



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 237

2009

DECLARATION OF EXTENSION OF COLLECTIVE AGREEMENT: AGRICULTURAL INDUSTRY: LABOUR ACT, 2007

Under Section 71(5) of the Labour Act, 2007 (Act No. 11 of 2007), and at the request of the Agricultural Employers' Association, Namibia National Farmers' Union and the Namibian Farm Workers' Union, I hereby declare that the provisions of the collective agreement dated 5th March, 2009 and set forth in the Schedule are extended to all employees and employers in the Agricultural Industry.

I. NGATJIZEKO
MINISTER OF LABOUR AND SOCIAL WELFARE

SCHEDULE**COLLECTIVE AGREEMENT ON MINIMUM WAGE IN THE AGRICULTURE SECTOR****AGRICULTURE EMPLOYER'S ASSOCIATION****NAMIBIA NATIONAL FARMER'S UNION AND****NAMIBIA FARM WORKER'S UNION****PREAMBLE****The Agriculture Employers' Association;****The Namibia National Farmers' Union; and****The Namibian Farm Workers' Union**

Being the parties to this Collective Agreement, desiring to maintain labour peace in the agricultural sector, realizing the need to curb and prevent exploitation of farm workers, and having welcomed the principle of determining a minimum wage for agricultural workers, now agrees as follows:

ARTICLE 1**DEFINITIONS**

1. For the purpose of this agreement the term -

“Agriculture” covers activities carried out in agricultural undertakings including crop production, animal husbandry, game farming and hunting, guest farms, insect raising, the primary processing of agricultural and animal products by or on behalf of the operator of the undertaking as well as the use and maintenance of machinery, equipment, appliances, tools and agricultural installations, including any process, storage, operation or transportation in an agricultural undertaking, which are directly related to agricultural production; “Agriculture” does not cover subsistence farming, industrial process that use agricultural products as raw material and the related services;

“agricultural employee” means a person working for an agricultural undertaking or an agricultural employer for any period of time and who receives renumeration;

“agricultural employer” means the owner or operator of an agricultural undertaking;

“agricultural sector” and “agricultural activity” have the corresponding meaning;

“basic wage” means for the purpose of calculating any basic condition of employment that part of an employee’s renumeration in money including the cash equivalent of payment in kind, if any, as calculated in terms of section 10 of the Labour Act (Act No. 11 of 2007), paid in respect of work done during the hours ordinarily worked but does not include -

- (a) allowances, including travel and subsistence, housing, motor vehicle, transport and professional allowances whether or not based on the employee’s basic wage;
- (b) pay for overtime as defined in section 8(g) of the Labour Act, 2007 (Act No. 11 of 2007);
- (c) additional pay for work on a Sunday or a public holiday;

(d) additional pay for night work as requested in terms of section 19 (1) of the Labour Act, 2007 (Act No. 11 of 2007);

(e) payments in respect of pension, annuity or medical benefits or insurance;

“breadline” means a total income of the equivalent of US\$1 per day per person;

“dependants” means the employee’s spouse or partner and their dependant children;

“entry level” means the lowest level of remuneration of an agricultural employee; and

“subsistence farmer” means a *bona fide* small-scale farmer who produces primarily for own consumption and who has no formal employment.

ARTICLE 2

RECOGNITION AS EXCLUSIVE BARGAINING AGENT

2. For the purpose of this agreement the Parties recognise the Namibian Farm Workers’ Union as exclusive bargaining agent.

ARTICLE 3

PURPOSE OF MINIMUM WAGE DETERMINATION

3. The purpose of this collective agreement for a minimum wage are -

- (a) to improve the living standard of agricultural employees;
- (b) to reduce poverty;
- (c) to maintain social peace;
- (d) to ensure income levels above the breadline; and
- (e) to curb and prevent exploitation of agricultural employees.

ARTICLE 4

CRITERIA FOR DETERMINING MINIMUM WAGES

4. The criteria to be used for a minimum wage determination should be, but not limited to -

- (a) the needs of employees and their dependants;
- (b) the capacity of the employer to pay;
- (c) the level of wages in the country as a whole;
- (d) existing social security benefits; and
- (e) economic factors, including the requirement of the economic development.

ARTICLE 5

COVERAGE OF MINIMUM WAGES

5. (1) The agreed minimum wage determines the wage for the entry level of agricultural employees in the whole of Namibia including agricultural contract employees.

(2) Domestic workers on farm, game and hunting farms and lodges are also covered by this agreement.

(3) Specific categories of agricultural employers may be exempted temporarily from the whole agreement, or parts thereof.

ARTICLE 6

MINIMUM WAGE DETERMINATION MACHINERY

- 6.** Minimum wage determinations in the agricultural sector are to be done through -
- (a) collective agreements;
 - (b) collective bargaining using the Agricultural Labour Forum as the platform; and
 - (c) collective agreements are to be gazetted in terms of section 71 of the Labour Act, 2007 (Act No. 11 of 2007).

ARTICLE 7

ADJUSTMENT OF MINIMUM WAGES

- 7.** Adjustment of the minimum wage in the agricultural sector must be -
- (a) collectively negotiated by all parties to the agreement on an annual basis;
 - (b) the agreed criteria for determining a minimum wage in the agricultural sector, as contained in Article 4 of this agreement, should be used when establishing an adjustment of the minimum wage; and
 - (c) indicators and factors such as, but not limited to the current consumer price index (CPI), inflation rate, economic growth rate, and prevailing environmental conditions, drought, floods, bush-fires, should guide the parties in the adjusting the minimum wage.

ARTICLE 8

ENFORCEMENT OF THE MINIMUM WAGE

8. (1) The minimum wage in the agricultural sector is to be implemented and enforced through -

- (a) public education and information dissemination by the Parties to members and non-members of the Parties;
- (b) inspection of the agricultural undertakings and their wage registers by labour inspectors as provided for in section 125 of the Labour Act, 2007 (Act No. 11 of 2007);

- (c) ensuring compliance with relevant legal provisions;
- (d) consideration of penalties for non compliance with the minimum wage; and
- (e) protection of agricultural employees against victimization.

ARTICLE 9

MINIMUM WAGE FOR ENTRY LEVELS OF AGRICULTURAL EMPLOYEES

- 9.** (1) The parties determined the minimum cash wage for the entry level of agricultural employees at N\$2.87 per hour.
- (2) If an employee is by virtue of his or her employment required to live in or on a place of his or her employment or to reside on any of his or her employer's property, such employer must -
- (a) provide such employee with such housing, including sanitary and water facilities, as may comply with the reasonable requirements of such employees and in the case of an employee who is required to live or reside on agricultural land, of his or her dependants and as may be mutually agreed by the individual employer and employees;
 - (b) permit in case of an employee who is required to live or reside on agricultural land such employee, in addition, to keep such livestock and to carry on such cultivation on such land as may be necessary for such employee to provide for the reasonable needs of himself or herself and of his or her dependants; or
 - (c) provide such employee with food or rations for the reasonable needs of such employee and his or her dependants and which value should not exceed the equivalent of 35% of the employee's basic wage; or
 - (d) provide such employee with an additional allowance of at least N\$300.00 per month.

ARTICLE 10

GENERAL PROVISION

- 10.** (1) This agreement comes into force on the 1st June 2009.
- (2) This agreement remains in force until it is amended or replaced by another collective agreement of the Parties.
- (3) Any dispute must be settled through conciliation or arbitration as the Parties may agree and as provided for by relevant Namibian legislation.
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