employer was unable or unwilling to furnish him with work.

(7) Where the wage paid to a domestic worker in respect of his employment as such from the 1st July, 1992, to the date of commencement of these regulations was less than the wage prescribed in the First Schedule for his grade, the employer shall pay him the difference, not later than one month after the date of commencement of these regulations.

Hours of work

5. (1) The ordinary hours of work for domestic workers shall be forty-nine and half hours per week:

Provided that the ordinary hours of work, exclusive of any breaks referred to in subsection (3), shall not exceed a total of nine and a half hours per day.

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(2) A domestic worker residing outside the premises of the employer shall not be required to work beyond seven o'clock p.m..

(3) No employer shall require or permit a domestic worker to work a continuous period of six and half hours without a meal-break of at least thirty minutes, a lunch-break of at least one hour and a tea-break of at least fifteen minutes.

(4) A domestic worker shall be entitled to at least one and half days off each week at least twenty-four hours of which shall be continuous:

Provided that where the domestic worker's or employer's religious belief requires that a particular day be a non-working day, the domestic worker may make up the required hours of work on any other mutually acceptable day.

Accommodation, transport, lights and fuel

6. Every domestic worker shall be entitled to either free lodging, free transportation to and from work, free lights, free fuel for cooking, free water for normal domestic use or to the minimum allowances specified in the Second Schedule in respect of each such item:

Provided that an employer shall not be required to pay a transportation allowance if the domestic worker's accommodation is within two kilometres of the place of employment.

Conversion of rates

7. (1) For the purpose of converting a weekly wage to—
- (a) the hourly equivalent, the weekly wage shall be divided by forty-nine and a half; or
 - (b) the daily equivalent, the weekly wage shall be divided by the number of days ordinarily worked in a week; or
 - (c) the monthly equivalent, the weekly wage shall be multiplied by four and one-third.

(2) Computations analogous to those set out in subsection (1) shall be used when converting monthly rates.

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Payment for overtime

8. (1) For each hour of overtime, or part of an hour in excess of fifteen minutes, worked by a domestic worker in any one week, the employer shall pay an overtime allowance at one and a half times the current hourly wage of the domestic worker.

(2) Notwithstanding subsection (1), for each hour, or part of an hour in excess of fifteen minutes, worked by a domestic worker on a day off, the employer shall pay an overtime allowance at double the domestic worker's current hourly wage.

(3) Notwithstanding subsection (1), and in addition to the payment referred to in subsection (2), for each hour, or part of an hour in excess of fifteen minutes, worked by a domestic worker on an industrial holiday, the employer shall pay an overtime allowance—

- (a) during the ordinary hours of work for the day of the week on which the industrial holiday falls, at one and a half times the domestic worker's current hourly wage; or
- (b) outside the ordinary hours of work for the day of the week on which the industrial holiday falls, at double the domestic worker's current hourly wage.

Deductions

9. No deduction or set-off of any description shall be made or allowed from any remuneration, other than a bonus due to an employee, except—

- (a) where an employee is absent from work on days other than paid holidays or vacation leave, a *pro rata* amount of his wage only for the period of such absence; or
- (b) by written stop-order for any contributions to insurance policies, pension funds and medical-aid societies; or
- (c) any amount which an employer is compelled by law or legal process to pay on behalf of an employee; or
- (d) for goods purchased by or services rendered, or domestic worker, or money lent to a domestic worker by his employer on the authority of a stop-order signed by the domestic worker for any amount up to

but not exceeding twenty-five *per centum* of the gross wage due to such domestic worker, unless such goods have been purchased from, or the services have been rendered by, a supplier at the direction or dictation of the employer; or

- (e) an amount recovered for payments made in error or overpayment of wages; or
- (f) by a written stop-order for contributions to trade union dues.

Payment of wages

10. (1) Every employer shall pay all remuneration, including wages, overtime allowances, bonuses or any allowance specified in the Second Schedule, weekly or monthly, within three days of the due date:

Provided that, when a domestic worker's services are terminated, payment of all remuneration due shall be made within twenty-four hours of the termination of service.

(2) All remuneration shall be paid in cash or by cheque and shall be accompanied by a wage-slip showing—

- (a) the name of the domestic worker; and
- (b) the wage-rate; and
- (c) the total number of hours worked; and
- (d) any bonus or allowance; and
- (e) deductions for absence without leave, or other deductions permitted in terms of section 9; and
- (f) the net amount received by the domestic worker; and
- (g) the period for which payment is made.

Part-time and casual employment

11. (1) Any domestic worker employed on a part-time basis or as a casual employee shall, unless the Minister otherwise approves in writing, be employed on an hourly basis, and shall be paid not less than double the hourly rate specified in the First Schedule for his grade in respect of each hour or part thereof worked.

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(2) Any domestic worker employed simultaneously in any given period in two or more private households for a maximum of thirty hours per week shall be deemed to be employed on a part-time basis or as a casual employee in respect of each household in which he is employed.

Piece-work, task-work or work on a ticket system

12. No employer shall give out, and no domestic worker shall perform work on—

- (a) a piece-work basis; or
- (b) a task-work basis; or
- (c) a ticket system;

unless the work concerned does not form part of the duties specified for his grade and is performed outside his normal hours of work.

Vacation leave

13. (1) A domestic worker shall accrue vacation leave at the rate of one and a half working days a month.

(2) Any portion of a month shall be regarded as a full month.

(3) A domestic worker in his first year of employment shall accumulate normal vacation leave but shall not proceed on such leave during that first year except with the consent of the employer.

(4) A domestic worker proceeding on vacation leave shall be paid his current wages for the period of such leave prior to his proceeding on leave.

(5) A domestic worker who has accumulated vacation leave may, with the consent of the employer, elect to be paid cash in lieu of any vacation leave or portion of any vacation leave in addition to his current wage, in place of proceeding on such leave.

(6) Every domestic worker whose employment is terminated for any reasons whatsoever shall be entitled to be paid the cash equivalent of accumulated leave.

(7) Any period of leave taken by a domestic worker in terms of this section, or any additional leave granted by the employer, whether paid or not, or any sick-leave taken in terms of section 15, shall not be counted for the purpose of calculating further leave.

Public holidays

14. (1) A domestic worker shall be granted leave of absence on public holidays and shall be paid his current daily wage for every public holiday:

Provided that where a domestic worker consents to work on a public holiday, he shall, in addition to the payment referred to in subsection (1), be paid allowances in terms of section 8 in respect of the time worked.

(2) Any public holiday worked by a domestic worker may not be set off against or exchanged for a regular work day without the consent of the domestic worker:

Provided that where a domestic worker gives his consent, he shall be entitled to at least two days off for each public holiday or half of a public holiday worked or a day off for any lesser part of the public holiday worked.

Benefits during sickness

15. (1) If a domestic worker, whilst at work, claims to be unfit for work owing to sickness or injury, the employer shall grant to the worker such facilities as may be necessary to enable the domestic worker to be examined by a medical practitioner.

(2) Upon being medically examined, a domestic worker shall obtain a medical certificate stating—

- (a) whether or not he is fit for work; and
- (b) if he is not fit for work, the period for which he is likely to be unfit for work;

and shall produce such certificate on his return to work, if requested to do so by his employer.

(3) If a domestic worker has obtained a certificate stating that he is unfit for work, he shall be entitled to his wages whilst he is unfit for work, for the period stated by the medical practi-

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tioner, but not exceeding, in aggregate, twenty-six working days in any one year of service.

(4) If a domestic worker—

(a) has been paid wages in terms of subsection (3) for a continuous period of twenty-six working days, or for a number of days aggregating twenty-six working days in any one year of service; and

(b) is, within that year of service, again certified by a medical practitioner as being unfit for work;

he shall be paid half his wage for such further period or periods as the medical practitioner may certify him to be unfit, but not exceeding, in aggregate, twenty-six working days within any one year of service.

(5) The employer shall, subject to the approval of the Minister, be entitled to terminate the contract of employment of a domestic worker who, within any one year of service, is certified to be unfit for work for any period in excess of the periods referred to in subsections (2) and (3).

(6) A domestic worker shall not be entitled to any benefits in terms of this section if his sickness was self-induced or his injury was wilfully self-inflicted.

(7) A certificate issued by a State registered nurse or any other suitably qualified person shall be accepted in place of a certificate of a medical practitioner if such medical practitioner is not available.

Contract and notice

16. (1) An employer shall, on engagement, inform a domestic worker, in writing, of the nature of his contract, including—

(a) his grade; and

(b) his rate of pay and when it will be paid; and

(c) the free use of water for normal domestic use; and

(d) the period of notice required to terminate the contract of employment; and

(e) the hours of work; and

- (f) the details of any bonus and accomodation, transport and lights allowances; and
- (g) his benefits during sickness; and
- (h) vacation leave.

(2) Subject to the Labour Relations (General Conditions of Employment) (Termination of Employment) Regulations, 1985 (Statutory Instrument 371 of 1985), every contract of employment shall provide that an equal period of notice to terminate such contract shall be given by either party, which period shall be not less than the interval of time separating one due date of payment of wages from the next:

Provided that—

- (i) where a month's notice has been agreed to, it shall be taken to run from the first day of the month following the date on which notice is given; and
- (ii) it shall not be necessary for a domestic worker to give notice where he is unable to do so due to any emergency or compelling necessity.

(3) No employer shall give notice of termination of employment to a domestic worker whilst the domestic worker is on sick leave, except in terms of subsection (5) of section 15.

(4) Neither an employer nor a domestic worker shall give notice of termination of employment whilst the domestic worker is on vacation leave.

(5) A domestic worker who has given or received notice to terminate employment shall not be required or be permitted to proceed on vacation leave during the currency of such period of notice except by mutual agreement which agreement shall be in writing.

(6) Nothing contained in this section shall affect the right of the employer to dismiss a domestic worker or the domestic worker to terminate his employment summarily on grounds recognized by law as justifying summary termination of employment.

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(7) An employer may discharge his obligations by paying a domestic worker full wages and allowances for, and in place of, the period of notice required to be given in terms of this section.

(8) Any contract of employment which is for a specified period of time shall specify the date of commencement and the date of termination thereof and no further notice to terminate the contract on due date shall be required from either party.

(9) No employer shall give notice of termination of employment except with the prior written approval of the Minister.

Continuous service

17. (1) Continuous service shall be deemed to be broken only by the death, resignation, retirement or discharge of the domestic worker concerned:

Provided that a domestic worker who is discharged and re-engaged by the same employer within two months of such discharge shall be deemed not to have broken his continuous service.

(2) A period of absence without the permission of the employer, or a period of absence between discharge and re-engagement of less than two months, shall not be taken into consideration in calculating any benefit in terms of section 13 or 15.

Record of service

18. (1) A domestic worker whose services are terminated for any reason whatsoever may request and shall be granted a record of service from his employer.

(2) The record of service granted in terms of section (1) shall specify the period served by the domestic worker with the employer and the occupation in which he was employed.

Protective clothing

19. (1) An employer shall supply, free of charge, uniforms or other suitable protective clothing to a domestic worker who, in the course of his duties, is habitually exposed to inclement weather.

(2) Protective clothing supplied to a domestic worker shall become his property three months after the issue of the clothing to him if he is responsible for mending, washing or otherwise maintaining such clothing.

(3) Subject to subsection (2), a domestic worker who fails to return clothing supplied to him shall be liable for the cost of replacing such clothing and the employer may recover such amount from any money due to the domestic worker.

(4) An employer who recovers the cost of the replacement of clothing from a domestic worker in terms of subsection (3) shall, in the assessment of such cost, make due allowance for fair wear and tear.

Gratuities on termination of employment

20. (1) A domestic worker who has completed five or more years of continuous service shall, on termination of such employment, irrespective of the circumstances of such termination, be paid a gratuity of not less than the amount derived by multiplying the number of completed years of continuous service by the appropriate percentage, as set out in the Third Schedule, of his current monthly wage on termination.

(2) If a domestic worker who has completed five or more years of continuous service dies before receiving a gratuity in terms of subsection (1), there shall be paid to his estate the sum which the domestic worker would have received if his employment had been otherwise terminated on the date of his death.

(3) Notwithstanding the provisions of subsections (1) and (2), no gratuity shall be payable under this section if the employer has made provision for the domestic worker by way of a pension or gratuity scheme, registered as a fund in terms of the Pension and Provident Fund Act, 1976, which provides for benefits which are not less favourable than those prescribed in this section.

General

21. (1) For the avoidance of doubt, every female domestic worker shall, in terms of section 18 of the Labour Relations Act, 1985, be entitled to maternity leave.

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(2) The provisions of the Labour Relations Act, 1985, relating to maternity leave are set out in the Fourth Schedule.

Repeals

22. The regulations specified in the Fourth Schedule are repealed.

FIRST SCHEDULE (Sections 2, 3 and 4)

GRADING OF WAGES

Classification of operations and occupations in grades

GRADE	MINIMUM WAGE			
	Monthly \$	Weekly \$	Daily \$	Hourly* \$
<i>Grade 1</i> Yard/garden	161,41	37,29	6,22	0,68
<i>Grade 2</i> Cook/housekeeper with or without grade 1 duties	162,70	37,58	6,26	0,69
<i>Grade 3</i> Baby-minder or disabled/age minder (with or without grade 1 or 2 duties)	164,70	38,04	6,34	0,70

*The hourly rate applies for each hour worked, and any part of an hour worked shall be remunerated for as a complete hour.

SECOND SCHEDULE (Section 6)

Allowances

Minimum allowances

	\$
Accommodation	16,50
Transportation	9,90
Lights	4,13
Fuel	6,60
TOTAL	<u>37,13</u>

THIRD SCHEDULE (Section 20)

GRATUITIES

<i>Length of service</i>	<i>Percentage of monthly wage on termination of employment</i>
Years	
5	10
6	10
7	10
8	10
9	10
10	10
11	13
12	13
13	13
14	13
15	13
16	13
17	13
18	13
19	13
20	13
21	20

FOURTH SCHEDULE (Section 21)

MATERNITY LEAVE

In terms of section 18 of the Labour Relations Act, 1985—

(a) a female employee who is pregnant and who furnishes to her employer a certificate signed by a registered medical practitioner or a state registered nurse or a suitably qualified person certifying that the birth of her child is likely to take place within the next forty-five days shall, at her request, be granted maternity leave from a date specified by her until at least forty-five days after the date of birth of her child;

(b) the aggregate of leave which an employee may take before and after the birth of her child shall not exceed ninety days:

Provided that—

(i) where the birth of her child in fact takes place after the expiry of the forty-five days, the period of ninety days shall be extended without pay by the number of days that have elapsed between the expiry date of such period of forty-five days and the date of birth of the child;

(ii) where a registered medical practitioner or state registered nurse certifies that, as a result of complications accompany-

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ing the birth of a child, the child's mother needs to convalesce for a specified period in excess of forty-five days after such birth, the period of ninety days shall be extended without pay to include the whole of such period;

- (c) if prior to going on maternity leave she agrees to forfeit the vacation leave which she was entitled to accumulate in the previous six months, she shall in addition to receiving all her normal benefits payable by the employer, be entitled to not less than seventy-five *per centum* of her normal wages which shall be payable as and when it would have been regularly payable had she not gone on such maternity leave;
- (d) if she was not entitled to any vacation leave or if she is unwilling or unable to forfeit such vacation leave in terms of paragraph (c), she shall be paid not less than sixty *per centum* of her normal wage and benefits payable by the employer:

Provided that—

- (i) where a female domestic worker fails, for any reason other than death or dismissal by her employer, to return to the employer's service for a period at least as long as that during which she was on maternity leave, she shall be liable to pay to the employer all the wages and benefits she received from the employer in consideration of such leave;
 - (ii) the frequency of paid maternity leave that a female domestic worker may take in terms of this subsection shall not exceed once every twenty-four months up to a total of three times with respect to her total service with any one employer;
- (e) during the period when a female domestic worker is on maternity leave, her normal benefits and entitlements, including her rights of seniority or advancement and the accumulation of pension rights, if any, shall continue uninterrupted in the manner in which they would have continued had she not gone on such leave and her period of service shall not be considered as having been interrupted, reduced or broken by the exercise of her right to maternity leave;
 - (f) a female domestic worker who is the mother of a suckling child shall, during each working day, be granted, at her request, at least one hour or two half hour periods, as she may choose, during normal working hours, for the purpose of nursing her child, and such domestic worker may combine the portion or portions of time to which she is entitled with any other normal breaks so as to constitute longer periods as she may find necessary or convenient for the purpose of nursing her child.

FIFTH SCHEDULE (Section 22)

REPEALS

<i>Title</i>	<i>Statutory Instrument</i>
Employment (Domestic Workers) Regulations, 1981	925C of 1981
Employment (Domestic Workers) (Amendment) Regulations, 1982 (No. 1)	136 of 1982
Employment (Domestic Workers) (Amendment) Regulations, 1984 (No. 3)	336 of 1984
Employment (Domestic Workers) (Amendment) Regulations, 1985 (No. 4)	187 of 1985