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CONTENTS

	PAGE
The Minimum Wages Advisory Board—Notice...	77-80
The Advocates Act—Notice	80
The Companies Act—Notice	81
The Trade Marks Act—Registration of Applications	82-83
Advertisements	84

SUPPLEMENT

Statutory Instruments

S.I No. 8—The Stamps (Exemption from Stamp Duty) (No.1) Order, 1997.

CORRIGENDUM

In Trademark Application No. 20434 in Part "A" Class 12 which appeared in *The Uganda Gazette* Vol. XC No. 7 of 7th February, 1997 under the nature of goods section the word "Airplant" was an error. The right word is "Airplanes".

General Notice No. 89 of 1997.

THE MINIMUM WAGES ADVISORY BOARD RECOMMENDATIONS, 1995. NOTICE.

(a) The level of the minimum wage for unskilled labour

The Board took into account all important factors relevant to the determination of a minimum wage. It carefully evaluated all submissions relating to the level and rate of the minimum wage. It particularly considered the current growth rate of the economy and all factors necessary to sustain the economic development of the country. The Board scrutinised all data and statistics pertaining to existing collective agreements, certain awards by the Industrial Court, industrial production costs, inflation rates and the cost of living indices as well as other features of the economy including submissions as to the ability to pay.

The Board also noted the government policy of progressively and periodically reviewing wages and salaries in order to achieve a living wage so as to give further incentives to workers in order to stimulate greater productivity. It noted the social needs of the worker and the emphasis placed on balancing ability to pay and the level of a minimum wage consistent with the cost of a basket of goods and services needed to keep "body and soul" together. The Board therefore recommends that the rate of the statutory minimum wage be raised to Uganda shillings 75,000/= per month.

(b) Minimum wages differentials as between different areas

According to records, various Minimum Wages Orders since 1959, and other reports on the subject established and

recommended respectively wage differentials as between different locations and areas of the country. However, the Minimum Wages Orders of 1976 and 1984 introduced the establishment of a uniform statutory minimum wage.

Evidence received by the Board overwhelmingly shows that the majority of Ugandans are in favour of a uniform minimum wage applicable throughout the country. The argument advanced stress that the cost of living is more or less uniform throughout the country and that wage differentials between areas and sectors of the economy would encourage rural-urban migration and sectoral labour imbalance as labour would leave areas and sectors with lower wages to those places with higher minimum wages.

It was further argued that the essential criterion should be "pay for equal or similar work". However, some arguments were advanced to the effect that some socially advantaged workers such as domestic staff should be excluded from the application of the statutory minimum wage. It is true this category of workers enjoy some fringe benefits which are not usually available to other workers. Other submissions related to small informal sectors employing five or less workers, usually family members and relatives. The Board took serious note also of the difficulties of enforcement in the case of the latter two categories.

The Board having weighed the evidence and evaluated the submissions regarding the requirement to recommend differentials, if any, between different areas, Recommends there should be no differentials in the basic statutory minimum wage as between areas. Therefore the statutory minimum wage should be uniformly applied to all areas and occupations except the domestic and the small scale operations in the informal sector employing three or less unskilled labour. The above exception has been arrived at having taken into account the living and working conditions of those employees concerned, the ability to pay by their respective employers and the difficulties of enforcement. The Board was mindful of the need to protect such workers but considered it more realistic to recommend that the workers and the employers in this subsector of the economy should negotiate and agree on a suitable and meaningful wage.

(c) Minimum wage rate for large agricultural estates and other attractive conditions of work

Agriculture forms the backbone of Uganda's economy. It counts for about 57 percent of the gross domestic product and virtually for all export earnings. It provides employment for 80% of the labour force. Large agricultural estates employ a significant portion of this labour force and are potentially able to employ even bigger numbers. As the

government is pursuing a policy of encouraging the full participation of the private sector in the economy, poverty elimination and an all-round policy of improving the level of wages and the standard of living of the citizens, it is imperative that the agricultural sector of the economy receives special attention in the determination of the minimum statutory wages.

Accordingly, the Board visited a number of large agricultural estates and received evidence from representatives of small scale holdings involved in the production of sugar and tea respectively. The Board also met and received memoranda from the Uganda Tea Association as well as replies to questionnaires in addition to budgeted costings of a package of basic needs from representatives of the workers involved in the sector.

The average minimum wage on these estates ranges from Ug. Shs. 9,000/= pm to Ug. Shs. 30,000/= per month. In addition, the majority of proprietors provide to the workers housing, albeit some of it is substandard and usually overcrowded, and other fringe benefits such as leave transport, lunch, medicare, and in some cases subsidised schools for primary, and in others, post-primary education. In addition, in some cases funeral expenses are subsidised, both in agriculture and in other sectors.

The Board noted that in all cases, the large and small agricultural estates were encountering numerous problems. The commonest is that of debt burden arising out of borrowings to rehabilitate the estates. Other problems include labour shortages, low productivity, unfavourable market competition in the case of the tea industry, and the overall work habits, unreliability and high cost of utilities especially electricity which contribute in a large measure to the non-competitiveness of the agricultural sector. The phenomenon of shortages of labour presents a challenge to the nation as far as it is a "contradiction in terms", in view of the large numbers of unemployed with an average of 200,000 to 300,000 entrants into the labour market. Policy makers will need to address the issue of a progressive and effective national employment policy, which does not exist, as part of the national planning policies. The Board understands that steps are being taken to this effect and that the ILO is willing and ready to send a team of experts to assist the Ministry of Labour and Social Welfare in this regard. Speedy follow-up should be a priority of the concerned ministry. Attention should also be directed to finding a solution to the problem of power fluctuation which increases the cost of production due to the use of alternative expensive fuel. The Board noted, course of its field enquiries, that the constant power failure in tea factories and the high cost of diesel used in stand-by generators have an adverse effect of causing losses to the tea manufacturing industry and other establishments in the agricultural sector.

The Board received evidence that work on the estates is harsh and hazardous. However, considering that most of the labour force on these estates is unionised in powerful trade unions which have negotiated for the provision of non-wage benefits by the proprietors, that raise the total earnings when monetised, the Board is of the view, in consistence with its recommendation in paragraph of this report, that there is

no justification for a special minimum wage rate for employees on large agricultural estates. Besides, the problems being currently faced by the sector are temporary and the Board suggests that the proprietors should seriously make a concerted effort to break out of the vicious circle of low wages, low productivity and unstable labour force and uncompetitive quality of their product on international market, by improving the working and living conditions of workers. Particular attention should be given to rehabilitating the work culture on their estates as part of the national effort.

The Board therefore recommends that the statutory basic minimum wage of 75,000/= recommended in para ... of this report should apply equally to this sector of the economy. The Board further recommends that both employers and the respective trade union organisations assisted by the department of Labour of the Ministry of Labour and Social Welfare and NOTU should jointly make greater efforts to improve on the working and living conditions of unskilled workers to make them more attractive to ensure recruitment, retention, stabilisation and productivity of the labour force.

(d) Minimum rate for learners

In its enquiries, the Board encountered confusion as regards the "institutions" of "learnership" and "apprenticeship". As a result the Board decided to make a distinction between the two in the course of its inter-action with members of the public and institutions interviewed. It was explained that a "learner" is any unskilled person, regardless of the level of education attained, recruited directly from the labour market to learn or acquire on the job the skills of a particular trade or occupation of his or her choice. After acquiring the required skills of the trade, he/she then qualifies as an artisan - carpenter, blacksmith, weaver, mechanic, bookbinder, etc. On the other hand, an "apprentice" is any person who has acquired an educational standard sufficient to enable him learn both written and or practical work in connection with a designated trade. The apprenticeship training is regulated by a written contract entered into between the apprentice and the prospective employer and witnessed by a designated official of the Ministry of Labour. The contract specifies the nature of training, the craftsman to impart the skills, the duration of training as well as the level of wages to be paid while undergoing training. On successful completion of apprenticeship such a person would be eligible to apply for the Uganda Craftsman Trade Test and on passing the test he or she would be entitled to receive a certificate of competence in respect of the particular trade. The designated trades are prescribed in the Industrial Training (Amendment of Schedule) Order, 1976.

The Board received evidence indicating that on the whole, a learner should be paid at a rate lower than that of a skilled craftsman in the trade of his interest, but not lower than the minimum statutory wage. Arguments in support of this view were advanced, namely that although not a fully qualified person, he/she would nevertheless be productive and that the wage would act as incentive to learn quickly besides helping him/her to meet the basic needs for sustenance. The employer would also make an effort to ensure early completion of the training. A minority view expressed pointed out that a learner should be paid less since he/she would be likely to make careless mistakes, be wasteful of materials and cause damage to the employer's tools, materials and equipment.

The Board noted that under the Minimum Wages Order 1984, a learner is only entitled to seventy-five percentum of the minimum wage payable to a skilled person employed in the same area. The "raison d'être" for such a practice is that the output of such a person is not comparable to that of a qualified counterpart. The Board, taking into account the requirements to meet the basic needs of the learner like any other person and the need to encourage the employer to organise and execute a speedy training programme, sees no justification for maintaining the practice. The Board therefore recommends that a learner should be paid at the minimum wage rate. The Board further recommends that the period of learning should be streamlined and periodically reviewed to safeguard against unethical and exploitative practice of employing a learner for an indefinite period of time. The period of learning should not, in any case, exceed three years. To ensure this safeguard, any employer engaging a learner should notify the Labour officer of the area for certification and subsequent monitoring action.

(e) The hourly wage rate for part-time workers employed for four or less consecutive hours in each day

The Board received evidence that most people which confused the terms "casuals" and "piece work employees". The Board recognised that piece work rates were based on negotiation and agreement between workers and their employer for performing a particular task. The Board also noted that quite a number of employers engaged unskilled workers to perform particular duties every day for a few hours on a continuing basis, month after month. These workers are not considered "permanent" and are not entitled to social security contributions, and fringe benefits such as housing, lunch or medicare. In some industries they are referred to as "permanent casuals" and in other cases, they are laid off after a period ranging from three to six months and re-engaged as casuals. A consensus emerged that where a person is engaged on a part-time basis, he/she should be paid a hourly rate, as compared to a specific piecework rate. However in order to guard against exploitative tendencies, and to compensate for the denial of fringe benefits, as well as to discourage part time arrangements where the activity is repetitive on a continuous basis, the Board is of the view that there is justification for the payment of a higher wage than the statutory minimum wage for this category of workers. Accordingly, the Board recommends that part-time workers employed for four or less consecutive hours in each day on an activity of a continuous nature should be paid at an hourly rate of 1.5 times the minimum wage rate per hour i.e. on the basis of 22 working days in a month:

$$\text{Shs. } 75,000/= \times 3 = 225,000/= = \text{Ug. Shs. } 639/20 \text{ per hour.} \\ 22 \times 8 \quad 2 = 352$$

Calculation of minimum rate of wages per hour, day, week and month

The Board noted that the practice of fixing wages in relation to time varies from sector to sector and from industry to industry/occupation. For one reason or another an employer or individual worker may prefer his or her wage rates to be calculated on an hourly, daily or weekly basis. The commonest is daily or monthly. The Board recommends that the statutory minimum remuneration should be calculated in relation to

an hour, day, week or month depending on the agreed preferred choice of both parties.

The Board further recommends that the statutory minimum wage rate should apply to the areas and occupations stipulation in column 1 of the Schedule to the Minimum Wages Order, 1996.

PART III- COMMENTS, OBSERVATIONS AND RECOMMENDATIONS

In the course of the Board's inquiries certain issues were brought to its attention albeit unrelated to its TOR. The Board has therefore felt obliged to offer its comments observations and where appropriate its recommendations as they have a bearing on the subject under enquiry as well as on the social and economic conditions of the country.

Protection of the Local Industries

The Board received representations concerning the flooding of the market with imported consumer goods which are also manufactured locally. It was alleged that these items are sold at lower prices than those of the locally produced goods. An analysis of the situation reveals that in most cases, the cost of production by the "young and revived" Uganda industries high due to a number of factors — land-locked position of the country and related transport costs of imported raw materials, high cost of utilities, high taxation and excise duties, low productivity. The Board also received information that there is lack of coordination at policy and implementation levels in awarding licences to importers or investors on the one hand on the other, the income collection/customs agencies of the government. The net result is that despite government efforts to liberalise the economy, the local producer, who in addition to the above mentioned disadvantages and has debt burden to off-load is uncompetitive.

The Board recommends that the government carefully examines all the issues involved, taking into account the expected results of the on-going study on the implications of a free trade area in the context of the East African Cooperation and the promotion of the Private Sector Development and takes appropriate action to protect the upcoming local industries.

Grants to local administrations under decentralisation

Officials of the Decentralised Administrations virtually without exception, Kampala District Administration excluded, informed the Board that they were facing considerable difficulties in delivering decentralised services and in particular the payment of wages to "support staff". The Board was requested to ask both the Ministries of Local Government and Public Service to revisit the issue of "block grants" to ensure timely remittance and also to include in the grants the component of the wages of the support staff so that when the salaries of professional staff are paid, the administrations can pay the support staff at the same time. These two aspects of the problem are extremely important and require urgent consideration. The request has been brought to the attention of the Ministry of Public Service when the Board met its representatives. The Ministry of Local Government has also been informed in writing as it