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CONTENTS

No.		Page
PART B — ACTS		
7.	The Loan (Mbabane-Mhlambanyatsi Road Project) Act, 1988	S1
8.	The Loan (Road Rehabilitation Studies) Act, 1988	S3
9.	The Income Tax (Amendment) Act, 1988	S5
10.	The Graded Tax (Amendment) Act, 1988	S15
PART C — LEGAL NOTICES		
122.	The Regulation of Wages (Building and Construction Industry) Order, 1988	S19
123.	The Individual Provisional Tax Tables (PT8 Volume II)—(Date of Commence- ment) Notice, 1988	S26

PART B

S1

THE LOAN (MBABANE-MHLAMBANYATSI ROAD PROJECT) ACT, 1988

(Act No. 7 of 1988)



I ASSENT

MSWATI III

KING OF SWAZILAND

20th October, 1988

AN ACT

entitled

An Act to authorise the Minister for Finance to raise a loan for financing the entire foreign exchange cost and part of the local cost of the Mbabane-Mhlambanyatsi Road Project.

ENACTED by the King and the Parliament of Swaziland.

Short title.

1. This Act may be cited as the Loan (Mbabane-Mhlambanyatsi Road Project) Act, 1988.

Interpretation.

2. In this Act unless the context otherwise requires—

“agreement” means the agreement referred to in section 3 and includes any documents related thereto;

“Borrower” means the Government of the Kingdom of Swaziland;

“Lender” means the African Development Fund;

“loan” means the loan raised by the Minister under section 3;

“Minister” means the Minister responsible for finance.

Authority to raise loan.

3. The Minister is hereby authorised to enter into an agreement with the Lender for the purpose of raising a loan not exceeding five million two hundred thousand Units of Account

Loan charges and repayment.

4. (1) The loan shall carry an interest of three-quarters ($\frac{3}{4}$) of one percent (1%) per annum in respect of amounts paid out and not yet repaid from time to time.
- (2) (a) The loan shall be repayable over a period of forty years after a grace period of ten years commencing from the date of signature of the agreement as follows:-
 - (i) between the 11th and 20th year inclusive, the Borrower shall pay each year one per cent (1%) of the principal amount of the loan in equal and consecutive half-yearly instalments.
 - (ii) the Borrower shall thereafter, repay each year three per cent (3%) of the loan in equal and consecutive half-yearly instalments.
- (b) The first instalment shall be repayable on the 1st January or 1st July of the year immediately following the expiration of the grace period and the others every six months thereafter.
- (c) The interest shall be paid semi-annually and all payments including repayments on the principal amount shall be considered duly made when the funds constituting such payments are credited to an account indicated for this purpose by the Lender.

Charging the loan.

5. The loan shall be charged upon the Consolidated Fund and assets of the Borrower.

Application of loan.

6. The proceeds of the loan shall be used for financing the entire foreign exchange cost and part of the local cost of the Mbabane-Mhlambanyatsi Road Project.

S3

THE LOAN (ROAD REHABILITATION STUDIES) ACT, 1988

(Act No. 8 of 1988)



I ASSENT

MSWATI III

KING OF SWAZILAND

20th October, 1988

AN ACT

entitled

An Act to authorise the Minister for Finance to raise a loan for financing the entire foreign exchange cost and part of the local cost of the Road Rehabilitation Studies.

ENACTED by the King and the Parliament of Swaziland.

Short title.

1. This Act may be cited as the Loan (Road Rehabilitation Studies) Act, 1988.

Interpretation.

2. In this Act unless the context otherwise requires—

“agreement” means the agreement referred to in section 3 and includes any documents related thereto;

“Borrower” means the Government of the Kingdom of Swaziland;

“Lender” means the African Development Fund;

“loan” means the loan raised by the Minister under section 3;

“Minister” means the Minister responsible for finance.

Authority to raise loan.

3. The Minister is hereby authorised to enter into an agreement with the Lender for the purpose of raising a loan not exceeding one million three hundred and fifty thousand Units of Account (UA. 1.350.000) approximately three million Emalangeni (E3,000,000) upon

Loan repayment.

4. (1) The Loan shall be free of interest or any other charges.
- (2) (a) The loan shall be repayable over a period of forty years after a grace period of ten years commencing from the date of signature of the agreement as follows—
 - (i) between the 11th and 20th year inclusive, the Borrower shall repay each year one percent (1%) of the principal amount of the loan in equal and consecutive half yearly instalments;
 - (ii) the Borrower shall thereafter repay each year three per cent (3%) of the loan in equal and consecutive half yearly instalments.
- (b) The first instalment shall be repayable on the 1st January or 1st July of the year immediately following the expiration of the grace period and the others every six months thereafter.
- (c) All payments shall be considered duly made when the funds constituting such payments are credited to an account indicated for this purpose by the Lender.

Charging the loan.

5. The loan shall be charged upon the Consolidated Fund and assets of the Borrower.

Application of loan.

6. The proceeds of the loan shall be used for financing the entire foreign exchange cost and part of the local cost of the Road Rehabilitation Studies.

THE INCOME TAX (AMENDMENT) ACT, 1988

(Act No. 9 of 1988)



I ASSENT

MSWATI III

KING OF SWAZILAND

20th October, 1988

AN ACT

entitled

An Act to amend the Income Tax Order, 1975.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement.

1. This Act may be cited as the Income Tax (Amendment) Act, 1988 and shall be read as one with the Income Tax Order, 1975 (hereinafter referred to as "the Order") and shall save as otherwise provided be deemed to have come into operation on 1st July, 1988.

Amendment of section 5.

2. Section 5 of the Order is amended by inserting between paragraphs "(c)" and "(d)" the following paragraph "(ca)"—

- (a) inserting between paragraphs "(c)" and "(d)" the following new paragraph "(ca)";

"(ca) The Secretary for Customs and Excise may have access to such documents and information in the possession or custody of the Commissioner, as are required by him for the performance of his duties under the Sales Tax Act, 1983".

Amendment of section 7.

3. Section 7 of the Order is amended by replacing paragraph (g) with the following—

- (ii) For the purposes of this subsection – “residual value” means the difference between the cost of capital expenditure incurred in mining operations less the total of the allowances granted in terms of section 14(1)(m) in respect of such capital expenditure.”

Amendment of section 8.

4. Section 8(1) of the Order is amended in paragraph (a) by replacing—
- (a) the words “sixty-two” with the words “one hundred and thirty five”;
 - (b) the words “forty-six” with the words “one hundred and five”.

Amendment of section 12.

5. Section 12 of the Order is amended in subsection (5)(a) by inserting after the words “which is not already in existence in Swaziland”, with the words “or with effect from 1st July, 1987, any business which is predominantly engaged in exporting goods from Swaziland”.

Amendment of section 14.

6. Section 14 of the Order is amended in subsection (1)—
- (a) by replacing paragraph (d) with the following—

“(d) an amount equal to four per centum of the cost to the taxpayer of any industrial building and any improvements thereto (other than repairs) and other than buildings provided for in section 16(4)(a).”
 - (b) by inserting in paragraph (e) sub-paragraph (i) after the words “the process of manufacture” where they first appear, the words “or brought into use by a taxpayer engaged in the hotel industry”;
 - (c) by adding the following new proviso to paragraph (e) sub-paragraph (i)—

“Provided that where such plant and machinery is brought into use by a taxpayer engaged in the hotel industry, the initial allowance shall apply with effect from 1st July, 1988”;
 - (d) by inserting in paragraph (e) sub-paragraph (ii) after the word “building” where it first appears, the words “other than hotel buildings and improvements brought into use after 1st July, 1988”.
 - (e) by replacing paragraph (h) with the following—

“(h) in the case of a taxpayer who incurs any capital expenditure in connection with the erection by him of a new hotel or the effecting of any beneficial improvements to the amenities of an existing hotel, a hotel initial allowance for the year of assessment during which such new hotel or the beneficial improvements into an existing hotel are first used, equal to fifty per centum of the actual cost incurred by the taxpayer on or after the 1st July, 1988, together with an annual allowance of four per centum of such expenditure in respect of that year and each of the succeeding years, so that the total allowances for all years of assessment given under this paragraph

Provided that any expenditure in respect of which an allowance in terms of this paragraph has been made shall not qualify for an allowance under any other provision of this Order: and”

(f) by replacing (m) with the following—

“(m) in respect of income from mining operation an amount to be ascertained under section 16 in lieu of the allowances in paragraphs (c),(e),(f),(g) and (n)”.

Amendment of section 16.

7. Section 16 of the Order is amended by replacing it with the following—

“Calculation of capital expenditure allowance in connection with mining operations.

16. (1) Excepting in cases where the taxpayer and the Government have, in writing, agreed otherwise, the amount to be deducted each year, under section 14(1)(m) in respect of income from mining operations, shall be the capital expenditure incurred in the year of assessment after subtracting therefrom any recoupments received during the year from capital expenditure (irrespective of the date when such capital expenditure was originally incurred).

(2) If separate and distinct mining operations are carried on in mines that are not contiguous, the allowance for capital expenditure shall be computed separately for each mine.

(3) The amount of capital expenditure determined under subsection (1) in respect of any year of assessment in relation to any one mine shall not exceed the taxable income (as determined before the deduction of any amount allowable under section 14(1)(m) derived by the taxpayer from mining on that mine and any amount by which such capital expenditure would, but for the provisions of this subsection have exceeded such taxable income as so determined, shall be carried forward and be deemed to be an amount of capital expenditure incurred during the next succeeding year of assessment in respect of that mine.

(4) For the purposes of this section and section 17 “capital expenditure” means expenditure on:—

- (a) shaft sinking, building, works or equipment including any renewals or replacements of equipment;
 - (b) development, general administration and management (including any interest payable on loans utilised for mining purposes) prior to the commencement of production or during any period of non-production but excluding the cost of acquiring mineral rights;
 - (c) “expenditure” means net expenditure after taking into account any rebates, recoupments or returns of expenditure;
 - (d) “expenditure on shaft sinking” includes the expenditure on sumps, pump chambers, stations and or bins, accessory to a shaft;
- (5) Subsections (1) to (4) are deemed to have come into effect from 1st July, 1983.”

Amendment of section 22.

8. Section 22 of the Order is amended in subsection (2) by adding the following new

- “(c) dividends accruing to a non-resident shareholder, which the Government has, in terms of a written undertaking, exempted from tax to the extent specified in such undertaking.

Amendment of section 67.

9. Section 67 of the Order is amended in subsection (2) paragraph (c) by deleting the words “in Swaziland”.

Amendment of section 69.

10. Section 69 of the Order is amended by replacing subsection 2 with the following—

- “(2)(a) Notwithstanding any other provisions of this Order, where the Minister is satisfied that a new business is beneficial to the development of the economy, he may, with the prior consent of Cabinet, nominate such business as a development enterprise, and he may issue an order, known as “development approval order” in respect of such business, granting additional tax concessions to such business;
- (b) (i) Any person seeking tax concession under this subsection shall, prior to the commencement of business, apply to the Minister in a manner prescribed by him;
- (ii) The Minister may, upon examination of such application, grant or refuse to grant, in writing, a tax concession for the purposes of this subsection.
- (iii) The Minister’s decision under paragraph (ii) shall be final.
- (c) A development approval order may be issued subject to such conditions, and for such period of time, as the Minister deems fit;
- (d) The Minister shall, within twenty one days of the issue of a development order under paragraph (a), cause to be published, by notice in the Gazette, the name and address of the business nominated as a development enterprise under paragraph (a);
- (e) The Minister may, at any time, with the concurrence of Cabinet, amend or revoke a development approval order issued in terms of this subsection.
 Provided that where the Minister has cause to revoke a development approval order, he shall, within a period of twenty one days, cause such revocation to be published, by notice, in the Gazette.
- (f) Paragraphs (a) to (e) are deemed to have come into effect from 1st July, 1984.

Amendment of Second Schedule.

11. The Second Schedule to the Order is amended in paragraph 14 by adding the following new sub-paragraph (3a) after sub-paragraph (3) —

“(3a) Notwithstanding the provisions of paragraph 19(1)(i), any employer who fails to comply with the provisions of paragraph 14 (3) shall, while such failure to comply continues, be liable to a penalty not exceeding twenty Emalangenzi for each day during which the failure continues.”

THIRD SCHEDULE
RATE OF NORMAL TAX
PART I

1. (1) For the purposes of section 6(2), the rates of tax to be levied for the year of assessment commencing on the first day of July, 1985 and subsequent years are, subject to subsection (2), as follows:

- (a) in the case of companies the sole or principal business of which in Swaziland is that of mining, for each lilangeni of taxable income not exceeding twenty thousand emalangeni, twenty seven cents, and for each lilangeni, of taxable income exceeding twenty thousand emalangeni, thirty seven and half cents;
- (b) in the case of all other companies, for each lilangeni of taxable income, thirty seven and one half cents; and
- (c) in the case of persons (other than companies) as prescribed in Part II.

(2) In the case of a person (other than a company) who, during the year of assessment, was not ordinarily resident in Swaziland, the rate of tax to be levied shall not reduce the total tax payable below an amount equal—

- (a) to ten cents of each lilangeni of his taxable income, but,
- (b) if any part of his taxable income consists of a pension, three cents of each lilangeni of such part.

PART II

RATES OF NORMAL TAX IN THE CASE OF PERSONS OTHER THAN
COMPANIES

(a) PERSONS WHO ARE NOT MARRIED

<i>Taxable Income</i>	<i>Rate of Tax.</i>
Where taxable income does not exceed E1250	4 per centum of each E1 of taxable income
Exceeds E1250 but does not exceed E2500	E50 plus 10 per centum of the amount by which the taxable income exceeds E1250
Exceeds E2500 but does not exceed E3750	E175 plus 12 per centum of the amount by which the taxable income exceeds E2500
Exceeds E3750 but does not exceed E5000	E325 plus 14 per centum of the amount by which the taxable income exceeds E3750
Exceeds E5000 but does not exceed E6250	E500 plus 16 per centum of the amount by which the taxable income exceeds

Exceeds E7500 but does not exceed E8750	E925 plus 20 per centum of the amount by which the taxable income exceeds E7500
Exceeds E8750 but does not exceed E10000	E1175 plus 22 per centum of the amount by which the taxable income exceeds E8750
Exceeds E10000 but does not exceed E11250	E1450 plus 24 per centum of the amount by which the taxable income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1750 plus 26 per centum of the amount by which the taxable income exceeds E11250
Exceeds E12500 but does not exceed E13750	E2075 plus 28 per centum of the amount by which the taxable income exceeds E12500
Exceeds E13750 but does not exceed E15000	E2425 plus 30 per centum of the amount by which the taxable income exceeds E13750
Exceeds E15000 but does not exceed E16250	E2800 plus 32 per centum of the amount by which the taxable income exceeds E15000
Exceeds E16250 but does not exceed E17500	E3200 plus 34 per centum of the amount by which the taxable income exceeds E16250
Exceeds E17500 but does not exceed E18750	E3625 plus 36 per centum of the amount by which the taxable income exceeds E17500
Exceeds E18750 but does not exceed E20000	E4075 plus 38 per centum of the amount by which the taxable income exceeds E18750
Exceeds E20000 but does not exceed E21250	E4550 plus 40 per centum of the amount by which the taxable income exceeds E20000
Exceeds E21250 but does not exceed E22500	E5050 plus 42 per centum of the amount by which the taxable income exceeds E21250
Exceeds E22500 but does not exceed E23750	E5575 plus 44 per centum of the amount by which the taxable income exceeds E22500
Exceeds E23750 but does not exceed E25000	E6125 plus 45 per centum of the amount by which the taxable income exceeds E23750
Exceeds E25000 but does not exceed E26250	E6687.50 plus 45 per centum of the amount by which the taxable income exceeds E25000

Exceeds E27500 but does not exceed E28750	E7812.50 plus 45 per centum of the amount by which the taxable income exceeds E27500
Exceeds E28750 but does not exceed E30000	E8375 plus 45 per centum of the amount by which the taxable income exceeds E28750
Exceeds E30000	E8937.50 plus 45 per centum of the amount by which the taxable income exceeds E30000

(b) MARRIED PERSONS

*Taxable Income**Rates of Tax*

Where taxable income does not exceed E2500	4 per centum of each E1 of taxable income
Exceeds E2500 but does not exceed E3750	E100 plus 6 per centum of the amount by which the taxable income exceeds E2500
Exceeds E3750 but does not exceed E5000	E175 plus 8 per centum of the amount by which the taxable income exceeds E3750
Exceeds E5000 but does not exceed E6250	E275 plus 10 per centum of the amount by which the taxable income exceeds E5000
Exceeds E6250 but does not exceed E7500	E400 plus 12 per centum of the amount by which the taxable income exceeds E6250
Exceeds E7500 but does not exceed E8750	E550 plus 14 per centum of the amount by which the taxable income exceeds E7500
Exceeds E8750 but does not exceed E10000	E725 plus 16 per centum of the amount by which the taxable income exceeds E8750
Exceeds E10000 but does not exceed E11250	E925 plus 18 per centum of the amount by which the taxable income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1150 plus 20 per centum of the amount by which the taxable income exceeds E11250
Exceeds E12500 but does not exceed E13750	E1400 plus 22 per centum of the amount by which the taxable income exceeds E12500
Exceeds E13750 but does not exceed E15000	E1675 plus 24 per centum of the amount by which the taxable income exceeds

Exceeds E16250 but does not exceed E17500	E2300 plus 28 per centum of the amount by which the taxable income exceeds E16250
Exceeds E17500 but does not exceed E18750	E2650 plus 30 per centum of the amount by which the taxable income exceeds E17500
Exceeds E18750 but does not exceed E20000	E3025 plus 32 per centum of the amount by which the taxable income exceeds E18750
Exceeds E20000 but does not exceed E21250	E3425 plus 34 per centum of the amount by which the taxable income exceeds E20000
Exceeds E21250 but does not exceed E22500	E3850 plus 36 per centum of the amount by which the taxable income exceeds E21250
Exceeds E22500 but does not exceed E23750	E4300 plus 38 per centum of the amount by which the taxable income exceeds E22500
Exceeds E23750 but does not exceed E25000	E4775 plus 40 per centum of the amount by which the taxable income exceeds E23750
Exceeds E25000 but does not exceed E26250	E5275 plus 42 per centum of the amount by which the taxable income exceeds E25000
Exceeds E26250 but does not exceed E27500	E5800 plus 44 per centum of the amount by which the taxable income exceeds E26250
Exceeds E27500 but does not exceed E28750	E6350 plus 45 per centum of the amount by which the taxable income exceeds E27500
Exceeds E28750 but does not exceed E30000	E6912.50 plus 45 per centum of the amount by which the taxable income exceeds E28750
Exceeds E30000	E7475 plus 45 per centum of the amount by which the taxable income exceeds E30000

(c) WIFE'S EMPLOYMENT INCOME RATES

<i>Wife's Employment Income</i>	<i>Rates of Tax</i>
Where wife's employment income does not exceed E1250	Nil
Exceeds E1250 but does not exceed E3750	4 per centum of the amount by which the wife's employment exceeds E1250
Exceeds E3750 but does not exceed E5000	E100 plus 16 per centum of the amount

Exceeds E5000 but does not exceed E6250	E300 plus 19 per centum of the amount by which the wife's employment income exceeds E5000
Exceeds E6250 but does not exceed E7500	E537.50 plus 23 per centum of the amount by which the wife's employment income exceeds E6250
Exceeds E7500 but does not exceed E8750	E825 plus 24 per centum of the amount by which the wife's employment income exceeds E7500
Exceeds E8750 but does not exceed E10000	E1125 plus 24 per centum of the amount by which the wife's employment income exceeds E8750
Exceeds E10000 but does not exceed E11250	E1425 plus 26 per centum of the amount by which the wife's employment income exceeds E10000
Exceeds E11250 but does not exceed E12500	E1750 plus 26 per centum of the amount by which the wife's employment income exceeds E11250
Exceeds E12500 but does not exceed E13750	E2075 plus 30 per centum of the amount by which the wife's employment income exceeds E12500
Exceeds E13750 but does not exceed E15000	E2450 plus 30 per centum of the amount by which the wife's employment income exceeds E13750
Exceeds E15000 but does not exceed E16250	E2825 plus 32 per centum of the amount by which the wife's employment income exceeds E15000
Exceeds E16250 but does not exceed E17500	E3225 plus 34 per centum of the amount by which the wife's employment income exceeds E16250
Exceeds E17500 but does not exceed E18750	E3650 plus 36 per centum of the amount by which the wife's employment income exceeds E17500
Exceeds E18750 but does not exceed E20000	E4100 plus 38 per centum of the amount by which the wife's employment income exceeds E18750
Exceeds E20000 but does not exceed E21250	E4575 plus 40 per centum of the amount by which the wife's employment income exceeds E20000
Exceeds E21250 but does not exceed E22500	E5075 plus 42 per centum of the amount by which the wife's employment income exceeds E21250
Exceeds E22500 but does not exceed E23750	E5600 plus 44 per centum of the amount by which the wife's employment income exceeds E22500

S14

Exceeds E25000 but does not exceed E26250	E6712.50 plus 45 per centum of the amount by which the wife's employment income exceeds E25000
Exceeds E26250 but does not exceed E27500	E7275 plus 45 per centum of the amount by which the wife's employment income exceeds E26250
Exceeds E27500 but does not exceed E28750	E7837.50 plus 45 per centum of the amount by which the wife's employment income exceeds E27500
Exceeds E28750 but does not exceed E30000	E8400 plus 45 per centum of the amount by which the wife's employment income exceeds E28750
Exceeds E30000	E8962.50 plus 45 per centum of the amount by which the wife's employment income exceeds E30000.

THE GRADED TAX (AMENDMENT) ACT, 1988

(Act No. 10 of 1988)



I ASSENT

MSWATI III

KING OF SWAZILAND

20th October, 1988

AN ACT

entitled

An Act to amend the Graded Tax Act, 1968.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement.

1. This Act may be cited as the Graded Tax (Amendment) Act, 1988, shall be read as one with the Graded Tax Act, 1968 (hereinafter referred to as "the principal Act") and shall come into operation on the 1st July, 1987.

Amendment of section 2.

2. Section 2 of the principal Act is amended—

- (a) by adding at the end of the definition "collector" the words "and also means an employer";
- (b) "employer" has the same meaning as in the Second Schedule to the Income Tax Order, 1975;
- (c) by replacing the definition "income" with the following definition—

“income” means gross cash income received by or accrued to or in favour of a person—

 - (a) from any source within Swaziland in respect of—
 - (i) his trade business or profession;
 - (ii) wages or salary arising from his employment;

(iv) rent, royalty or premium for a lease;

or

(b) income deemed to be from a source in Swaziland by virtue of section 3(2)";

(d) by replacing the definition "magistrate's court" with the following definition—
"magistrate's court" means a court established under the Magistrates Courts Act, 1938.

Amendment of section 3.

3. Section 3 of the principal Act is amended by renumbering that section as section 3(1) and by adding thereto the following subsection—

"(2) For the purposes of subsection (1), a person who, being a citizen of Swaziland recruited on a foreign contract of employment, is employed outside Swaziland shall be deemed to be domiciled or resident in Swaziland and his income from such employment shall be deemed to be income from a source in Swaziland."

Amendment of section 4.

4. Section 4 of the principal Act is amended by replacing paragraph (b) of subsection (1) with the following—

"(b) a person who is under the apparent age of eighteen years and for the purposes of this subsection a person shall be deemed to be of or over such age unless he produces evidence that he is under such age."

Amendment of section 5.

5. Section 5 of the principal Act is replaced with the following new section—

"Payment of graded tax derived from employment and related matters.

5. (1) Every person who, on the 1st July, 1987 is an employer or who becomes an employer after that date shall apply to the Commissioner for registration as an employer in such form as the Commissioner may require within fourteen days of such date or, in the latter case, of becoming an employer or, in either case, within such further period as the Commissioner may allow:

Provided that every person who, on the 1st July, 1987, is an employer or who, after that date becomes an employer and is registered in compliance with paragraph 15 of the Second Schedule to the Income Tax Order, 1975 shall, for the purposes of this section, be deemed to be registered.

(2) An employer shall deduct the amount of the graded tax referable to the income derived by a person from his employment from the first salary or wages payable to him each month in respect of such employment in accordance with Part I of the Schedule:

Provided that:-

(1) upon being satisfied that a person is employed by more than one employer, the Commissioner may by written notice to all the employers concerned

- (ii) in the event of such person ceasing to be employed by the employer so responsible as provided in paragraph (i) of this proviso, such employer shall forthwith notify the other employer or employers of such person accordingly, and the provisions of this section shall thereupon apply to such employer or employers, as the case may be.
- (3) An employer may, with the written permission of the Commissioner, maintain a tax card for each employee and such card shall be made available by the employer for inspection by the employer or a collector at all reasonable times:

Provided that the Commissioner may, after reasonable notice to an employer, withdraw any permission granted under this subsection or, by notice in the Gazette, prescribe any class or classes of employers or employees in relation to whom his permission to maintain tax cards shall not be required.

(4) (a) Every employer shall deduct from the salary or wages of his employee the amount of graded tax which the employee is liable to pay under this Act shall, except as otherwise provided in paragraph (b), pay the amount so deducted to the Commissioner within seven days after the end of the month to which the deduction relates and within fourteen days after the end of the tax year or within such longer period as the Commissioner may allow, render to the Commissioner a return, in such form as the Commissioner may approve, setting out the names of the employees, the total amount of income paid to each employee and the total amount of graded tax deducted from the salary or wages of each employee during that tax year.

(b) An employer who maintains a tax card for his employee shall, in respect of each deduction of graded tax, affix to the tax card a revenue stamp of a denomination equal to the amount deducted and shall, within fourteen days after the end of the tax year or within such longer period as the Commissioner may allow, deliver to the Commissioner all tax cards of his employees relating to the tax year together with a list in duplicate certified by him as correct showing the names of each employee to whom the tax cards relate.

(5)(a) Except as otherwise provided in paragraph (b), every employer shall issue a graded tax clearance certificate to his employee at the end of the tax year setting out the amount of graded tax deducted in respect of that year.

(b) Where an employer maintains a tax card for an employee and has complied with the provisions of subsection (4)(b), the Commissioner shall issue a graded tax clearance certificate in respect of the relevant tax year and forward the certificate to the employer for delivery to the employee.

(c) Where an employee leaves his employment before the end of a tax year, the employer shall issue a provisional graded tax clearance certificate or a tax card, as the case may be, to such employee and if such person does not become employed within that tax year he may, at the end of that tax year, surrender the provisional graded tax certificate or tax card to the Commissioner who shall issue to him a graded tax clearance certificate.

(6) Before commencing his duties under a contract of employment the employee shall hand over to his employer the provisional graded tax clearance certificate or a tax card, as the case may be, delivered to him by any previous employer during the year in which he so commences his duties.

“General tradesman” means an employee who holds a trade test certificate recognised by the Government in one of the following trades:

Block layer/Plasterer
Brick layer/Tiler
Joiner/Cabinet making
Shutterhand/Carpenter
Painter/Glazier
Plumber/Drainlayer
Welder
Electrician
Wireman
Mechanic
Plan Fitter
Steel Fixer
Boiler Maker
Pipe Fitter.

“Induna” means an employee in charge of other employees;

“Plant Operator” means a person who is placed in charge of operating either a mixer dumper or tractor;

“Machine Operator” means an employee who has been operating a machine in the Building and Construction Industry for six or more months, or who can show proof of six months relevant experience in another industry;

“Earthmover Operator” means a person who operates a machine;

“Storeman” means a person who apart from carrying out the duties of a store’s clerk, is responsible for ordering certain items on behalf of his employer;

“Tea Maker” means an employee who is engaged to routinely clean offices and to prepare refreshments;

“Normal working hours” means the hours of work specified in paragraph 5;

“Trade Tested person/Tradesman” means a person who holds a craft certificate indicating the degree of proficiency attained by him as indicated by a trade test conducted by a trade testing officer duly appointed as such in the public service;

“Watchman or security guard” means an employee who is engaged during the day or night to guard the premises or other property of his employer.

Application.

3. (1) Subject to sub-paragraph (2) this Order shall apply to persons specified in the First Schedule who are employed in any undertaking or part of an undertaking which carries on for gain one or more of the following activities:--

- (b) The construction, structural alternation, maintenance repair or demolition of any building, fencing and preparing or laying the foundation of a building or an intended building.

(2) This Order shall not apply to persons employed in any undertaking or part thereof operated by:-

- (a) the Government;
- (b) a local authority; or
- (c) such charitable or religious organisation, educational or medical institution as may be specified in writing by the Minister.

Basic Minimum Wage (First Schedule).

4. The employees specified in the First Schedule shall be paid a basic minimum wage calculated at a rate not less favourable than that specified in that Schedule.

Normal Working Hours.

5. (1) Subject to the provisions of paragraph 6, the normal working week (other than for a watchman or security guard) shall be from Monday to Friday and shall consist of forty-seven and one half hours.

(2) The normal working hours per day (other than for a watchman or security guard) shall be nine and one half hours exclusive of meal breaks.

(3) The normal working week for a watchman or security guard shall be seventy-two hours spread over six shifts, each of twelve hours, inclusive of meal breaks.

(4) No employee, other than a watchman or security guard shall be required to work for more than five hours without a break of not less than thirty minutes.

Overtime.

6. (1) Subject to paragraph 12 overtime for an employee other than a watchman or security guard shall be payable at the following rates:

- (a) during the normal working week for overtime worked before midnight in excess of the normal working hours, at one and one third times his normal hourly rate of wages;
- (b) during the normal working week for overtime worked after midnight in continuation of normal working hours or other overtime working, at twice his normal hourly rate of wages;
- (c) for any time worked on Saturday before 4.00 p.m. at one and half times his normal hourly rate of wages;
- (d) for any time worked on a public holiday specified in the Second Schedule, Sunday or after 4.00 p.m. on a Saturday at twice his normal hourly rate of wages.

(2) Overtime in respect of a watchman or security guard shall be calculated at twice

(3) For the purposes of calculating the payment of overtime in respect of a watchman or security guard the normal hourly rate of wages shall be the amount arrived at by dividing the employee's daily wage by twelve.

(4) No employee shall be required to work overtime against his will unless it is understood by both parties that such overtime is of absolute necessity.

Annual Leave.

7. (1) After three months of continuous service, an employee shall be entitled to one day's leave on full pay in respect of each month's continuous service. Such leave which is in addition to the Public Holidays specified in the Second Schedule and any other days which are not normal working days shall be taken during the Industry's Annual three week shut-down in December and January of each year.

An employee with 11 months continuous service will be granted 2 days leave on full pay during the twelfth month, of employment which leave together with the Public Holidays of Christmas Day and New Year's Day will provide full pay for the Industry shutdown.

Sick Leave.

8. Where an employee who has been in the continuous employment of the employer for three or more months through no fault of his own becomes ill and incapable of performing his duties, he shall on production of a certificate issued by a practitioner registered under the Medical and Dental Practitioner's Act, 1970, be entitled to fourteen working days sick leave with full pay and fourteen working days sick leave with half pay during any period of twelve months.

Travelling and Subsistence Allowances.

9. (1) Where an employee is temporarily employed at a place which is separated from his normal place of work by a distance of more than two kilometres by road his employer shall provide him with free transport to and from his normal place of work and the place of temporary employment.

(2) An employee required to travel on duty (other than in the circumstances set out in sub-paragraph (1) shall be provided either with free transport or be paid by his employer the cost of the travel by public transport.

(3) An employee who is absent on duty away from his normal place of employment for a longer period than twelve hours, and who returns to his normal place of residence without staying overnight shall be paid a subsistence allowance of 70c for each period of twelve hours or part thereof of such absence.

(4) An employee who is absent on duty overnight away from his normal place of employment, shall, in respect of each night's absence, be provided by his employer with:

- (a) free food and accommodation or a nightly allowance of E3.50 in lieu thereof;
- (b) free accommodation and an allowance of E1.50 in lieu of food; or
- (c) free food and an allowance of E1.50 in lieu of accommodation:

Provided that an entitlement to free food, accommodation or allowances under this

(6) Where an employee is permanently transferred by his employer to a new place of employment, he shall be paid in addition to any other entitlement due to him under this paragraph, a transfer allowance of E2.00.

(7) An employee, who has been provided by his employer with accommodation at his place of permanent employment in which his family is residing with the consent of the employer, shall if so required by his employer to transfer to another place of employment other than for the purpose of seasonal employment, be moved at the expense of that employer.

Lay-Off.

10. Where an employer is unable to provide work for any employee due to:-

- (a) unavailability of working materials; or
- (b) temporary cessation of work;

he may, subject to him giving the employee not less than twenty-four hours notice, lay-off the employee, without pay, for a maximum period of fifteen working days in the circumstances mentioned in sub-paragraph (a) and for a maximum period of thirty working days in the circumstances mentioned in sub-paragraph (b); at the expiry of fifteen working days or thirty working days as may be applicable, the employer shall either provide work for the employee, or terminate his employment under the provisions of the Employment Act:

Provided that an employee who has been engaged for the duration of a specific project or in connection with a specific project shall, upon commencement of work be informed of the date upon which it is estimated, in the project will terminate and the specifying of such date of termination notwithstanding any other law whether or not the project has in fact terminated shall constitute an adequate notice by the employer to the employee of the date of notice of termination of such contract of service.

Lay-Off due to weather.

11. (1) An employee who reports for work at his place of employment at the normal time but who is unable to start work due to inclement weather, shall be entitled to a minimum of one and one half hours pay for that day.

(2) An employee who on any day commences work and who, in the opinion of his employer is unable to continue work due to inclement weather, shall be paid for the hours he has worked plus an additional one-and-half hours wages.

Public Holidays.

12. The public holidays specified in the Second Schedule shall be holidays with full pay:

Provided that if an employee is absent from work without reasonable cause on the working day immediately before, or the working day immediately after such public holiday, he shall not be entitled to payment for that public holiday.

Clothing, equipment and protective clothing.

13. (1) The employer of a watchman or security guard shall provide him free of charge

(2) An employee other than a watchman or security guard, who is required to work in direct contact with mass concrete or similar matter which is likely to cause injury to his feet, shall be provided by his employer, free of charge, with a pair of gumboots.

(3) An employee other than a watchman who is required to work outdoors in inclement weather shall be provided by his employer, free of charge, with a waterproof cap or similar garment.

(4) The clothing and equipment supplied to an employee under this paragraph shall be of reasonable quality and shall remain the property of the employer.

(5) Where any protective clothing supplied to an employee under this paragraph is damaged or lost through an employee's negligence, the employer may deduct the cost thereof, after due consideration of wear and tear, from wages due to the employee.

Revocation of Legal Notice 88 of 1987.

14. The Regulation of Wages (building and Construction Industry) Order, 1987 is hereby revoked.

FIRST SCHEDULE
(PARAGRAPH 3 AND 4)

Clerk (no certificate)	E 1.01 an hour
Clerk (with certificate)	1.07 "
Cook	1.01 "
Crane driver (mobile)	2.15 "
Crane driver (tower)	1.86 "
Driver (light vehicle)	1.13 "
Driver (heavy duty)	1.40 "
Driver (extra heavy)	1.54 "
Earthmover operator	2.01 "
Steel Erector(s) Steel	1.89 "
General Labour	1.01 "
General Tradesman	1.01 "
Grade III Trade tested	1.07 "
Grade II Trade tested	1.53 "
Grade I Trade tested	2.29 "
Induna	1.16 "
Plant Operator (Dumper, mixer, tractor)	1.16 "
Storeman	1.08 "
Tea maker63 "

S25

SECOND SCHEDULE
(PARAGRAPH 6 AND 12)

Independence (Somhlolo) Day
Good Friday
Christmas Day
New Year's Day
Umhlanga (Reed Dance) Day
King's Birthday
Incwala Day
Easter Monday

K. MBULI
Principal Secretary

LEGAL NOTICE NO. 123 OF 1988

THE INCOME TAX ORDER, 1975

(Order No. 21 of 1975)

THE INDIVIDUAL PROVISIONAL TAX TABLES (PT 8 VOLUME II)

(DATE OF COMMENCEMENT) NOTICE, 1988

In exercise of the powers conferred by paragraphs 2(4) and (5) of the Fourth Schedule to the Income Tax Order, 1975, I Daniel Mathokoza Dlamini, Commissioner of Taxes hereby issue the following Notice—

Citation and date of commencement.

1. This Notice may be cited as the Individual Provisional Tax Tables (PT 8 Volume II) (Date of Commencement) Notice 1988, and shall be deemed to have come into operation on the 1st July, 1988.

Revocation of Legal Notice No. 59 of 1987.

2. The Individual Provisional Tax Tables (PT 8) (Date of Commencement) Notice, 1987 is deemed to have been revoked with effect from 1st July, 1988.

D.M. DLAMINI
Commissioner of Taxes