

**GNR.1438 of 13 November 1998: General Administrative Regulations**

| as amended by |                    |                  |
|---------------|--------------------|------------------|
| Notice        | Government Gazette | Date             |
| R.319         | 23228              | 22 March 2002    |
| R.936         | 23610              | 25 July 2002     |
| R.197         | 33018              | 12 March 2010    |
| 655           | 37955              | 29 August 2014   |
| R.949         | 38250              | 26 November 2014 |
| 1402          | 42124              | 19 December 2018 |
| R.24          | 42178              | 22 January 2019  |
| R.39          | 42965              | 22 January 2020  |

  

| as corrected by       |                       |                                  |
|-----------------------|-----------------------|----------------------------------|
| Notice                | Government Gazette    | Date                             |
| R.1010                | 38312                 | 11 December 2014                 |
| R.83                  | 42986                 | 31 January 2020                  |
| <a href="#">R.174</a> | <a href="#">43026</a> | <a href="#">17 February 2020</a> |

Promulgated in terms of the Basic Conditions of Employment Act, [No. 75 of 1997](#), under Government Notice No. R.1438 of 1998 in *Government Gazette* No. 19453 of 13 November 1998.

The Minister of Labour has, under [section 86 \(1\)](#) of the Basic Conditions of Employment Act (Act [No. 75 of 1997](#)), and after consulting the Employment Conditions Commission, made the Regulations set out in [the Schedule](#).

**SCHEDULE**

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[Index amended by GN 655 of 29 August 2014.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 1. Definitions.-(1) In these regulations any expression that is defined in the Act has that meaning unless the these context indicates otherwise-**

**1. Definitions.**-(1) In these regulations any expression that is defined in the Act has that meaning unless the these context indicates otherwise-

"the Act" means the Basic Conditions of Employment Act (Act [75 of 1997](#));

**"Labour Relations Act"** means the Labour Relations Act (Act [66 of 1995](#));

**"form"** means a document attached to these regulations.

(2) Whenever the expression "Department of Labour" or "Chief Director Provincial Operations" appears in the Act or in these regulations, it means-

- (a) In the province of Eastern Cape, the Chief Director Provincial Operations, Department of Labour, Private Bag X9005, East London. 5200;
- (b) In the province of Free State, the Chief Director Provincial Operations, Department of Labour, P O Box 522, Bloemfontein. 9300;
- (c) In the province of Gauteng, the Chief Director Provincial Operations, Department of Labour, P O Box 4560, Johannesburg. 2000;
- (d) In the province of KwaZulu Natal, the Chief Director Provincial Operations, Department of Labour, P O Box 940, Durban. 4000;
- (e) In the province of Limpopo, the Chief Director Provincial Operations, Department of Labour, Private Bag X9368, Polokwane. 0700;
- (f) In the province of Mpumalanga, the Chief Director Provincial Operations, Department of Labour, Private Bag X7263, Witbank. 1035;
- (g) In the province of Northern Cape, the Chief Director Provincial Operations, Department of Labour, Private Bag X5012, Kimberley. 8300;
- (h) In the province of North West, the Chief Director Provincial Operations, Department of Labour, Private Bag X2040, Mmabatho. 2735;
- (i) In the province of Western Cape, the Chief Director Provincial Operations, Department of Labour, P O Box 872, Cape Town. 8000.

[[R. 1](#) amended by GNR.319 of 2002. [Sub-r. \(2\)](#) substituted by GN 655 of 29 August 2014.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 2. Informing employees of their rights.-An employer must keep the statement of employees' rights referred to in section 30 of this Act in the form of BCEA 1 in all official languages.**

**2. Informing employees of their rights.-**An employer must keep the statement of employees' rights referred to in section 30 of this Act in the form of BCEA 1 in all official languages.

Form BCEA 1A English  
Form BCEA 1B Afrikaans  
Form BCEA 1C Sepedi  
Form BCEA 1D Sesotho  
Form BCEA 1E Setswana  
Form BCEA 1F siSwati  
Form BCEA 1G Tshivenda  
Form BCEA 1H Xitsonga  
Form BCEA 1I isiNdebele  
Form BCEA 1J isiXhosa  
Form BCEA 1K isiZulu

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 3. Keeping of records.-(1) The record that an employer is required to keep in terms of section 31 must comprise-**

**3. Keeping of records.-(1)** The record that an employer is required to keep in terms of section 31 must comprise-

- (a) a wages register in the form of BCEA 2 or some other record that contains the information set out in that form; and
- (b) an attendance register in the form of BCEA 3 or some other record that contains the information set out in that form.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 4. Record of employee's wages.-The information about remuneration that an employer is required to give an employee in terms of section 33 of the Act must be given in the form of BCEA 4, or contain the information required by that form.**

**4. Record of employee's wages.-**The information about remuneration that an employer is required to give an employee in terms of section 33 of the Act must be given in the form of BCEA 4, or contain the information required by that form.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 5. Written particulars of employment.-Within six months of the date on which the Act comes into effect, an employer must give an employee who was in employment on that date the written particulars of employment required by Section 29.**

**5. Written particulars of employment.**-Within six months of the date on which the Act comes into effect, an employer must give an employee who was in employment on that date the written particulars of employment required by Section 29.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 6. Certificate of service.-The certificate of service that an employer is required to give an employee in terms of section 42 must be given in the form of BCEA 5, or contain the information required by that form.**

**6. Certificate of service.**-The certificate of service that an employer is required to give an employee in terms of section 42 must be given in the form of BCEA 5, or contain the information required by that form.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 7. Ministerial determination.-An application for a Ministerial determination in terms of section 50 (1) (b) of the Act must be in the form of BCEA 6, or contain the information required by that form. A Ministerial determination must be issued in the form of BCEA 6, or contain the information required by that form.**

**7. Ministerial determination.**-An application for a Ministerial determination in terms of section 50 (1) (b) of the Act must be in the form of BCEA 6, or contain the information required by that form. A Ministerial determination must be issued in the form of BCEA 6, or contain the information required by that form.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 8. Subpoenas.- (1) For the purpose of performing the functions referred to in section 66 of the Act, a labour inspector may-**

**8. Subpoenas.**-(1) For the purpose of performing the functions referred to in section 66 of the Act, a labour inspector may-

- (a) subpoena for questioning any person who may be able to give information or whose presence may help the inspector in performing the inspector's functions;
- (b) subpoena any person who is believed to have possession or control of any book, document or object relevant to an inspection or investigation to appear before the inspector to be questioned or to produce that book, document or object;
- (c) call, and if necessary subpoena, any expert to appear before the inspector to give evidence relevant to an inspection or investigation;
- (d) call any person present at an inspection or investigation who was or could have been subpoenaed for any purpose set out in these regulations, to be questioned about any matter relevant to an inspection or investigation;
- (e) administer an oath or accept an affirmation from any person called to give evidence or be questioned;
- (f) examine, demand the production of, and seize any book, document or object that is on or in those premises and that is relevant to an inspection or investigation;
- (g) take a statement in respect of any matter relevant to an inspection or investigation from any person on the premises who is willing to make a statement; and
- (h) inspect, and retain for a reasonable period, any of the books, documents, or objects that have been produced to, or seized by, the inspector.

(2) A subpoena issued in terms of [subregulation \(1\)](#) must be made in the form of BCEA 8.

(3) A subpoena issued for any purpose in terms of [subregulation \(1\)](#) must be signed by the Director-General or a person authorised by the Director-General and must-

- (a) specifically require the person named in it to appear before the inspector;
- (b) sufficiently identify the book, document or object to be produced; and
- (c) state the date, time and place at which the person is to appear.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules**

and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 9. Securing an undertaking.-(1) Any undertaking secured by a labour inspector in terms of section 68 (2) of the Act must be in the form of BCEA 9 or contain the information required by that form.

**9. Securing an undertaking.**-(1) Any undertaking secured by a labour inspector in terms of section 68 (2) of the Act must be in the form of BCEA 9 or contain the information required by that form.

(2) A receipt for any payment in terms of section 68 (2) (d) of the Act must be in the form of BCEA 10 or contain the information required by that form.

(3) A receipt for any record, document, article, substance or machinery removed in terms of section 66 (3) (b) must be in the form of BCEA 11 or contain the information required by that form.

[R. 9 substituted by GNR.936 of 2002 and by GN 655 of 29 August 2014.]

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 10. Compliance order.-A compliance order issued by a labour inspector in terms of section 69 of the Act must be in the form of BCEA 12 or contain the information set out in that form.

**10. Compliance order.**-A compliance order issued by a labour inspector in terms of section 69 of the Act must be in the form of BCEA 12 or contain the information set out in that form.

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 11. ....

11. ....

[R. 11 deleted by GN 655 of 29 August 2014.]

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 12. Proof of service.-Whenever a party is required to satisfy any person that a copy of a referral, objection or other document has been served on another party, that party may do so by providing-

**12. Proof of service.**-Whenever a party is required to satisfy any person that a copy of a referral, objection or other document has been served on another party, that party may do so by providing-

- (a) a copy of the proof of mailing the referral, objection or other document by registered post to the other party;
- (b) a copy of the telegram, telex or telefax including proof of transmission, communicating the referral, objection or other document to the other party;
- (c) a copy of a receipt signed by the other party or on that party's behalf if the copy of the referral, objection or other document was delivered by hand; or
- (d) a statement confirming service signed by the person who delivered a copy of the referral objection or other party.

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ 13. Inspector certificates in terms of section 63.-(1) A certificate issued to a labour inspector in terms of Section 63 (3) must be in the form of Annexure 14A.

**13. Inspector certificates in terms of section 63.**-(1) A certificate issued to a labour inspector in terms of Section 63 (3) must be in the form of Annexure 14A.

(2) Every labour inspector who is issued with a certificate in terms of sub-regulation (1) must also be issued with a certificate in the form of an inspector card in the form of Annexure 14B.

(3) Production of a certificate by a labour inspector in the form of either Annexure 14A or Annexure 14B constitutes-

- (a) Proof that the person identified in the certificate is a labour inspector;
- (b) Compliance with a request for the productions of a certificate in terms of Section 65 (3) (a) of the Act.

[R. 13 inserted by GNR.319 of 2002.]

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 1A SUMMARY TO BE KEPT BY AN EMPLOYER IN TERMS OF SECTION 30

## **BCEA 1A**

### **SUMMARY TO BE KEPT BY AN EMPLOYER IN TERMS OF SECTION 30**

[Form BCEA 1A substituted by GNR.936 of 2002, by GNR.197 of 12 March 2010, by GN 655 of 29 August 2014 and by GNR.949 of 26 November 2014, corrected by GNR.1010 of 11 December 2014, substituted by GN 1402 of 19 December 2018 and by GNR.39 of 22 January 2020, corrected by GNR.83 of 31 January 2020 and by GNR.174 of 17 February 2020.]

### **(Regulation 2)**

#### **BASIC CONDITIONS OF EMPLOYMENT ACT, 1997**

The following is a summary of the provisions of the most important sections of the Basic Conditions of Employment Act, 1997, as amended.

## **1. APPLICATION OF THE ACT: SECTION 3**

The Act applies to all employees and employers except members of the State Security Agency and unpaid volunteers working for an organisation with a charitable purpose.

The basic conditions of employment contained in the Act form part of the contract of employment of employees covered by the Act. Some, but not all, basic conditions of employment may be varied by individual or collective agreements in accordance with the provisions of the Act. (See paragraph 7 below).

## **2. REGULATION OF WORKING TIME: CHAPTER TWO**

### **2.1 Application**

This chapter does not apply to senior managerial employees, employees engaged as sales staff who travel and employees who work less than 24 hours a month.

### **2.2 Ordinary hours of work: Section 9 and 9A**

2.2.1 No employer shall require or permit an employee to work more than-

- (a) 45 hours in any week;
- (b) nine hours in any day if an employee works for five days or less in a week; or
- (c) eight hours in any day if an employee works on more than five days in a week.

2.2.2 Employees earning less than the threshold, who works for less than four hours on any day must be paid for four hours on that day

### **2.3 Overtime: Section 10**

2.3.1 An employer may not require or permit an employee-

- (a) to work overtime except by an agreement;
- (b) to work more than ten hours' overtime a week.

2.3.2 An agreement may not require or permit an employee to work more than 12 hours on any day.

2.3.3 A collective agreement may increase overtime to fifteen hours per week for up to two months in any period of 12 months.

2.3.4 Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

### **2.4 Compressed working week: Section 11**

2.4.1 An employee may agree in writing to work up to 12 hours in a day without receiving overtime pay.

2.4.2 This agreement may not require or permit an employee to work-

- (a) more than 45 ordinary hours in any week;
- (b) more than ten hours' overtime in any week; or
- (c) more than five days in any week.

### **2.5 Averaging of hours of work: Section 12**

2.5.1 A collective agreement may permit the hours of work to be averaged over a period of up to four months.

2.5.2 An employee who is bound by such a collective agreement may not work more than-

- (a) an average of 45 ordinary hours in a week over the agreed period;
- (b) an average of five hours' overtime in a week over the agreed period.

### **2.6 Meal intervals: Section 14**

2.6.1 An employee must have a meal interval of 60 minutes after five hours work.

2.6.2 A written agreement may-

- (a) reduce the meal interval to 30 minutes;
- (b) dispense with the meal interval for employees who work fewer than six hours on a day.

### **2.7 Daily and weekly rest period: Section 15**

An employee must have a daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive

hours, which, unless otherwise agreed, must include Sunday.

## **2.8 Pay for work on Sundays: Section 16**

2.8.1 An employee who occasionally works on a Sunday must receive double pay.

2.8.2 An employee who ordinarily works on a Sunday must be paid at 1.5 times the normal wage.

2.8.3 Paid time off in return for working on a Sunday may be agreed upon.

## **2.9 Night work: Section 17**

2.9.1 Employees who work at night between 18h00 and 06h00 must be compensated by payment of an allowance or by a reduction of working hours and transport must be available.

2.9.2 Employees who work regularly after 23:00 and before 06:00 the next day must be informed-

(a) of any health and safety hazards; and

(b) the right to undergo a medical examination.

## **2.10 Public holidays: Section 18**

2.10.1 Employees must be paid their ordinary pay for any public holiday that falls on a working day.

2.10.2 Work on a public holiday is by agreement and paid at double the rate.

2.10.3 A public holiday may be exchanged with another day by agreement.

# **3. LEAVE: CHAPTER THREE**

## **3.1 Application**

The chapter on leave does not apply to an employee who works less than 24 hours a month for an employer and to leave granted in excess of the leave entitlement under this chapter.

## **3.2 Annual leave: Sections 20 & 21**

3.2.1 Employees are entitled to 21 consecutive days' annual leave or by agreement, one day for every 17 days worked or one hour for every 17 hours worked.

3.2.2 Leave must be granted not later than six months after the end of the annual leave cycle.

3.2.3 An employer must not pay an employee instead of granting leave except on termination of employment.

## **3.3 Sick leave: Sections 22 - 24**

3.3.1 An employee is entitled to six weeks' paid sick leave in a period of 36 months.

3.3.2 During the first six months an employee is entitled to one day's paid sick leave for every 26 days worked.

3.3.3 An employer may require a medical certificate before paying an employee who is absent for more than two consecutive days or who is frequently absent.

## **3.4 Maternity leave: Sections 25 & 26**

3.4.1 A pregnant employee is entitled to four consecutive months' maternity leave.

3.4.2 A pregnant employee or employee nursing her child is not allowed to perform work that is hazardous to her or her child.

## **3.5 Parental Leave: Section 25A**

3.5.1 An employee, who is a parent of a child, is entitled to at least ten consecutive days parental leave, when the employee's child is born, or adoption is granted; or the child is placed in the care of a prospective adoptive parent by a competent court, pending the finalization of an adoption order.

## **3.6 Adoption Leave: Section 25B**

3.6.1 An employee who is an adoptive parent of a child who is below the age of two, is subject to section 25 (6), entitled to at least ten weeks consecutive adoptive leave; or ten consecutive days parental leave when adoptive is granted, or the child is placed in his/her care as prospective adoptive parent by a competent court, pending the finalization of an adoptive order.

## **3.7 Commissioning parental Leave: Section 25C**

3.7.1 An employee, who is a commissioning parent in a surrogate motherhood agreement is subject to section 25 (6), entitled to at least ten weeks consecutive commissioning parental leave; or ten consecutive days parental leave when his/her child is born as a result of a surrogate motherhood agreement.

## **3.8 Family responsibility leave: Section 27**

3.8.1 Full time employees are entitled to three days paid family responsibility leave per year, on request, when the employee's child is sick, or in the event of the death of the employee's spouse or life partner, or the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

3.8.2 An employer may require reasonable proof.

# **4. PARTICULARS OF EMPLOYMENT AND REMUNERATION: CHAPTER FOUR**

## **4.1 Application**

This chapter does not apply to an employee who works less than 24 hours a month for an employer.

## **4.2 Written particulars of employment: Section 29**

4.2.1 An employer must supply an employee when the employee commences employment, with the following

particulars in writing-

- (a) full name and address of the employer;
- (b) name and occupation of the employee, or a brief description of the work;
- (c) various places of work;
- (d) date of employment;
- (e) ordinary hours of work and days of work;
- (f) wage or the rate and method of calculating;
- (g) rate for overtime work;
- (h) any other cash payments;
- (i) any payment in kind and the value thereof;
- (j) frequency of remuneration;
- (k) Any deductions;
- (l) leave entitlement;
- (m) period of notice or period of contract;
- (n) description of any council or sectoral determination which covers the employer's business;
- (o) period of employment with a previous employer that counts towards the period of employment;
- (p) list of any other documents that form part of the contract, indicating a place where a copy of each may be obtained.

4.2.2 Particulars must be revised if the terms of employment change.

#### **4.3 Informing employees of their rights: Section 30**

A statement of employees' rights must be displayed at the workplace in official languages used at the workplace.

#### **4.4 Keeping of records: Section 31**

Every employer must keep a record containing the following information-

- (a) employee's name and occupation;
- (b) time worked;
- (c) remuneration paid;
- (d) date of birth if under 18 years of age; and
- (e) any other prescribed information.

#### **4.5 Information about remuneration: Section 33**

The following information must be given in writing when the employee is paid-

- (a) employer's name and address;
- (b) employee's name and occupation;
- (c) period of payment;
- (d) remuneration in money;
- (e) any deduction made from the remuneration;
- (f) the actual amount paid; and
- (g) if relevant to the calculation of that employee's remuneration-
  - (i) employee's rate of remuneration and overtime rate;
  - (ii) number of ordinary and overtime hours worked during the period of payment;
  - (i) number of hours worked on a Sunday or public holiday during that period; and
  - (ii) if an agreement to average working time has been concluded, the total number of ordinary and overtime hours worked in the period of averaging.

(Editorial Note: Numbering as per original *Government Gazette*.)

#### **4.6 Deductions and other acts concerning remuneration: Sections 34 and 34A**

4.6.1 An employer may not deduct money from an employee's remuneration unless-

- (a) The employee agrees in writing to the deduction of a specific debt;
- (b) The deduction is made in terms of a collective agreement, law, court order or arbitration award



- 4.6.2 A deduction in respect of damage or loss caused by the employee may only be made with agreement and after the employer has followed a fair procedure
- 4.6.3 Employers must pay deductions and employer contributions to benefit funds to the fund within seven days.

#### **4.7 Calculation of remuneration and wages: Section 35**

- 4.7.1 Wages are calculated by the number of hours ordinarily worked.
- 4.7.2 Monthly remuneration or wage is four and one-third times the weekly wage.
- 4.7.3 If calculated on a basis other than time, or if the employee's remuneration or wage fluctuates significantly from period to period, any payment must be calculated by reference to remuneration or wage during-
  - (a) the preceding 13 weeks; or
  - (b) if employed for a shorter period, that period.
- 4.7.4 Employers and employees should consult a schedule published in the *Government Gazette* to determine whether a particular category of payment forms part of an employee's remuneration for the purpose of calculations made in terms of this Act.

### **5. TERMINATION OF EMPLOYMENT: CHAPTER FIVE**

#### **5.1 Application**

This chapter does not apply to an employee who works less than 24 hours in a month for an employer.

#### **5.2 Notice of termination of employment: Section 37**

- 5.2.1 A contract of employment may be terminated on notice of not less than-
  - (a) one week, if the employee has been employed for six months or less;
  - (b) two weeks, if the employee has been employed for more than six months but not more than one year;
  - (c) four weeks, if the employee has been employed for one year or more, or if a farm worker or domestic worker has been employed for more than six months.
- 5.2.2 A collective agreement may shorten the four weeks notice period to not less than two weeks.
- 5.2.3 Notice must be given in writing except when it is given by an illiterate employee.
- 5.2.4 The notice on termination of employment by an employer in terms of the Act does not prevent the employee challenging the fairness or lawfulness of the dismissal in terms of the Labour Relations Act, 1995 or any other law.

#### **5.3 Severance pay: Section 41**

An employee dismissed for operational requirements or whose contract of employment is terminated in terms of section 38 of the Insolvency Act, 1936 is entitled to one week's severance pay for every year of service.

#### **5.4 Certificate of Service: Section 42**

On termination of employment an employee is entitled to a certificate of service.

### **6. PROHIBITION OF EMPLOYMENT OF CHILDREN AND FORCED LABOUR: SECTIONS 43 - 48**

- 6.1 It is a criminal offence to employ a child under 15 years of age.
- 6.2 Children under 18 may not be employed to do work inappropriate for their age or that places them at risk.
- 6.3 Causing, demanding or requiring forced labour is a criminal offence.

### **7. VARIATION OF BASIC CONDITIONS OF EMPLOYMENT: SECTIONS 49 - 50**

- 7.1 A collective agreement concluded by a bargaining council may replace or exclude any basic condition of employment except the following-
  - (a) the duty to arrange working time with regard to the health and safety and family responsibility of employees (S.7, 9 and 13);
  - (b) reduce the protection afforded to employees who perform night work (S. 17 (3) and (4));
  - (c) reduce annual leave to less than two weeks (S. 20);
  - (d) reduce entitlement to maternity leave (S. 25);
  - (e) reduce entitlement to sick leave to the extent permitted (S. 22 - 24); and
  - (f) prohibition of child and forced labour (S. 48).
- 7.2 Collective agreements and individual agreements may only replace or exclude basic conditions of employment to the extent permitted by the Act or a sectoral determination (S. 49).
- 7.3 The Minister of Labour may make a determination to vary or exclude a basic condition of employment. This can also be done on application by an employer or employer organisation (S. 50).
- 7.4 A determination may not be granted unless a trade union representing the employees has consented to the variation or has had the opportunity to make representations to the Minister. A copy of any determination must be displayed by the employer at the work place and must be made available to employee's (S. 50).



## 8. SECTORAL DETERMINATIONS: SECTION 51 - 58

Sectoral determinations may be made to establish basic conditions for employees in a sector and area.

## 9. MONITORING, ENFORCEMENT AND LEGAL PROCEEDINGS: SECTIONS 63 - 81

- 9.1 Labour inspectors must advise employees and employers on their rights and obligations in terms of employment laws. They conduct inspections, investigate complaints and may question persons and inspect, copy and remove records and other relevant documents (S. 64 - 66).
- 9.2 An inspector may serve a compliance order on an employer who is not complying with a provision of the Act, the National Minimum Wage Act, 2018, the Unemployment Insurance Act or the Unemployment Insurance Contributions Act. The order may be made an Arbitration Award. (S. 68 - 73)
- 9.3 Employees may not be discriminated against for exercising their rights in terms of the Act (S. 78-81).

## 10. PRESUMPTION AS TO WHO IS AN EMPLOYEE: SECTION 83A

- 10.1 A person who works for, or provides services to, another person is presumed to be an employee if-
- (a) his or her manner or hours of work are subject to control or direction;
  - (b) he or she forms part of the employer's organisation;
  - (c) he or she has worked for the other person for at least 40 hours per month over the previous three months;
  - (d) he or she is economically dependant on the other person;
  - (e) he or she is provided with his or her tools or work equipment; or
  - (f) he or she only works for, or renders service to, one person.
- 10.2 If one of these factors is present, the person is presumed to be an employee until the employer proves that he or she is not.

## 11. GENERAL

It is an offence to-

- (a) obstruct or attempt to influence improperly a person who is performing a function in terms of the Act;
- (b) obtain or attempt to obtain any prescribed document by means of fraud, false pretences, or by presenting or submitting a false or forged document;
- (c) pretend to be a labour inspector or any other person performing a function in terms of the Act;
- (d) refuse or fail to answer fully any lawful question put by a labour inspector or any other person performing a function in terms of the Act;
- (e) refuse or fail to comply with any lawful request of, or lawful order by, a labour inspector or any other person performing a function in terms of the Act;
- (f) hinder or obstruct a labour inspector or any other person performing a function in terms of the Act. (S. 92)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 2 WAGES REGISTER [SECTION 31]**

### BCEA 2 WAGES REGISTER [SECTION 31]

|                                                                                     |
|-------------------------------------------------------------------------------------|
| Basic Conditions of<br><u>Employment Act, 1997</u><br>Section 31                    |
| <b>READ THIS FIRST</b>                                                              |
|  |
| <b>WHAT IS THE<br/>PURPOSE<br/>OF THIS FORM?</b>                                    |
| This form is a record of the<br>calculation of<br>remuneration.                     |
| <b>WHO FILLS IN<br/>THIS FORM?</b>                                                  |
| The employer.                                                                       |

|                    |                                                               |
|--------------------|---------------------------------------------------------------|
| NAME OF EMPLOYEE:  |                                                               |
| IDENTITY NO:       |                                                               |
| EMPLOYEE NUMBER:   |                                                               |
| PAY PERIOD:        |                                                               |
| BASIC WAGE:        |                                                               |
| OCCUPATION:        |                                                               |
| MANNER OF PAYMENT: | PER HOUR    PER DAY<br>PER WEEK<br>PER FORTNIGHT<br>PER MONTH |

## WHERE DOES THIS FORM GO?

Must be kept in employer's possession.

### INSTRUCTIONS

- Records must be kept by the employer for a period of three years from the date of the last entry [section 31 (2)].
- No person may make a false entry in a record maintained in terms of subsection (1) [section 31 (3)].
- An employer who keeps a record in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other law [section 31 (4)].
- Every employee has the right to inspect and to request for a trade union representative or a labour inspector to inspect any record kept in terms of this Act that relates to the employment of that employee [section 78 (1) (g)].

*This is only a model and not a prescribed form.*

Completing a document in another format containing the same information is sufficient compliance with the regulation.

## CALCULATION OF WAGES

|                                 |            |   |
|---------------------------------|------------|---|
| Ordinary hours worked           | Amount due | R |
| Overtime worked                 | Amount due | R |
| Hours worked on Sundays         | Amount due | R |
| Hours worked on public holidays | Amount due | R |
| Allowances: Shift               |            |   |
| Housing                         |            |   |
| Transport                       |            |   |
| Medical                         |            |   |
| Other: (specify)                |            |   |
| Total                           |            | R |
| Total                           |            | R |
| Authorised deductions: P.A.Y.E. |            |   |
| UIF                             |            |   |
| Union                           |            |   |
| Medical                         |            |   |
| Retirement                      |            |   |
| Other: (Full details)           |            |   |
| Total                           |            | R |
| TOTAL AMOUNT DUE                |            | R |

SIGNATURE OF EMPLOYEE

DATE

## National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 3 ATTENDANCE REGISTER

### BCEA 3 ATTENDANCE REGISTER

Basic Conditions of  
Employment Act, 1997  
Section 31

### READ THIS FIRST



### WHAT IS THE PURPOSE OF THIS FORM?

This form is a record of attendance

### WHO FILLS IN THIS FORM?

The employee or if the employee is unable the employer.

### WHERE DOES THIS FORM GO?

Must be kept in employer's

[illegible]



**BCEA 5**  
CERTIFICATE OF SERVICE [SECTION 42]

Basic Conditions of  
Employment Act, 1997  
Section 42

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of  
employment with an  
employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued  
upon termination of  
employment.

**NOTE**

In terms of section 42 (g)  
the reason for termination  
of employment must only  
be given if requested by  
the employee.

*This is only a model and not  
a prescribed form.*  
Completing a document in  
another format containing  
the same information is  
sufficient compliance with  
the regulation.

**CERTIFICATE OF SERVICE**

I  
(name and designation of person)  
of  
(full name of employer)  
address:  
in the (trade)  
declare that  
(full name of employee)  
(I.D. no.)  
was in employment  
from until  
as  
(type of work/occupation)

any other information

On termination of service this employee was earning: R  
(amount in words)

|               |           |          |
|---------------|-----------|----------|
| PER HOUR      | PER DAY   | PER WEEK |
| PER FORTNIGHT | PER MONTH | PER YEAR |

Employer's signature Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules  
and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 6  
APPLICATION FOR MINISTERIAL DETERMINATION [SECTION 50 (1) (b)]**

**BCEA 6**  
APPLICATION FOR MINISTERIAL DETERMINATION [SECTION 50 (1) (b)]  
[BCEA 6 amended by GNR.319 of 2002 and substituted by GNR.197 of 12 March 2010 and by GN 655 of 29 August 2014.]

**BASIC CONDITIONS  
OF EMPLOYMENT ACT,  
1997**  
**Section 50 (1) (b)**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE OF THIS  
FORM?**

This form is an  
application for a  
Ministerial

**BCEA 6**

**DEPARTMENT OF LABOUR**

**APPLICATION FOR MINISTERIAL DETERMINATION**

**N.B. ALL APPLICABLE FIELDS MUST BE COMPLETED**

**A. EMPLOYER PARTICULARS**

**1. FULL NAME OF EMPLOYER OR COMPANY TRADING NAME**

determination to replace or exclude certain provisions of the Act or a Sectoral Determination.

**WHO FILLS IN THIS FORM?**

The employer.

**WHERE DOES THIS FORM GO?**

The Provincial Executive Manager

**INSTRUCTIONS**

- . The sections of the Act or Sectoral Determination for which variation is sought must be mentioned.
- . Proof of any consent to the application by the registered trade union(s) in terms of section 50 (7) (a) must be attached to this form.
- . If no consent is obtained, proof of service on registered trade union(s) and proof of reasonable steps to bring the application to the notice of employees must be attached.
- . Shift roster must be included if applicable.

**NOTE**

A Department of Labour official may conduct an inspection to verify the information or seek more information in relation to your application.

If there is insufficient space on the form use separate piece of paper.

National applications and applications to vary prescribed minimum wages must be forwarded to the Executive Manager, Employment Standards, P/Bag X117, Pretoria. 0001

**UIF REFERENCE NUMBER:**

**SARS NUMBER:**

**COMPANY REGISTRATION NUMBER:**

**COMPENSATION FUND REGISTRATION NUMBER:**

**2. NATURE OF BUSINESS CONDUCTED**

**3. CONTACT PERSON(S)**

**4. POSTAL ADDRESS**

**POSTAL CODE**

**TEL. NO. (..)**

**FAX. NO. (..)**

**E-MAIL:**

|                  |                                        |                                     |                                       |
|------------------|----------------------------------------|-------------------------------------|---------------------------------------|
| <b>PROVINCE:</b> | <input type="checkbox"/> Eastern Cape  | <input type="checkbox"/> Free State | <input type="checkbox"/> Gauteng      |
|                  | <input type="checkbox"/> KwaZulu-Natal | <input type="checkbox"/> Limpopo    | <input type="checkbox"/> Mpumalanga   |
|                  | <input type="checkbox"/> Northern Cape | <input type="checkbox"/> North-West | <input type="checkbox"/> Western Cape |

2.

**5. STREET ADDRESS**

**TOWN/SUBURB:**

**POSTAL CODE:**

|                  |                                        |                                     |                                     |
|------------------|----------------------------------------|-------------------------------------|-------------------------------------|
| <b>PROVINCE:</b> | <input type="checkbox"/> Eastern Cape  | <input type="checkbox"/> Free State | <input type="checkbox"/> Gauteng    |
|                  | <input type="checkbox"/> KwaZulu-Natal | <input type="checkbox"/> Limpopo    | <input type="checkbox"/> Mpumalanga |
|                  | <input type="checkbox"/>               | <input type="checkbox"/>            | <input type="checkbox"/>            |

**B. DETAILS OF APPLICATION**

**1. VARIATION IS APPLIED FOR IN RESPECT OF THE FOLLOWING SECTION(S)  
OF THE ACT OR CLAUSE(S) OF THE FOLLOWING SECTORAL  
DETERMINATION(S):**

**2. AREA AND PROJECT FOR WHICH VARIATION IS SOUGHT:**

**3. PERIOD FOR WHICH VARIATION IS SOUGHT:**

**4. TOTAL NUMBER OF EMPLOYEES:**

**5. NUMBER OF EMPLOYEES AFFECTED BY APPLICATION:**

**3.**

**6. MOTIVATION AND REASONS WHY THE APPLICATION FOR VARIATION  
SHOULD BE GRANTED:**



### C. PREREQUISITES

- 1. IF THIS APPLICATION HAS THE CONSENT OF ALL THE REGISTERED TRADE UNION(S) THAT REPRESENT THE EMPLOYEES IN RESPECT OF WHOM THE DETERMINATION IS TO APPLY, PROOF OF THAT CONSENT SHOULD BE ATTACHED TO THIS FORM.**
- 2. IN THE ABSENCE OF THE CONSENT REFERRED TO IN 1. PROOF OF SERVICE OF A COPY OF THIS APPLICATION ON ALL REGISTERED TRADE UNIONS THAT REPRESENTED EMPLOYEES AFFECTED BY THIS APPLICATION MUST BE ATTACHED.**
- 3. IN ADDITION, IF THE MAJORITY OF EMPLOYEES ARE NOT REPRESENTED BY A REGISTERED TRADE UNION, PROOF OF REASONABLE STEPS TAKEN TO BRING THIS APPLICATION TO THE NOTICE OF EMPLOYEES MUST BE ATTACHED.**
- 4. IF NO AGREEMENT COULD BE REACHED WITH THE PARTIES REFERRED TO IN 1, 2 OR 3 - POINTS OF DISSENSION**

**NAME:**

**SIGNATURE:**

**POSITION:**

**DATE:**

### **5.**

#### **ADDRESSES OF PROVINCIAL EXECUTIVE MANAGERS**

|                                                                                                                                                                                                           |                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In the province of Eastern Cape:<br>The Chief Director Provincial Operations<br>Department of Labour<br>Private Bag X9005<br><b>EAST LONDON</b><br>5200<br><br>TEL: (043) 701 3128<br>FAX: (043) 722 1012 | In the Province of the Free State:<br>The Chief Director Provincial Operations<br>Department of Labour<br>PO Box 522<br><b>BLOEMFONTEIN</b><br>9300<br><br>TEL: (051) 505 6200/6203<br>FAX: (051) 447 5329 |
| In the province of Gauteng:<br>The Chief Director Provincial Operations<br>Department of Labour<br>P O Box 4560<br><b>JOHANNESBURG</b><br>2000<br><br>TEL: (011) 853 0302<br>FAX: (011) 853 0470          | In the province of KwaZulu/Natal:<br>The Chief Director Provincial Operations<br>Department of Labour<br>P O Box 940<br><b>DURBAN</b><br>4000<br><br>TEL: (031) 336 2022<br>FAX: (031) 305 9540            |
| In the Limpopo Province:<br>The Chief Director Provincial Operations<br>Department of Labour<br>Private Bag X9368<br><b>POLOKWANE</b><br>0700                                                             | In the Province of Mpumalanga:<br>The Chief Director Provincial Operations<br>Department of Labour<br>Private Bag X7263<br><b>WITBANK</b><br>1035                                                          |

|                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TEL: (015) 290 1607<br>FAX: (015) 290 1608                                                                                                                                                                                                            | TEL: (013) 655 8700/8701<br>FAX: (013) 655 8838                                                                                                                                                                     |
| In the province of Northern Cape:<br>The Chief Director Provincial Operations<br>Department of Labour<br>Private Bag X5012<br><b>KIMBERLEY</b><br>8300<br><br>TEL: (053) 838 1502<br>FAX: (053) 832 9386                                              | In the province of North-West:<br>The Chief Director Provincial Operations<br>Department of Labour<br>Private Bag X2040<br><b>MMABATHO</b><br>2735<br><br>TEL: (018) 387 8101/(018) 387 8102<br>FAX: (018) 384 2597 |
| In the Province of the Western Cape:<br>The Chief Director Provincial Operations<br>Department of Labour<br>P O Box 872<br><b>CAPE TOWN</b><br>8000<br><br>TEL: (021) 441 8110/8112 TEL: (021) 441 8000<br>FAX: (021) 441 8136<br>FAX: (021) 441 8111 | Head Office<br>The Director<br>Employment Standards<br>P/Bag X117<br>PRETORIA<br>0001<br><br>Tel: 309 4000/309 4119<br>FAX: 012 309 4709                                                                            |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 7 DETERMINATION IN TERMS OF SECTION 50 [SECTION 50 (8) (c)]**

#### **BCEA 7**

DETERMINATION IN TERMS OF SECTION 50 [SECTION 50 (8) (c)]

#### **DEPARTMENT OF LABOUR**

#### **DETERMINATION IN TERMS OF SECTION 50**

I, The Minister of Labour, make the following determination in terms of Section 50 (8) (c) of the Act:

1. The following sections of the Act or clauses of the sectoral determination are replaced or excluded:

Basic Conditions of  
Employment Act, 1997  
Section 50 (8) (c)

#### **READ THIS FIRST**



#### **WHAT IS THE PURPOSE OF THIS FORM?**

To record a determination to replace or exclude any basic condition of employment.

#### **WHO FILLS IN THIS FORM?**

The Minister.

#### **WHERE DOES THIS FORM GO?**

To the affected parties and, if required, publication in the *Government Gazette*.

2. CORRESPONDENCE ADDRESS

POSTAL CODE                      PROVINCE  
TEL. NO. (...)                      FAX NO. (...)  
E-MAIL:

3. NATURE OF BUSINESS CONDUCTED
4. CONTACT PERSON(S)

#### **B. DETAILS OF APPLICATION**

1. VARIATION IS APPLIED FOR IN RESPECT OF THE FOLLOWING SECTION(S) OF THE ACT OR CLAUSE(S) OF THE FOLLOWING SECTORAL DETERMINATION:

2. Extent of the variation
3. Employers or employees in respect of whom the determination applies.
4. Conditions on which determination is granted

5. Period for which the determination is granted

SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_

**Minister of Labour:**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 8 SUBPOENA [SECTION 66 (1)]**

**BCEA 8**

SUBPOENA [SECTION 66 (1)]

[BCEA 8 substituted by GN 655 of 29 August 2014.]

**BASIC CONDITIONS OF  
EMPLOYMENT ACT, 1997**

Section 66 (1)

READ THIS FIRST



**WHAT IS THE PURPOSE  
OF THIS FORM?**

To subpoena information or a person who has such information to make it available to the Director-General or a duly authorised representative.

**WHO FILLS IN THIS  
FORM?**

The Department of Labour.

**WHERE DOES THIS FORM  
GO?**

To the person who has the information.

**NOTE**

Failure to comply with the subpoena may result in the committal of an offence.

**DEPARTMENT OF LABOUR**

**BCEA 8**

**Enquiries:**

**Tel. no:**

**Cell no:**

**Fax No:**

**E-mail:**

**Ref no:**

**SUBPOENA**

Subpoena in terms of [Regulation 8](#)

**Name of Employer/Company:**

**Name of person subpoenaed:**

**Full address:**

**Postal Code:**

**You are required to appear in person before labour inspector**

**Name:**

**at:**

**(physical address)**

**Postal Code:**

**on**

**at**

**and**

**(date)**

**(time)**

**on any subsequent day to which the investigations may be postponed.**

**You are subpoenaed in terms of section 66 of the Act read together with [regulation 8](#) of the Act:**

**For questioning**

**To produce any book, document or object**

**To give evidence**

**You must bring and produce the books, documents or objects listed below-**

- 1.**
- 2.**
- 3.**
- 4.**
- 5.**
- 6.**

## Failure to appear and penalty

### NOTE:

**Please take note that should you fail to appear at the place, date and time indicated in this subpoena, you will be committing an offence in terms of section 92 of the Act which is punishable in terms section 93 of the Act.**

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase "in terms section 93" is intended to be "in terms of section 93".)

**Please take further note that on conviction the Magistrate Court may impose a fine or imprisonment.**

SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ .

Labour Inspector

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 8A  
.....

### BCEA 8A

.....

[BCEA 8A inserted by GNR.936 of 2002 and deleted by GN 655 of 29 August 2014.]

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 9  
WRITTEN UNDERTAKING [SECTION 68]

### BCEA 9

#### WRITTEN UNDERTAKING [SECTION 68]

[BCEA 9 substituted by GN 655 of 29 August 2014, GN 1402 of 19 December 2018 and by GNR.39 of 22 January 2020 and corrected by GNR.83 of 31 January 2020 and by GNR.174 of 17 February 2020.]

### BCEA 9

#### DEPARTMENT OF EMPLOYMENT AND LABOUR

#### WRITTEN UNDERTAKING

Enquiries:

Tel. no:

Cell no:

E-mail:

Ref no:

(Delete that which is not applicable)

1. I / We \_\_\_\_\_ . (state name of employer/  
representative(s)) ID No \_\_\_\_\_ a duly  
authorised representative (s) of \_\_\_\_\_ (state name  
of business) Reg No \_\_\_\_\_ (state CIPC registration number)  
situated at \_\_\_\_\_ (physical address)  
Tel no: \_\_\_\_\_ Fax no: \_\_\_\_\_ Cell no: \_\_\_\_\_  
undertake to comply with the following-

#### 2. Provisions of the Act(s)/Sectoral Determination

2.1 Section(s) \_\_\_\_\_ of the Basic Conditions of  
Employment Act, 1997 as amended.

2.2 Section(s) \_\_\_\_\_ of the National Minimum Wage  
Act, 2018.

2.3 Section(s) \_\_\_\_\_ of the Unemployment Insurance Act, 2001.

2.4 Section(s) \_\_\_\_\_ of the Unemployment Insurance  
Contributions Act, 2002.

**BASIC CONDITIONS OF  
EMPLOYMENT ACT,  
1997**

**Section 68**

**READ THIS FIRST**



**WHAT IS THE PURPOSE  
OF THIS FORM?**

To record an undertaking by the employer to comply with a provision of the Acts enforced in terms of the Basic Conditions of Employment Act (BCEA).

**WHO FILLS IN THIS  
FORM?**

The labour inspector.

**WHERE DOES THIS  
FORM GO?**

The employer.

**INSTRUCTIONS**

May be issued when:

- An agreement is concluded on amounts owed to employee.
- An employer undertakes to perform or cease acts agreed to.
- Failure to comply with the written undertaking will result in the written undertaking being made an arbitration award in terms of section 68 (3) of the BCEA.

2.5 Clause(s)

of Sectoral Determination

no:

2.6 Other (specify)

AND / OR

**3. To perform / cease the following acts:**

**4. Payment undertaking (specify)**

**Fine for not complying with the National Minimum Wage:**

4.1. In accordance with 76A (1) of the Act, you are also required to

pay a total fine of-

- (a) Twice the value of the underpayment; or
- (b) Twice the employee's monthly wage

R. for the benefits of the employee in respect of whom the failure to comply occurs,

4.2. In accordance with 76A (2) of the Act for second or further non-compliance, you are also required to pay a total fine of-

- (a) Thrice the value of the underpayment or
- (b) Thrice the employee's monthly wage

R. for the benefits of the employee in respect of whom the failure to comply occurs,

**FOR THE ADMINISTRATION OF THE ACT, FINES TO BE  
IMPOSED IN TERMS OF THE TABLES BELOW:**

**TABLE ONE:**

**Maximum permissible fine not involving an underpayment**

|                                                                                                                                                   |                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| No previous failure to comply                                                                                                                     | R300 per employee in respect of whom the failure to comply occurs  |
| A previous failure to comply in respect of the same provision                                                                                     | R600 per employee in respect of whom the failure to comply occurs  |
| A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years | R900 per employee in respect of whom the failure to comply occurs  |
| Three previous failures to comply in respect of the same provision within three years                                                             | R1200 per employee in respect of whom the failure to comply occurs |
| Four previous failures to comply in respect of the same provision within three years                                                              | R1500 per employee in respect of whom the failure to comply occurs |

**TABLE TWO:**

**Maximum permissible fine involving an underpayment**

|                                                                                  |                                                                                            |
|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| No previous failure to comply                                                    | 25% of the amount due, including any interest owing on the amount at the date of the order |
| A previous failure to comply in respect of the same provision within three years | 50% of the amount due, including any interest owing on the amount at the date of the order |
| A previous failure to comply in                                                  |                                                                                            |

respect of the same provision 75% of the amount due, within a year, or two including any interest owing on provisions to comply in respect the amount at the date of the of the same provision within order three years

Three previous failures to comply in respect of the same provision within three years 100% of the amount due, including any interest owing on the amount at the date of the order

Four or more previous failures to comply in respect of the same provision within three years 200% of the amount due, including any interest owing on the amount at the date of the order

5. I further undertake to provide the Department of Employment and Labour with proof of compliance of the above requirements of this written undertaking not later than (Date)
6. I furthermore understand fully that failure to comply with the requirements of this undertaking and to provide proof of compliance thereof within the prescribed time to the Department of Employment and Labour, the Director General: Labour may request the CCMA to make the undertaking an arbitration award.
7. I acknowledge the contents of this written undertaking, I signed it voluntarily and free from any form of duress. The consequences of non-compliance with its contents have been explained to me and I fully understand and abide by them.
8. I acknowledge that costs as a result of non-compliance with this written undertaking will be incurred by me.

**SIGNED AT** (PLACE) **ON THIS** DAY OF 20

**SIGNED: EMPLOYER**

**SIGNED: LABOUR INSPECTOR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 10 RECEIPT [SECTION 68 (2) (d)]**

**BCEA 10**  
RECEIPT [SECTION 68 (2) (d)]

Basic Conditions of  
Employment Act, 1997  
Section 68 (2) (d)

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

Proof of monies received.

**WHO FILLS IN  
THIS FORM?**

The inspector.

**WHERE DOES THIS  
FORM GO?**

The employer.

**INSTRUCTIONS**

Must be issued upon receipt of any monies paid to an inspector.

**DEPARTMENT OF LABOUR  
RECEIPT**

Ref/Case no:

Enquiries:

(Delete that which is not applicable)

**Official  
Stamp**

I, an inspector in the Department of Labour, appointed in terms of the Act, acknowledge receipt of the amount of the undertaking dated (Delete that which is not applicable) (in words) of the Department of Labour

Cheque

Cash

Other (specify e.g. postal order)

Received by:

Designation:

Date:

**BCEA 11**  
RECEIPT [SECTION 66 (3) (b)]

Basic Conditions of  
Employment Act, 1997  
Section 66 (3) (b)

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of  
records received from  
employer.

**WHO FILLS IN  
THIS FORM?**

The inspector.

**WHERE DOES THIS  
FORM GO?**

The employer.

**INSTRUCTIONS**

- Must be issued to employer on receipt of any record document, article, substance or machinery removed from employer's possession.
- Anything removed must be returned within a reasonable time.

**DEPARTMENT OF LABOUR**  
**RECEIPT**

Ref/Case no:  
Enquiries:

**Official  
Stamp**

TO:

I, \_\_\_\_\_ an inspector in the Department  
of Labour appointed in terms of the Act acknowledge receipt  
of the following documents/article/ substance/machinery:  
Attendance register  
Wage register  
Clock cards  
Log books  
UIF - Blue cards  
Other - specify \_\_\_\_\_

Received by:

Signature of Employer/  
Authorised Representative:

Date:

**BCEA 12**  
**COMPLIANCE ORDER ISSUED IN TERMS OF SECTION 69 (1) OF THE ACT [SECTION 69]**

[BCEA 12 substituted by GN 655 of 29 August 2014 and by GN 1402 of 19 December 2018 and by GNR.39 of 22 January 2020 and corrected by GNR.83 of 31 January 2020 and by GNR.174 of 17 February 2020.]

**BCEA 12**

**DEPARTMENT OF LABOUR**  
**ORDER COMPLIANCE**

Enquiries:

Tel. no:

E-mail:

Ref no:

**BASIC CONDITIONS OF  
EMPLOYMENT ACT,  
1997**  
**Section 69**

**READ THIS FIRST**



**1. Employers details:**

- 1.1 Trade Name/Name of Employer:
- 1.2 Physical address:
- 1.3 Postal address:



## WHAT IS THE PURPOSE OF THIS FORM?

This form is to enforce compliance with a provision of the Act

## WHO FILLS IN THIS FORM?

The inspector.

## WHERE DOES THIS FORM GO?

Order must be delivered to employer named in it, and to employee(s) affected by it or, if this is impractical, to a representative of the employees including a registered trade union.

## INSTRUCTIONS

· The employer must display a copy of this order prominently at a place accessible to the affected employee(s) at each workplace named in it.

· An employer must comply within the time period stated unless the employer refers a dispute concerning the compliance order to CCMA within that period.

1.4 E-mail address:

1.5 Tel number:

## 2. You have failed to comply with the following sections/clauses of the following Act(s)/Sectoral Determination:

| Sections/clauses | Act/Sectoral Determination                     |
|------------------|------------------------------------------------|
|                  | Basic Conditions of Employment Act, 2018       |
|                  | National Minimum Wage Act, 2018                |
|                  | Unemployment Insurance Act, 2001               |
|                  | Unemployment Insurance Contributions Act, 2002 |
|                  | Sectoral Determination no: ....:               |

## 3. You have not complied with provisions of the above to the following extent:

3.1

3.2

3.3

## 4. Fine for not complying with the National Minimum Wage:

4.1 In accordance with 76A (1) of the Act, you are also required to pay a total fine of-

- (a) Twice the value of the underpayment; or
- (b) Twice the employee's monthly wage

R..... for the benefits of the employee in respect of whom the failure to comply occurs,

4.2 In accordance with 76A (2) of the Act for second or further non-compliance, you are also required to pay a total fine of-

- (a) Thrice the value of the underpayment or;
- (b) Thrice the employee's monthly wage

R..... for the benefits of the employee in respect of whom the failure to comply occurs,

## 5. You are hereby ordered to comply with paragraph 3.1 to 4.2 and provide proof of compliance not later than ..... (date)

## 6. Non-compliance

Failure to comply with paragraph 3.1 to 4.2 of this Compliance Order and to provide proof of compliance thereof within the prescribed time frame the Director General: Employment and Labour, through its representative will apply to the CCMA in terms of section 73 (1) of the Act to make this Compliance Order an Arbitration Award.

## FOR THE ADMINISTRATION OF THE ACT, FINES TO BE IMPOSED IN TERMS OF THE TABLES BELOW:

### TABLE ONE:

#### Maximum permissible fine not involving an underpayment

|                                                                                                                                                   |                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| No previous failure to comply                                                                                                                     | R300 per employee in respect of whom the failure to comply occurs  |
| A previous failure to comply in respect of the same provision                                                                                     | R600 per employee in respect of whom the failure to comply occurs  |
| A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years | R900 per employee in respect of whom the failure to comply occurs  |
| Three previous failures to comply in respect of the same provision within three years                                                             | R1200 per employee in respect of whom the failure to comply occurs |
| Four previous failures to comply in respect of the same provision within three years                                                              | R1500 per employee in respect of whom the failure to comply occurs |



**TABLE TWO:****Maximum permissible fine involving an underpayment**

|                                                                                                                                                              |                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| No previous failure to comply                                                                                                                                | 25% of the amount due, including any interest owing on the amount at the date of the order  |
| A previous failure to comply in respect of the same provision within three years                                                                             | 50% of the amount due, including any interest owing on the amount at the date of the order  |
| A previous failure to comply in respect of the same provision within a year, or two provisions to comply in respect of the same provision within three years | 75% of the amount due, including any interest owing on the amount at the date of the order  |
| Three previous failures to comply in respect of the same provision within three years                                                                        | 100% of the amount due, including any interest owing on the amount at the date of the order |
| Four or more previous failures to comply in respect of the same provision within three years                                                                 | 200% of the amount due, including any interest owing on the amount at the date of the order |

**GIVEN UNDER MY HAND ON THIS  
(PLACE)**

**DAY OF 20 AT**

**SIGNED: LABOUR INSPECTOR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 13**  
.....

**BCEA 13**

.....

[BCEA 13 deleted by GN 655 of 29 August 2014.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 14A**  
**CERTIFICATE OF APPOINTMENT IN TERMS OF SECTION 63 OF THE ACT [SECTION 63]**

**BCEA 14A****CERTIFICATE OF APPOINTMENT IN TERMS OF SECTION 63 OF THE ACT [SECTION 63]**

[BCEA 14A inserted by GNR.319 of 2002, substituted by GN 1402 of 19 December 2018 and by GNR.39 of 22 January 2020 and corrected by GNR.83 of 31 January 2020 and by GNR.174 of 17 February 2020.]

**BCEA 14A****DEPARTMENT OF EMPLOYMENT AND LABOUR****CERTIFICATE OF APPOINTMENT IN TERMS OF SECTION 63 OF BASIC CONDITIONS OF EMPLOYMENT ACT**

**Discrete Serial Number:**

**THIS IS TO CERTIFY THAT:-**

Basic Conditions of Employment Act, [75 of 1997](#)

Please read the information before completing this form

**WHAT IS THE PURPOSE OF THIS FORM?**

To provide a certificate of appointment to inspectors in terms of Section 63 of BCEA.

**WHO AUTHORISE THIS FORM?**

1. Name :
2. Identity Number :

*has been appointed, in terms of [section 63 \(3\)](#) of the Basic Conditions of Employment Act, [75 of 1997](#), as amended, as a labour inspector to monitor and enforce the following laws-*

1. Basic Conditions of Employment Act, [75 of 1997](#) as amended;
2. Compensation for Occupational Injury and Diseases Act, [No. 61 of 1993](#);
3. Employment Equity Act, [55 of 1998](#);
4. Occupational Health and Safety Act, [85 of 1993](#);
5. Unemployment Insurance Act, [21 of 2001](#) as amended

A Chief Director:  
Provincial Operations who  
has been delegated this  
power by the Minister in  
terms of section 85 (1) of  
the BCEA

#### INSTRUCTIONS

- . Chief Director:  
Provincial Operations,  
must sign this form.
- . The inspector card  
(Annexure 14B) must  
contain an inspector's  
photo, signature of the  
inspector, signature of  
the Provincial Executive  
Manager, office from  
which the inspector is  
based.
- . Inspector card must  
bear a serial number  
allocated by Head  
Office and issued by  
the respective  
Provincial Office

6. National Minimum Wage Act, 2018  
*and may perform the following functions-*

- (a) Promote, monitor and enforce compliance with the  
above laws in terms of section 64 of the Basic  
Conditions of Employment Act;
- (b) Carry out the functions of an Inspector in terms of  
section 29 of the Occupational Health and Safety Act;
- (c) Enforce the Employment Equity Act in terms of  
sections 35 to 38 of that Act;
- (d) Exercise the powers of an inspector in term of section  
55 of the Unemployment Insurance Act;
- (e) Exercise any power delegated or perform any duty  
assigned by the Director-General: Labour in terms of  
section 3 (1) of the Compensation for Occupational  
Injuries and Diseases Act.

3. Inspector's signature

3.1 Place :

3.2 Date :

Inspector's Name:

Signature:

(Labour inspector)

4. Authorising Signature

4.1 Place

4.2 Date

Name:

(Chief Director Provincial Office)

Signature: Chief Director: Provincial Operations

(Editorial Note: Wording as per original *Government Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 14B**

#### BCEA 14B

[BCEA 14B inserted by GNR.319 of 2002 and substituted by GN 1402 of 19 December 2018 and by GNR.39 of 22 January 2020 and corrected by GNR.83 of 31 January 2020 and by GNR.174 of 17 February 2020.]

PHOTO

DEPARTMENT  
OF  
EMPLOYMENT  
AND  
LABOUR



NAME:

PROVINCIAL OFFICE:

IDENTIFICATION NUMBER:

SIGNATURE:

(INSPECTOR)

THIS IS TO CERTIFY THAT

Has in terms of [section 63 \(3\)](#) of the Basic Conditions of Employment Act, [75 of 1997](#),  
as amended, been appointed as a labour inspector to monitor and enforce the  
following legislation-

1. Basic Conditions of Employment Act, [75 of 1997](#);
2. National Minimum Wage Act, 2018;

3. Compensation for Occupational Injury and Diseases Act, [No. 61 of 1993](#);
4. Employment Equity Act, [55 of 1998](#);
5. Occupational Health and Safety Act, [85 of 1993](#);
6. Unemployment Insurance Act, [63 of 2001](#).

**CHIEF DIRECTOR: PROVINCIAL OPERATIONS**

(Editorial Note: Wording as per original *Government Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.1438 of 13 November 1998: General Administrative Regulations/ BCEA 15 APPLICATION FOR A WRITTEN UNDERTAKING / COMPLIANCE ORDER TO BE MADE AND ARBITRATION AWARD**

**BCEA 15**

**APPLICATION FOR A WRITTEN UNDERTAKING / COMPLIANCE ORDER TO BE MADE AND ARBITRATION AWARD**

[BCEA 15 inserted by GNR.24 of 22 January 2019.]

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <p><b>BCEA Form 15</b></p> <p><b>Section(s) 68 (3) and 73 (1)</b><br/> <b>Basic Conditions of Employment Act <a href="#">75 of 1997</a>, as amended.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>APPLICATION FOR A WRITTEN UNDERTAKING / COMPLIANCE ORDER TO BE MADE AN ARBITRATION AWARD</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |
| <p><b>READ THIS FIRST</b></p> <p><b>WHAT IS THE PURPOSE OF THIS FORM?</b></p> <p>This form requests the CCMA to make a written undertaking secured with an Employer or a Compliance Order issued by the inspector of the Department of Labour an arbitration award for the purpose of enforcing the written undertaking or compliance order.</p> <p>If an employer from whom a written undertaking has been secured or to whom a compliance order has been issued and served does not comply with the written undertaking or compliance order within the period recorded therein, the Director General (or his/her delegate) may apply to the CCMA to make the written undertaking or compliance order an arbitration award which may then be enforced in terms of section 143 of the LRA.</p> <p><b>WHEN CAN THIS APPLICATION BE MADE?</b></p> <p>This application can only be referred after the date on which the employer was required to comply with the written undertaking or compliance order.</p> <p><b>WHO FILLS IN PART A OF THIS FORM?</b></p> | <p><b>CCMA REGIONAL OFFICE WHEREIN THE REFERRAL IS MADE:</b></p> <p>In the matter between:</p> <p><b>REFERRING PARTY</b><br/> obo<br/> <b>EMPLOYEE(S)</b></p> <p>and<br/> <b>EMPLOYER</b></p> <p><b>PART A: APPLICATION FOR ENFORCEMENT FOR A WRITTEN UNDERTAKING OR COMPLIANCE ORDER TO BE MADE AN AWARD IN TERMS OF SECTION 68 (3) OR 73 (1) OF THE BCEA.</b></p> <p>I, the undersigned:</p> <p>(Full name of referring party)</p> <p>do hereby make oath and say:</p> <ol style="list-style-type: none"> <li>1. I am a duly delegated employee of the Department of Labour appointed in terms of section 9 of the Public Service Act, 1994 as amended.</li> <li>2. The authority to refer this matter to the CCMA has been delegated / assigned to me by the Director-General in terms of section 85(5) of the BCEA.</li> <li>3. On (date) _____, the employer _____</li> </ol> <p>made a written undertaking in terms of section 68 of the BCEA to comply with certain provisions of the BCEA as per the attached undertaking, by no later than _____</p> <p style="text-align: center;">OR</p> |                                                                                     |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |                          |                                                                                           |                          |                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------|-------------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------|
| <p>A party applying to have the written undertaking or compliance order made an arbitration award. The applicant must state whether it is the referring party or the other party in the matter.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <table border="1"> <tr> <td data-bbox="625 24 944 241">Case Number</td> <td data-bbox="944 24 1264 241">Please turn over</td> </tr> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  | Case Number              | Please turn over                                                                          |                          |                                                                                     |
| Case Number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Please turn over                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                          |                                                                                           |                          |                                                                                     |
| <p><b>THE FOLLOWING DOCUMENTS MUST BE ATTACHED TO THIS FORM</b></p> <ul style="list-style-type: none"> <li>. A copy of the Compliance order or written undertaking</li> <li>. Proof of service of the compliance order to the employer</li> <li>. Inspection report</li> <li>. Confirmatory affidavit of the inspector who secured the written undertaking or issued the compliance order.</li> <li>. Any other relevant documents i.e. witness affidavits, documents obtained during the inspection etc.</li> <li>. Proof of service of this form on the employer and any other relevant parties.</li> </ul> <p>Use additional paper if necessary.</p> <p>"Deponent" refers to the applicant. The completed affidavit should only be signed by the applicant in the presence of the Commissioner of Oaths.</p> <p>A Commissioner of Oaths must complete this section in the presence of the Deponent</p> <p><b>OBJECTION TO THE ENFORCEMENT OF A WRITTEN UNDERTAKING OR COMPLIANCE ORDER:</b></p> <p>If the employer wishes to object to the written undertaking or compliance order being made an arbitration award the employer must serve and file a notice of objection in terms of Rule 31B (4), within 5 days of receipt of this application.</p> | <p>4. On (date) a labour inspector issued and served a compliance order (Annexure A) on the employer in terms of section 69 (1) of the BCEA requiring the employer to comply with certain provisions of the BCEA as per the attached compliance order, by no later than</p> <p><b>(complete whichever is applicable and delete whichever is not applicable)</b></p> <p>5. To date-</p> <p>(a) The period within which the employer had to comply with the written undertaking or compliance order has lapsed.</p> <p>(b) The employer has failed to fully comply with the written undertaking or compliance order.</p> <p>(c) Specifically, the employer has failed to comply with the following provisions of the written undertaking or compliance order:</p> <p>(d) The employer has not referred a dispute relating the compliance order in terms of section 69(5) of the BCEA.</p> <p>6. Whereof, the application is hereby made for the - (tick boxes)</p> <table border="1"> <tr> <td><input type="checkbox"/></td> <td>written undertaking to be made an arbitration award in terms of section 68(3) of the BCEA</td> </tr> <tr> <td><input type="checkbox"/></td> <td>compliance order to be made an arbitration award in terms of section 73 of the BCEA</td> </tr> </table> <p>Other</p> <p><b>DEPONENT (Signature)</b></p> <p><b>I HEREBY CERTIFY</b> that the deponent has acknowledged that he / she knows and understands the contents of this affidavit which was signed and sworn to before me at</p> <p>on (date)</p> <p><b>COMMISSIONER OF OATHS DATE</b></p> |  | <input type="checkbox"/> | written undertaking to be made an arbitration award in terms of section 68(3) of the BCEA | <input type="checkbox"/> | compliance order to be made an arbitration award in terms of section 73 of the BCEA |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | written undertaking to be made an arbitration award in terms of section 68(3) of the BCEA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                          |                                                                                           |                          |                                                                                     |
| <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | compliance order to be made an arbitration award in terms of section 73 of the BCEA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                          |                                                                                           |                          |                                                                                     |

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [Section 44 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#) and [Section 43 \(1\)](#) of the Occupational Health and Safety Act, [No. 85 of 1993](#), hereby publish Regulations on Hazardous Work by Children in South Africa.

(Signed)

**M M S MDLADLANA, MP  
MINISTER OF LABOUR**

**Regulations on Hazardous work by children in South Africa**

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|                            |                                                                                                       |
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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ HEALTH AND SAFETY OF CHILDREN AT WORK REGULATIONS**

**HEALTH AND SAFETY OF CHILDREN AT WORK REGULATIONS  
OCCUPATIONAL HEALTH AND SAFETY ACT, 1993**

The Minister of Labour, on the recommendation of the Occupational Health and Safety Advisory Council, has in terms of [section 43 \(1\)](#) made the following regulations.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 1. Definitions.-In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates-**

**1. Definitions.-**In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates-

- (a) **"the Act"** means the Occupational Health and Safety Act, 1993;
- (b) **"child"** means a person under eighteen years of age;
- (c) **"child worker"** means any child who-
  - (i) is employed by or works for an employer and who receives or is entitled to receive any remuneration; or
  - (ii) who works under the direction or supervision of an employer or any other person;
- (d) **"employer"** means an employer as defined in the Act who employs or provides work for a child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 2. Purpose and interpretation.-(1) The purpose of these regulations is to prohibit or place conditions upon the work that may be required, expected or permitted to be performed by child workers, and which is not prohibited in terms of any law.**

**2. Purpose and interpretation.-(1)** The purpose of these regulations is to prohibit or place conditions upon the work that may be required, expected or permitted to be performed by child workers, and which is not prohibited in terms of any law.

- (2) No provision in these regulations may be interpreted as permitting the employment of-
- (a) a child who is under 15 years of age or is subject to compulsory schooling in terms of any law;
  - (b) a child who is 15 years of age or older and is not subject to compulsory schooling in any work which is prohibited in terms of any law.
- (3) Any person who requires or permits a child worker to work must comply with these regulations in addition to any other provisions of this Act, its regulations or any other law applicable to such work.
- (4) These regulations must be interpreted in accordance with International Labour Organisation's Worst Forms of Child Labour Convention, 1999.<sup>1</sup>

#### Footnotes

- 1 The text of the Convention is available at [www.ilo.org](http://www.ilo.org)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 3. Risk assessment.-(1) Every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect of such work undertake a risk assessment**

**3. Risk assessment.**-(1) Every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect of such work undertake a risk assessment process which must include at least the following-

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing-
  - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified; and
  - (ii) a monitoring plan.

(2) Without limitation to the obligations in terms of [sub-regulation \(1\)](#), an employer must for the purposes of complying with [sub-regulation \(1\)](#) take into account, to the extent that they are relevant to any work, the following factors-

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
- (b) the increased vulnerability of children to sleep disruption;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
- (d) the relative lack of experience and maturity of children in making safety judgments;
- (e) the reduced ability of children to adapt to inflexible work routines;
- (f) the reduced ability of children to perceive dangers correctly;
- (g) the reduced capacity of children to understand safety messages;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing;
- (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty.

(3) In the risk assessment process referred to in [sub-regulations \(1\)](#) and [\(2\)](#), the employer takes into account the guidelines provided in [Schedule 1](#) to these regulations.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 4. Respiratory hazards.-No employer may require or permit any child worker to undertake any work in respect of which a person over the age of 18 performing the same work would be required in terms of the Act to wear respiratory protection equipment.**

**4. Respiratory hazards.**-No employer may require or permit any child worker to undertake any work in respect of which a person over the age of 18 performing the same work would be required in terms of the Act to wear respiratory protection equipment.



**5. Work in elevated position<sup>2</sup>-(1)** No person may require or permit a child worker-

(a) to work in an elevated position unless-

- (i) the work is performed under the supervision of a competent adult employee or by the employer; and
- (ii) those fall protection measures which are reasonably practicable, and which comply with or exceed the requirements of the Construction Regulations are provided;

(b) to work at a height of more than 5 metres above the floor or ground.

(2) For the purposes of this regulation, work in an elevated position, means work at a height of more than 2 metres from the floor or ground.

**Footnotes**

- 2 [Regulation 8](#) of the Construction Regulations (published in *Government Gazette* 25207, [Government Notice R. 1010 of 18 July 2003](#)) requires any contractor undertaking construction work to prepare and implement a fall protection plan in respect of all employees, regarding all risks relating to working from an elevated position, which considers the nature of work undertaken, and sets out the procedures and methods to be applied in order to eliminate the risk. That regulation applies in addition to this regulation.

**6. Lifting of heavy weights<sup>3</sup>-(1)** No person may require or permit a child worker to perform any work that involves lifting an object that weighs more than the lesser of-

(a) 15 kgs; or

(b) 20 % of the child's body weight.

(2) Subject to [sub-regulation \(1\)](#), a child worker who lifts objects weighing more than 7,5 kgs as part of their work may not be required or permitted to lift such an object more than once per minute.

(3) Subject to [sub-regulations \(1\)](#) and [\(2\)](#), a child worker who lifts objects weighing more than 5 kgs may not be required or permitted to do so continuously for longer than 2 hours.

(4) For the purposes of [sub-regulation \(3\)](#), a child worker shall be regarded as lifting a weight continuously unless they do not lift such a weight for a period of at least 30 minutes.

**7. Work in a cold environment<sup>3</sup>-(1)** No person may require or permit a child worker to work in an environment below an actual dry-bulb temperature specified in this regulation, unless the child is supplied with suitable protective warm clothing-

(a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;

(b) 6°C where the work involves repeated entry into, or presence for more than one hour in such environment.

(2) For the purposes of [sub-regulation \(1\)](#), suitable protective warm clothing means the items of protective clothing specified in [Regulation 2 \(2\) \(b\) \(i\)](#) to [\(vi\)](#) of the Environmental Regulations for Workplaces published in *Government Gazette* 10988, [Government Notice R. 2281 of 16 October 1987](#).

**Footnotes**

- 3 [Regulation 2 \(1\)](#) to [\(3\)](#) of the Environmental Regulations for Workplaces published in *Government Gazette* 10988, [Government Notice R. 2281 of 16 October 1987](#) further regulates work in a cold environment. That regulation applies in addition to this regulation.



**8. Work in a hot environment<sup>4</sup>.**-No person may require or permit a child worker to work perform hard manual labour where the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, determined over a period of one hour, exceeds 30 unless the child-

- (a) is acclimatised to such working environment before he is required or permitted to work in such environment;
- (b) has water breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

**Footnotes**

- 4 [Regulation 2 \(4\)](#) of the Environmental Regulations for Workplaces published in *Government Gazette* 10988, [Government Notice R. 2281 of 16 October 1987](#), further regulates work in a hot environment and applies in addition to this regulation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 9. Work in noisy environment<sup>5</sup>.**-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 1

**9. Work in noisy environment<sup>5</sup>.**-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with [regulation 12](#) of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993.

**Footnotes**

- 5 The Noise Induced Hearing Loss Regulations apply to all employers or self-employed persons whose activities may expose persons to noise at or above the noise-rating limit set in the those regulations, and apply in addition to this regulation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 10. Power tools and cutting or grinding equipment.**-(1) No person may require or permit a child worker to use any power tool, or any cutting or grinding equipment unless-

**10. Power tools and cutting or grinding equipment.**-(1) No person may require or permit a child worker to use any power tool, or any cutting or grinding equipment unless-

- (a) they have conducted a risk assessment in terms of [regulation 3](#) and have determined that it is safe and without significant risks for the child to use;
- (b) if the risk assessment indicated that it is safe and without significant risks for the child to use if used with safety equipment or facilities, they-
  - (i) provide the child with the necessary safety equipment and facilities in term of [regulation 2](#) of the General Safety Regulations, made in terms of the Occupational Health and Safety Act, 1993; and
  - (ii) instruct the child in the use, maintenance and limitations of such equipment;
- (c) the child has received adequate training from a competent person in the safe and appropriate use of the power tool or other such equipment before starting such work; and
- (d) the child is supervised by a competent person when using power tool or other equipment.

(2) Despite [sub-regulation \(1\)](#), no person may require or permit a child worker to use any power tool or other machinery if an inspector has issued a notice in terms of [section 30 \(1\)](#) of the Act prohibiting the use by child workers of such tool or other machinery.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 11. Report to department of social development.**-A labour inspector who finds a child worker being employed or used in contravention of the Act or in contravention of these regulations shall refer the child for investigation to a child protection organis

**11. Report to department of social development.**-A labour inspector who finds a child worker being employed or used in contravention of the Act or in contravention of these regulations shall refer the child for investigation to a child protection organisation designated in terms of the Children's Act [No. 38 of 2005](#) or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 12. Offences and penalties.-(1) Any person who contravenes or fails to comply with any provision of these regulations shall be guilty of an offence and on conviction shall be liable to a fine or to imprisonment for a period of 12 months and, in the cas**

**12. Offences and penalties.**-(1) Any person who contravenes or fails to comply with any provision of these regulations shall be guilty of an offence and on conviction shall be liable to a fine or to imprisonment for a period of 12 months and, in the case of an continuing offence, to an additional fine of R200 or to additional imprisonment for each day on which the offence continues: Provided that the period of such additional imprisonment shall not exceed 90 days.

(2) If a person is convicted of a offence under these regulations, and the action or omissions that constitutes the offence is also a worst form of child labour as defined in [regulation 9](#) of the Regulations on Hazardous Work by Children, made in terms of the Basic Conditions of Employment Act, 1997, the court on convicting that person and determining a sentence must take into account that-

- (a) that South Africa has ratified Worst Forms of Child Labour Convention, 1999;
- (b) that the offence constitutes a worst form of child labour in terms of that Convention.

(Editorial Note: Wording as per original *Government Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 13. Summary.-(1) Any person who employs a child worker must display the prescribed summary of these regulations in the work-place where it can be read by employees including child workers who are at the workplace, which may include a summary of other r**

**13. Summary.**-(1) Any person who employs a child worker must display the prescribed summary of these regulations in the work-place where it can be read by employees including child workers who are at the workplace, which may include a summary of other relevant regulations and laws, in their workplace. This summary is provided in [Schedule 2](#) to these regulations.

(2) The existence of this displayed summary and its contents must be brought to the attention of all employees, including child workers.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 14. Short title and commencement.-These regulations shall be known as the Health and Safety of Children at Work Regulations and will come into effect 21 days after the date of publication in the Government Gazette.**

**14. Short title and commencement.**-These regulations shall be known as the Health and Safety of Children at Work Regulations and will come into effect 21 days after the date of publication in the *Government Gazette*.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ Schedule 1 Guidelines on risk assessments and plans of safe work procedures regarding permitted work by child workers**

#### **Schedule 1**

##### **Guidelines on risk assessments and plans of safe work procedures regarding permitted work by child workers**

These are the guidelines issued in terms of [regulation 3 \(3\)](#), which an employer of a child worker under the age of 18 years old must take into account when conducting a risk assessment in terms of [regulation 3 \(1\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 1. Definitions.-In these Guidelines these terms means the following, unless the context indicates otherwise-**

**1. Definitions.**-In these Guidelines these terms means the following, unless the context indicates otherwise-

- (1) "**child**" means a person under 18 years old;
- (2) "**child worker**" means a child referred to in the definition of "employer" and who works in terms of paragraph 3 of these guidelines;
- (3) "**employer**" means a person who employs, or provides work to a child or permits a child to work at any place under their control or with any machinery under their control, or allows a child to assist in any other manner in carrying on their business.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 2. Risk assessment required.-(1) Regulation 3 provides that every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect o**

**2. Risk assessment required.**-(1) [Regulation 3](#) provides that every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect of such work undertake a risk assessment process which must include at least the following-

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing-
  - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified; and
  - (ii) a monitoring plan; and
  - (iii) a review plan.

(2) A risk assessment is a way for an employer to-

- (a) evaluate the worksite in a systematic way to identify potential hazards and safety issues so the employer is able to take steps to prevent the hazard causing or contributing an exposure, injury, or illness;
- (b) identify how many child workers might be affected by the hazard and under what circumstances this may occur; and
- (c) assess the likelihood and severity of any health consequences that may arise from the exposure to the hazard.

(3) A risk assessment must be appropriate to the employer's workplace and the hazards and risks associated with the processes and activities that take place in the workplace. A risk assessment must cover the full range of work that child workers may be engaged in at the workplace, and work where child workers may be present.

(4) A risk assessment enables the employer to plan and implement measures to control or remove the hazard and thereby reduce the risk.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 3. Application regarding child workers.-(1) The provisions on risk assessment apply to children who are allowed to work in terms of the law.**

**3. Application regarding child workers.**-(1) The provisions on risk assessment apply to children who are allowed to work in terms of the law.

(2) A child who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.

(3) In terms of the South African Schools Act a child is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

(4) An exception to the prohibition on work by younger child workers, referred to in sub-paragraph (2), is that younger children are permitted to work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA. Employers in these sectors should study the sectoral determination, which can be accessed on [www.labour.gov.za](http://www.labour.gov.za).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 4. Children's characteristics and recommendations for safety.-(1) Children are in a special time in their development and are not yet ready to take on the duties and responsibilities of adults. Below are characteristics to keep in mind when supervising**

**4. Children's characteristics and recommendations for safety.**-(1) Children are in a special time in their development and are not yet ready to take on the duties and responsibilities of adults. Below are characteristics to keep in mind when supervising them in any setting.

- (a) physical, cognitive, and emotional development differ from adults-
  - (i) physical size, development, maturity, and judgment vary for any given age;
  - (ii) bone plates, ligaments and tendons are still growing;
  - (iii) chemicals metabolize faster and smaller doses may have bigger impacts;

- (b) more sleep is needed by children than adults at a time when sleep habits and patterns may not be good;
- (c) children typically explore, experiment, and take risks, but lack a sense of vulnerability; sometimes they try to do "a little more" to prove themselves;
- (d) children desire acceptance from adults and peers, and are susceptible to peer pressure, yet want to assert their independence;
- (e) children may be inexperienced in work practices or lack role models for responsibilities associated with the world of work;
- (f) children often lack assertiveness and may be afraid to ask questions or speak up because they are concerned about looking stupid or losing their job;
- (g) children may have limited skills in communicating with supervisors.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 5. Increased risks of children at work.-(1) Regulation 3 (2) provides that the risk assessment should take into account, to the extent that they are relevant to any work by child workers, a range of factors.**

**5. Increased risks of children at work.-(1)** [Regulation 3 \(2\)](#) provides that the risk assessment should take into account, to the extent that they are relevant to any work by child workers, a range of factors.

(2) These factors, together with examples of how they could become relevant at work, are-

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors. For example chemicals may metabolize faster and have greater impact at smaller doses;
- (b) the increased vulnerability of children to sleep disruption, for example children require more sleep than adults and children's body clock is more vulnerable under conditions of shift work;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone, for example-
  - . children working alone in retail outlets are easier targets for criminals;
  - . children in domestic service are isolated in private homes and may be subjected to sexual abuse by others in the homes;
- (d) the relative lack of experience and maturity of children in making safety judgments, for example children may not have sufficient insight to know that a mechanical tool is faulty, or that a ladder is not sufficiently stable, so may continue using the device in a situation where an adult would know to stop;
- (e) the reduced ability of children to adapt to inflexible work routines, for example children may not be able to maintain concentration when working for long periods without a break, increasing the likelihood of injury due to fatigue or stress related to prolonged work without rest;
- (f) the reduced ability of children to perceive dangers correctly, for example-
  - . children, especially teenagers, typically explore, experiment, and take risks, but lack a sense of vulnerability;
  - . sometimes they try to do "a little more" to prove themselves;
  - . they desire acceptance from adults and peers, and are susceptible to peer pressure, yet want to assert their independence;
  - . children may be inexperienced in work practices or lack role models for responsibilities associated with the world of work;
- (g) the reduced capacity of children to understand safety messages, for example some safety messages require cognitive processes that children may not have acquired;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature, for example whether the handle of a power tool is too big for the size of that child's hands, thereby reducing the child's ability to control the power tool;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing, for example children's growth and development may be adversely affected by having to carry heavy loads or do repetitive work;
- (j) from an ergonomic perspective, children's physical development is not typically suited to the design of machinery, tools, equipment and protective equipment that is appropriate for children's stature; these must be assessed whether the mismatch jeopardizes a healthy and safe working environment. For example most equipment, including safety equipment, is designed for adults, so will not fit most children's body build; as a result, children may be forced into awkward postures to use a device, or may not be able to benefit from the use of gloves to protect themselves from hazards to the skin, because of poor fit of a glove;

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase "children's physical development is not" is intended to be "children's physical development are not".)

- (k) the physiological, hormonal and other vulnerabilities of children at puberty, for example-
- . working children may be more susceptible to sexual exploitation by adults who take advantage of children;
  - . chemicals that cause endocrine disruption may have serious effects on children's hormonal function.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 6. Preparation for employment of child workers, and for risk assessment.-The employer should prepare carefully for the employment of child workers, and for the risk assessment, including the following steps-**

**6. Preparation for employment of child workers, and for risk assessment.**-The employer should prepare carefully for the employment of child workers, and for the risk assessment, including the following steps-

- (a) understand the relevant child labour and health and safety regulations;
- (b) walk through the workplace to identify job activities that are prohibited;
- (c) increase knowledge about special needs of child workers;
- (d) train supervisors and co-workers about working with child workers;
- (e) involve workplace health and safety personnel, if any;
- (f) training of child workers on health and safety should be age-appropriate, i.e. it should be conducted in a manner that child workers of the employed age-group can understand;
- (g) identify age-appropriate health and safety education materials;
- (h) incorporate special considerations for child workers in the employers' *plan of safe work procedures*;
- (i) discuss work issues with parents of child workers and/or school(s) attended by child workers, as needed;
- (j) educate child workers about potential harassment and abuse by other employees or customers, or potential for threats of violence at the workplace.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 7. Plan of safe work procedures.-(1) Regulation 3 (1) (c) requires the preparation of a plan of safe work procedures.**

**7. Plan of safe work procedures.**-(1) Regulation 3 (1) (c) requires the preparation of a plan of safe work procedures.

(2) The employer should consider at least the following strategies when drawing up such a plan-

- (a) follow all child labour and relevant other safety and health regulations;

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase "relevant other safety" is intended to be "other relevant safety".)

- (b) conduct thorough orientation when a new child worker starts working, or when work practices change, such as set out in the orientation checklist in paragraph 8;
- (c) utilize safety training checklists, such as the checklist in paragraph 9, in order to ensure all topics are covered;
- (d) in orientation and training, consider the list of health and safety topics in paragraph 10;
- (e) provide for child-sensitive supervision to child workers taking into consideration the guidelines in paragraph 11;
- (f) consider a child workers' physical capacity to perform the job safely, the child's maturity to exercise good judgment, and the child's ability to read and understand written instructions and safety signs;
- (g) involve co-workers: create a mentoring program among experienced workers, including experienced child workers;
- (h) encourage child workers to ask questions and ask for assistance regularly.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 8. Checklist on safety orientation of child workers.-The employer should keep a written record on whether each of the following safety orientation steps have been taken regarding each child worker: whether the child worker has been-**

**8. Checklist on safety orientation of child workers.**-The employer should keep a written record on whether each of

the following safety orientation steps have been taken regarding each child worker: whether the child worker has been-

- (a) informed about the elements of the written safety program that outlines the employer's safety efforts;
- (b) informed about any staff health and safety meetings;
- (c) told to report all injuries and shown how to do this;
- (d) told to report all hazards to her/his supervisor and shown how to do this;
- (e) informed about all machinery hazards;
- ( f ) informed about what tasks child workers are prohibited from performing;
- (g) informed about all other hazards and ways to protect themselves (i.e., chemicals, use of ladders, slippery floors, etc.);
- (h) shown where the first aid supplies are located and who to call for first aid;
- (i) told what to do during any emergencies that could occur;
- ( j ) shown how to operate a fire extinguisher and other emergency equipment;
- (k) informed of and trained on any chemical hazards according to the relevant hazardous chemical regulations, including how to read a label and precautions to take when using them;
- (l) trained on the safe methods to perform the specific job the child workers was assigned including any hazards associated with that job;
- (m) provided any formal training required to do his/her job, such as proper lifting, use of knives, grill and fryer operation, spill clean-up etc.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 9. Checklist on basic training principles.-(1) What to train child worker on-**

**9. Checklist on basic training principles.-(1) What to train child worker on-**

- (a) job safety requirements, including safety regarding the specific tasks the worker would perform, and health and safety requirements for such work under the law;
- (b) how to recognize hazards;
- (c) what precautions to take;
- (d) what to do if a problem or emergency arises;
- (e) how to report an injury;
- ( f ) where they can go to for further advice.

**(2) How to train-**

- (a) give clear instructions;
- (b) ask worker to repeat instructions;
- (c) show worker how to perform the task;
- (d) watch worker perform the task, and correct errors;
- (e) make the training age-appropriate and make it fun and easy to understand;
- ( f ) encourage them to ask questions.

**(3) When to train-**

- (a) when worker is first hired;
- (b) when worker is given new task or tool;
- (c) when a new hazard is introduced into workplace;
- (d) after an incident (an injury or close call);
- (e) when the child worker returns to the work environment after a significant period of absence;
- ( f ) regularly, such as through on-site safety training.

**(4) On-site safety training-**

- (a) "On-site Safety Training" means a short, concise safety training session held out in a work area. It has been widely used in some industries and has proven effective in preventing injuries. Monthly or weekly on-site safety training is recommended to help keep safety on the minds of the workers, make it part of the normal routine, and demonstrate the importance you place on safety.



- (b) The on-site training session should keep the following in mind-
- (i) keep the training sessions short, for instance, 10-15 minutes maximum, to keep worker attention;
  - (ii) focus on a single topic and keep it simple;
  - (iii) hold on-site training regularly; a common practice is monthly or weekly on the same day;
  - (iv) select days and times when workers are fully attentive; first thing Monday morning or last thing Friday are not good times;
  - (v) pick a location that is relatively free from distractions, either out in the workplace or where employees normally are found - a quiet break room is acceptable. Sometimes the best place is near where the hazards are;
  - (vi) keep your presentation informal. Use language workers will understand. Be upbeat and enthusiastic.
  - (vii) choose topics that apply directly to your operation, and be specific in telling workers how it applies to them personally. Keep it relevant;
  - (viii) injury incidents or near misses are good subjects. Let the workers suggest topics and highlight issues;
  - (ix) use visual aids such as safety signs, flip charts, diagrams, illustrations, or actual objects. Demonstrate a procedure if appropriate. Use handouts if needed, but keep them simple;
  - (x) encourage questions and discussion. Be sure workers are paying attention and actively learning;
  - (xi) have workers sign a sheet documenting their presence at the training, and keep on file.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 10. Health and safety topics to cover in orientation and training.-When taking steps regarding orientation referred to in paragraph 8 or regarding training referred to in paragraph 9, the following topics should be considered relative to the possible ri**

**10. Health and safety topics to cover in orientation and training.**-When taking steps regarding orientation referred to in paragraph 8 or regarding training referred to in paragraph 9, the following topics should be considered relative to the possible risks which could arise in the working environment-

Basic safety and training principles

Tractor safety

Cold environment: working where it is below 6 degrees C

Crime and abusive customers

Electrical safety

Eye protection

Fire safety

Hearing protection

Height: working more than 2m above the floor or ground

Hot environment: Heat stress & sun exposure

Incident and injury reporting

Irrigation safety

Kitchen safety: avoiding burns, safe handling of knives, using electrical appliances

Lifting of heavy objects

Ladder safety

Lighting and safety

Machine safety

Noisy environment: ear protection

Personal protective equipment, use, maintenance, inspection and limitations

Safety signs and signage

Slips, trips, and falls

Shop safety

Tools: Hand tool safety

Tools: Outdoor power tool safety

Tools: Power tools, generally

Transportation and travelling safety

Tree fruit harvest safety

Water safety

Working at night

Working away from home

Working near embankments or excavations

Working with or near chemical substances

This list is not exclusive, so add other relevant work related topics as deemed necessary or appropriate

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 11. Supervision of child workers.-The following factors should be taken into consideration in a plan on safe work procedures, regarding the supervision of child workers, to reduce risks regarding their work-**

**11. Supervision of child workers.**-The following factors should be taken into consideration in a plan on safe work procedures, regarding the supervision of child workers, to reduce risks regarding their work-

- (a) keep adolescent characteristics in mind as described in paragraph 4 in mind and assign age-appropriate tasks;
- (b) consider a young worker's physical capacity to perform the job safely; maturity to exercise good judgment; and ability to read and understand written instructions and safety signs;
- (c) provide a clear assignment of duties with specific information about those tasks;
- (d) provide appropriate safety training on assigned equipment and tasks, including the need to report all safety hazards and injuries;
- (e) teach them how to recognize risks, and encourage them to make good decisions about taking appropriate precautions or action;
- (f) provide information on how to cope with emergencies, who to contact, and how to reach them. Phone numbers, the address of the workplace, and directions to the workplace should be put on notice boards or walls where easy to find;
- (g) provide increased supervision by co-workers or supervisors who work well with youth, are consistent, and who set a good example by following the safety rules, and designate appropriate adult employee(s) as \*child worker safety officers, with the responsibility of specifically monitoring the safety of child workers in the workplace and to intervene if they feel the work is too risky;
- (h) create an atmosphere where child workers feel free to ask questions or express concerns;
- (i) be sure child workers have an understanding of their rights and responsibilities;
- (j) provide positive feedback when child workers follow through with these responsibilities.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 12. Examples of steps that may be included in a plan of safe work procedures.-The following are examples of guidelines and tips to be taken into account when drafting a plan of safe work procedures, or when implementing a plan, in specific situations.**

**12. Examples of steps that may be included in a plan of safe work procedures.**-The following are examples of guidelines and tips to be taken into account when drafting a plan of safe work procedures, or when implementing a plan, in specific situations.

**(1) Guidelines on the risk of crime and abusive customers-**

- (a) Handling cash-
  - (i) Leave a clear, unobstructed view of the cash register from the street;
  - (ii) Post signs saying cash register contains minimal cash;
  - (iii) Store cash in a drop safe, limited-access safe or comparable safe container;
  - (iv) Don't count cash or close the till in front of customers;
  - (v) Practice the "buddy system" during cash drops.



- (b) Creating a safer retail environment-
  - (i) Develop a workplace violence prevention plan, and use it to train employees;
  - (ii) Train employees on what to do in case of a robbery;
  - (iii) Train employees on how to de-escalate a potentially violent situation. Establish a policy that employees not resist or pursue shoplifters;
  - (iv) Establish a reporting process for violent incidents and threats;
  - (v) Consider displaying a "no safe keys held on the premises" notice.
- (c) Notices-
  - (i) Post emergency telephone numbers in an accessible place;
  - (ii) Places notices on laws against assault, stalking or violent acts.
- (d) Staffing-
  - (i) Schedule at least two people per shift. Child workers may not work without adult (age 18 or older) supervision after 8 pm;
  - (ii) Don't require child workers who serve customers to wear revealing uniforms or clothing;
  - (iii) Keep background noise to a minimum.
- (e) Entering and leaving-
  - (i) Have more than one exit employees can reach in case of emergency;
  - (ii) Practice the "buddy system" to walk to public transportation and parking areas.
  - (iii) Although back doors should be locked at night, employees should still be able to exit easily, especially during an emergency situation.
- ( f ) Security and lighting-
  - (i) Use alarms and locks. Make sure they work properly;
  - (ii) Use security surveillance cameras or mirrors, if possible;
  - (iii) Provide a "panic" button, silent alarm or other means for employees to communicate with police or security;
  - (iv) Provide adequate lighting and security in parking lots and other areas where employees go alone at night;
  - (v) Work with your local police and security to identify any special arrangements which might be useful in a particular location.

**(2) Proper lifting of weights / loads-**

- (a) Assess the load-
  - (i) Check if the shape or mass of the load presents a risk to safe manual lifting;
  - (ii) Use a lifting aid or hand truck/trolley if possible. Get help if you need it;
  - (iii) Check for slivers, nails, exposed staples;
  - (iv) Use gloves if necessary;
  - (v) Make sure you have a clear path to where you are moving it to.
- (b) Lifting the load-
  - (i) Place you feet to ensure a stable base to do the lift;
  - (ii) Bring the load as close to you as possible before lifting;
  - (iii) Establish a good hand grip to lift the load;
  - (iv) Lift with your legs, not your back;
  - (v) Keep your head up, your back straight and don't bend at your hips.
- (c) Moving the load-
  - (i) Keep the load close to your body;
  - (ii) Look where you are going;
  - (iii) Shift your feet to turn, don't twist your body.
- (d) Putting it down-
  - (i) When putting a load down, let your leg muscles carry it down;
  - (ii) Make certain your fingers and toes are clear before putting the load down;

- (iii) Place the load first then, move it into the required position. Do not twist your body while placing a load as it can cause back strain.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ Schedule 2 Summary of regulations on the health and safety of children at work and on hazardous work by children**

## **Schedule 2**

### **Summary of regulations on the health and safety of children at work and on hazardous work by children**

The Minister of Labour has made regulations to protect the health and safety of child workers at work under-

- (a) [section 44](#) and [45](#) of the Basic Conditions of Employment Act, 1997 (called the BCEA regulations);
- (b) [section 43](#) of the Occupational Health and Safety Act, 1993 (called the OHSA regulations).

This is a summary of the most important provisions of these two sets of regulations.

Any person who employs or uses the services of a child worker must display this summary in the workplace where it can be read by employees including child workers who are at the workplace.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 1. Definitions.-In this summary these terms means the following, unless the context indicates otherwise-**

**1. Definitions.-**In this summary these terms means the following, unless the context indicates otherwise-

- (1) **"child"** means a person under 18 years old;
- (2) **"child worker"** means a child referred to in the definition of "employer";
- (3) **"employer"** means a person who employs, or provides work to a child, subject to paragraph 3 below.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 2. Purpose of regulations and notice.-(1) The purpose of the regulations is to-**

**2. Purpose of regulations and notice.-(1)** The purpose of the regulations is to-

- (a) protect the health and safety at work of child workers who are lawfully entitled to work;
- (b) prohibit categories of work which child workers may not perform;
- (c) place conditions on the work that may be performed by child workers;
- (d) identify which categories of work constitute worst forms of child labour, and to make appropriate enforcement provisions in this regard.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 3. Coverage and interpretation of regulations.-(1) The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.**

**3. Coverage and interpretation of regulations.-(1)** The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.

(2) The OHSA regulations cover all work performed by child workers as defined in those regulations.

(3) For the purposes of the BCEA regulations, any person who allows a child worker to assist them in carrying on their business is the employer of that child.

(4) The regulations do not-

- (a) permit the employment of any child worker who is under 15 years of age or is subject to compulsory schooling in terms of any law;
- (b) reduce any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law, insofar as it applies to the employment of a child.

(5) These regulations must be interpreted in accordance with the International Labour Organisation's Minimum Age Convention, 1973 and it's Worst Forms of Child Labour Convention, 1999. The text of the Convention is available at

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 4. Minimum age of work.-(1) A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.**

**4. Minimum age of work.-(1)** A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.

(2) However, a child worker who is under 15 or subject to compulsory schooling may-

- (a) work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA (employers in these sectors should study the sectoral determination which can be accessed on [www.labour.gov.za](http://www.labour.gov.za));
- (b) do the following work, other than as an employee as defined in the BCEA-
  - (i) collect contributions on behalf of a fund-raising organisation registered in terms of the Fund Raising Act (Act [No. 107 of 1978](#));
  - (ii) do voluntary work for a church, charitable organisation or amateur sports club; and
  - (iii) as part of his/her schooling, do work that is appropriate for a person of that age or which does not place at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) Even though the child worker may perform types of work referred to in [sub-paragraph \(2\) \(a\)](#) to (b) above, such work is still subject to the provisions of the regulations summarised here.

(4) In terms of the South African Schools Act a child worker is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 5. Access to nutrition, health care and educational services.-An employer who employs a child worker must ensure that their employment does not interfere with-**

**5. Access to nutrition, health care and educational services.-**An employer who employs a child worker must ensure that their employment does not interfere with-

- (a) their access to adequate nutrition;
- (b) their access to adequate primary health care services; and
- (c) the education of a child worker who is enrolled at a school or at any other educational institution.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 6. Work away from parents or legal guardian.-(1) A child worker may only perform work which will result in its being away overnight from its parents or legal guardian-**

**6. Work away from parents or legal guardian.-(1)** A child worker may only perform work which will result in its being away overnight from its parents or legal guardian-

- (a) if the child's parent or legal guardian consents in writing;
- (b) if the child is enrolled in school, the schooling of a school going child is not adversely affected.

(2) In addition, the employer must provide-

- (a) full details of the accommodation arrangements to the parent or legal guardian of the child worker for their approval;
- (b) free of charge to the child, accommodation that-
  - (i) is clean, comfortable, suitable and safe for the child;
  - (ii) is not occupied by any adult other than the parent, legal guardian or a child worker minder appointed or designated by the parent of the child, if they accompany the child; and
  - (iii) sufficient bedding, lavatory and washing facilities for the child worker;
- (c) the child worker with nutritious food or, if the child is able to purchase such food within a reasonable distance from the place of work or accommodation, provide the child with an allowance sufficient to purchase food and enable the child to purchase it at appropriate intervals.

- (3) It is an offence for any person to recruit a child worker to perform work in violation of sub-paragraph (1) and (2).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 7. Prohibition of piecework and task work.-(1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of**

**7. Prohibition of piecework and task work.**-(1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of which the remuneration of an employee is based mainly on the completion of set tasks.

(2) This does not prevent a child worker being paid a commission or receiving an incentive payment on the completion of a task if-

- (a) the child is paid at least the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
- (b) in the absence of any such minimum wage, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received, and is calculated on a consistent basis.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 8. Maximum daily and weekly working time.-(1) A child worker may not work more than 8 hours on any day.**

**8. Maximum daily and weekly working time.**-(1) A child worker may not work more than 8 hours on any day.

(2) A child worker who is not enrolled at school may not work for more than 40 hours in any week.

(3) A child worker who is enrolled in school may not work for more than-

- (a) 20 hours in any week during school term; and
- (b) 40 hours in any week that falls entirely within school holidays;
- (c) two hours on any school day; or four hours on any school day followed by a non-school day (e.g. a Friday, or the last day of a school term).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 9. Night work.-(1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).**

**9. Night work.**-(1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).

(2) A child worker, other than one who is expected to be at school the following day, may work between 6 pm and 11 pm if-

- (a) the work is in a restaurant, cinema, theatre or shop where there is adequate adult supervision; or
- (b) the work is baby-sitting or child minding;

(3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6pm must, at the end of the shift, provide him/her with safe transport home, at no cost to the child, parent or care-giver.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 10. Prohibited work.-An employer may not require or permit a child to work in any of the work-**

**10. Prohibited work.**-An employer may not require or permit a child to work in any of the work-

- (a) deep sea fishing;
- (b) commercial diving or other hazardous work under water;
- (c) slaughtering of animals;
- (d) meat, poultry, or seafood processing;
- (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;

- (f) logging;
- (g) protecting or safeguarding any person or property or work involving the handling of firearms;
- (h) refining petroleum products;
- (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
- (j) brewing, manufacturing or selling any liquid which in its final form would contain more than one per cent of alcohol;
- (k) work in a bar, shebeen, tavern or pub or other establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
- (l) the manufacture or application of tar or asphalt;
- (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
- (n) work in a health care or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
- (o) work involving exposure to a hazardous substance, to lead, asbestos, silica, coal or other hazardous dusts or to pressurised gases;
- (p) the production, transport, handling, storage, use of, or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock and stone crushing;
- (u) operating vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front-end loaders, earth moving equipment or similar heavy equipment;
- (w) driving any motor vehicle or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 11. Worst forms of child labour.-(1) In addition, no person may require or permit a child to work in any of the following-**

**11. Worst forms of child labour.-(1)** In addition, no person may require or permit a child to work in any of the following-

- (i) underground mining;
- (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
- (iii) the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
- (iv) the manufacture of auramine, isopropanol or magenta;
- (v) the gasification of coal;
- (vi) diving operations using aqualungs;
- (vii) free diving below depths of 10 metres;
- (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
- (ix) work involving exposure to ionising radiation;
- (x) work in chemically-based mineral extraction or similar operations;
- (xi) any work in an environment in which the actual dry-bulb temperature is below minus 18 °C;
- (xii) hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, (as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993) determined over a period of one hour, is greater than 36;
- (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse.

(2) Any form of work listed in sub-paragraph (1) above constitutes a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999, adopted by the International Labour Organisation. These prohibitions may overlap to some extent with the prohibitions listed in paragraph 10, but the activities referred to in this paragraph are considered as exposing children to very serious harm. Penalties for breach should therefore be higher.

(3) No person may-

- (a) employ a child in circumstances in which the child is unreasonably confined to the employer's premises;
- (b) require or permit a child to engage for that person's benefit in one of following activities when this work is performed by a child as part of an organised business activity conducted by that person-
  - (i) begging;
  - (ii) scavenging or collecting waste from garbage or waste dumps; or
  - (iii) use, recruit, procure or offer a child for the commission of any serious offence (they are listed in [schedules 1](#) and [2](#) of the Criminal Procedure Act, 1977).

(4) The BCEA regulations define which specific substances agents are considered very harmful to children.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 12. Risk assessment.-(1) Every employer who employs or provides work to a child worker, or permits any child worker to work at any place under their control, or with any machinery under their control, must in respect of such work undertake a risk asses**

**12. Risk assessment.**-(1) Every employer who employs or provides work to a child worker, or permits any child worker to work at any place under their control, or with any machinery under their control, must in respect of such work undertake a risk assessment process which must at least the following-

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing-
  - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified;
  - (ii) a monitoring plan; and
  - (iii) a review plan.

(2) The following factors must be taken into account when making the risk assessment-

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
- (b) the increased vulnerability of children to sleep disruption;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
- (d) the relative lack of experience and maturity of children in making safety judgments;
- (e) the reduced ability of children to adapt to inflexible work routines;
- (f) the reduced ability of children to perceive dangers correctly;
- (g) the reduced capacity of children to understand safety messages;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing;
- (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty.

(3) In the risk assessment process, the employer must have regard to the guidelines contained in [Schedule 1](#) to the Health and Safety of Children at Work Regulations issued in terms of the OHSA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 13. Respiratory hazards.-A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHSA to wear respiratory protection equipment, i.e. equipment such as masks that protects wor**

**13. Respiratory hazards.**-A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHS Act to wear respiratory protection equipment, i.e. equipment such as masks that protects workers from inhaling hazardous dusts or fumes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 14. Work in elevated position.-(1) A child worker may not work at a height of more than 5 metres above the floor/ground.**

**14. Work in elevated position.**-(1) A child worker may not work at a height of more than 5 metres above the floor/ground.

(2) A child worker working at a height of more than 2 metres from the floor/ground must work under the supervision of the employer or a competent adult employee, and reasonable fall protection must be provided, such as a safety harness or railings.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 15. Lifting of heavy weights.-(1) A child worker performing any work may not, as part of their work, lift an object weighing more than-**

**15. Lifting of heavy weights.**-(1) A child worker performing any work may not, as part of their work, lift an object weighing more than-

- (a) the lesser of 15 kg or 20 % of the child's body weight;
- (b) more than 7,5 kg more than once per minute.

(2) A child worker may not lift objects weighing more than 5 kg at work for more than 2 hours without being granted a 30-minute period in which he or she is not required to lift such a weight.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 16. Work in a cold environment.-(1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing-**

**16. Work in a cold environment.**-(1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing-

- (a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;
- (b) 6°C where the work involves repeated entry into, or presence for more than one hour in such environment.

(2) The protective warm clothing supplied to child worker must comply with Regulation 2 (2) (b) (i) to (vi) of the Environmental Regulations for Workplaces.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 17. Work in a hot environment.-(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child-**

**17. Work in a hot environment.**-(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child-

- (a) is acclimatised to such working environment before he/she is required or permitted to work in such environment;
- (b) has drink breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

(2) The term 'average temperature' referred to here is technically the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, and determined over a period of one hour.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South**



**Africa (Government Gazette No. 32862)/ 18. Work in noisy environment.-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 1**

**18. Work in noisy environment.**-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with [regulation 12](#) of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993. DB(A) is a unit used in measuring noise, and takes into account how often loud noises are heard, even if an environment is not noisy all the time.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 19. Power tools and cutting or grinding equipment.-(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use**

**19. Power tools and cutting or grinding equipment.**-(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use is safe and without significant risks for the child.

(2) If the risk assessment indicates that the power tool or other equipment is safe and without significant risks for the child worker to use, if used with safety equipment or facilities, the child-

- (a) must be provided with the necessary safety equipment and facilities that are usually required in terms of occupational health and safety regulations; and
- (b) must be instructed in the use, maintenance and limitations of such equipment.
- (3) Before starting such work the child worker must receive adequate training in the safe and appropriate use of the power tools or machinery from a person competent in their use.
- (4) The child worker must be supervised by a competent person when using power tools or other equipment.
- (5) An inspector may issue a notice prohibiting the use by child workers of any power tool or other machinery.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 20. Report to Department of Social Development.-(1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHSA regulations shall refer the matter for investigation to a child protection organ**

**20. Report to Department of Social Development.**-(1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHSA regulations shall refer the matter for investigation to a child protection organisation designated in terms of the Children's Act [No. 38 of 2005](#) or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

(2) The relevant social worker must then investigate the circumstances of the child worker to determine whether he/she is in need of care and protection and, if so, take appropriate action to protect the child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ BCEA REGULATIONS ON HAZARDOUS WORK BY CHILDREN**

## **BCEA REGULATIONS ON HAZARDOUS WORK BY CHILDREN**

### **BASIC CONDITIONS OF EMPLOYMENT ACT, 1997**

The Minister of Labour has, on the advice of the Employment Conditions Commission, made the following regulations in terms of [section 44](#) and [45](#) of the Basic Conditions of Employment Act, 1997.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 1. Definitions.-In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates-**

**1. Definitions.**-In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates-

- (a) **"the Act"** means the Basic Conditions of Employment Act, 1997;
- (b) **"child"** means a person under eighteen years of age;



- (c) **"child worker"** means a child who is an employee as defined in the Act, which includes a child who assists any person to carry on or conduct their business; and
- (d) **"employer"** means a person who-
  - (i) employs a child; or
  - (ii) allows a child worker to assist in carrying on or conducting their business;
- (e) **"worst form of child labour"** means any work by a child in an activity listed in [regulation 9](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 2. Purpose and interpretation.-(1) The purpose of these regulations is to-**

**2. Purpose and interpretation.-(1) The purpose of these regulations is to-**

- (a) place conditions on the work that may be performed by child workers who are at least 15 years of age and no longer subject to compulsory schooling in terms of any law;
- (b) prohibit any person from permitting or requiring such child workers to perform particular types of work specified in the regulations.

**(2) No provision in these regulations may be interpreted as-**

- (a) permitting the employment of any child who is under 15 years of age or is subject to compulsory schooling in terms of any law;
- (b) reducing any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law insofar as it applies to the employment of a child who is at least 15 years of age and no longer subject to compulsory schooling.

**(3) These regulations must be interpreted in accordance with International Labour Organisation's Minimum Age Convention, 1973 and the Worst Forms of Child Labour Convention, 1999.<sup>6</sup>**

**(4) To the extent that any sectoral determination establishes a basic condition of employment that applies specifically to child workers employed in that sector, the provisions of that determination shall have precedence over these regulations; provided that the provisions in these regulations on the worst forms of child labour shall always apply unless specifically excluded by the sectoral determination.**

**Footnotes**

<sup>6</sup> The text of the Conventions is available at [www.ilo.org](http://www.ilo.org)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 3. Access to nutrition, health care and educational services.-Every employer who employs a child worker must ensure that their employment does not interfere with their access to-**

**3. Access to nutrition, health care and educational services.-Every employer who employs a child worker must ensure that their employment does not interfere with their access to-**

- (a) adequate nutrition;
- (b) adequate primary health care services; and
- (c) education if the child is enrolled at a school or other educational institution.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 4. Work away from parents or legal guardian.-(1) It is an offence for any person to require or permit a child worker to perform work which will result in the child being away overnight from their parents or legal guardian unless that person has the written consent of the child's parent or legal guardian and provided that-**

**4. Work away from parents or legal guardian.-(1) It is an offence for any person to require or permit a child worker to perform work which will result in the child being away overnight from their parents or legal guardian unless that person has the written consent of the child's parent or legal guardian and provided that-**

- (a) the child is not enrolled in school or, if the child is enrolled in school, the child's schooling is not adversely affected;
- (b) full details of the accommodation arrangements are supplied to, and approved by, the parent or legal guardian of the child;
- (c) the employer provides accommodation to the child that-

- (i) is free of charge to the child;
  - (ii) is clean, comfortable, suitable and safe for the child;
  - (iii) is not occupied by any adult other than the parent, legal guardian or a child minder appointed by parent of the child, if they accompany the child; and
  - (iv) has sufficient bedding, lavatories and washing facilities for the child;
- (d) the employer supplies the child with nutritious food or, if the child is able to purchase such food within a reasonable distance from his or her place of work or accommodation, the employer provides the child with an allowance sufficient to purchase such food at intervals that enable such purchase.
- (2) It is an offence for any person to recruit a child worker to perform work in violation of [sub-regulation \(1\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 5. Prohibition of piece-work and task work.-(1) It is an offence for any person to require or permit a child worker to perform piece work or task work.**

**5. Prohibition of piece-work and task work.-(1)** It is an offence for any person to require or permit a child worker to perform piece work or task work.

(2) For the purposes of this regulation-

- (a) "piece work" means work in terms of which the remuneration of the child worker is based mainly on the quantity of work done;
- (b) "task work" means work in terms of which the remuneration of the child worker is based mainly on the completion of set tasks.

(3) This regulation does not prevent the payment of a commission or an incentive payment on the completion of a task to a child worker provided that-

- (a) the child is paid the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
- (b) if no such minimum wage is prescribed, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received and is calculated on a consistent basis.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 6. Maximum daily and weekly working time.-(1) It is an offence for any person to require or permit a child worker who is not enrolled in school to work for more than 40 hours of work in any week.**

**6. Maximum daily and weekly working time.-(1)** It is an offence for any person to require or permit a child worker who is not enrolled in school to work for more than 40 hours of work in any week.

(2) It is an offence for any person to require or permit a child worker who is enrolled in school to work-

- (a) for more than 20 hours in any week falling in the school term;
- (b) for more than 40 hours of work in any week that falls entirely within school holidays.

(3) It is an offence for any person to require or permit a child worker to work-

- (a) on more than 8 hours on any day; or,
- (b) if the child is enrolled in school, for more than-
  - (i) two hours on any day on which a child is expected to be at school; or
  - (ii) four hours on any day on which a child is expected to be at school but is not expected to be at school the following day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 7. Night work.-(1) It is an offence for any person to require or permit a child worker to work-**

**7. Night work.-(1)** It is an offence for any person to require or permit a child worker to work-

- (a) before 6 am on any day;
- (b) after 6 pm on any day; or
- (c) in breach of [sub-regulations \(2\)](#) and [\(3\)](#).

(2) A child worker, other than a one who is expected to be at school the following day, may work between 6 pm and 11 pm-

- (a) in a restaurant, cinema, theatre or shop provided that there is adequate adult supervision; or
- (b) for the purposes of baby-sitting or child minding.

(3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6 pm on any day in terms of [sub-regulation \(2\)](#) must at the end of the child's shift provide that child with safe transport to the child's home at no cost to the child, or the child's parent or care-giver.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 8. Prohibited work.-(1) It is an offence for any person to require or permit a child worker to work in any of the following-**

**8. Prohibited work.-(1)** It is an offence for any person to require or permit a child worker to work in any of the following-

- (a) deep sea fishing;
- (b) commercial diving or other hazardous work underwater;
- (c) slaughtering of animals;
- (d) meat, poultry, or seafood processing;
- (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
- ( f ) logging;
- (g) the protecting or safeguarding of any person or property, or work involving the handling of firearms;
- (h) the refining of petroleum products;
- (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
- (j) the brewing, manufacturing or selling of any liquid which in its final form would contain more than one per cent of alcohol;
- (k) work in a bar, shebeen, tavern or pub, or another establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
- (l) the manufacture or application of tar or asphalt;
- (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
- (n) work in health care or veterinary or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
- (o) work involving exposure to any of the following-
  - (i) hazardous substance or agent;
  - (ii) lead, asbestos, silica, coal or other hazardous dusts;
  - (iii) pressurised gases;
- (p) the production, transport, handling, storage, use of or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock or stone crushing;
- (u) the operation of vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front end loaders, earth moving equipment or similar heavy equipment;
- (w) driving of any motor vehicles or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South**

**9. Worst forms of child labour.-(1)** In addition to any prohibition contained in [regulation 8](#) it is an offence for any person to-

- (a) require or permit a child to work in any of the following-
    - (i) underground mining;
    - (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
    - (iii) in the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
    - (iv) in the manufacture of auramine, isopropanol or magenta;
    - (v) in the gasification of coal;
    - (vi) diving operations covered by the Diving Regulations, made in terms of the Occupational Health and Safety Act, 1993, irrespective of whether or not the child is an employee as defined in the Diving Regulations;
    - (vii) free diving below depths of 10 metres;
    - (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
    - (ix) work involving an exposure to ionising radiation or a hazardous substance or agent;
    - (x) work in chemically-based mineral extraction or similar operations;
    - (xi) doing any work in an environment in which the actual dry-bulb temperature is below -18 °C;
    - (xii) doing hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, determined over a period of one hour, is greater than 36;
    - (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse;
  - (b) employ a child in circumstances in which the child is unreasonably confined to the employer premises;
  - (c) require or permit a child to engage for that person's benefit in one of the following activities when this work is performed by a child as part of an organised business activity conducted by that person-
    - (i) begging;
    - (ii) scavenging or collecting waste from garbage or waste dumps; or
  - (d) use, recruit, procure or offer a child for the commission of any offence listed in [Schedule 1](#) or [Schedule 2](#) of the Criminal Procedure Act, 1977.
- (2) For the purposes of regulation (1) a hazardous substance or agent is any one-
- (a) listed in [Schedule One](#) of the Regulations for Hazardous Chemical Substances, made in terms of the Occupational Health and Safety Act, 1993;
  - (b) listed in Annexure B of the Regulations for Hazardous Biological Agents, made in terms of the Occupational Health and Safety Act, 1993;
  - (c) registered with the Department of Agriculture as a Hazard Group I or II pesticide; or
  - (d) listed in [Schedule 1](#) to these regulations.

(3) Any form of work listed in this regulation shall constitute a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999, adopted by the International Labour Organisation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 10. Investigation and prosecution of alleged offences concerning worst forms of child labour.-(1) A labour inspector, who receives a complaint that any person has required or permitted a child to perform a worst form of child labour, or who in the perf**

**10. Investigation and prosecution of alleged offences concerning worst forms of child labour.-(1)** A labour inspector, who receives a complaint that any person has required or permitted a child to perform a worst form of child labour, or who in the performance of their duties observes any circumstances that may constitute work by a child in a worst form of labour must-

- (a) investigate the alleged offence forthwith; or
- (b) if the labour inspector is not authorised to investigate the contravention, refer it to a labour inspector who is so authorised.

(2) A labour inspector who investigates an allegation that a person has required or permitted a child to perform a worst form of child labour must-

- (a) conduct the investigation thoroughly and expeditiously;
- (b) prepare a written report that must be filed with the Director-General.
- (3) The report prepared in terms of [sub-regulation \(2\)](#) must contain a recommendation as to whether or not-
  - (a) the alleged offence constitutes a worst form of child labour;
  - (b) a prosecution should be initiated in terms of this regulation or any other regulation or law.
- (4) The Director-General must forward a copy of the report to the relevant prosecuting authority unless the investigation establishes no evidence of any offence.
- (5) For the purposes of these regulations, a labour inspector includes any public servant or any designated agent of a bargaining council who has been designated by the Minister in terms of section 63 (1) (b) of the Basic Conditions of Employment Act for the purpose of enforcing this regulation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 11. Medical examinations.-(1) A labour inspector who has reason to believe that a child worker is employed in any work that may endanger his or her health may issue a written instruction to the employer requiring that the child be examined by a medical**

- 11. Medical examinations.**-(1) A labour inspector who has reason to believe that a child worker is employed in any work that may endanger his or her health may issue a written instruction to the employer requiring that the child be examined by a medical practitioner chosen by the child or a parent of the child or by the inspector.
- (2) The costs of an examination in terms of this regulation shall be borne by the employer.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 12. Report to department of social development.-A labour inspector who finds a child worker being employed or used in contravention of Chapter 6 of the Act or in contravention of these regulations shall refer the child for investigation to a child prote**

- 12. Report to department of social development.**-A labour inspector who finds a child worker being employed or used in contravention of Chapter 6 of the Act or in contravention of these regulations shall refer the child for investigation to a child protection organisation designated in terms of the Children's Act [No. 38 of 2005](#) or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 13. Offences and Penalties.-(1) Any person who requires or permits a child worker to work for them in contravention of these regulations commits an offence.**

- 13. Offences and Penalties.**-(1) Any person who requires or permits a child worker to work for them in contravention of these regulations commits an offence.
- (2) Any person who is convicted of an offence in terms of these regulations may be sentenced to a fine or to imprisonment for a period of up to three years.
- (3) If any person is charged with an offence in terms of which it is alleged that that person permitted a child worker to work in breach of any provision of these regulations it is an defence if that person can establish that the child-
- (a) was not an employee of that person; and
  - (b) did not in any manner assist in carrying on or conducting the business of that person.
- (4) Where any person is prosecuted for any offence involving the causing of injury to, or the death of, a child worker or any offence for a breach of any law regulating health and safety at work and a labour inspector is of the view that the person being prosecuted may have required or permitted a child to perform any work that constituted a worst form of child labour as contemplated in these regulations, the labour inspector must bring such information to the attention of the relevant prosecuting authority.
- (5) If a person is convicted of a offence, including an offence in terms of [sub-regulation \(4\)](#) in terms of which that person required or permitted a child worker to perform a worst form of child labour, the court on convicting that person and determining a sentence must take into account that-
- (a) that South Africa has ratified the Worst Forms of Child Labour Convention, 1999;
  - (b) that the offence constitutes a worst form of child labour in terms of that Convention.

(Editorial Note: Wording as per original *Government Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules**

and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 14. Exemptions.-(1) The Minister may exempt work performed by a child worker who is 15 years or older from the application of these regulations on application by an employer or, in the case of work performed in terms of a learnership or approved vocati

**14. Exemptions.**-(1) The Minister may exempt work performed by a child worker who is 15 years or older from the application of these regulations on application by an employer or, in the case of work performed in terms of a learnership or approved vocational training programme, a sector education and training authority.

(2) The Minister may not grant an exemption in terms of this regulation, unless the Minister is satisfied the child worker will not be exposed to a significant risk of hazards that may affect the child's health or development.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 15. Summary.**-Any person who employs a child worker must display the prescribed summary of these regulations in the workplace where it can be read by employees including child workers who are at the workplace, which may include a summary of other relevan

**15. Summary.**-Any person who employs a child worker must display the prescribed summary of these regulations in the workplace where it can be read by employees including child workers who are at the workplace, which may include a summary of other relevant regulations and laws, in their workplace. This summary is provided in [Schedule 2](#) to these regulations.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 16. Short title and commencement.**-These regulations shall be known as the BCEA Regulations on Hazardous Work by Children and will come into effect 21 days after the date of publication in the Government Gazette.

**16. Short title and commencement.**-These regulations shall be known as the BCEA Regulations on Hazardous Work by Children and will come into effect 21 days after the date of publication in the *Government Gazette*.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ Schedule 1 Hazardous substances and agents**

#### **Schedule 1 Hazardous substances and agents**

Hazardous substances and agents referred to in regulation 9 (2) (d)-

4-Aminobiphenyl  
Arsenic and arsenic compounds  
Asbestos  
Benzene  
Benzidine  
Beryllium and beryllium compounds  
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)  
Bis(chloromethyl)ether and chloromethyl methyl ether  
1,4-Butanediol dimethanesulfonate (Busulphan; Myleran)  
Cadmium and cadmium compounds  
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU; Semustine)  
Chromium [VI] compounds  
Coal-tars  
Cyanide  
Erionite  
Ethylene oxide  
Formaldehyde

Gallium arsenide  
Lead  
Mercury  
Mineral oils, untreated and mildly treated  
Mustard gas (Sulfur mustard)  
2-Naphthylamine  
Nickel compounds  
Phosphorus-32, as phosphate  
Plutonium-239 and its decay products, as aerosols  
Radioiodines, short-lived isotopes, including iodine-131  
Radionuclides, a-particle-emitting, internally deposited  
Radionuclides, b-particle-emitting, internally deposited  
Radium-224, -226, -228, and their decay products  
Radon-222 and its decay products  
Shale-oils  
Silica, crystalline  
Soots  
Sulfuric acid, strong-inorganic-acid mists containing  
Talc containing asbestiform fibres  
2, 3, 7, 8-Tetrachlorodibenzo-para-dioxin  
Thiotepa  
Treosulfan  
Vinyl chloride

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ Schedule 2 Summary of regulations on the health and safety of children at work and on hazardous work by children**

#### **Schedule 2**

##### **Summary of regulations on the health and safety of children at work and on hazardous work by children**

The Minister of Labour has made regulations to protect the health and safety of child workers at work under-

- (a) [section 44](#) and [45](#) of the Basic Conditions of Employment Act, 1997 (called the BCEA regulations);
- (b) [section 43](#) of the Occupational Health and Safety Act, 1993 (called the OHSA regulations).

This is a summary of the most important provisions of these two sets of regulations.

Any person who employs or uses the services of a child worker must display this summary in the workplace where it can be read by employees including child workers who are at the workplace.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 1. Definitions.-In this summary these terms means the following, unless the context indicates otherwise-**

- 1. Definitions.-**In this summary these terms means the following, unless the context indicates otherwise-
- (1) **"child"** means a person under 18 years old;
  - (2) **"child worker"** means a child referred to in the definition of "employer";
  - (3) **"employer"** means a person who employs, or provides work to a child, subject to paragraph 3 below.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South**



**2. Purpose of regulations and notice.-(1)** The purpose of the regulations is to-

- (a) protect the health and safety at work of child workers who are lawfully entitled to work;
- (b) prohibit categories of work which child workers may not perform;
- (c) place conditions on the work that may be performed by child workers
- (d) identify which categories of work constitute worst forms of child labour, and to make appropriate enforcement provisions in this regard;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 3. Coverage and interpretation of regulations.-(1) The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.**

**3. Coverage and interpretation of regulations.-(1)** The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.

(2) The OHSA regulations cover all work performed by child workers as defined in those regulations.

(3) For the purposes of the BCEA regulations, any person who allows a child worker to assist them in carrying on their business is the employer of that child.

(4) The regulations do not-

- (a) permit the employment of any child worker who is under 15 years of age or is subject to compulsory schooling in terms of any law;
- (b) reduce any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law, insofar as it applies to the employment of a child.

(5) These regulations must be interpreted in accordance with the International Labour Organisation's Minimum Age Convention, 1973 and it's Worst Forms of Child Labour Convention, 1999. The text of the Convention is available at [www.ilo.org](http://www.ilo.org).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 4. Minimum age of work.-(1) A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.**

**4. Minimum age of work.-(1)** A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.

(2) However, a child worker who is under 15 or subject to compulsory schooling may-

- (a) work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA (employers in these sectors should study the sectoral determination which can be accessed on [www.labour.gov.za](http://www.labour.gov.za));
- (b) do the following work, other than as an employee as defined in the BCEA-
  - (i) collect contributions on behalf of a fund-raising organisation registered in terms of the Fund Raising Act (Act [No. 107 of 1978](#));
  - (ii) do voluntary work for a church, charitable organisation or amateur sports club; and
  - (iii) as part of his/her schooling, do work that is appropriate for a person of that age or which does not place at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) Even though the child worker may perform types of work referred to in [paragraph \(2\) \(a\)](#) to [\(b\)](#) above, such work is still subject to the provisions of the regulations summarised here.

(4) In terms of the South African Schools Act a child worker is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 5. Access to nutrition, health care and educational services.-An employer who employs a child worker must ensure that their employment does not interfere with-**



**5. Access to nutrition, health care and educational services.**-An employer who employs a child worker must ensure that their employment does not interfere with-

- (a) their access to adequate nutrition;
- (b) their access to adequate primary health care services; and
- (c) the education of a child worker who is enrolled at a school or at any other educational institution.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 6. Work away from parents or legal guardian.**-(1) A child worker may only perform work which will result in its being away overnight from its parents or legal guardian-

**6. Work away from parents or legal guardian.**-(1) A child worker may only perform work which will result in its being away overnight from its parents or legal guardian-

- (a) if the child's parent or legal guardian consents in writing;
- (b) if the child is enrolled in school, the schooling of a school going child is not adversely affected.

(2) In addition, the employer must provide-

- (a) full details of the accommodation arrangements to the parent or legal guardian of the child worker for their approval;
- (b) free of charge to the child, accommodation that-
  - (i) is clean, comfortable, suitable and safe for the child;
  - (ii) is not occupied by any adult other than the parent, legal guardian or a child worker minder appointed or designated by the parent of the child, if they accompany the child; and
  - (iii) sufficient bedding, lavatory and washing facilities for the child worker;
- (c) the child worker with nutritious food or, if the child is able to purchase such food within a reasonable distance from the place of work or accommodation, provide the child with an allowance sufficient to purchase food and enable the child to purchase it at appropriate intervals.

(3) It is an offence for any person to recruit a child worker to perform work in violation of sub-paragraphs (1) and (2).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 7. Prohibition of piecework and task work.**-(1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of

**7. Prohibition of piecework and task work.**-(1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of which the remuneration of an employee is based mainly on the completion of set tasks.

(2) This does not prevent a child worker being paid a commission or receiving an incentive payment on the completion of a task if-

- (a) the child is paid at least the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
- (b) in the absence of any such minimum wage, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received, and is calculated on a consistent basis.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 8. Maximum daily and weekly working time.**-(1) A child worker may not work more than 8 hours on any day.

**8. Maximum daily and weekly working time.**-(1) A child worker may not work more than 8 hours on any day.

(2) A child worker who is not enrolled at school may not work for more than 40 hours in any week.

(3) A child worker who is enrolled in school may not work for more than-

- (a) 20 hours in any week during school term; and
- (b) 40 hours in any week that falls entirely within school holidays;
- (c) two hours on any school day; or four hours on any school day followed by a non-school day (e.g. a Friday, or the last day of a school term).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 9. Night work.-(1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).**

**9. Night work.**-(1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).

(2) A child worker, other than one who is expected to be at school the following day, may work between 6 pm and 11 pm if-

- (a) the work is in a restaurant, cinema, theatre or shop where there is adequate adult supervision; or
- (b) the work is baby-sitting or child minding;

(3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6 pm must, at the end of the shift, provide him/her with safe transport home, at no cost to the child, parent or care-giver.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 10. Prohibited work.-An employer may not require or permit a child to work in any of the work-**

**10. Prohibited work.**-An employer may not require or permit a child to work in any of the work-

- (a) deep sea fishing;
- (b) commercial diving or other hazardous work under water;
- (c) slaughtering of animals;
- (d) meat, poultry, or seafood processing;
- (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
- (f) logging;
- (g) protecting or safeguarding any person or property or work involving the handling of firearms;
- (h) refining petroleum products;
- (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
- (j) brewing, manufacturing or selling any liquid which in its final form would contain more than one per cent of alcohol;
- (k) work in a bar, shebeen, tavern or pub or other establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
- (l) the manufacture or application of tar or asphalt;
- (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
- (n) work in a health care or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
- (o) work involving exposure to a hazardous substance, to lead, asbestos, silica, coal or other hazardous dusts or to pressurised gases;
- (p) the production, transport, handling, storage, use of, or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock and stone crushing;
- (u) operating vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front-end loaders, earth moving equipment or similar heavy equipment;
- (w) driving any motor vehicle or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

**11. Worst forms of child labour.-(1)** In addition, no person may require or permit a child to work in any of the following-

- (i) underground mining;
- (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
- (iii) the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
- (iv) the manufacture of auramine, isopropanol or magenta;
- (v) the gasification of coal;
- (vi) diving operations using aqualungs;
- (vii) free diving below depths of 10 metres;
- (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
- (ix) work involving exposure to ionising radiation;
- (x) work in chemically-based mineral extraction or similar operations;
- (xi) any work in an environment in which the actual dry-bulb temperature is below minus 18 °C;
- (xii) hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, (as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993) determined over a period of one hour, is greater than 36;
- (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse.

(2) Any form of work listed in sub-paragraph (1) constitutes a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999, adopted by the International Labour Organisation. These prohibitions may overlap to some extent with the prohibitions listed in paragraph 10 but the activities referred to in this paragraph are considered as exposing children to very serious harm. Penalties for breach should therefore be higher.

(3) No person may-

- (a) employ a child in circumstances in which the child is unreasonably confined to the employer's premises;
- (b) require or permit a child to engage for that person's benefit in one of the following activities when this work is performed by a child as part of an organised business activity conducted by that person-
  - (i) begging;
  - (ii) scavenging or collecting waste from garbage or waste dumps; or
  - (iii) use, recruit, procure or offer a child for the commission of any serious offence (they are listed in [schedules 1](#) and [2](#) of the Criminal Procedure Act, 1977).

(4) The BCEA regulations define which specific substances agents are considered very harmful to children.

**12. Risk assessment.-(1)** Every employer who employs or provides work to a child worker, or permits any child worker to work at any place under their control, or with any machinery under their control, must in respect of such work undertake a risk assessment process which must at least the following-

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing-
  - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified;
  - (ii) a monitoring plan; and
  - (iii) a review plan.

(2) The following factors must be taken into account when making the risk assessment-

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
- (b) the increased vulnerability of children to sleep disruption;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
- (d) the relative lack of experience and maturity of children in making safety judgments;
- (e) the reduced ability of children to adapt to inflexible work routines;
- (f) the reduced ability of children to perceive dangers correctly;
- (g) the reduced capacity of children to understand safety messages;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing;
- (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty.

(3) In the risk assessment process, the employer must have regard to the guidelines contained in [Schedule 1](#) to the Health and Safety of Children at Work Regulations issued in terms of the OHSA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 13. Respiratory hazards.-A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHSA to wear respiratory protection equipment, i.e. equipment such as masks that protects wor**

**13. Respiratory hazards.-**A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHSA to wear respiratory protection equipment, i.e. equipment such as masks that protects workers from inhaling hazardous dusts or fumes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 14. Work in elevated position.-(1) A child worker may not work at a height of more than 5 metres above the floor/ground.**

**14. Work in elevated position.-(1)** A child worker may not work at a height of more than 5 metres above the floor/ground.

(2) A child worker working at a height of more than 2 metres from the floor/ground must work under the supervision of the employer or a competent adult employee, and reasonable fall protection must be provided, such as a safety harness or railings.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 15. Lifting of heavy weights.-(1) A child worker performing any work may not, as part of their work, lift an object weighing more than-**

**15. Lifting of heavy weights.-(1)** A child worker performing any work may not, as part of their work, lift an object weighing more than-

- (a) the lesser of 15 kg or 20 % of the child's body weight;
- (b) more than 7,5 kg more than once per minute.

(2) A child worker may not lift objects weighing more than 5 kg at work for more than 2 hours without being granted a 30-minute period in which he or she is not required to lift such a weight.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 16. Work in a cold environment.-(1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing-**

**16. Work in a cold environment.**-(1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing-

- (a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;
- (b) 6°C where the work involves repeated entry into or presence for more than one hour in such environment.

(2) The protective warm clothing supplied to child worker must comply with Regulation 2 (2) (b) (i) to (vi) of the Environmental Regulations for Workplaces

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 17. Work in a hot environment.**-(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child-

**17. Work in a hot environment.**-(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child-

- (a) is acclimatised to such working environment before he/she is required or permitted to work in such environment;
- (b) has drink breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

(2) The term 'average temperature' referred to here is technically the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, and determined over a period of one hour.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 18. Work in noisy environment.**-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 1

**18. Work in noisy environment.**-No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with [regulation 12](#) of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993. DB(A) is a unit used in measuring noise, and takes into account how often loud noises are heard, even if an environment is not noisy all the time.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 19. Power tools and cutting or grinding equipment.**-(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use

**19. Power tools and cutting or grinding equipment.**-(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use is safe and without significant risks for the child.

(2) If the risk assessment indicates that the power tool or other equipment is safe and without significant risks for the child worker to use, if used with safety equipment or facilities, the child-

- (a) must be provided with the necessary safety equipment and facilities that are usually required in terms of occupational health and safety regulations; and
- (b) must be instructed in the use, maintenance and limitations of such equipment.

(3) Before starting such work the child worker must receive adequate training in the safe and appropriate use of the power tools or machinery from a person competent in their use.

- (4) The child worker must be supervised by a competent person when using power tools or other equipment.
- (5) An inspector may issue a notice prohibiting the use by child workers of any power tool or other machinery.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Regulations/ GNR.7 of 15 January 2010: Regulations on Hazardous Work by Children in South Africa (Government Gazette No. 32862)/ 20. Report to Department of Social Development.**-(1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHSA regulations shall refer the matter for investigation to a child protection organ

**20. Report to Department of Social Development.**-(1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHS Act regulations shall refer the matter for investigation to a child protection organisation designated in terms of the Children's Act [No. 38 of 2005](#) or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

(2) The relevant social worker must then investigate the circumstances of the child worker to determine whether he/she is in need of care and protection and, if so, take appropriate action to protect the child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GNR.113 of 29 January 1999: Exemption: Managers, submanagers, senior managerial and administrative personnel, technical and professional personnel and foremen (Government Gazette No. 19703)**

**GNR.113 of 29 January 1999: Exemption: Managers, submanagers, senior managerial and administrative personnel, technical and professional personnel and foremen (Government Gazette No. 19703)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of clause 8 of Schedule three of the Basic Conditions of Employment Act, 1997, cancel Government Notice No. R.1601 of 27 August 1993 with effect from 1 February 1999.

**M M S MDLADLANA  
MINISTER OF LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act**

**GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of [section 35 \(5\)](#) of the Act**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, after consulting the Employment Conditions Commission and NEDLAC, hereby under [section 35 \(5\)](#) of the Basic Conditions Employment Act, 1997 (Act [No. 75 of 1997](#)) publish [the Schedule](#) hereto. The Schedule comes into operation with effect from 1 July 2003.

MMS MDLADLANA, MP  
Minister of Labour

#### **SCHEDULE**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 1. The following payments are included in an employee's remuneration for the purposes of calculating pay for annual leave in terms of section 21, payment instead of notice in terms of section 38 and severance pay in terms of section 41-**

**1.** The following payments are included in an employee's remuneration for the purposes of calculating pay for annual leave in terms of section 21, payment instead of notice in terms of section 38 and severance pay in terms of section 41-

- (a) Housing or accommodation allowance or subsidy or housing or accommodation received as a benefit in kind;
- (b) Car allowance or provision of a car, except to the extent that the car is provided to enable the employee to work;
- (c) Any cash payments made to an employee, except those listed as exclusions in terms of this schedule;
- (d) Any other payment in kind received by an employee, except those listed as exclusions in terms of this schedule;
- (e) Employer's contributions to medical aid, pension, provident fund or similar schemes;
- (f) Employer's contributions to funeral or death benefit schemes.



**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 2. The following items do not form part of remuneration for the purpose of these calculations-**

2. The following items do not form part of remuneration for the purpose of these calculations-
- (a) Any cash payment or payment in kind provided to enable the employee to work (for example, an equipment, tool or similar allowance or the provision of transport or the payment of a transport allowance to enable the employee to travel to and from work);
  - (b) A relocation allowance;
  - (c) Gratuities (for example, tips received from customers) and gifts from the employer;
  - (d) Share incentive schemes;
  - (e) Discretionary payments not related to an employee's hours of work or performance (for example, a discretionary profit-sharing scheme);
  - (f) An entertainment allowance;
  - (g) An education or schooling allowance.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 3. The value of payments in kind must be determined as follows-**

3. The value of payments in kind must be determined as follows-
- (a) a value agreed to in either a contract of employment or collective agreement, provided that the agreed value may not be less than the cost to the employer of providing the payment in kind; or
  - (b) the cost to the employer of providing the payment in kind.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 4. An employee is not entitled to a payment or the cash value of a payment in kind as part of remuneration if-**

4. An employee is not entitled to a payment or the cash value of a payment in kind as part of remuneration if-
- (a) the employee received the payment or enjoyed, or was entitled to enjoy, the payment in kind during the relevant period; or
  - (b) in the case of a contribution to a fund or scheme that forms part of remuneration, the employer paid the contribution in respect of the relevant period.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 5. This schedule only applies to pay for annual leave accrued from the date of operation of this Schedule.**

5. This schedule only applies to pay for annual leave accrued from the date of operation of this Schedule.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 6. If a payment fluctuates, it must be calculated over a period of 13 weeks or, if the employee has been in employment for a shorter period, that period.**

6. If a payment fluctuates, it must be calculated over a period of 13 weeks or, if the employee has been in employment for a shorter period, that period.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 7. A payment received in a particular period in respect of a longer period (e.g. a thirteenth cheque) must be pro-rated.**

7. A payment received in a particular period in respect of a longer period (e.g. a thirteenth cheque) must be pro-rated.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 691 of 23 May 2003: Calculation of Employee's Remuneration in terms of section 35 (5) of the Act/ 8. This Schedule only applies to the minimum payments that an employer is required to make in terms of the Basic Conditions of Employment Act, 1997.**

8. This Schedule only applies to the minimum payments that an employer is required to make in terms of the Basic Conditions of Employment Act, 1997.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GNR.976 of 9 October 2009: Withdrawal of Government Notice Squid Fishing Sector, South Africa (Government Gazette No. 32631)**

**GNR.976 of 9 October 2009: Withdrawal of Government Notice Squid Fishing Sector, South Africa  
(Government Gazette No. 32631)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, having due regard to [Section 55 \(7\) \(b\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), withdraw Government Notice R. 32092 of 03 April 2009 with immediate effect.

(Signed)

**M M S MDLADLANA, MP  
MINISTER OF LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 531 of 1 July 2014: Determination: Earnings Threshold (Government Gazette No. 37795)**

**GN 531 of 1 July 2014: Determination: Earnings Threshold  
(Government Gazette No. 37795)**

DEPARTMENT OF LABOUR

I, Mildred Nelisiwe Oliphant, Minister of Labour, in terms of [section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R205 433.30 (two hundred and five thousand, four hundred and thirty three rand, thirty cents) per annum be excluded from [sections 9, 10, 11, 12, 14, 15, 16, 17 \(2\), 18 \(3\)](#) of the Act with effect from 1 July 2014.

For the purposes of this Notice-

**"Earnings"** means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.

(Signed)

**MN OLIPHANT, MP  
MINISTER OF LABOUR  
24/06/2014**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Notices/ GN 77 of 8 February 2021: Determination: Earnings Threshold (Government Gazette No. 44137)**

**GN 77 of 8 February 2021: Determination: Earnings Threshold  
(Government Gazette No. 44137)**

DEPARTMENT OF EMPLOYMENT AND LABOUR

I, Thembelani Waltermade Nxesi, Minister of Employment and Labour, hereby in terms of [section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R211 596.30 (two hundred and eleven thousand, five hundred and ninety six rand, thirty cents) per annum be excluded from [sections 9, 10, 11, 12, 14, 15, 16, 17 \(2\)](#) and [18 \(3\)](#) of this Act with effect from 1 March 2021.



For the purposes of this notice:

**"Earnings"** means the regular annual remuneration before deductions i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.

(Signed)

**MR TW NXESI, MP**  
**MINISTER OF EMPLOYMENT AND LABOUR**  
**DATE: 25/01/2021**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time**

**GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time**

Notice is hereby given in terms of [section 87 \(2\)](#) of the Basic Conditions of Employment Act, 1997, that the Minister of Labour, after consulting NEDLAC, has issued under [section 87 \(1\) \(a\)](#) of that Act, a Code of Good Practice on the Arrangement of Working Time as set out in [the Schedule](#).

**SCHEDULE**

**ARRANGEMENT OF REGULATIONS**

- [1.](#) Objectives
- [2.](#) Application
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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 1. Objectives.-The objective of this code is to provide information and guidelines to employers and employees concerning the arrangement of working time and the impact of working time on the health, safety and family responsibilities of employees.**

**1. Objectives.-**The objective of this code is to provide information and guidelines to employers and employees concerning the arrangement of working time and the impact of working time on the health, safety and family responsibilities of employees.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 2. Application**

**2. Application**

2.1 This code is issued in terms of [section 87 \(1\) \(a\)](#) of the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#)), (BCEA) and must be read in conjunction with the BCEA, particularly Chapter Two which governs the regulation of working time.

2.2 [Section 7](#) of the BCEA requires employers to regulate the working time of each employee-

- 2.2.1 in accordance with the provisions of any Act governing occupational health and safety;
- 2.2.2 with due regard to the health and safety of employees;
- 2.2.3 with due regard to this Code of Good Practice;
- 2.2.4 with due regard to the family responsibilities of employees.

2.3 This code applies to all employers and employees covered by the BCEA. This Code of Good Practice is of particular significance for employees who perform shift work or regular night work and to their employers.

2.4 The norms established by this Code are general and may not be appropriate for all workplaces. A departure from the Code may be justified in proper circumstances. For example, the number of employees employed in an establishment

may warrant a different approach.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 3. Relationship to health and safety laws**

### **3. Relationship to health and safety laws**

3.1 The regulation of working time is closely connected to the protection and promotion of the health and safety of employees and, in some cases, members of the public.

3.2 Employers may be required to take working-time schedules into account in complying with their general duties to provide and maintain a working environment that is safe and without risk to the health of employees in terms of the Occupational Health and Safety Act, 1993 (Act [No. 85 of 1993](#)), (OHSA) and the Mine Health and Safety Act, 1996 (Act No. 19 of 1996), (MHSA).

3.3 Key aspects of these Acts are the following:

3.3.1 Employers must conduct a risk assessment. This requires that they identify hazards and assess the risk that they pose to the health and safety of employees. The results of the risk assessment must be recorded.

3.3.2 Employers must implement appropriate measures to eliminate or control hazards identified in the risk assessment.

3.3.3 Employers must train and supply information to employees about the risks to their health and safety and the measures taken to control such risks.

3.3.4 Elected worker health and safety representatives and committees are entitled to participate in the risk assessment and control of hazards.

3.3.5 Employees have a duty to take reasonable steps to protect their own health and safety and that of other employees.

3.4 Employers who engage employees to perform regular night work<sup>1</sup> must ensure that these employees are informed of the health and safety hazards associated with the work that they would perform. This provision of the BCEA reiterates the obligation on employers in terms of OHSA and MHSA.

#### **Footnotes**

- 1 An employee is regularly working at night if he or she works more than one shift per week (or 50 shifts per year) of which more than one hour falls after 23:00 or before 06:00.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 4. Design and evaluation of shift systems**

### **4. Design and evaluation of shift systems**

4.1 The design of shift rosters must be sensitive to the impact of these rosters on employees and their families. This information can be obtained during consultations, negotiations or by circulating individual questionnaires to employees.

4.2 The information that an employer may require on the effect of shift rosters includes-

4.2.1 the ranked preferences of employees for different shift systems (this should include factors such as rate of rotation, length of shift, extension of operating time, starting and finishing times of shifts, weekends off, off-duty periods);

4.2.2 the employee's views of the advantages and disadvantages of the existing or proposed shift system;

4.2.3 aspects of the employee's work that could affect the determination of a suitable shift length;

4.2.4 how an existing or proposed shift schedule affects or might affect the health and safety of employees;

4.2.5 means, costs and availability of transport to and from the place of residence and the personal security of the employee while commuting;

4.2.6 the childcare needs of the employees.

4.3 The information that will be required will depend on whether an employer is introducing a shift system for the first time or is re-evaluating or re-designing a shift system.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 5. Arrangement of shifts.-The following recommendations apply to the arrangement of shift work:**

### **5. Arrangement of shifts.-The following recommendations apply to the arrangement of shift work:**

5.1 Overtime should be avoided, especially in occupations involving special hazards or heavy physical or mental strain.

5.2 The changeover from one shift to another during the working day should, where appropriate, include a brief period of overlap of the two crews in order to pass on any information that is needed by the subsequent crew.

5.3 If appropriate and if it is possible within legal requirements, workers whose skills are interchangeable should be allowed to exchange a shift with another worker.

5.4 The shift schedule should be displayed or distributed for easy access by all workers, and should be presented in a readily understandable form.

5.5 Workers should receive reasonable notice in advance of scheduled hours of work and of any foreseeable changes to the schedule.

5.6 Arrangements should be considered to accommodate the special needs of workers such as pregnant and breast-feeding workers, workers with family responsibilities, older workers, disabled workers or workers with health problems, and also workers' personal preferences for the scheduling of their own free time.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 6. Design of shift rosters.-The following factors should be taken into account in the design of rosters for semi-continuous and continuous shift work:**

**6. Design of shift rosters.**-The following factors should be taken into account in the design of rosters for semi-continuous and continuous shift work:

6.1 The frequency of night work, weekend work and work on public holidays should be limited as much as possible for each worker.

6.2 The frequency of shift rotation should take account of the difficulties workers may have in adapting to night work.

6.3 It is preferable that shifts be rotated in a forward direction (morning to afternoon to night), bearing in mind workers' preferences, local conditions and difficulties in scheduling a long period of rest after spells of night shifts.

6.4 Night shifts should be no longer than morning and afternoon shifts. Where long night shifts are used they should be carefully reviewed to find ways to avoid excessive fatigue. Successive long night shifts should be avoided to the extent practicable.

6.5 Rest periods for shift workers should be scheduled to fall on weekends a certain minimum number of times during a given period.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 7. Performance of safety-critical tasks**

## **7. Performance of safety-critical tasks**

7.1 Employers should take particular care in the timing of safety-critical tasks in shift cycles and during individual shifts.

7.2 These should, to the greatest extent possible, not be undertaken at a time when the employees involved may be fatigued or have low levels of alertness.

7.3 This is of particular importance to employers, such as operators of major hazard installations whose activities have a direct impact upon the public, and operators of services such as mass transportation or goods transportation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 8. Health assessment and counselling**

## **8. Health assessment and counselling**

8.1 In terms of [section 17 \(3\) \(b\)](#) of BCEA an employer, if requested by an employee who is performing regular night work, must make arrangements for the employee to undergo a medical examination. An employee is entitled to have such an examination at the time of commencing regular night work and thereafter at regular intervals while he or she continues to work regularly at night.

8.2 The examination should be performed by a medical practitioner or by a health professional who could refer employees to a medical practitioner in appropriate cases. This could include qualified staff employed in a workplace clinic. The cost of the examination is for the account of the employer although arrangements could be made for the cost to be covered through medical aid.

8.3 The timing of these examinations should be determined by individual or collective agreement in the light of the employee's health status, the nature of the work the employee performs and the employee's working hours.

8.4 The examination should cover-

8.4.1 any difficulties the employee may be having in adapting to night-work routines;

8.4.2 any health problems that the employee is manifesting;2

8.4.3 any psychological, emotional and social stresses experienced by the employee, strategies that may help the

employee cope with night work and educational input on the risks of shift work;

8.4.4 insomnia and symptoms of sleep deprivation such as irritability and chronic fatigue;

8.4.5 use of medication, the effectiveness of which depends upon circadian (daily body) rhythms;

8.4.6 diet and use of caffeinated drinks, alcohol, sleeping pills, and cigarettes.

8.5 In certain circumstances, it may be appropriate to advise certain individuals against shift work. These circumstances include where the effectiveness of medication is fundamentally affected by circadian (daily body) rhythms, workers with gastro-intestinal or cardiovascular disorders, and epileptics.

8.6 The examination should also include educational input on the health risks that may be associated with the employee's work schedule and as coping strategies that may assist the employee.

#### **Footnotes**

- 2 Among the health conditions that should be investigated are mild asthma; non-insulin-dependent diabetes melitis; cardiac risk factors like hypertension, elevated cholesterol; depression; seizures; frequent indigestion; mild irritable bowl syndrome; Crohn's disease; peptic ulcer; weight loss and general nutritional status.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 9. Working environment.-Employers should regularly assess whether the work environment, in particular the lighting and heating, are adequate for the health, safety and physical comfort of employees, particularly night workers.**

**9. Working environment.-**Employers should regularly assess whether the work environment, in particular the lighting and heating, are adequate for the health, safety and physical comfort of employees, particularly night workers.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 10. Management services**

#### **10. Management services**

10.1 Employers should provide appropriate management services to employees working outside of ordinary hours. Depending on the nature of the business, some aspects of management services should be available at all times to nightshift employees.

10.2 Services that should be available at night include-

10.2.1 first aid services;

10.2.2 qualified safety supervision;

10.2.3 occupational health services, in particular counselling on nutrition and fatigue-related problems;

10.2.4 emergency services in case of accidents, including transportation to hospitals.

10.3 Employers who engage employees on night work should ensure that-

10.3.1 there is adequate security for employees at the workplace;

10.3.2 employees are able to obtain safe, affordable transportation between their places of residence and their workplace;

10.3.3 there are adequate eating facilities;

10.3.4 there are adequate rest rooms and change-rooms.

10.4 Administrative services should be sufficient, so that employees working nights do not have to use their off-duty time to have contact with services such as the wages or personnel department. This could be achieved by making these services available at the start or end of shifts by introducing rosters that permit employees working at night to have contact during this time.

10.5 The need for and extent of administrative services will depend on the type of shift patterns. The need will be greatest if employees are working at night for long periods or permanently; there will be less of a need if employees change rapidly from day shift to night shift.

10.6 Employees working at night should not be disadvantaged in having access to education and training.

10.7 Collective bargaining, trade union activities and the activities of participative bodies such as workplace forums or health and safety committees should be arranged so as to allow employees who work at night to participate.

10.8 An agreement to reduce employees' meal intervals to 30 minutes in terms of [section 14 \(5\) \(a\)](#) of the BCEA should not be concluded if it may have the effect of endangering the health and safety of employees.

10.9 Employers must ensure that employees receive adequate rest periods.

10.10 The number and duration of rest pauses during the shift and rotation should be adapted to the workload. Particular attention must be given to the scheduling of rest periods for employees who are engaged in-

- 10.10.1 physically and mentally strenuous work;
- 10.10.2 work involving manual lifting;
- 10.10.3 work involving repetitive movement;
- 10.10.4 monotonous work;
- 10.10.5 shifts of longer than eight hours.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1440 of 13 November 1998: Code of good practice on the arrangement of working time/ 11. Coping strategies.-Employers should provide appropriate and up-to-date information to employees about coping strategies, both in the workplace and at home. Strategies that will assist employees to cope with shift work and night work include-**

**11. Coping strategies.**-Employers should provide appropriate and up-to-date information to employees about coping strategies, both in the workplace and at home. Strategies that will assist employees to cope with shift work and night work include-

- 11.1 maintaining a regular sleeping routine;
- 11.2 taking steps to block out noise and light for employees who have to sleep in the day;
- 11.3 maintaining a healthy diet;
- 11.4 exercise and relaxation.

## GLOSSARY

*Continuous shift work* - the employer operates 24 hours a day, seven days a week, all year round.

*Semi-continuous shift work* - the employer operates 24 hours a day without a daily break, but with a break at the weekend.

*Discontinuous shift work* - the employer operates less than 24 hours a day with at least one daily break. A "two-shift" system is the most common discontinuous shift system.

*Short or part-time shifts* - daily scheduled working hours that are substantially shorter than eight hours.

*Long shifts* - daily scheduled working hours that are substantially longer than eight hours.

*Rotating (or alternating) shifts* - workers alternate between different shifts. There are three key elements to rotation:

- (i) *The direction of rotation* - rotation can either be forward (clockwise, for instance, morning to afternoon to night) or backward (or counter-clockwise). In forward or advancing shifts, the starting time of one shift in a shift worker's schedule is always later on the 24-hour clock than the previous shift. In a continuous shift system workers will work a morning shift. In backward or delaying rosters, one shift always begins at an earlier time than the previous shift;
- (ii) *The frequency* - employees may change shifts every week or at shorter or longer intervals;
- (iii) *The length of the cycle* - the period required for a complete schedule of rotation, after which the cycle is repeated.

*Fixed (or permanent) shifts* - employees work permanently on a single shift.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child**

## GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child

Notice is hereby given in terms of [section 87 \(2\)](#) of the Basic Conditions of Employment Act, 1997, that the Minister of Labour, after consulting NEDLAC, has issued under [section 87 \(1\) \(b\)](#) of that Act, a Code of Good Practice on the Protection of Employees during Pregnancy and after the Birth of a Child as set out in [the Schedule](#).

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

- |                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li><a href="#">1.</a></li> <li><a href="#">2.</a></li> <li><a href="#">3.</a></li> <li><a href="#">4.</a></li> <li><a href="#">5.</a></li> <li><a href="#">6.</a></li> <li><a href="#">7.</a></li> </ol> | <ul style="list-style-type: none"> <li>Introduction</li> <li>Application of the Code</li> <li>Contents</li> <li>Legal requirements</li> <li>Protecting the health of pregnant and breast-feeding employees</li> <li>The identification and assessment of hazards</li> <li>Aspects of pregnancy that may affect work</li> <li><a href="#">Schedule One</a></li> <li><a href="#">Schedule Two</a></li> <li><a href="#">Schedule Three</a></li> </ul> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Physical hazards  
Ergonomic hazards  
Chemical hazards

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 1. Introduction**

## 1. Introduction

1.1 Many women work during pregnancy and many return to work while they are still breast-feeding.

1.2 The objective of this code is to provide guidelines for employers and employees concerning the protection of the health of women against potential hazards in their work environment during pregnancy, after the birth of a child and while breast-feeding.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 2. Application of the Code**

## 2. Application of the Code

2.1 This code is issued in terms of [section 87 \(1\) \(b\)](#) of the Basic Conditions of Employment Act (BCEA) 75 of 1997.

2.2 It is intended to guide all employers and employees concerning the application of [section 26 \(1\)](#) of the BCEA which prohibits employers from requiring or permitting pregnant or breast-feeding employees to perform work that is hazardous to the health of the employee or that of her child.

2.3 Workplaces may be affected differently depending upon the type of business and sector they are engaged in and the physical, chemical and biological hazards to which employees may be exposed in the workplace.

2.4 The norms established by this code are general and may not be appropriate for all workplaces. A departure from the code may be justified in the proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 3. Contents.-This code-**

## 3. Contents.-This code-

3.1 sets out the legal requirements relevant to the protection of the health and safety of pregnant and breast-feeding employees;

3.2 sets out a method for assessing and controlling the risks to the health and safety of pregnant and breast-feeding employees;

3.3 lists the principal physical, ergonomic, chemical and biological hazards to the health and safety of pregnant and breast-feeding employees and recommends steps to prevent or control these risks. These are listed in [Schedules One to Four](#), which are included for guidance and are not exhaustive.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 4. Legal requirements**

## 4. Legal requirements

4.1 The Constitution protects the right to bodily and psychological integrity, which includes the right to make decisions concerning reproduction [[section 12 \(2\)](#)] and gives every person the right to health services, including reproductive health care [[section 27 \(1\) \(a\)](#)].

4.2 No person may be discriminated against or dismissed on account of pregnancy.<sup>1</sup>

4.3 Employers are required to provide and maintain a work environment that is safe and without risk to the health of employees. This includes risks to the reproductive health of employees. These duties are established in terms of both the Occupational Health and Safety Act (OHSA) 85 of 1993 and the Mine Health and Safety Act (MHSA) 27 of 1996. Key aspects of these Acts are-

4.3.1 employers must conduct a risk assessment, which involves identifying hazards, assessing the risk that they pose to the health and safety of employees and recording the results of the risk assessment.

4.3.2 employers must implement appropriate measures to eliminate or control hazards identified in the risk assessment;

4.3.3 employers must supply employees with information about and train them in the risks to their health and safety and the measures taken to eliminate or minimise them;

4.3.4 elected worker health and safety representatives and committees are entitled to participate in the risk



assessment and control of hazards;

4.3.5 employees have a duty to take reasonable steps to protect their own health and safety and that of other employees.

### Footnotes

- 1 The relevant provisions establishing this right are [section 9 \(3\)](#) and [\(4\)](#) of the Constitution; [section 187 \(1\)](#) of the Labour Relations Act [66 of 1995](#) and [section 6](#) of the Employment Equity Act of 1998.

## **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 5. Protecting the health of pregnant and breast-feeding employees**

### **5. Protecting the health of pregnant and breast-feeding employees**

5.1 [Section 26 \(1\)](#) of the BCEA prohibits employers from requiring or permitting a pregnant employee or an employee who is breast-feeding to perform work that is hazardous to the health of the employee or the health of her child. This requires employers who employ women of childbearing age to assess and control risks to the health of pregnant or breast-feeding employees and that of the foetus or child.

5.2 Employers should identify, record and regularly review-

5.2.1 potential risks to pregnant or breast-feeding employees within the workplace;

5.2.2 protective measures and adjustments to working arrangements for pregnant or breast-feeding employees.

5.3 Where appropriate, employers should also maintain a list of employment positions not involving risk to which pregnant or breast-feeding employees could be transferred.[2](#)

5.4 Employers should inform employees about hazards to pregnant and breast-feeding employees and of the importance of immediate notification of pregnancy.

5.5 Workplace policies should encourage women employees to inform employers of their pregnancy as early as possible to ensure that the employer is able to identify and assess risks and take appropriate preventive measures.

5.6 The employer should keep a record of every notification of pregnancy.

5.7 When an employee notifies an employer that she is pregnant her situation in the workplace should be evaluated. The evaluation should include-

5.7.1 an examination of the employee's physical condition by a qualified medical professional;

5.7.2 the employee's job;

5.7.3 workplace practices and potential workplace exposures that may affect the employee.

5.8 If the evaluation reveals that there is a risk to the health or safety of the pregnant employee or the foetus, the employer must-

5.8.1 inform the employee of the risk;

5.8.2 after consulting the employee and her representative, if any, determine what steps should be taken to prevent the exposure of the employee to the risk by adjusting the employee's working conditions.

5.9 The employee should be given appropriate training in the hazards and the preventive measures taken.

5.10 If there is any uncertainty or concern about whether an employee's workstation or working conditions should be adjusted, it may be appropriate in certain circumstances to consult an occupational health practitioner. If appropriate adjustments cannot be made, the employee should be transferred to an alternative position in accordance with [section 26 \(2\)](#) of the BCEA.

5.11 Employers must keep the risk assessment for expectant or new mothers under regular review. The possibility of damage to the health of the foetus may vary during the different stages of pregnancy. There are also different risks to consider for workers who are breast-feeding.

5.12 Arrangements should be made for pregnant and breast-feeding employees to be able to attend antenatal and postnatal clinics as required during pregnancy and after birth.

5.13 Arrangements should be made for employees who are breast-feeding to have breaks of 30 minutes twice per day for breast-feeding or expressing milk each working day for the first six months of the child's life.

5.14 Where there is an occupational health service at a workplace, appropriate records should be kept of pregnancies and the outcome of pregnancies, including any complications in the condition of the employee or child.

### Footnotes

- 2 In terms of [section 26 \(2\)](#) of the BCEA an employer must offer suitable alternative employment to an employee during pregnancy if her work poses a danger to her health or safety or that of her child or if the employee is engaged in night work (between 18:00 and 06:00), unless it is not practicable to do so. Alternative employment must be on terms that are no less favourable than the employee's ordinary terms and conditions of employment.

## **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 6. The identification and assessment of hazards**



## 6. The identification and assessment of hazards

### 6.1 Physical hazards

The control of physical hazards in the workplace includes the recognition, evaluation and control of-

- 6.1.1 exposure to noise, vibration, radiation, electric and electromagnetic fields and radioactive substances;
- 6.1.2 work in extreme environments;
- 6.1.3 control of the thermal environment (heating and air-conditioning).

[Schedule One](#) describes the extent to which certain of these physical agents may constitute a hazard to the health and safety of pregnant and breast-feeding employees and suggests methods to prevent or control these hazards.

### 6.2 Ergonomic hazards

The application of ergonomics involves ensuring that work systems are designed to meet the employee's needs for health, safety and comfort. A range of ergonomic risk factors may pose hazards to the health and safety of pregnant and breast-feeding employees and should be identified and assessed as part of the risk assessment programme. These include-

- 6.2.1 heavy physical work;
- 6.2.2 static work posture;
- 6.2.3 frequent bending and twisting;
- 6.2.4 lifting heavy objects and movements requiring force;
- 6.2.5 repetitive work;
- 6.2.6 awkward postures;
- 6.2.7 no rest;
- 6.2.8 standing for long periods;
- 6.2.9 sitting for long periods.

[Schedule Two](#) describes the extent to which some of these factors may constitute a hazard to the health and safety of pregnant and breast-feeding employees and suggests methods to prevent or control these hazards.

### 6.3 Chemical hazards

Contact with harmful chemical substances may cause infertility and foetal abnormalities. Some chemicals can be passed to the baby during breast-feeding and could possibly impair the health and the development of the child.

The Hazardous Chemical Substances Regulations, 1995, issued under OHSA apply to all employers who carry out activities, which may expose people to hazardous chemical substances. These employers must assess the potential exposure of employees to any hazardous chemical substance and take appropriate preventive steps. The Regulations set maximum exposure levels for some 700 hazardous chemical substances.

The Hazardous Chemical Substances Regulations require employers to inform and train employees about, and in any substance to which they are or may be exposed. This must include information on any potential detrimental effect on the reproductive ability of male or female employees.

Regulation 7 (1) of the General Administrative Regulations, 1996, under OHSA requires manufacturers, importers, sellers and suppliers of hazardous chemical substances used at work to supply a Material Safety Data Sheet (MSDS) which must include information on any reproductive hazards. Every employer who uses a hazardous chemical substance must be in possession of the relevant MSDS and must make it available on request to affected persons.

With the exception of the Lead Regulations, there are no regulations which set maximum exposure levels of specific applications for women of childbearing age or pregnant women.<sup>3</sup> In view of the absence of occupational health standards for the exposure of pregnant or breast-feeding women to chemical substances, care should be taken to minimise exposure to chemicals which can be inhaled, swallowed or absorbed through the skin. Where this cannot be achieved, employees should be transferred to other work in accordance with [section 26 \(2\)](#) of the BCEA.

Chemical substances that are known or suspected to constitute a hazard to pregnant or breast-feeding women and to the foetus or child are listed in [Schedule Three](#) below.

### 6.4 Biological hazards

Many biological agents, such as bacteria and viruses, can affect the unborn child if the mother is infected during pregnancy. Biological agents may also be transferred through breast-feeding or by direct physical contact between mother and baby. Health workers, including service workers in health-care facilities and workers looking after animals or dealing with animal products are more likely to be exposed to infection than other workers. Employees who have close contact with young children, such as teachers and edu-care workers, are at increased risk of exposure to rubella (German measles) and varicella (chicken pox).

Universal hygiene precautions are required to prevent disease. These include high standards of personal hygiene, surveillance of staff in high-risk areas, appropriate sterilisation and disinfecting procedures, designation of person to be responsible for health and safety, the use of protective clothing and gloves and the avoidance of eating or smoking in laboratories or other risk areas.

Some of the biological agents that are known to constitute a hazard to the health of breast-feeding or pregnant women are listed in [Schedule Four](#).

## Footnotes

- 3 European Council Directive 92/32/EEC classifies some 200 substances and preparations as falling into one of the following categories:
- possible risks of irreversible effects (R40)
  - may cause cancer (R45)
  - may cause heritable genetic damage (R46)
  - may cause harm to the unborn child (R61)
  - possible risk of harm to the unborn child (R63)
  - may cause harm to breastfed babies (R64)

The actual risk to health of these substances can only be determined following a risk assessment of a substance at a place of work, i.e. although the substances listed may have the potential to endanger health or safety, there may be no risk in practice. For example, if exposure is below the level that might cause harm.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ 7. Aspects of pregnancy that may affect work.-Employers and employees should be aware of the following common aspects of pregnancy that may affect work:**

**7. Aspects of pregnancy that may affect work.**-Employers and employees should be aware of the following common aspects of pregnancy that may affect work:

7.1 As a result of morning sickness employees may be unable to perform early shift work. Exposure to nauseating smells may also aggravate morning sickness.

7.2 Backache and varicose veins may result from work involving prolonged standing or sitting. Backache may also result from work involving manual hand-ling.

7.3 More frequent visits to the toilet will require reasonable access to toilet facilities and consideration of the employee's position if leaving the work she performs unattended poses difficulties.

7.4 The employee's increasing size and discomfort may require changes of protective clothing, changes to work in confined spaces and changes to her work where manual handling is involved. Her increasing size may also impair dexterity, agility, co-ordination, speed of movement and reach.

7.5 The employee's balance may be affected making work on slippery or wet surfaces difficult.

7.6 Tiredness associated with pregnancy may affect the employee's ability to work overtime and to perform evening work. The employer may have to consider granting rest periods.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ Schedule One PHYSICAL HAZARDS**

### Schedule One PHYSICAL HAZARDS

| Hazard                          | What is the risk                                                                                                                                                                                                      | How to avoid the risk                                                                                                                                                                                                                                     |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Vibration and mechanical shocks | Long-term exposure to vibrations may increase the risk of miscarriage and stillbirth. Exposure to shocks or wholebody vibrations in the later stages of pregnancy can result in premature labour.                     | <i>It is advised that pregnant workers and those that have recently given birth avoid work that is likely to involve uncomfortable, wholebody vibrations, especially at low frequencies, or where the abdomen is exposed to shocks or jolts.</i>          |
| Extreme heat                    | The exposure of pregnant and breast-feeding employees to extreme heat may lead to dizziness and faintness, particularly in the case of women performing standing work. Lactation may be impaired by heat dehydration. | <i>Employers should limit the exposure of pregnant and breast-feeding workers to extreme heat. Arrangements for access to rest facilities and refreshments should be made in conditions of extreme heat.</i>                                              |
| Extreme cold                    | Work in extremely cold conditions such as cold storage rooms has been associated with problems in pregnancy.                                                                                                          | <i>Employees must be supplied with thermal protective clothing and their exposure to cold limited in terms of <a href="#">regulation 2</a> of the Environmental Regulations for Workplaces, made under the Occupational Health and Safety Act (OHSA).</i> |
| Noise                           | Prolonged exposure to noise can elevate the blood pressure of pregnant women and lead to tiredness.                                                                                                                   | <i>Employers should ensure compliance with <a href="#">regulation 7</a> of the Environmental Regulations for Workplaces, OHSA.</i>                                                                                                                        |
|                                 |                                                                                                                                                                                                                       | <i>Work procedures should be designed to keep exposure of</i>                                                                                                                                                                                             |

|                                          |                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ionising radiation                       | Significant exposure to ionising radiation is known to be harmful to the foetus. Working with radioactive liquids or dusts can result in exposure of the foetus (through ingestion or via contamination of the mother's skin) or a breast-fed baby to ionising radiation. | <i>pregnant women as low as reasonably practicable and below the statutory dose limit for a pregnant woman.</i><br><i>Pregnant women or breast-feeding mothers should not work where there is a risk of radio-active contamination.</i><br><i>Employers of registered radiation workers, including radiographers, must comply with the regulations controlling the use of electronic products issued under the Nuclear Energy Act <a href="#">131 of 1993</a>.</i>                                                                                                                                                                                                                                                                                                                           |
| Non-ionising (electromagnetic) radiation | It has not been established that the levels of non-ionising electromagnetic radiation likely to be generated by video display units (VDU's) or other office equipment constitutes a risk to human reproductive health.                                                    | <i>Women who are pregnant or who are planning children and are worried about working with VDU's should discuss their concerns with an occupational health practitioner.</i><br><i>The following practical measures can be adopted to limit exposure to electromagnetic fields in offices (emfs):</i> <ul style="list-style-type: none"> <li>• <i>Workers should sit at arm's length from the computer (70cm) and about 120cm from the backs and sides of co-workers' monitors.</i></li> <li>• <i>Workers should have regular breaks from VDU work, as this reduces exposure time.</i></li> <li>• <i>Radiation-reducing glare screens (or shields) can reduce the electrical component of the emfs. However, shields that distort the image on the monitor should not be used.</i></li> </ul> |
| Work in compressed air and diving        | People who work in compressed air are at risk of developing the bends. It is not clear whether pregnant women are more at risk of getting the bends but potentially the foetus could be seriously harmed by gas bubbles.                                                  | <i>Pregnant workers should not work in compressed air because of potential harm to the foetus from gas bubbles. For those who have recently given birth there is a small increase in the risk of the bends. The Diving Regulations, 1991, under OHSA, must be complied with.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ Schedule Two **ERGONOMIC HAZARDS****

**Schedule Two**  
**ERGONOMIC HAZARDS**

| <b>Hazard</b>              | <b>What is the risk</b>                                                                                                                          | <b>How to avoid the risk</b>                                                                                                                                                                                                                                                                                                       |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Physical and mental strain | Excessive physical or mental pressure may cause stress and give rise to anxiety and raised blood pressure during pregnancy.                      | <i>Employers should ensure that hours of work and the volume and pacing of work are not excessive and that, where practical, employees have some measure of control over how their work is organised. Seating should be available where appropriate. Longer or more frequent rest breaks will help to avoid or reduce fatigue.</i> |
| Physically strenuous work  | Employees whose work is physically strenuous should be considered to be at increased risk of injury when pregnant or after the birth of a child. | <i>Heavy physical exertion, including the lifting or handling of heavy loads, should be avoided from early pregnancy onwards.</i>                                                                                                                                                                                                  |
|                            | Sitting or standing for long                                                                                                                     | <i>Workstations should be adjustable to allow for necessary changes in posture.</i><br><i>Pregnant employees who sit for long periods should be provided with a proper chair with lumbar support</i>                                                                                                                               |

|                               |                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prolonged sitting or standing | periods during pregnancy can have serious health consequences. Standing for long unbroken periods can result in complications during pregnancy such as deep vein thrombosis, varicose veins, premature labour and even miscarriage. | <p><i>rest to prevent lower back pain. A footrest could alleviate pain and discomfort in the case of both sitting and standing workers.</i></p> <p><i>Pregnant employees who work in a stationary position should be given frequent rest breaks. Mobility during breaks should be encouraged to help prevent swelling of the ankles and improve blood circulation.</i></p> <p><i>Where work organisation permits task rotation, this should be done to allow the worker to do tasks that involve standing, sitting and moving.</i></p> |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ Schedule Three CHEMICAL HAZARDS**

**Schedule Three**  
**CHEMICAL HAZARDS**

| <b>Hazard</b>                    | <b>What is the risk</b>                                                                                                                                                                                             | <b>How to avoid the risk</b>                                                                                                                                                                                                                                                                                        |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Anaesthetic gases                | Exposure to anaesthetic gases during pregnancy can lead to miscarriage.                                                                                                                                             | <i>Exposure to high concentrations of anaesthetic gases should be avoided during pregnancy.</i>                                                                                                                                                                                                                     |
| Carbon monoxide                  | Risks arise when engines or appliances using petrol, diesel and liquefied petroleum gas are operated in enclosed areas. Carbon monoxide can result in the foetus being starved of oxygen.                           | <i>Occupational exposure to carbon monoxide should be avoided during pregnancy and breast-feeding.</i>                                                                                                                                                                                                              |
| Antimitotic (Cytotoxic) drugs    | Exposure to antimitotic drugs, which are used for treating cancer, damages genetic information in human sperm and egg cells. Some of these drugs can cause cancer. Absorption is by inhalation or through the skin. | <i>Workers involved in the preparation and administration of antimitotic drugs should be afforded maximum protection. Direct skin contact can be avoided by wearing suitable gloves and gowns. Pregnant employees potentially exposed to cancer drugs should be offered the option of transfer to other duties.</i> |
| Ethylene oxide                   | Ethylene oxide is used mainly in sterilising procedures in hospital. Exposure may occur when sterilised goods are transferred to the aerator after the cycle is complete and when changing the gas tanks.           | <i>Health risks can be minimised by reducing worker exposure during transfer when the steriliser door is opened. Pregnant employees exposed to ethylene oxide above the acceptable level should be transferred to other duties.</i>                                                                                 |
| Lead                             | Exposure of pregnant and breast-feeding employees to lead affects the nervous system of young children and is detrimental to child development.                                                                     | <i>Contact with lead should be avoided during pregnancy and breast-feeding. The Lead Regulations issued under OHS Act must be complied with. These Regulations specify levels at which employees must be withdrawn from exposure to lead.</i>                                                                       |
| Mercury and mercury derivatives  | Organic and inorganic mercury compounds can have adverse effects on the mother and foetus.                                                                                                                          | <i>Women of childbearing age should not be exposed to mercury compounds.</i>                                                                                                                                                                                                                                        |
| Polychlorinated Biphenyls (PCBs) | PCBs can cause deformities in the child. Maternal exposure before conception can also affect foetal development as PCBs can be passed on to the foetus through the mother's blood.                                  | <i>No pregnant women should be exposed to PCBs at work.</i>                                                                                                                                                                                                                                                         |
| Organic solvents                 | Exposure to organic solvents including aliphatic hydrocarbons, toluene and tetrachloroethylene can lead to miscarriage and have a detrimental effect on the foetus.                                                 | <i>Pregnant women should be protected to exposure against these organic solvents.</i>                                                                                                                                                                                                                               |

|                           |                                                                                                                                                                                                                                                                                                                                |                                                                                                                                  |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Pesticides and herbicides | Exposure to certain pesticides and herbicides is associated with an increased risk of miscarriage and can adversely affect the development of the child.                                                                                                                                                                       | <i>Exposure to pesticides and herbicides should be avoided or minimised.</i>                                                     |
| Alcohol                   | Foetal alcohol syndrome can lead to physical and mental abnormalities in children. Workers in the beverage, catering and associated industries, including wine farming, are particularly at risk.                                                                                                                              | <i>Where appropriate, employees should be informed of and counselled in the hazards associated with foetal alcohol syndrome.</i> |
| Tobacco smoke             | Tobacco smoke contains carbon monoxide and carcinogenic and other harmful substances. Smoking and the inhalation of environmental smoke affects foetal blood supply and can lead to retarded growth and development and more early childhood diseases. Smoking carries an increased risk of cancer and cardiovascular disease. | <i>Care should be taken to ensure that women employees are able to work without being exposed to tobacco smoke.</i>              |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.1441 of 13 November 1998: Code of good practice on the protection of employees during pregnancy and after the birth of a child/ Schedule Four BIOLOGICAL HAZARDS**

**Schedule Four**  
**BIOLOGICAL HAZARDS**

| <b>Hazard</b>            | <b>How to avoid the risk</b>                                                                                                                                                                                                                                                                 |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cytomegalo-virus         | Employees should be required to maintain high standards of personal hygiene, wash their hands after each patient contact and use gloves when handling potentially contaminated wastes in order to minimise the risk of infection.                                                            |
| Hepatitis                | General precautions must be taken for all forms of hepatitis. Vaccination is the most effective means available of preventing hepatitis B. Workers must take particular care to avoid mucous membranes and skin coming into contact with potentially contaminated blood or other secretions. |
| HIV                      | Universal precaution is important for workers potentially exposed to HIV. Health care workers should take precautions to prevent needle-stick injuries and exercise care when handling the blood, tissues or mucosal areas of all patients.                                                  |
| Rubella (German measles) | Rubella vaccine is the most effective means of preventing the disease, and susceptible employees should be immunised. Pregnancy should be avoided for 3 months after vaccination.                                                                                                            |
| Varicella (chicken pox)  | It is advisable to identify employees who have not previously had chicken pox. Pregnant employees who are known not to be immune to chicken pox and who are exposed to an active case should report to a physician.                                                                          |
| Toxoplasmosis gondii     | Control measures against toxoplasmosis gondii for women of reproductive age include high standards of personal and environmental hygiene; the sanitary disposal of cat faeces and avoiding contamination by cat faeces of soil to be tilled for agriculture.                                 |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities**

**GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities**

Notice is hereby given in terms of section 87 (2) of the Basic Conditions of Employment Act, 1997, that the Minister of Labour, after consulting NEDLAC, has issued under section 87 (1) (a) of the Act, a Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities as set out in the Schedule.

(Signed)  
MMS MDLADLANA, MP  
Minister of Labour

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

- |                    |                |
|--------------------|----------------|
| <a href="#">1.</a> | Preamble       |
| <a href="#">2.</a> | Purpose        |
| <a href="#">3.</a> | Application    |
| <a href="#">4.</a> | Child Minders  |
| <a href="#">5.</a> | Dressing Rooms |
| <a href="#">6.</a> | Education      |

*Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities*

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 1. Preamble**

##### **1. Preamble**

- 1.1 The rights of children are enshrined in international and national legislative instruments. These rights should be protected wherever children are employed.
- 1.2 This Code provides guidelines for employment of children in the performance of advertising, artistic or cultural activities in order to protect them against work that is hazardous or harmful to their education, health or well being, physical or mental health or spiritual, moral or social development.
- 1.3 The Code aims to ensure that performing activities do not detract from the child's development and enjoyment of childhood.
- 1.4 The Code does not impose any legal obligation in addition to those in the Basic Conditions of Employment Act or any other Act referred to in the Code. Its purpose is to give guidance to employers on key legal provisions.
- 1.5 The Code must be read in conjunction with the sectoral determination for the employment of children in advertising, artistic or cultural activities.
- 1.6 The Code is based on international experience in relation to the regulation of the employment of children in artistic performances as provided in Article 8 of ILO Convention 138.

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 2. Purpose**

##### **2. Purpose**

The purpose of the Code is to:

- . Provide guidelines for good practice to all stakeholders in the advertising, artistic or cultural activities for the protection of the rights of the children employed in the performance of these activities.

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 3. Application**

##### **3. Application**

- 3.1 The Code applies to all employers, guardians or parents and children involved in the performance of advertising, artistic or cultural activities.
- 3.2 The activities covered by this Code and the determination include, without being limited to, the performance of the following:
  - . Advertising
  - . Dancing
  - . Film
  - . Modelling



- . Television
- . Theatre performances

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 4. Child Minders**

#### **4. Child Minders**

- 4.1 Provision shall be made for the appointment of a child minder, whose duties would be:
  - 4.1.1 To keep a record of rehearsal, call and performance times and the duration thereof and to make these available to the appropriate child care authorities on request.
  - 4.1.2 To give proper supervision when the child is not actually performing.
  - 4.1.3 To remain within the visible proximity of the child.
  - 4.1.4 To accompany the child to the set, dressing rooms or play areas and toilets.
  - 4.1.5 To ensure that there are suitable opportunities for recreational activities.
  - 4.1.6 To ensure the child receives the required breaks for meals, rest and adequate recreation.
  - 4.1.7 To ensure that the child is protected from stress, strain, weather and other harmful conditions, including dangerous or hazardous working conditions.
  - 4.1.8 To ensure that satisfactory accommodation, if applicable, is supplied.
  - 4.1.9 To take care of children who are not more than twelve in a group.
- 4.2 Where there is more than one child engaged in a production, the age of the children shall be taken into account when appointing child minders.
- 4.3 A child minder may not do other duties during the time of the production as this can hinder the child minder's responsibilities.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 5. Dressing Rooms**

#### **5. Dressing Rooms**

- 5.1 No adult shall be allowed to occupy the dressing room simultaneously with the child, except the duly appointed wardrobe mistress and/or parent and/or child minder.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GNR.479 of 27 May 2005: Code of Good Practice for the employment of children in the performance of advertising, artistic or cultural activities/ 6. Education**

#### **6. Education**

- 6.1 The child's education must in no circumstances suffer as a result of the employment of that child. If for whatever reason a child is not able to attend school and private tuition is required the following shall apply:
  - 6.1.1 The suitability of the tutor must be determined by an interview with the producer/director and the parents and principal of the school that the child attends within seven days of the application for a permit having been made.
  - 6.1.2 A private tutor may not teach more than six children simultaneously.
  - 6.1.3 The tutor must endeavour to ensure that the teaching environment on set is the most conducive for teaching the child and, where practicable, the tutor must ensure that the place where tuition is to take place is not on set.
  - 6.1.4 Both the age of the child and the working schedule of the child must be taken into account by the tutor in terms of the amount of hours which the child will spend each day for tuition.
  - 6.1.5 The written permission of the principal of the school shall be obtained prior to engaging the child.
  - 6.1.6 The tutor must submit progress reports in writing on a fortnightly basis to the parent and principal of the school which the child attends.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)**



**GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes  
(Government Gazette No. 34032)**

DEPARTMENT OF LABOUR

Notice is hereby given in terms of [section 87 \(2\)](#) of the Basic Conditions of Employment Act, 1997, that the Minister of Labour, after consulting NEDLAC, has issued under [section 87 \(1\) \(a\)](#) of that Act, an amended Code of Good Practice for employment conditions for Expanded Public Works Programmes as set out in [the Schedule](#).

The Code published under Government Notice R.64 in *Government Gazette* 23045 of 25 January 2002 will be superseded by this Code from the date of publication.

**SCHEDULE**

**Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes**

ARRANGEMENT OF REGULATIONS

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| <a href="#">1.</a>  | Preamble                                             |
| <a href="#">2.</a>  | Purpose                                              |
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| <a href="#">4.</a>  | Beneficiaries of expanded public works programmes    |
| <a href="#">5.</a>  | Recommended exclusions                               |
| <a href="#">6.</a>  | Selection of Workers                                 |
| <a href="#">7.</a>  | Maximising Participation                             |
| <a href="#">8.</a>  | Forced labour is prohibited                          |
| <a href="#">9.</a>  | Payment                                              |
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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 1. Preamble**

**1. Preamble**

- 1.1 Reducing unemployment is one of the greatest challenges facing South Africa. Government has undertaken a number of initiatives to address unemployment and poverty, including the promotion of labour-intensive Expanded Public Works Programmes (EPWP). An EPWP is a labour intensive programme initiated by government and funded, either fully or partially, from public resources to create a public benefit. A list of EPWP programmes is available from the Department of Public Works (DPW).
- 1.2 Recognising that the acquisition of skills either through accredited or experiential training forms an integral part of the EPWP.
- 1.3 The Code provides guidelines for the protection of workers engaged in EPWPs, taking into account the need for workers to have basic rights, the objectives of the programmes and the resource implications for government.
- 1.4 In addition, the Code encourages-
  - . Optimal use of locally-based labour in EPWP.
  - . A focus on targeted groups, namely women, female-headed households, youth, the disabled and households coping with HIV/AIDS.
  - . The empowerment of individuals and communities engaged in EPWP through the provision of training.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 2. Purpose**

**2. Purpose**

The purpose of the Code is to-

- . Provide good practice guidelines to all stakeholders involved in EPWP in respect of working conditions, payment and rates of pay, disciplinary and grievance procedures.
- . Promote a common set of good practices and minimum standards in employment practices among the different

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 3. Application**

### **3. Application**

- 3.1 The Code applies to all employers and to all workers hired to perform work in elementary occupations in EPWP.
- 3.2 Employers in EPWPs must comply with relevant legislation such as the-
  - . Basic Conditions of Employment Act [75 of 1997](#);
  - . Labour Relations Act [66 of 1995](#);
  - . Employment Equity Act [55 of 1998](#) (Chapters 1 & 2);
  - . Occupational Health and Safety Act [85 of 1993](#);
  - . Compensation for Occupational Injuries and Diseases Act [130 of 1993](#);
  - . Unemployment Insurance Act [63 of 2001](#);
  - . Skills Development Act of 1998.
- 3.3 The Code does not impose any legal obligation in addition to those in the Basic Conditions of Employment Act or any other Act referred to in the Code. Its purpose is to give guidance to employers on key legal provisions in those Acts.
- 3.4 The Code must be read in conjunction with a Ministerial Determination for Expanded Works Programmes issued by the Minister of Labour in terms of [Section 50 \(1\)](#) of the Basic Conditions of Employment Act and the standard terms and conditions of employment which are annexed to this Code.
- 3.5 The Code includes provisions for work to be task-based/service-based. In a task-based system the worker is paid a fixed rate in return for a fixed quantity of work. Tasks may be set for an individual or a group of people. Payment for work performed on a task-based system will be subject to 9.1.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 4. Beneficiaries of expanded public works programmes**

### **4. Beneficiaries of expanded public works programmes**

- 4.1 The beneficiaries of the programmes should be locally-based (as close to the project site as possible) individuals prepared to work on the specific EPWP.
- 4.2 In order to spread the benefits as broadly as possible in the community, a maximum of one person per household should be employed, taking local available labour into account.
- 4.3 Workers from other areas may be employed if they have skills that are required for a project and there are not enough persons in the local communities who have those skills or who could undergo appropriate skills training. However, workers from other communities should not exceed 20% of all persons working on a programme. A proper skills audit should be conducted, where possible, in an area where an EPWP is in operation.
- 4.4 Programmes should set participation targets for employment with respect to women, youth, and people with disabilities.
- 4.6 The proposed targets are-
  - 4.6.1 55% women;
  - 4.6.2 40% youth from 16 to 35 years of age; and
  - 4.6.3 2% people with disabilities.

(Editorial Note: Numbering as per original *Government Gazette*.)
- 4.7 EPWPs should seek to achieve these targets in all occupational categories.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 5. Recommended exclusions**

### **5. Recommended exclusions**

- 5.1 Persons under sixteen years of age may not be employed on EPWP.

## **6. Selection of Workers**

- 6.1 The local community, through all structures available, must be informed of and consulted about the establishment of any EPWP.
- 6.2 Members of the community who are unemployed and who form part of the targeted groups will be given an opportunity to apply for work.
- 6.3 Preference must be given to the targeted groups in selecting workers.
- 6.4 In addition the following criteria are suggested to help target the poorest of the poor-
  - 6.4.1 People who come from households where the head of the household has less than a primary school education;
  - 6.4.2 People who come from households that have less than one full time person earning an income;
  - 6.4.3 People who come from households where subsistence agriculture is the source of income.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 7. Maximising Participation**

## **7. Maximising Participation**

- 7.1 Expanded Public Works Programmes seek to provide as many people as possible with the opportunity to participate in the programme.
- 7.2 Work should be distributed amongst the unemployed as practically and equitably as possible.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 8. Forced labour is prohibited**

## **8. Forced labour is prohibited**

- 8.1 No forced labour is permitted on an EPWP.
- 8.2 Forced labour includes forms of coercion such as patronage or demanding sexual or other kinds of favours for work.
- 8.3 Programmes should monitor whether or not there is forced labour, particularly when intermediaries such as labour contractors or management agencies are involved.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 9. Payment**

## **9. Payment**

- 9.1 Employers must pay workers at least the minimum rate as stipulated in the Ministerial Determination: Expanded Public Works Programme.
- 9.2 Workers can be paid on the basis of the number of tasks completed. These workers are referred to as "task-rated workers". Alternatively, workers can be paid on a daily rate.
- 9.3 There are jobs where it is not possible to pay workers on the basis of tasks performed. These workers must be paid on the basis of the amount of time they worked. They are referred to as "time-rated workers".
- 9.4 On the task-based system, a worker is paid for each task completed or part thereof.
- 9.5 If workers are informed a day before that work will not take place the next day, they should not be entitled to any payment.
- 9.6 Workers will be paid a training allowance in case they are required to attend agreed training programmes. This should be equal to 100% of the daily task rate for task-rate workers or 100% of the daily rate of pay for time-rated workers. All the costs of training will be covered, for example, travel, trainers, material, tuition fees.
- 9.7 Where a worker participates in a learnership the relevant learnership determination must be used to determine the training allowance whilst on training.
- 9.8 Each worker must be given written particulars of employment and verbal explanations in an appropriate language of their rate of pay and how this is to be calculated.
- 9.9 Where a project is completed earlier than anticipated the worker should receive the full agreed remuneration for the stipulated period of the contract if the pay for the task was to be calculated on the basis of time. Where such work was to be performed on a task-based system, the full agreed remuneration for the task should be paid for early completion.

## **10. Hours of Work**

- 10.1 Normal hours of work, as is customary in the applicable sector, apply but limited to 40-hours a week.
- 10.2 For task-based workers tasks must be set based on a 40-hour week in which the workers work five 8-hour days, excluding time spent travelling to and from work. Once at work, time spent getting to the site that is to be worked on that day must be included in the 8-hour period. A worker may not spend more than 55 hours in any week completing tasks.
- 10.3 Starting and finishing times may be determined in the light of factors such as the nature of the project, the distance workers have to travel and other local factors such as climate, season and terrain.
- 10.4 Depending on local conditions work may be spread over more than 8 hours. For example, in hot weather workers may work from 05h00 to 09h00 and then again from 15h00 to 19h00. The finishing time must not be more than 12 hours after the start and workers may not work more than 55 hours per week.

## **11. Attendance**

- 11.1 A 'no work-no pay' rule must apply except in the following circumstances-
    - . A worker is absent due to illness or injury and proof of illness/injury as required by [section 23](#) of the Basic Conditions of Employment Act is provided. A maximum of 1 day sick leave for every full month worked is payable for workers who work four or more days per week.
    - . Workers who report for work and are unable to work due to the sole fault of the employer, shall be entitled to be paid-
      - (a) in the case of task-rated workers, the daily task rate;
      - (b) in the case of time-rated workers, the daily rate.
- This shall not apply where the reason that workers are unable to work is that tasks have not been set.

## **12. Health and Safety**

- 12.1 Every worker has the right to work in a working environment that is safe and without risk to his or her health.
- 12.2 The management and every employer (contractor) engaged in an EPWP are required to do everything that is reasonably practicable to ensure the health and safety of persons working on programme.
- 12.3 Workers are required to perform their duties in a manner that does not endanger their health or safety or that of other workers or persons.
- 12.4 Behaviour that endangers the health and safety of others is a serious disciplinary offence for which a worker can be dismissed.
- 12.5 The management of an EPWP and each employer must-
  - . ensure that all workers are informed of any risks and dangers associated with their tasks;
  - . inform and train workers about the precautions and steps that must be taken to avoid or minimise risks and dangers to them or others;
  - . ensure all possible precautions and safety measures are in place to avoid risk and minimise dangers;
  - . not permit workers to perform tasks for which they have not been trained;
  - . provide workers with the necessary protective clothing such as hard hats, goggles, ear-plugs, boots and outer clothing required, as applicable, to complete their tasks in safety. These must be supplied free of charge and must be maintained, by the worker, in a clean state and in working order for use;
  - . provide First Aid kits on site;
  - . ensure that at least one person per site is trained to act as a First Aid Officer and that they are capable of providing First Aid to injured or ill workers;
  - . provide sufficient clean drinking water to all workers for the duration of the project;
  - . ensure that adequate sanitation is available to workers; and

- . ensure all safety standards set are adhered to.
- 12.6 Workers must-
- . perform their duties in a safe manner;
  - . wear all protective clothing issued;
  - . obey all safety rules and instructions;
  - . report any accident or near-miss incident to their employer (supervisor); and
  - . report any dangerous conduct by another worker to their employer (supervisor).
- 12.7 Employers must take particular care to ensure workers with a disability, pregnant workers or workers who are breast-feeding are not required to perform work that may endanger their health and safety or that of their child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 13. Compensation for Occupational Accidents and Diseases**

### 13. Compensation for Occupational Accidents and Diseases

The Compensation for Occupational Injuries and Diseases Act [130 of 1993](#) (COIDA) applies to all EPWPs.

#### 13.1 Administrative Obligations

Every employer must-

- . register with the Compensation Commissioner and cover all workers in the EPWP (this is done by submitting a completed W AS 2 form);
- . notify the Commissioner of any changes in particulars;
- . keep a register of wages, time worked and payment (this is the same register described above);
- . submit a return of wages paid each March; and
- . pay assessments (contributions) as required by the Commissioner.

#### 13.2 Obligations in respect of accidents and occupational diseases

Every employer must report to the Compensation Commissioner-

- . accidents within 7 days (W CI 3 form); and
- . occupational diseases within 14 days (W CI 14 form).

13.3 An employer must pay a worker who is injured in an accident at work and who is unable to work 75% of their wages for a period of up to three months or until the end of the worker's contract, whichever comes first. The Compensation Fund will refund the employer this money.

13.4 The family of a worker who is killed in an accident at work (or who dies from an occupational disease) is entitled to receive compensation in terms of the provisions of COIDA. An employer should help them to lodge their claim and, wherever possible, provide employment for another member of the family.

13.5 A worker who is injured in an accident that is caused by the negligence of an employer is entitled to claim additional compensation in terms of [section 56](#) of COIDA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 14. Training**

### 14. Training

Training is regarded as an important component of EPWP. EPWPs are encouraged to have a clear training programme in place that strives to-

- 14.1 ensure that workers obtain all the skills required to complete their work or tasks;
- 14.2 establish links to training institutions and opportunities to enable workers to access further training with a preference to SETA accredited training where available; and
- 14.3 identify possible career paths available to workers exiting the EPWP.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 15. Discipline, dismissal and termination**

## 15. Discipline, dismissal and termination

- 15.1 Every EPWP must have a disciplinary code and a grievance procedure. The purpose of these procedures is to-
- (a) ensure that employers exercise discipline in a fair and consistent manner;
  - (b) protect workers from arbitrary action; and
  - (c) provide a mechanism for managing grievances and complaints.
- 15.2 The disciplinary code and grievance procedures apply to all persons employed in the EPWP.
- 15.3 Employers should make use of the Code of Good Practice: Dismissal ([Schedule 8](#) to the Labour Relations Act [66 of 1995](#)) as a guideline when exercising their powers of discipline and dismissal.
- 15.4 An employer may only dismiss a worker if-
- (a) there is a good reason for the dismissal; and
  - (b) the employer has followed a fair procedure.
- 15.5 The reason for a dismissal or termination may relate to-
- (a) the worker's misconduct (e.g. late coming, drunkenness);
  - (b) the worker's capacity (i.e. the worker does not have the skills or ability to perform a job despite receiving training); and
  - (c) the worker's unexplained failure to attend required training programmes.
- 15.6 A fair procedure means that the employer should-
- (a) investigate the charge;
  - (b) notify the worker of any allegations against the worker in a form and language that the worker can understand; and
  - (c) give the worker an opportunity to respond to the allegations. A fellow worker may assist the worker, if the worker chooses.
- 15.7 There is no requirement that the employer hold a formal inquiry. However, the employer may decide to give a worker, charged with a serious offence, a formal hearing at which the worker can test the evidence on which the charge is based.
- 15.8 An employer must exercise discipline in a consistent and clear manner.
- 15.9 A worker may only be disciplined for contravening a workplace rule or standard that the worker was aware of or should reasonably have been aware of. Therefore, it is important that an employer informs workers of workplace rules and standards. A worker will be assumed to know that conduct such as late-coming, leaving early, drunkenness, fighting or disobeying instructions are disciplinary offences.
- 15.10 An employer should keep a written record of any disciplinary action taken.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 16. Disciplinary Sanctions**

## 16. Disciplinary Sanctions

An employer may take the following steps when exercising discipline-

### 16.1 Verbal Warning

A verbal warning may be issued for minor disciplinary offences. The purpose of the warning is to explain to the worker what the rules are, encourage the worker to comply with them and advise that if the conduct is repeated the employer may take more serious action. Only one verbal warning is required before moving to written warnings.

Examples of minor offences-

- . Late-coming.

### 16.2 Written warning

17.2.1 A written warning may be issued for repeated minor offences or for more serious offences. The employer should investigate the charge before issuing a warning. The worker should be asked to respond and explain his or her conduct. The warning should state the offence and the period for which the warning is valid. Generally, this should be for six months, although warnings for more serious offences could be issued for a year or for the remainder of the worker's employment on an EPWP. If the employer believes that the offence is serious, the warning should state that it is a final written warning and that a repeat of the offence could lead to the worker's dismissal). Otherwise, two written warnings are suggested prior to dismissal.

(Editorial Note: Numbering as per original *Government Gazette*.)

16.2.2 A written record of the charge, the explanation and the agreed change in behaviour or performance is dated, signed and handed to the worker as a written warning. A copy of the written warning is kept in the worker's file for the period of its validity.

Examples of offences in which a written warning may be appropriate-

- . Repeated minor offences.
- . Drunkenness (if it does not affect work performance).
- . Fighting, swearing.
- . Abusive behaviour.
- . Non co-operation as a team member.
- . Negligent use of programme equipment (if it does not affect health and safety).
- . Failure to attend a training event.

#### 16.3 Dismissal

16.3.1 Generally, an employer should not dismiss a worker for a first offence. However, a worker may be dismissed if it is a serious offence that would make continued employment intolerable even if the worker has previously had a clean record. Before dismissing a worker, the employer must consider whether dismissal is the appropriate sanction.

16.3.2 Examples of serious offences which may warrant dismissal-

- . Wilful and/or negligent damage to equipment, machinery and vehicles.
- . Actions which could lead to criminal charges being laid - e.g. serious assault; theft; fraud.
- . Sexual harassment, including rape.
- . Actions which create a danger to the health and safety of co-workers.
- . Any offence for which the worker has received a final written warning.
- . Drunkenness, if it affects the ability to work, for instance, a driver or a chain-saw operator being drunk.
- . Repeated less serious offences - drunkenness, fighting, swearing, failure to properly perform tasks, etc.
- . Misuse of programme equipment, for instance, a worker using it for their own benefit.

#### 16.4 Poor work performance

16.4.1 An employer may take action against a worker for poor work performance. Workers must be informed of the standard of work performance expected of them. If they do not meet this standard, the employer should consider ways of helping them meet the standard. This could include counselling or guidance, training or giving clearer instructions. The worker must be given a reasonable opportunity to improve their work performance. If their performance does not improve, the employer can take corrective action, including dismissal if considered appropriate.

16.4.2 If a worker is not performing adequately in a job requiring special skills, the employer should consider transferring the worker to another job.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 17. Grievance Procedures**

#### 17. Grievance Procedures

- 17.1 A grievance is a serious dissatisfaction on the part of a worker with the actions or behaviour of the employer or another worker.
- 17.2 A worker with a grievance should bring the grievance to the attention of the employer, either in writing or verbally. If the grievance concerns another worker, the worker should raise the issue with that worker before raising it with the employer.
- 17.3 The employer must listen to the submissions made by the complaining worker and attempt to settle the matter by discussion within 5 days.
- 17.4 Where the matter cannot be resolved to the satisfaction of the complaining worker, the employer may conduct an investigation or, if the employer considers it appropriate, conduct an inquiry at which the affected parties can make submissions.
- 17.5 The employer must notify the grievant and any other person affected of the decisions within a reasonable time. If the employer decides to take disciplinary action, the employer must follow the disciplinary procedure described above.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Codes/ GN 129 of 18 February 2011: Code of Good Practice for employment and conditions of work for Expanded Public Works Programmes (Government Gazette No. 34032)/ 18. Glossary**

#### 18. Glossary



|                     |                                                                                                                                                                                                                                                                                             |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contractors         | A person or group of persons who is contracted to carry out the work on the Expanded Public Works Programme for the relevant department.                                                                                                                                                    |
| Daily rate          | A worker is paid a fixed sum each day in return for working a fixed number of hours during that day.                                                                                                                                                                                        |
| Worker              | A worker includes anyone working in an elementary occupation on an Expanded Public Works Programme whether they are employed directly by a government department, an implementing agent, a contractor or a sub-contractor.                                                                  |
| Implementing agents | A business, institution or person who is contracted to implement the Expanded Public Works Programme on the relevant department's behalf. An implementing agent is bound by the same terms and conditions governing the implementation of Expanded Public Works Programmes as a department. |
| Task-based work     | A worker is paid a fixed wage in return for a fixed quantity of work, or a task. The task set may be a task for one worker in 8 hours or for several workers over several workdays, based on an 8 hour working day per person.                                                              |

**EXPANDED PUBLIC WORKS PROGRAMMES  
(Standard Contract for Task-rated workers)**

**CONTRACT OF EMPLOYMENT BETWEEN**

|                   |                                                                                                                                                                                                                              |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CONTRACTOR</b> |                                                                                                                                                                                                                              |
| Name:             |                                                                                                                                                                                                                              |
| Address:          |                                                                                                                                                                                                                              |
| ID:               |                                                                                                                                                                                                                              |
| AND               |                                                                                                                                                                                                                              |
| <b>WORKER</b>     |                                                                                                                                                                                                                              |
| Name:             |                                                                                                                                                                                                                              |
| Details           |                                                                                                                                                                                                                              |
| ID:               |                                                                                                                                                                                                                              |
| 1.                | I am pleased to confirm that you have been appointed to work on a task-based employment contract within an Expanded Public Works Programme (EPWP) project. Within this contract you will undertake numerous groups of tasks. |
| 2.                | This contract must be read in conjunction with the standard terms and conditions of employment on EPWP attached.                                                                                                             |
| 3.                | The project where you will be employed is located at .....                                                                                                                                                                   |
| 4.                | The contract will start on .....                                                                                                                                                                                             |
| 5.                | You must be aware that this contract is a limited-term contract and not a permanent job. The contract may be terminated for one of the following reasons-                                                                    |
|                   | (a) If the contractor does not get additional contracts from the EPWP.                                                                                                                                                       |
|                   | (b) Funding for the programme in your area comes to an end.                                                                                                                                                                  |
|                   | (c) You repeatedly do not perform in terms of the tasks set out in your work programme.                                                                                                                                      |
| 6                 | You will be employed as a ..... within the team.                                                                                                                                                                             |
| 7                 | While you are working you will report to .....                                                                                                                                                                               |
| 8                 | <b>Payment</b>                                                                                                                                                                                                               |
|                   | (a) You will be paid a fixed amount of R .... for completing a fixed amount of work.                                                                                                                                         |
|                   | (b) The amount of work required for the agreed rate of pay will vary from task to task. You will be informed at the beginning of each task or group of tasks how much work you are expected to complete per day.             |
|                   | (c) You will only be paid for work completed.                                                                                                                                                                                |
|                   | (d) You will be paid the amount for the number of days quoted in the contract even if you finish the work before the time or after the estimated date of completion.                                                         |
|                   | (e) A contractor must pay you the production bonus (the extra days if the work is finished early) if you have completed your share of tasks.                                                                                 |
|                   | ( f ) The contractor will be paid within 30 days after the work is completed. You will be paid within 5 days of the contractor being paid.                                                                                   |
| 9                 | In addition to the conditions above all the terms and conditions of employment on                                                                                                                                            |

|                                                                                                  |
|--------------------------------------------------------------------------------------------------|
| EPWP apply to your employment. If you breach any of these terms your contract may be terminated. |
| 10 Signatures-                                                                                   |
| Signed on this day ..... of ..... 20...                                                          |
| Contractor: ..... Date: .....                                                                    |
| Worker: ..... Date: .....                                                                        |
| Witness: ..... Date: .....                                                                       |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ Determinations in terms of section 50**

**Determinations in terms of [section 50](#)**

NOTE: The following notices have been published in terms of [s. 50](#) of the Act. Since they are applicable to specific sectors, they will not be included in full.

| <i>Section of Act</i>                                 | <i>Employer/employees affected</i>                                                                                                    | <i>Notice number</i> | <i>Gazette number</i> | <i>With effect from</i> |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------|-------------------------|
| 10 (2) and 16                                         | Institutions who are members of the Welfare Employers Society of South Africa as listed in the annexure to the notice                 | GN R735              | 20155                 | 11 June 1999            |
| 10 (2), 12 (2) (b), 14, 15 (1) (a), 16 (1) and 17 (1) | Officials on Gold Mines listed in the annexure to the notice who are members of the Chamber of Mines of South Africa                  | GN R1264             | 20547                 | 22 October 1999         |
| 10 (2), 12 (2) (b), 14, 15 (1) (a) and 16 (1)         | Officials on Collieries listed in the annexure to the notice who are members of the Chamber of Mines of South Africa                  | GN R1265             | 20547                 | 22 October 1999         |
| 12 (2) (b), 14, 15 (1) (a) and 17                     | Category 2 to 8 employees on Gold Mines listed in the annexures to the notice who are members of the Chamber of Mines of South Africa | GN R1266             | 20547                 | 22 October 1999         |
| 12 (2) (b) and 15 (1) (a)                             | Category 2 to 8 employees on Collieries listed in the annexures to the notice who are members of the Chamber of Mines of South Africa | GN R1267             | 20547                 | 22 October 1999         |
| 10 (2), 12 (2) (b), 15 (1) (a) and 16 (1)             | Union Men on Collieries listed in the annexures to the list who are members of the Chamber of Mines of South Africa                   | GN R1268             | 20547                 | 22 October 1999         |
| 10 (2), 12 (2) (b), 14, 15 (1) (a) and 17             | Union Men on Gold Mines listed in the annexures to the list who are members of the Chamber of Mines of South Africa                   | GN R1269             | 20547                 | 22 October 1999         |
| 10 (2), 12 (2) (b), 14, 15 (1) (a) and 17 (1)         | Union Men on Gold Mines listed in the annexures to the notice who are members of the Chamber of Mines of South Africa                 | GN R1073             | 21687                 | 1 October 2000          |
| 10 (2), 12 (2) (b), 14, 15 (1) (a), 16 (1), 33 and 35 | Officials on Collieries listed in the Annexures to the notice who are members of the Chamber of Mines of South Africa                 | GN R1074             | 21687                 | 1 October 2000          |
| 10 (2), 12 (2) (b), 14, 15 (1) (a), 16 (1)            | Union Men on Collieries listed in the annexures to the notice who are members of the Chamber of Mines of South Africa                 | GN R1075             | 21687                 | 1 October 2000          |
| 10 (2), 12 (2) (b), 14, 15 (1) (a) and 17 (1)         | Officials on Gold Mines listed in the Annexures to the notice who are members of the Chamber of Mines of South Africa                 | GN R1076             | 21687                 | 1 October 2000          |
| 22 and 23                                             | All employers and employees covered by the scope of the National Bargaining Council for                                               | GN R264              | 22148                 | 22 November 2000        |

|                                                       |                                                                                                                                                                                                                                                                                                     |          |       |                                                                                                              |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------|--------------------------------------------------------------------------------------------------------------|
|                                                       | the Road Freight Industry                                                                                                                                                                                                                                                                           |          |       |                                                                                                              |
| 22 and 23                                             | All employers and employees covered by the scope of the Electrical Industry of South Africa -KwaZulu Natal Region<br><br>(Granted on the condition that the agree-ment pertaining to the Electrical Indus-try KZN Sick Benefit fund as publish-ed on GG19425 on 06/11/1998 is strictly adhered to.) | GN R572  | 22399 | 12 July 1999                                                                                                 |
| 12 (2) (b) and 15 (1) (a)                             | Categories 3-8 on Collieries listed in Annexures A and B to the notice, who are members of the Chamber of Mines of SA.                                                                                                                                                                              | GN R1026 | 22742 | A: 1/10/01-30/9/03<br>B: 1/10/01-30/9/02                                                                     |
| 10 (2), 12 (2) (b), 14, 15 (1) (a) and 16 (1)         | Officials on Collieries listed in the Annexure A to the notice who are members of the Chamber of Mines of South Africa                                                                                                                                                                              | GN R1027 | 22742 | 1 October 2001 to 30 September 2002                                                                          |
| 10 (2), 12 (2) (b), 14, 15 (1) (a), 16 (1) and 17 (1) | Officials on Collieries listed in the Annexures A, B, C, D to the notice who are members of the Chamber of Mines of South Africa                                                                                                                                                                    | GN R1028 | 22742 | A: 1/10/01-31/5/03<br>B: 1/10/01-30/6/03<br>C: 1/10/01-30/9/03<br>D: 1/10/01-31/12/03<br>E: 1/10/01-31/12/02 |
| 12 (2) (b), 14, 15 (1) (a) and 17 (1)                 | Miners and Artisans on Gold Mines listed in the Annexure A to the notice who are members of the Chamber of Mines of South Africa                                                                                                                                                                    | GN R1029 | 22742 | 1 October 2001 to 30 September 2003                                                                          |
| 10 (2), 12 (2) (b), 14 and 15 (1) (a)                 | Miners and Artisans on Duiker Collieries listed in the Annexure A to the notice who are members of the Chamber of Mines of South Africa                                                                                                                                                             | GN R1030 | 22742 | 1 October 2001 to 30 September 2003                                                                          |
| 12 (2) (b), 15 (1) (a) and 17 (1)                     | Category 3-8 employees on gold mines listed in Annexure A who are members of Chambers of Mines of South Africa                                                                                                                                                                                      | GNR.1031 | 22742 | 1 October 2001 to 30 September 2003                                                                          |
| 12 (2) (b) and 15 (1) (a)                             | Category 3-8 employees on Tweewaters Fuel (Pty) Ltd t/a Springlake Colliery, who is a member of the Chamber of Mines of South Africa                                                                                                                                                                | GNR.1383 | 24005 | 1 October 2002 to 30 September 2003                                                                          |
| 10 (2), 12 (2) (b), 15 (1) (a) and 16 (1)             | Miners and Artisans on the entities listed in Annexure A to the notice, who are members of the Chamber of Mines of South Africa                                                                                                                                                                     | GNR.1384 | 24005 | 1 October 2002 to 30 September 2003                                                                          |
| 10 (2), 12 (2) (b), 14, 15 (1) (a), 16 (1), 33 and 35 | Officials on the entities listed in Annexures A, B and C to the notice, who are members of the Chamber of Mines of South Africa                                                                                                                                                                     | GNR.1385 | 24005 | A: 1/10/2002-30/09/2003<br>B: 1/10/2002-30/09/2003<br>C: 1/10/2002-30/09/2004                                |
| 10 (1) (b)                                            | Employees involved in making of wine employed by Cooperative Cellars and the private Wine Estates as listed in Annexure A to the notice                                                                                                                                                             | GNR.1534 | 24143 | 1 January 2003 to 30 April 2003                                                                              |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50**

**GNR.293 of 28 February 2003: Determination in terms of section 50**

DEPARTMENT OF LABOUR

The Minister of Labour has made the following determination in terms of [section 50 \(8\) \(c\)](#) of the Act:

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50/ 1. The following sections of the Act are replaced or excluded: Sections 16 (1).**

1. The following sections of the Act are replaced or excluded: [Sections 16 \(1\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50/ 2. Extent of the variation:**

2. Extent of the variation:

That employees employed in the Hotel Trade are paid their ordinary daily wage for work on Sundays.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50/ 3. Employers or employees in respect of whom the determination applies:**

3. Employers or employees in respect of whom the determination applies:

Employers and employees in the Hotel Trade who are not subject to the provisions of a Bargaining Council.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50/ 4. Conditions on which determination is granted:**

4. Conditions on which determination is granted:

- (a) That employees are granted a free period of 24 consecutive hours in every week;
- (b) That employees not be required or permitted to perform any duties during such free period; and
- (c) That an employer may, in lieu of granting an employee such free period, pay such employee an amount of not less than double his/her daily wage in respect of each such period not granted.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GNR.293 of 28 February 2003: Determination in terms of section 50/ 5. Period for which the determination is granted:**

5. Period for which the determination is granted:

With effect from 1 February 2003 for the duration of Sectoral Determination 457.

For the purpose of this Determination "Hotel Trade" means the trade in which employers and employees are associated for the purpose of providing accommodation and one or more meals per day for reward on premises where the sale of liquor is carried on and in connection with which one or more of the following licences or authorities are required to be held in terms of the Liquor Act, 1977:

Hotel Liquor Licence;

Temporary Liquor Licence;

Special authorities in terms of [section 23 \(1\)](#) for on-consumption, or any superseding licences or authorities.

Provided that for the purposes of this definition the expression "accommodation" shall mean bedroom accommodation and the services ordinarily associated therewith.

Signed under delegated authority in terms of section 85 of the Basic Conditions of Employment Act, 1997, at Pretoria on this 20th day of February 2003.

DIRECTOR GENERAL: LABOUR

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)**

**GN 537 of 20 May 2016: Determination in terms of section 50  
(Government Gazette No. 40001)**

DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act:

ARRANGEMENT OF REGULATIONS

- |                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>1.</u><br><u>2.</u><br><u>3.</u><br><u>4.</u><br><u>5.</u><br><a href="#">Annexure A</a><br><a href="#">Annexure B</a><br><a href="#">Annexure C</a> | The following section of the Act are replaced or excluded:<br>Extent of the variation:<br>Employers or employees in respect of whom the determination applies:<br>Conditions on which determination is granted:<br>Period for which the determination is granted:<br>BCEA variations previously granted for the entities concerned in terms of a past determination or determinations<br>BCEA variations/exclusion sought in terms of this application<br>Entities covered by the application |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 1. The following section of the Act are replaced or excluded:**

**1. The following section of the Act are replaced or excluded:**

Section 12 (2) (b), 14 (1), 15 (1) (a) and 17 (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 2. Extent of the variation:**

**2. Extent of the variation:**

- (a) To average hours of work over the agreed period with an average of ten hours' overtime per week;
- (b) To dispense with a formal meal interval for Miners, Artisans and Officials recognition units who work underground and in processing plants;
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers; and
- (d) That shifts commencing at or after 04:00 are not regarded as night work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 3. Employers or employees in respect of whom the determination applies:**

**3. Employers or employees in respect of whom the determination applies:**

Employees employed by Chamber of Mines of South Africa: Sibanye Gold "Category 4 to 8 employees", Miners & Artisans" and "Officials" on the entities listed in [Annexure A](#), [B](#) and [C](#) engaged at Gauteng, Free State, Mpumalanga and North West Provinces.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 4. Conditions on which determination is granted:**

**4. Conditions on which determination is granted:**

- (a) That overtime is worked voluntary or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made and that existing meal arrangements with regards to employees in processing plants remain in place;
- (c) That rapid changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 5. Period for which the determination is granted:**

**5. Period for which the determination is granted:**

From 16 October 2015 to 30 September 2018.

**SIGNED ON 10<sup>th</sup> day of December 2015**

**DIRECTOR GENERAL: LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure A BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS**

**Annexure A**  
**BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS**

| COMPANY/MINE                       | EMPLOYEES         | PERIOD UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|------------------------------------|-------------------|--------------|------------|----|------------|--------|
| AngloGold Ashanti                  | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                                    | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    |                   |              |            |    |            |        |
| Gold Fields Ltd                    | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                                    | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    |                   |              |            |    |            |        |
| Harmony Gold Mining Company Ltd    | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                                    | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |
|                                    |                   |              |            |    |            |        |
| Pan African Resources PLC          | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                                    | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |
|                                    |                   |              |            |    |            |        |
| Rand Uranium Ltd: Cooke Operations | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                                    | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                                    | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure B BCEA VARIATIONS/EXCLUSION SOUGHT IN TERMS OF THIS APPLICATION**

**Annexure B**  
**BCEA VARIATIONS/EXCLUSION SOUGHT IN TERMS OF THIS APPLICATION**

| COMPANY/MINE          | EMPLOYEES         | PERIOD UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|-----------------------|-------------------|--------------|------------|----|------------|--------|
|                       |                   |              |            |    |            |        |
| AngloGold Ashanti     | Category 4 to 8s  | 30/9/18      | ?          |    | ?          | ?      |
|                       | Miners & Artisans | 30/9/18      | ?          | ?  | ?          | ?      |
|                       | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |
| Harmony               | Category 4 to 8s  | 30/9/18      | ?          | ?  | ?          | ?      |
|                       | Miners & Artisans | 30/9/18      | ?          | ?  | ?          | ?      |
|                       | Officials         | 30/9/18      | ?          | ?  |            | ?      |
| Pan African Resources | Category 4 to 8s  | 30/9/18      | ?          |    | ?          | ?      |
|                       | Miners & Artisans | 30/9/18      | ?          | ?  | ?          | ?      |
|                       | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |
| Village Main Reef     | Category 4 to 8s  | 30/9/18      | ?          |    | ?          | ?      |
|                       | Miners & Artisans | 30/9/18      | ?          | ?  | ?          | ?      |
|                       | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 537 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure C ENTITIES COVERED BY THE APPLICATION**

**Annexure C  
ENTITIES COVERED BY THE APPLICATION**

**1 ANGLOGOLD ASHANTI LTD**, South African region, in respect of the workplace, comprises the following mines and operations, namely-

Regional Services; Metallurgical Services (including Vaal River and West Wits Surface Sources); Kopanang Mine; Mponeng Mine; AngloGold Ashanti Health; Mine Waste Solutions (MWS); Moab Khotso/Great Noliqwa Mine; and Tau Tona/Savuka Mine.

**2 HARMONY GOLD MINING COMPANY LTD**, South African workplace comprises of the following mines and operations, namely-

Unisel Mine; AMF Shafts; Masimong Mine; Kusasaletu Mine; Kalgold Mine; Bambanani Mine; Joel Mine; Tshepong Mine; Phakisa Mine; Free State Business Services; Doornkop Mine; Central Services; Target One Shaft.

**3 PAN AFRICAN RESOURCES PLC**, in respect of the workplace, comprises the following mine, namely-  
Evander Gold Mine.

**4 VILLAGE MAIN REEF LTD**, in respect of the workplace, comprises the following mines and operations, namely-  
Buffelsfontein Mine; South Plant Operation and Tau Lekoa Mine.

It is agreed that the Mines and Operations of each Employer as described above constitutes a single workplace in respect of that Employer, for the purposes of [section 23 \(1\) \(d\)](#) of the Labour Relations Act [66 of 1995](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)**

**GN 538 of 20 May 2016: Determination in terms of section 50  
(Government Gazette No. 40001)**

DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act:

ARRANGEMENT OF REGULATIONS

- 1.
- 2.

The following section of the Act are replaced or excluded:  
Extent of the variation:



- 3. Employers or employees in respect of whom the determination applies:
  - 4. Conditions on which determination is granted:
  - 5. Period for which the determination is granted:
- [Annexure A](#) BCEA variations previously granted for sibanye gold in terms of the 2013 determination  
(Note that Sibanye Gold was then part of Gold Fields Ltd)
- [Annexure B](#) BCEA variations/exclusion sought in terms of this application
- [Annexure C](#) Entity covered by the application

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 1. The following section of the Act are replaced or excluded:**

**1. The following section of the Act are replaced or excluded:**

Section 12 (2) (b), 14 (1), 15 (1) (a) and 17 (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 2. Extent of the variation:**

**2. Extent of the variation:**

- (a) To average hours of work over the agreed period with an average of ten hours' overtime per week;
- (b) To dispense with a formal meal interval for Miners, Artisans and Officials recognition units who work underground and in processing plants;
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers; and
- (d) That shifts commencing at or after 04:00 are not regarded as night work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 3. Employers or employees in respect of whom the determination applies:**

**3. Employers or employees in respect of whom the determination applies:**

Employees employed by Chamber of Mines of South Africa; Gold Mining employees: "Category 4 to 8 Gold mining employees", Miners & Artisans" and "Officials" on the entities listed in [Annexure A](#), [B](#) and [C](#) engaged at Gauteng, Free State, Mpumalanga and North West Provinces.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 4. Conditions on which determination is granted:**

**4. Conditions on which determination is granted:**

- (a) That overtime is worked voluntary or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made and that existing meal arrangements with regards to employees in processing plants remain in place;
- (c) That rapid changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 538 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 5. Period for which the determination is granted:**

**5. Period for which the determination is granted:**

From 15 October 2015 to 30 September 2018.

**SIGNED ON 10<sup>th</sup> day of December 2015**  
**DIRECTOR GENERAL: LABOUR**

**Annexure A**  
**BCEA VARIATIONS PREVIOUSLY GRANTED FOR SIBANYE GOLD IN TERMS OF THE 2013 DETERMINATION**  
**(Note that Sibanye Gold was then part of Gold Fields Ltd)**

| COMPANY/MINE    | EMPLOYEES         | PERIOD UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|-----------------|-------------------|--------------|------------|----|------------|--------|
|                 |                   |              |            |    |            |        |
| Gold Fields Ltd | Category 4 to 8s  | 30/9/15      | ?          |    | ?          | ?      |
|                 | Miners & Artisans | 30/9/15      | ?          | ?  | ?          | ?      |
|                 | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |
|                 | Officials         | 30/9/15      | ?          | ?  | ?          | ?      |

**Annexure B**  
**BCEA VARIATIONS/EXCLUSION SOUGHT IN TERMS OF THIS APPLICATION**

| COMPANY/MINE | EMPLOYEES         | PERIOD UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|--------------|-------------------|--------------|------------|----|------------|--------|
| Sibanye Gold | Category 4 to 8s  | 30/9/18      | ?          |    | ?          | ?      |
|              | Miners & Artisans | 30/9/18      | ?          | ?  | ?          | ?      |
|              | Officials         | 30/9/18      | ?          | ?  | ?          | ?      |

**Annexure C**  
**ENTITY COVERED BY THE APPLICATION**

**1 SIBANYE GOLD**

- 1.1 Sibanye Gold Ltd's workplace comprises the following mines and operations, namely Driefontein, Kloof, Beatrix, Sibanye Gold Health Services, and Sibanye Gold Property Services.
- 1.2 Sibanye Gold Protection Services Ltd's workplace comprises its Head Office and all other places where its employees are stationed.
- 1.3 Sibanye Gold Academy (Pty) Ltd's workplace comprises the Academy and all other places where its employees are stationed.
- 1.4 Sibanye Gold Shared Services (Pty) Ltd's workplace comprises the Shared Services Offices and all other places where its employees are stationed,
- 1.5 The Cooke 1, 2 and 3 workplace consists of the mine registered as Rand Uranium (Pty) Limited.
- 1.6 The Cooke 4 workplace consists of the mine registered as Ezulwini Mining Company (Pty) Limited.

It is agreed that the Mines and Operations of each Employer as described above constitutes a single workplace in respect of that Employer, for the purposes of [section 23 \(1\) \(d\)](#) of the Labour Relations Act [66 of 1995](#).

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act:

#### ARRANGEMENT OF REGULATIONS

- [1.](#) The following section of the Act is replaced or excluded:
  - [2.](#) Extent of the variation:
  - [3.](#) Employers or employees in respect of whom the determination applies:
  - [4.](#) Conditions on which determination is granted:
  - [5.](#) Period for which the determination is granted:
- [BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS](#)
- [Annexure A](#) VARIATIONS SOUGHT IN TERMS OF THIS APPLICATION
- [Annexure B](#)
- [Annexure C](#),
- [D & E](#)
- [Annexure D](#)
- [Annexure E](#)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 1. The following section of the Act is replaced or excluded:**

#### 1. The following section of the Act is replaced or excluded:

Section 10 (2), 12 (2) (b), 15 (1) (a) and 16 (1) of the Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 2. Extent of the variation:**

#### 2. Extent of the variation:

- (a) To retain the collectively bargained arrangements in respect of compensation for overtime on ordinary working days for Miners and Artisans and Officials employed on the collieries listed in [annexure C](#),
- (b) To average hours of work over the agreed period with an average of ten hours' overtime per week (Category 4 to 8 employees, Miners & Artisans, Officials, B Band and C Band employees employed on collieries listed in [Annexures C, D and E](#))
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers, with details to be worked out at mine level (Category 4 to 8, Miners & Artisans, Officials, B Band and C Band employees employed on collieries listed in [Annexures C, D and E](#)); and
- (d) To retain the collectively bargained arrangements in respect of compensation for work on Sundays (Miners & Artisans and Official employed on collieries listed in [Annexure C](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 3. Employers or employees in respect of whom the determination applies:**

#### 3. Employers or employees in respect of whom the determination applies:

Employees employed on the **Collieries** by the Chamber of Mines of South Africa: Category 4 to 8 employees; Miners & Artisans; Officials; B Band and C Band employees on entities listed in [Annexures C, D and E](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ 4. Conditions on which determination is granted:**

#### 4. Conditions on which determination is granted:

- (a) That all overtime is worked voluntarily or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made;
- (c) That rapid shift changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

**5. Period for which the determination is granted:**

From 16 October 2015 to 30 September 2017.

**SIGNED ON 12<sup>th</sup> day of April 2016**  
**DIRECTOR GENERAL: LABOUR**

**Annexure A**  
**BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS**

| COMPANY/MINE                                          | EMPLOYEES         | PERIOD UNTIL | 10 (2) | 12 (2) (b) | 15 (1) (a) | 16 (1) |
|-------------------------------------------------------|-------------------|--------------|--------|------------|------------|--------|
|                                                       |                   |              |        |            |            |        |
| Anglo American Coal                                   | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                       | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                       | Officials         | 30/09/15     | x      | x          | x          | x      |
|                                                       |                   |              |        |            |            |        |
| Exxaro Coal Mpumalanga (Pty) Ltd                      | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                       | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                       | Officials         | 30/09/15     | x      | x          | x          | x      |
|                                                       |                   |              |        |            |            |        |
| Kangra Coal                                           | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                       | Miners & Artisans | 30/09/15     |        | x          | x          |        |
|                                                       | Officials         | 30/09/15     |        | x          | x          |        |
|                                                       |                   |              |        |            |            |        |
| Kuyasa Mining-Delmas Coal (Pty) Ltd                   | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                       | Miners & Artisans | 30/09/15     |        | x          | x          |        |
|                                                       | Officials         | 30/09/15     |        | x          | x          |        |
|                                                       |                   |              |        |            |            |        |
| Optimum Coal (of which Koornfontein Mine was a part)  | B Band            | 30/09/15     |        | x          | x          |        |
|                                                       | C Band            | 30/09/15     |        | x          | x          |        |
|                                                       |                   |              |        |            |            |        |
| Xstrata Coal SA (now known as Glencore Operations SA) | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                       | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                       | Officials         | 30/09/15     | x      | x          | x          | x      |

**Annexure B**  
**VARIATIONS SOUGHT IN TERMS OF THIS APPLICATION**

| COMPANY/MINE | EMPLOYEES | PERIOD UNTIL | 10 (2) | 12 (2) (b) | 15 (1) (a) | 16 (1) |
|--------------|-----------|--------------|--------|------------|------------|--------|
|              |           |              |        |            |            |        |

|                                     |                   |          |   |   |   |   |
|-------------------------------------|-------------------|----------|---|---|---|---|
| Anglo American Coal                 | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 | x | x | x | x |
|                                     | Officials         | 30/09/17 | x | x | x | x |
|                                     |                   |          |   |   |   |   |
| Exxaro Coal Mpumalanga (Pty) Ltd    | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 | x | x | x | x |
|                                     | Officials         | 30/09/17 | x | x | x | x |
|                                     |                   |          |   |   |   |   |
| Kangra Coal                         | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 |   | x | x |   |
|                                     | Officials         | 30/09/17 |   | x | x |   |
|                                     |                   |          |   |   |   |   |
| Koorfontein Mines                   | B Band            | 30/09/17 |   | x | x |   |
|                                     | C Band            | 30/09/17 |   | x | x |   |
|                                     |                   |          |   |   |   |   |
| Kuyasa Mining-Delmas Coal (Pty) Ltd | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 |   | x | x |   |
|                                     | Officials         | 30/09/17 |   | x | x |   |
|                                     |                   |          |   |   |   |   |
| Msobo Coal                          | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 | x | x | x | x |
|                                     | Officials         | 30/09/17 | x | x | x | x |
|                                     |                   |          |   |   |   |   |
| Glencore Operations SA              | Category 4 to 8   | 30/09/17 |   | x | x |   |
|                                     | Miners & Artisans | 30/09/17 | x | x | x | x |
|                                     | Officials         | 30/09/17 | x | x | x | x |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure C, D & E**

**Annexure C, D & E**

|                                  |      |                           |
|----------------------------------|------|---------------------------|
| ANGLO AMERICAN COAL              | 1.1  | Goedehoop Colliery        |
|                                  | 1.2  | Greenside Colliery        |
|                                  | 1.3  | Kriel Colliery            |
|                                  | 1.4  | New Denmark Colliery      |
|                                  | 1.5  | New Vaal Colliery         |
|                                  | 1.6  | Kleinkopje Colliery       |
|                                  | 1.7  | Landau Colliery           |
|                                  | 1.8  | AATC Centralised Services |
|                                  | 1.9  | Zibulo Colliery           |
|                                  | 1.10 | Isibonelo Colliery        |
|                                  |      |                           |
| EXXARO COAL MPUMALANGA (PTY) LTD | 2.1  | Arnot Colliery            |
|                                  | 2.2  | North Block Complex       |
|                                  | 2.3  | Matla Coal                |
|                                  | 2.4  | New Clydesdale Colliery   |
|                                  |      |                           |
| MSOBO COAL                       |      | <b>Msobo Coal</b>         |
|                                  |      |                           |
|                                  | 3.1  | Twefontein Complex        |

|                        |     |                                                        |
|------------------------|-----|--------------------------------------------------------|
| GLENCORE OPERATIONS SA | 3.2 | iMpunzi Complex (Excluding employees on the Gate Wage) |
|                        | 3.3 | Goedgevonden Complex                                   |
|                        | 3.4 | Group Services, Witbank                                |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure D**

#### **Annexure D**

|               |     |                     |
|---------------|-----|---------------------|
| KANGRA COAL   | 4.1 | Savmore Colliery    |
| KUYASA MINING | 5.1 | Delmas Coal Pty Ltd |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 539 of 20 May 2016: Determination in terms of section 50 (Government Gazette No. 40001)/ Annexure E**

#### **Annexure E**

|                                  |     |                    |
|----------------------------------|-----|--------------------|
| KOORNFONTEIN MINES (PTY) LIMITED | 6.1 | Koornfontein Mines |
|----------------------------------|-----|--------------------|

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 623 of 3 June 2016: Determination in terms of section 50 (Government Gazette No. 40041)**

### **GN 623 of 3 June 2016: Determination in terms of section 50 (Government Gazette No. 40041)**

#### DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act-

#### **1. The following section of the Act are replaced or excluded:**

Section 12 (2) (b), 14 (1), 15 (1) (a) and 17 (1).

#### **2. Extent of the variation-**

- (a) To average hours of work over the agreed period with an average of ten hours' overtime per week;
- (b) To dispense with a formal meal interval for Miners, Artisans and Officials recognition units who work underground and in processing plants;
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers; and
- (d) That shifts commencing at or after 04:00 are not regarded as night work.

#### **3. Employers or employees in respect of whom the determination applies:**

Employees employed by Chamber of Mines of South Africa: Sibanye Gold "Category 4 to 8 employees", Miners & Artisans" and "Officials" on the entities listed in [Annexure A](#), [B](#) and [C](#) engaged at Gauteng, Free State, Mpumalanga and North West Provinces.

#### **4. Conditions on which determination is granted:**

- (a) That overtime is worked voluntary or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made and that existing meal arrangements with regards to employees in processing plants remain in place;
- (c) That rapid changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

#### **5. Period for which the determination is granted:**

From 16 October 2015 to 30 September 2018.

**SIGNED ON 10<sup>th</sup> day of December 2015  
DIRECTOR GENERAL: LABOUR**

**ANNEXURE A****BCEA VARIATIONS PREVIOUSLY GRANTED FOR SIBANYE GOLD IN TERMS OF THE 2013 DETERMINATION (Note that Sibanye Gold was then part of Gold Fields Ltd)**

| COMPANY/<br>MINE | EMPLOYEES         | PERIOD<br>UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|------------------|-------------------|-----------------|------------|----|------------|--------|
|                  |                   |                 |            |    |            |        |
| Gold Fields Ltd  | Category 4 to 8s  | 30/9/15         | P          |    | P          | P      |
|                  | Miners & Artisans | 30/9/15         | P          | P  | P          | P      |
|                  | Officials         | 30/9/15         | P          | P  | P          | P      |
|                  | Officials         | 30/9/15         | P          | P  | P          | P      |

**ANNEXURE B****BCEA VARIATIONS/EXCLUSION SOUGHT IN TERMS OF THIS APPLICATION**

| COMPANY /<br>MINE | EMPLOYEES         | PERIOD<br>UNTIL | 12 (2) (b) | 14 | 15 (1) (a) | 17 (1) |
|-------------------|-------------------|-----------------|------------|----|------------|--------|
| Sibanye Gold      | Category 4 to 8s  | 30/9/18         | P          |    | P          | P      |
|                   | Miners & Artisans | 30/9/18         | P          | P  | P          | P      |
|                   | Officials         | 30/9/18         | P          | P  | P          | P      |

**ANNEXURE C****ENTITY COVERED BY THE APPLICATION****1 SIBANYE GOLD**

- 1.1 Sibanye Gold Ltd's workplace comprises the following mines and operations, namely Driefontein, Kloof, Beatrix, Sibanye Gold Health Services, and Sibanye Gold Property Services.
- 1.2 Sibanye Gold Protection Services Ltd's workplace comprises its Head Office and all other places where its employees are stationed.
- 1.3 Sibanye Gold Academy (Pty) Ltd's workplace comprises the Academy and all other places where its employees are stationed.
- 1.4 Sibanye Gold Shared Services (Pty) Ltd's workplace comprises the Shared Services Offices and all other places where its employees are stationed.
- 1.5 The Cooke 1, 2 and 3 workplace consists of the mine registered as Rand Uranium (Pty) Limited.
- 1.6 The Cooke 4 workplace consists of the mine registered as Ezulwini Mining Company (Pty) Limited.

It is agreed that the Mines and Operations of each Employer as described above constitutes a single workplace in respect of that Employer, for the purposes of [section 23 \(1\) \(d\)](#) of the Labour Relations Act [66 of 1995](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 624 of 3 June 2016: Determination in terms of section 50 (Government Gazette No. 40041)**

**GN 624 of 3 June 2016: Determination in terms of section 50  
(Government Gazette No. 40041)**

DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act:

**1. The following section of the Act is replaced or excluded:**

Section 10 (2), 12 (2) (b), 15 (1) (a) and 16 (1) of the Act.

**2. Extent of the variation-**

- (a) To retain the collectively bargained arrangements in respect of compensation for overtime on ordinary working days for Miners and Artisans and Officials employed on the collieries listed in [annexure C](#),
- (b) To average hours of work over the agreed period with an average of ten hours' overtime per week (Category 4 to 8 employees, Miners & Artisans, Officials, B Band and C Band employees employed on collieries listed in [Annexures C, D and E](#))
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers, with details to be worked out at mine level (Category 4 to 8, Miners & Artisans, Officials, B Band and C Band



employees employed on collieries listed in [Annexures C, D and E](#); and

- (d) To retain the collectively bargained arrangements in respect of compensation for work on Sundays (Miners & Artisans and Official employed on collieries listed in [Annexure C](#)).

**3. Employers or employees in respect of whom the determination applies:**

Employees employed on the **Collieries** by the Chamber of Mines of South Africa: Category 4 to 8 employees; Miners & Artisans; Officials; B Band and C Band employees on entities listed in [Annexures C, D and E](#).

**4. Conditions on which determination is granted-**

- (a) That all overtime is worked voluntarily or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made;
- (c) That rapid shift changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

**5. Period for which the determination is granted:**

From 16 October 2015 to 30 September 2017.

**SIGNED ON 12<sup>th</sup> day of April 2016**  
**DIRECTOR GENERAL: LABOUR**

**ANNEXURE A**  
**BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS**

| COMPANY/ MINE                                        | EMPLOYEES         | PERIOD UNTIL | 10 (2) | 12 (2) (b) | 15 (1) (a) | 16 (1) |
|------------------------------------------------------|-------------------|--------------|--------|------------|------------|--------|
|                                                      |                   |              |        |            |            |        |
| Anglo American Coal                                  | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                      | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                      | Officials         | 30/09/15     | x      | x          | x          | x      |
|                                                      |                   |              |        |            |            |        |
| Exxaro Coal Mpumalanga (Pty) Ltd                     | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                      | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                      | Officials         | 30/09/15     | x      | x          | x          | x      |
|                                                      |                   |              |        |            |            |        |
| Kangra Coal                                          | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                      | Miners & Artisans | 30/09/15     |        | x          | x          |        |
|                                                      | Officials         | 30/09/15     |        | x          | x          |        |
|                                                      |                   |              |        |            |            |        |
| Kuyasa Mining-Delmas Coal (Pty) Ltd                  | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                      | Miners & Artisans | 30/09/15     |        | x          | x          |        |
|                                                      | Officials         | 30/09/15     |        | x          | x          |        |
|                                                      |                   |              |        |            |            |        |
| Optimum Coal (of which Koornfontein Mine was a part) | B Band            | 30/09/15     |        | x          | x          |        |
|                                                      | C Band            | 30/09/15     |        | x          | x          |        |
|                                                      |                   |              |        |            |            |        |
|                                                      |                   |              |        |            |            |        |
| Xstrata Coal SA (now known as Glencore Operation SA) | Category 4 to 8s  | 30/09/15     |        | x          | x          |        |
|                                                      | Miners & Artisans | 30/09/15     | x      | x          | x          | x      |
|                                                      | Officials         | 30/09/15     | x      | x          | x          | x      |

**ANNEXURE B**  
**VARIATIONS SOUGHT IN TERMS OF THIS APPLICATION**

| COMPANY/ MINE                       | EMPLOYEES         | PERIOD UNTIL | 10 (2) | 12 (2) (b) | 15 (1) (a) | 16 (1) |
|-------------------------------------|-------------------|--------------|--------|------------|------------|--------|
|                                     |                   |              |        |            |            |        |
| Anglo American Coal                 | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     | x      | x          | x          | x      |
|                                     | Officials         | 30/09/17     | x      | x          | x          | x      |
|                                     |                   |              |        |            |            |        |
| Exxaro Coal Mpumalanga (Pty) Ltd    | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     | x      | x          | x          | x      |
|                                     | Officials         | 30/09/17     | x      | x          | x          | x      |
|                                     |                   |              |        |            |            |        |
| Kangra Coal                         | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     |        | x          | x          |        |
|                                     | Officials         | 30/09/17     |        | x          | x          |        |
|                                     |                   |              |        |            |            |        |
| Koorfontein Mines                   | B Band            | 30/09/17     |        | x          | x          |        |
|                                     | C Band            | 30/09/17     |        | x          | x          |        |
|                                     |                   |              |        |            |            |        |
| Kuyasa Mining-Delmas Coal (Pty) Ltd | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     |        | x          | x          |        |
|                                     | Officials         | 30/09/17     |        | x          | x          |        |
|                                     |                   |              |        |            |            |        |
| Msobo Coal                          | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     | x      | x          | x          | x      |
|                                     | Officials         | 30/09/17     | x      | x          | x          | x      |
|                                     |                   |              |        |            |            |        |
| Glencore Operations SA              | Category 4 to 8   | 30/09/17     |        | x          | x          |        |
|                                     | Miners & Artisans | 30/09/17     | x      | x          | x          | x      |
|                                     | Officials         | 30/09/17     | x      | x          | x          | x      |

**ANNEXURE C, D & E**

|                            |      |                           |
|----------------------------|------|---------------------------|
| <b>ANGLO AMERICAN COAL</b> | 1.1  | Goedehoop Colliery        |
|                            | 1.2  | Greenside Colliery        |
|                            | 1.3  | Kriel Colliery            |
|                            | 1.4  | New Denmark Colliery      |
|                            | 1.5  | New Vaal Colliery         |
|                            | 1.6  | Kleinkopje Colliery       |
|                            | 1.7  | Landau Colliery           |
|                            | 1.8  | AATC Centralised Services |
|                            | 1.9  | Zibulo Colliery           |
|                            | 1.10 | Isibonelo Colliery        |
|                            |      |                           |

|                                         |     |                                                        |
|-----------------------------------------|-----|--------------------------------------------------------|
| <b>EXXARO COAL MPUMALANGA (PTY) LTD</b> | 2.1 | Arnot Colliery                                         |
|                                         | 2.2 | North Block Complex                                    |
|                                         | 2.3 | Matla Coal                                             |
|                                         | 2.4 | New Clydesdale Colliery                                |
|                                         |     |                                                        |
| <b>MSOBO COAL</b>                       |     | Msobo Coal                                             |
|                                         |     |                                                        |
| <b>GLENCORE OPERATIONS SA</b>           | 3.1 | Tweefontein Complex                                    |
|                                         | 3.2 | iMpunzi Complex (Excluding employees on the Gate Wage) |
|                                         | 3.3 | Goedgevonden Complex                                   |
|                                         | 3.4 | Group Services, Witbank                                |

#### ANNEXURE D

|                      |     |                     |
|----------------------|-----|---------------------|
| <b>KANGRA COAL</b>   | 4.1 | Savmore Colliery    |
|                      |     |                     |
| <b>KUYASA MINING</b> | 5.1 | Delmas Coal Pty Ltd |

#### ANNEXURE E

|                                         |     |                    |
|-----------------------------------------|-----|--------------------|
| <b>KOORNFONTEIN MINES (PTY) LIMITED</b> | 6.1 | Koornfontein Mines |
|-----------------------------------------|-----|--------------------|

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 625 of 3 June 2016: Determination in terms of section 50 (Government Gazette No. 40041)**

#### **GN 625 of 3 June 2016: Determination in terms of section 50 (Government Gazette No. 40041)**

#### DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of section 50 (8) (c) of the Act:

#### **1. The following section of the Act are replaced or excluded:**

Section 12 (2) (b), 14 (1), 15 (1) (a) and 17 (1).

#### **2. Extent of the variation-**

- (a) To average hours of work over the agreed period with an average of ten hours' overtime per week;
- (b) To dispense with a formal meal interval for Miners, Artisans and Officials recognition units who work underground and in processing plants;
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers; and
- (d) That shifts commencing at or after 04:00 are not regarded as night work.

#### **3. Employers or employees in respect of whom the determination applies:**

Employees employed by Chamber of Mines of South Africa; Gold Mining employees: "Category 4 to 8 Gold mining employees", Miners & Artisans" and "Officials" on the entities listed in [Annexure A](#), [B](#) and [C](#) engaged at Gauteng, Free State, Mpumalanga and North West Provinces.

#### **4. Conditions on which determination is granted-**

- (a) That overtime is worked voluntary or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made and that existing meal arrangements with regards to employees in processing plants remain in place;
- (c) That rapid changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreement signed with the unions concerned be complied with.

#### **5. Period for which the determination is granted:**

From 15 October 2015 to 30 September 2018.

**SIGNED ON 10<sup>th</sup> day of December 2015  
DIRECTOR GENERAL: LABOUR**

**ANNEXURE A**  
**BCEA VARIATIONS PREVIOUSLY GRANTED FOR THE ENTITIES CONCERNED IN TERMS OF A PAST DETERMINATION OR DETERMINATIONS**

| <i>COMPANY/<br/>MINE</i>           | <i>EMPLOYEES</i>  | <i>PERIOD<br/>UNTIL</i> | <i>12 (2) (b)</i> | <i>14</i> | <i>15 (1) (a)</i> | <i>17 (1)</i> |
|------------------------------------|-------------------|-------------------------|-------------------|-----------|-------------------|---------------|
|                                    |                   |                         |                   |           |                   |               |
| AngloGold Ashanti                  | Category 4 to 8s  | 30/9/15                 | P                 |           | P                 | P             |
|                                    | Miners & Artisans | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    |                   |                         |                   |           |                   |               |
| Gold Fields Ltd                    | Category 4 to 8s  | 30/9/15                 | P                 |           | P                 | P             |
|                                    | Miners & Artisans | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    |                   |                         |                   |           |                   |               |
| Harmony Gold Mining Company Ltd    | Category 4 to 8s  | 30/9/15                 | P                 |           | P                 | P             |
|                                    | Miners & Artisans | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/18                 | P                 | P         | P                 | P             |
|                                    |                   |                         |                   |           |                   |               |
| Pan African Resources PLC          | Category 4 to 8s  | 30/9/15                 | P                 |           | P                 | P             |
|                                    | Miners & Artisans | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/18                 | P                 | P         | P                 | P             |
|                                    |                   |                         |                   |           |                   |               |
| Rand Uranium Ltd: Cooke Operations | Category 4 to 8s  | 30/9/15                 | P                 |           | P                 | P             |
|                                    | Miners & Artisans | 30/9/15                 | P                 | P         | P                 | P             |
|                                    | Officials         | 30/9/15                 | P                 | P         | P                 | P             |
|                                    |                   |                         |                   |           |                   |               |

**ANNEXURE B**  
**BCEA VARIATIONS/EXCLUSION SOUGHT IN TERMS OF THIS APPLICATION**

| <i>COMPANY/<br/>MINE</i> | <i>EMPLOYEES</i>  | <i>PERIOD<br/>UNTIL</i> | <i>12 (2) (b)</i> | <i>14</i> | <i>15 (1) (a)</i> | <i>17 (1)</i> |
|--------------------------|-------------------|-------------------------|-------------------|-----------|-------------------|---------------|
|                          |                   |                         |                   |           |                   |               |
| AngloGold Ashanti        | Category 4 to 8s  | 30/9/18                 | P                 |           | P                 | P             |
|                          | Miners & Artisans | 30/9/18                 | P                 | P         | P                 | P             |
|                          | Officials         | 30/9/18                 | P                 | P         | P                 | P             |
| Harmony                  | Category 4 to 8s  | 30/9/18                 | P                 |           | P                 | P             |
|                          | Miners & Artisans | 30/9/18                 | P                 | P         | P                 | P             |

|                       |                   |         |   |   |   |   |
|-----------------------|-------------------|---------|---|---|---|---|
|                       | Officials         | 30/9/18 | P | P | P | P |
| Pan African Resources | Category 4 to 8s  | 30/9/18 | P |   | P | P |
|                       | Miners & Artisans | 30/9/18 | P | P | P | P |
|                       | Officials         | 30/9/18 | P | P | P | P |
| Village Main Reef     | Category 4 to 8s  | 30/9/18 | P |   | P | P |
|                       | Miners & Artisans | 30/9/18 | P | P | P | P |
|                       | Officials         | 30/9/18 | P | P | P | P |

### ANNEXURE C ENTITIES COVERED BY THE APPLICATION

- 1 ANGLOGOLD ASHANTI LTD**, South African region, in respect of the workplace, comprises the following mines and operations, namely:

Regional Services; Metallurgical Services (including Vaal River and West Wits Surface Sources); Kopanang Mine; Mponeng Mine; AngloGold Ashanti Health; Mine Waste Solutions (MWS); Moab Khotsong/Great Noligwa Mine; and Tau Tona/Savuka Mine.

- 2 HARMONY GOLD MINING COMPANY LTD**, South African workplace comprises of the following mines and operations, namely:

Unisel Mine; AMF Shafts; Masimong Mine; Kusasalethu Mine; Kalgold Mine; Bambanani Mine; Joel Mine; Tshepong Mine; Phakisa Mine; Free State Business Services; Doornkop Mine; Central Services; Target One Shaft.

- 3 PAN AFRICAN RESOURCES PLC**, in respect of the workplace, comprises the following mine, namely:

Evander Gold Mine.

- 4 VILLAGE MAIN REEF LTD**, in respect of the workplace, comprises the following mines and operations, namely:

Buffelsfontein Mine; South Plant Operation and Tau Lekoa Mine.

It is agreed that the Mines and Operations of each Employer as described above constitutes a single workplace in respect of that Employer, for the purposes of [section 23 \(1\) \(d\)](#) of the Labour Relations Act [66 of 1995](#).

#### National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Determinations/ GN 692 of 24 May 2019: Determination in terms of section 50 and Application for Ministerial Determination (Government Gazette No. 42474)

#### GN 692 of 24 May 2019: Determination in terms of section 50 and Application for Ministerial Determination (Government Gazette No. 42474)

#### DEPARTMENT OF LABOUR

The Minister of Labour, make the following determination in terms of Section 50 (8) (c) of the Act-

- 1. The following section of the Act are replaced or excluded**

Sections 12 (2) (b), 14 (1), 15 (1) (a) and 17 (1)

- 2. Extent of the variation**

- (a) To average hours of work over the agreed period with an average of ten hours' overtime per week;
- (b) To dispense with a formal meal interval for on the basis that informal rest arrangements and opportunities to take sustenance, are made and existing meal arrangements with regards to employees in processing plants remain in place;
- (c) To reduce the daily rest period to not less than eight hours, for the purposes of rapid shift changeovers; and
- (d) To ensure that shifts commencing at or after 04:00 are not regarded as night work.

- 3. Employers or employees in respect of whom the determination applies**

Gold employees employed by **Minerals Council South Africa**: "Category 4 to 8 employees", "Miners and Artisans" and "Officials" at the entities listed in **Annexure A**.

#### **Conditions on which determination is granted**

- (a) That overtime is worked voluntary or as agreed collectively;
- (b) That informal rest arrangements and opportunities to take sustenance are made and that existing meal arrangements with regards to employees in processing plants remain in place;

- (c) That rapid changeovers do not occur on more than two occasions per month per employee; and
- (d) That the collective agreements signed with the unions be complied with.

#### 4. Period for which the determination is granted

From 14 December 2018 to 30 September 2021.

**SIGNED** under delegated authority in terms of section 85 of the Basic Conditions of Employment Act, 1997 at Pretoria on this the 7th day of March 2019.

(Signed)

**ACTING DIRECTOR GENERAL: LABOUR**

**DATE:** 7/3/2019

#### **BASIC CONDITIONS OF EMPLOYMENT ACT, 1997**

#### **APPLICATION FOR MINISTERIAL DETERMINATION**

Your application to vary certain section of the Act refers.

Attached please find the approved determination. Please ensure that you comply with section 50 (10) of the Act, which reads as follows:

An employer in respect of whom a determination has been made, or whose employees are covered by a determination in terms of subsection (1), must-

- (a) Display a copy of the notice conspicuously at the workplace where it can be read by the employees to whom the determination applies;
- (b) Notify each employee in writing of the fact of the determination and of where a copy of the notice has been displayed; and
- (c) Give a copy of the notice to every-
  - (i) registered trade union representing those employees;
  - (ii) trade union representative representing those employees; and
  - (iii) employee who requests a copy.

Yours faithfully

(Signed)

**ACTING DIRECTOR GENERAL: LABOUR**

#### **ANNEXURE A**

#### **VARIATION GRANTED FOR ENTITIES CONCERNED IN TERMS OF SECTION 50**

| COMPANY/MINE                    | EMPLOYEES         | SEC:<br>12 (2) (b) | SEC:<br>14 (1) | SEC:<br>15 (1) (a) | SEC:<br>17 (1) |
|---------------------------------|-------------------|--------------------|----------------|--------------------|----------------|
| AngloGold Ashanti               | Category 4 to 8s  | ✓                  | ✓              | ✓                  | ✓              |
|                                 | Miners & Artisans | ✓                  | ✓              | ✓                  | ✓              |
|                                 | Officials         | ✓                  | ✓              | ✓                  | ✓              |
|                                 |                   | ✓                  | ✓              | ✓                  | ✓              |
| Harmony Gold Mining Company Ltd | Category 4 to 8s  | ✓                  |                | ✓                  | ✓              |
|                                 | Miners & Artisans | ✓                  | ✓              | ✓                  | ✓              |
|                                 | Officials         | ✓                  | ✓              | ✓                  | ✓              |
|                                 |                   |                    |                |                    |                |
| Village Main Reef Ltd           | Category 4 to 8s  | ✓                  |                | ✓                  | ✓              |
|                                 | Miners & Artisans | ✓                  | ✓              | ✓                  | ✓              |
|                                 | Officials         | ✓                  | ✓              | ✓                  | ✓              |
|                                 |                   |                    |                |                    |                |
| Sibanye-Stillwater              | Category 4 to 8s  | ✓                  |                | ✓                  | ✓              |
|                                 | Miners & Artisans | ✓                  | ✓              | ✓                  | ✓              |
|                                 | Officials         | ✓                  | ✓              | ✓                  | ✓              |

## GNR.1295 of 5 November 1999: Ministerial Determination: Small Business Sector

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of [section 50](#) of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employers and employees in Small Businesses, South Africa, in [the Schedule](#) hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

M M S MDLADLANA  
*Minister of Labour*

### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

- [1.](#) Application of this Ministerial Determination
- [2.](#) Overtime
- [3.](#) Averaging of hours of work
- [4.](#) Family responsibility leave

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.1295 of 5 November 1999: Ministerial Determination: Small Business Sector/ 1. Application**

##### **1. Application**

- 1.1 This determination applies to employers who conduct businesses employing less than ten employees.
- 1.2 To the extent provided for in this determination, this determination varies the application of the Basic Conditions of Employment Act, [No. 75 of 1997](#), to such employers and their employees.
- 1.3 This determination must be read in conjunction with the Basic Conditions of Employment Act.
- 1.4 Unless otherwise indicated, any word used in this determination has the same meaning as in the Basic Conditions of Employment Act, [No. 75 of 1997](#).
- 1.5 A bargaining council agreement or sectoral determination takes precedence over this determination, unless the agreement provides otherwise.
- 1.6 This determination does not apply to-
  - (a) the employment of domestic workers;
  - (b) the public service;
  - (c) any employer who conducts more than one business;
  - (d) any business formed by the division of an existing business.

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.1295 of 5 November 1999: Ministerial Determination: Small Business Sector/ 2. Overtime**

##### **2. Overtime**

- 2.1 Despite section 10 (1) (b) (ii), an employer may not require or permit an employee to work more than fifteen hours overtime a week.
- 2.2 Despite [section 10 \(2\)](#), an employer must pay an employee-
  - (a) at least one and one third times the employee's wage for the first ten hours of overtime worked in any week;
  - (b) at least one and one half times the employee's wage for any overtime in excess of ten hours worked in a week.

#### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.1295 of 5 November 1999: Ministerial Determination: Small Business Sector/ 3. Averaging of hours**

##### **3. Averaging of hours**

- 3.1 Despite [sections 9 \(1\)](#) and [\(2\)](#) and [10 \(1\) \(b\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), and [clause 2](#) of this determination, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement concluded by an employer and employee.
- 3.2 An employer may not require or permit an employee who is bound by an agreement in terms of subclause 1 to work more than-
  - (a) an average of forty-five ordinary hours of work in a week over the agreed period;



- (b) an average of ten hours overtime in a week over the agreed period.
- 3.3 An Agreement in terms of subclause 1 lapses after twelve (12) months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.1295 of 5 November 1999: Ministerial Determination: Small Business Sector/ 4. Family responsibility leave.-An employer and an employee may conclude a written agreement in terms of which an employer may reduce an employee's entitlement to annual leave in terms of section 20 of the Basic Conditions of Employment Act, No. 75 of 1**

**4. Family responsibility leave.**-An employer and an employee may conclude a written agreement in terms of which an employer may reduce an employee's entitlement to annual leave in terms of [section 20](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), by the number of days of family responsibility leave on full remuneration granted to the employee at the employee's request in terms of [section 27](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector**

**GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector**

(All provisions of the Ministerial Determination: Welfare Sector published under Government Notice R. 203 of 2 March 2001 will be cancelled by the following Determination with effect from the date of publication)

MINISTERIAL DETERMINATION: WELFARE SECTOR

(Editor's note: Sections have been numbered in accordance with the original *Government Gazette*.)

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of [section 50](#) of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employers and employees in the Welfare Sector, South Africa, in [the Schedule](#) hereto and determine the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

M. M. S. MDLADLANA  
*Minister of Labour*

**SCHEDULE**

ARRANGEMENT OF REGULATIONS

- |                    |                                               |
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| <a href="#">1.</a> | Definition                                    |
| <a href="#">2.</a> | Application of this Ministerial Determination |
| <a href="#">3.</a> | Overtime                                      |
| <a href="#">4.</a> | Averaging of hours                            |
| <a href="#">5.</a> | Pay for work on Sundays                       |
| <a href="#">6.</a> | Night work                                    |
| <a href="#">7.</a> | Standby employees                             |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 1. Definitions**

**1. Definitions**

1.1 In this determination-

- (a) "**welfare sector**" means employers, excluding the state as an employer, who renders non-profit social services in South Africa;
- (b) "working time" means time actually worked excluding standby periods.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 2. Application**

**2. Application**

2.1 This determination applies to all employers and employees engaged in the welfare sector.

2.2 To the extent provided for in this determination, this determination varies the application of the Basic Conditions of Employment Act, [No. 75 of 1997](#), to such employers and their employees.

2.3 Unless otherwise indicated, any word used in this determination has the same meaning as in the Basic Conditions of Employment Act, [No. 75 of 1997](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 3. Overtime**

### 3. Overtime

3.1 Despite section 10 (1) (b) (ii) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), an employer may not require or permit an employee to work more than fifteen hours overtime a week.

3.2 An agreement may provide for an employer to pay the ordinary wage for overtime worked and grant an additional week's leave on full pay per annum.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 4. Averaging of hours**

### 4. Averaging of hours

4.1 Despite [sections 9 \(1\)](#) and [\(2\)](#) and [10 \(1\) \(b\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#) and [clause 3](#) of this determination, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement concluded by an employer and employee.

4.2 An employer may not require or permit an employee who is bound by an agreement in terms of sub-[clause 1](#) to work more than-

- (a) an average of forty-five ordinary hours of work in a week over the agreed period;
- (b) an average of ten hours overtime in a week over the agreed period.

4.3 An agreement in terms of sub-clause (1) lapses after twelve (12) months.

4.4 Sub-clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 5. Pay for work on Sundays**

### 5. Pay for work on Sundays

5.1 Despite [section 16 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), an employer must pay an employee who works on Sunday the normal wage for each hour worked and be granted extra leave as follows:

- (a) employees who ordinarily work on a Sunday who work on average one Sunday per month be granted three additional days leave on full pay per annum;
- (b) employees who ordinarily work on a Sunday who work on average two Sundays per month be granted six extra days leave on full pay per annum.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 6. Night work**

### 6. Night work

6.1 Despite [section 17 \(2\) \(a\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), an agreement in writing, may permit an employee to waive his/her right to any payment of an allowance if the employee voluntarily requests or prefers to work night shifts.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GN 655 of 20 July 2001: Ministerial Determination: Welfare Sector/ 7. Standby employees**

### 7. Standby employees

7.1 Employees who are regularly required to be on standby must be granted one additional week's annual leave per annum.

*(All the provisions of Ministerial Determination: Welfare Sector published under Government Notice R.203 of 2 March 2001 will be cancelled by this Determination with effect from the date of publication.)*

**GNR.347 of 4 May 2012: Ministerial Determination 4: Expanded Public Works Programmes  
(Government Gazette No. 35310)**

DEPARTMENT OF LABOUR

I, Nelisiwe Mildred Oliphant, Minister of Labour, hereby in terms of [section 50](#) of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employees in Expanded Public Works Programmes, South Africa, in [the Schedule](#) hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

All the provisions of the Ministerial Determination: Expanded Public Works Programmes published under Government Notice R.949 in *Government Gazette* 33665 of 22 October 2010 will be superseded by this ministerial determination with effect from the date of implementation.

(Signed)

**NM OLIPHANT, MP**  
**Minister of Labour**  
**10/04/2012**

**SCHEDULE**

**MINISTERIAL DETERMINATION NO: 3: EXPANDED PUBLIC WORKS PROGRAMMES**

(Editorial Note: Wording as per original *Government Gazette*.)

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| <a href="#">4.</a>        | Conditions                                                    |
| <a href="#">Annexure.</a> | Conditions of employment for expanded public works programmes |

**1. Definitions**

1.1 In this determination-

"expanded public works programme" means a programme to provide public or community assets or services through a labour intensive programme initiated by government and funded from public resources.

1.2 Without limiting subsection (1), the following programmes constitute Expanded Public Works Programmes-

- (a) Environment and Culture Sector Programmes including: Working for Water, Working on Fire, Working for Wetlands, People and Parks, Working for Energy, Working for Woodlands, Working for the Coast, Landcare, Working on Waste, Working for Tourism, Investing in Culture Programmes.
- (b) Infrastructure Sector Programmes and Projects declared part of EPWP which may include the construction, rehabilitation and maintenance of: rural and low-volume roads, storm-water drains, water reticulation, basic sanitation, footpaths, sidewalks, bicycle paths, schools and clinics.
- (c) Social Sector Programmes including Early Childhood Development, Home, Community Based Care, Community Safety and other community based programmes.
- (d) All projects and programmes accessing the EPWP wage incentive including those implemented by Non Governmental organisations (NGO) and Community Based Organisations (CBO) and the Community Works Programme.
- (e) Any other programme deemed to be part of the EPWP as determined by the Department of Public Works.

**2. Application.**-This Determination applies to all employers and employees engaged in expanded public works programmes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.347 of 4 May 2012: Ministerial Determination 4: Expanded Public Works Programmes (Government Gazette No. 35310)/ 3. The following provisions of the Basic Conditions of Employment Act do not apply to public works programmes-**

**3. The following provisions of the Basic Conditions of Employment Act do not apply to public works programmes-**

|     |                                       |                                                                      |
|-----|---------------------------------------|----------------------------------------------------------------------|
| 3.1 | <a href="#">Section 10 (2)</a>        | (Overtime rate)                                                      |
| 3.2 | <a href="#">Section 14 (3)</a>        | (Remuneration required for meal intervals of longer than 75 minutes) |
| 3.3 | <a href="#">Section 29 (h) to (p)</a> | (Written particulars of employment)                                  |
| 3.4 | <a href="#">Section 30</a>            | (Display of employee's rights)                                       |
| 3.5 | <a href="#">Section 41</a>            | (Severance pay)                                                      |
| 3.6 | <a href="#">Section 37</a>            | (Notice of termination)                                              |
| 3.7 | <a href="#">Sections 51 - 58</a>      | (Sectoral Determinations)                                            |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.347 of 4 May 2012: Ministerial Determination 4: Expanded Public Works Programmes (Government Gazette No. 35310)/ 4. Conditions.-As set out in the ANNEXURE:**

**4. Conditions.**-As set out in the [ANNEXURE](#):

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Ministerial Determinations/ GNR.347 of 4 May 2012: Ministerial Determination 4: Expanded Public Works Programmes (Government Gazette No. 35310)/ Annexure CONDITIONS OF EMPLOYMENT FOR EXPANDED PUBLIC WORKS PROGRAMMES**

## **Annexure**

### **CONDITIONS OF EMPLOYMENT FOR EXPANDED PUBLIC WORKS PROGRAMMES**

#### **1. Introduction**

1.1 This document contains the standard terms and conditions for workers employed in elementary occupations on an Expanded Public Works Programme (EPWP). These terms and conditions do NOT apply to persons employed in the supervision and management of a SPWP.

1.2 In this document-

- (a) "department" means any department of the State, implementing agent or contractor;
- (b) "employer" means any department, implementing agency or contractor that hires workers to work in elementary occupations on a EPWP;
- (c) "worker" means any person working in an elementary occupation on a EPWP;

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase "on a EPWP" is intended to be "on an EPWP".)

- (d) "elementary occupation" means any occupation involving unskilled or semi-skilled work;
- (e) "management" means any person employed by a department or implementing agency to administer or execute an EPWP;
- (f) "task" means a fixed quantity of work;
- (g) "task-based work" means work in which a worker is paid a fixed rate for performing a task;
- (h) "task-rated worker" means a worker paid on the basis of the number of tasks completed;
- (i) "time-rated worker" means a worker paid on the basis of the length of time worked.

#### **2. Terms of Work**

2.1 Workers on an EPWP are employed on a temporary basis or contract basis.

#### **3. Normal Hours of Work**

- 3.1 An employer may not set tasks or hours of work that require a worker to work-
  - (a) more than forty hours in any week;
  - (b) on more than five days in any week; and
  - (c) for more than eight hours on any day.
- 3.2 An employer and worker may agree that a worker will work four days per week. The worker may then work up to ten hours per day.
- 3.3 A task-rated worker may not work more than a total of 55 hours in any week to complete the tasks allocated (based on a 40-hour week) to that worker.

#### 4. **Meal Breaks**

- 4.1 A worker may not work for more than five hours without taking a meal break of at least thirty minutes duration.
- 4.2 An employer and worker may agree on longer meal breaks.
- 4.3 A worker may not work during a meal break. However, an employer may require a worker to perform duties during a meal break if those duties cannot be left unattended and cannot be performed by another worker. An employer must take reasonable steps to ensure that a worker is relieved of his or her duties during the meal break.
- 4.4 A worker is not entitled to payment for the period of a meal break. However, a worker who is paid on the basis of time worked must be paid if the worker is required to work or to be available for work during the meal break.

#### 5. **Special Conditions for Security Guards**

- 5.1 A security guard may work up to 55 hours per week and up to eleven hours per day.
- 5.2 A security guard who works more than ten hours per day must have a meal break of at least one hour or two breaks of at least 30 minutes each.

#### 6. **Daily Rest Period**

Every worker is entitled to a daily rest period of at least twelve consecutive hours. The daily rest period is measured from the time the worker ends work on one day until the time the worker starts work on the next day.

#### 7. **Weekly Rest Period**

Every worker must have two days off every week. A worker may only work on their day off to perform work which must be done without delay and cannot be performed by workers during their ordinary hours of work ("emergency work").

#### 8. **Sick Leave**

- 8.1 Only workers who work more than 24 hours per month have the right to claim sick pay in terms of this clause.
- 8.2 A worker who is unable to work on account of illness or injury is entitled to claim one day's paid sick leave for every full month that the worker has worked in terms of a contract.
- 8.3 A worker may accumulate a maximum of twelve days' sick leave in a year.
- 8.4 Accumulated sick leave may not be transferred from one contract to another contract.
- 8.5 An employer must pay a task-rated worker the worker's daily task rate for a day's sick leave.
- 8.6 An employer must pay a time-rated worker the worker's daily rate of pay for a day's sick leave.
- 8.7 An employer must pay a worker sick pay on the worker's usual payday.
- 8.8 Before paying sick pay, an employer may require a worker to produce a certificate stating that the worker was unable to work on account of sickness or injury if the worker is-
  - (a) absent from work for more than two consecutive days; or
  - (b) absent from work on more than two occasions in any eight-week period.
- 8.9 A medical certificate must be issued and signed by a medical practitioner, a qualified nurse or a clinic staff member authorised to issue medical certificates indicating the duration and reason for incapacity.
- 8.10 A worker is not entitled to paid sick leave for a work-related injury or occupational disease for which the worker can claim compensation under the Compensation for Occupational Injuries and Diseases Act.

#### 9. **Maternity Leave**

- 9.1 A worker may take up to four consecutive months' unpaid maternity leave.
- 9.2 A worker is not entitled to any payment or employment-related benefits during maternity leave.
- 9.3 A worker must give her employer reasonable notice of when she will start maternity leave and when she will return to work.
- 9.4 A worker is not required to take the full period of maternity leave. However, a worker may not work for four weeks before the expected date of birth of her child or for six weeks after the birth of her child, unless a medical practitioner, midwife or qualified nurse certifies that she is fit to do so.
- 9.5 A worker may begin maternity leave-
  - (a) four weeks before the expected date of birth; or
  - (b) on an earlier date-
    - (i) if a medical practitioner, midwife or certified nurse certifies that it is necessary for the health of the worker or that of her unborn child; or

- (ii) if agreed to between employer and worker; or
  - (c) on a later date, if a medical practitioner, midwife or certified nurse has certified that the worker is able to continue to work without endangering her health.
- 9.6 A worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child may take maternity leave for up to six weeks after the miscarriage or stillbirth.

#### **10. Family Responsibility Leave**

- 10.1 Workers, who work for at least four days per week, are entitled to three days paid family responsibility leave each year in the following circumstances-
  - (a) when the employee's child is born;
  - (b) when the employee's child is sick;
  - (c) in the event of a death of-
    - (i) the employee's spouse or life partner;
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

#### **11. Statement of Conditions**

- 11.1 An employer must give a worker a statement containing the following details at the start of employment-
  - (a) the employer's name and address and the name of the EPWP;
  - (b) the tasks or job that the worker is to perform; and
  - (c) the period for which the worker is hired or, if this is not certain, the expected duration of the contract;
  - (d) the worker's rate of pay and how this is to be calculated;
  - (e) the training that the worker will receive during the EPWP.
- 11.2 An employer must ensure that these terms are explained in a suitable language to any employee who is unable to read the statement.
- 11.3 An employer must supply each worker with a copy of these conditions of employment.

#### **12. Keeping Records**

- 12.1 Every employer must keep a written record of at least the following-
  - (a) the worker's name and position;
  - (b) copy of an acceptable worker identification;
  - (c) in the case of a task-rated worker, the number of tasks completed by the worker;
  - (d) in the case of a time-rated worker, the time worked by the worker;
  - (e) payments made to each worker.
- 12.2 The employer must keep this record for a period of at least three years after the completion of the EPWP.

#### **13. Payment**

- 13.1 An employer must pay all wages at least monthly in cash or by cheque or into a bank account.
- 13.2 A worker may not be paid less than the minimum EPWP wage rate of R63.18 per day or per task. This will be adjusted annually on the 1<sup>st</sup> of November in-line with inflation (available CPI as provided by Stats SA six (6) weeks before implementation).
- 13.3 A task-rated worker will only be paid for tasks that have been completed.
- 13.4 An employer must pay a task-rated worker within five weeks of the work being completed and the work having been approved by the manager or the contractor having submitted an invoice to the employer.
- 13.5 A time-rated worker will be paid at the end of each month.
- 13.6 Payment must be made in cash, by cheque or by direct deposit into a bank account designated by the worker.
- 13.7 Payment in cash or by cheque must take place-
  - (a) at the workplace or at a place agreed to by the worker;
  - (b) during the worker's working hours or within fifteen minutes of the start or finish of work;
  - (c) in a sealed envelope which becomes the property of the worker.
- 13.8 An employer must give a worker the following information in writing-
  - (a) the period for which payment is made;
  - (b) the numbers of tasks completed or hours worked;
  - (c) the worker's earnings;
  - (d) any money deducted from the payment;
  - (e) the actual amount paid to the worker.

- 13.9 If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it.
- 13.10 If a worker's employment is terminated, the employer must pay all monies owing to that worker within one month of the termination of employment.

#### **14. Deductions**

- 14.1 An employer may not deduct money from a worker's payment unless the deduction is required in terms of a law.
- 14.2 An employer must deduct and pay to the SA Revenue Services any income tax that the worker is required to pay.
- 14.3 An employer who deducts money from a worker's pay for payment to another person must pay the money to that person within the time period and other requirements specified in the agreement law, court order or arbitration award concerned.
- 14.4 An employer may not require or allow a worker to-
- (a) repay any payment except an overpayment previously made by the employer by mistake;
  - (b) state that the worker received a greater amount of money than the employer actually paid to the worker; or
  - (c) pay the employer or any other person for having been employed.

#### **15. Health and Safety**

- 15.1 Employers must take all reasonable steps to ensure that the working environment is healthy and safe.
- 15.2 A worker must-
- (a) work in a way that does not endanger his/her health and safety or that of any other person;
  - (b) obey any health and safety instruction;
  - (c) obey all health and safety rules of the EPWP;
  - (d) use any personal protective equipment or clothing issued by the employer;
  - (e) report any accident, near-miss incident or dangerous behaviour by another person to their employer or manager.

#### **16. Compensation for Injuries and Diseases**

- 16.1 It is the responsibility of the employers (other than a contractor) to arrange for all persons employed on a EPWP to be covered in terms of the Compensation for Occupational Injuries and Diseases Act, [130 of 1993](#).
- (Editorial Note: Wording as per original *Government Gazette*.)
- 16.2 A worker must report any work-related injury or occupational disease to their employer or manager.
- 16.3 The employer must report the accident or disease to the Compensation Commissioner.
- 16.4 An employer must pay a worker who is unable to work because of an injury caused by an accident at work 75% of their earnings for up to three months. The employer will be refunded this amount by the Compensation Commissioner. This does NOT apply to injuries caused by accidents outside the workplace such as road accidents or accidents at home.

#### **17. Termination**

- 17.1 The employer may terminate the employment of a worker for good cause after following a fair procedure.
- 17.2 A worker will not receive severance pay on termination.
- 17.3 A worker is not required to give notice to terminate employment. However, a worker who wishes to resign should advise the employer in advance to allow the employer to find a replacement.
- 17.4 A worker who is absent for more than three consecutive days without informing the employer of an intention to return to work will have terminated the contract. However, the worker may be re-engaged if a position becomes available.
- 17.5 A worker who does not attend required training events, without good reason, will have terminated the contract. However, the worker may be re-engaged if a position becomes available.

#### **18. Certificate of Service**

- 18.1 On termination of employment, a worker is entitled to a certificate stating-
- (a) the worker's full name;
  - (b) the name and address of the employer;
  - (c) the EPWP on which the worker worked;
  - (d) the work performed by the worker;
  - (e) any training received by the worker as part of the EPWP;
  - (f) the period for which the worker worked on the EPWP;
  - (g) any other information agreed on by the employer and worker.

**GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa**

**as amended by**

| <b>Notice</b> | <b>Government Gazette</b> | <b>Date</b>            |
|---------------|---------------------------|------------------------|
| R.798         | 20219                     | 25 June 1999           |
| R.467         | 22331                     | 25 May 2001            |
| R.1196        | 22836                     | 16 November 2001       |
| R.61          | 23040                     | 25 January 2002        |
| R.1135        | 23792                     | 27 August 2002         |
| R.1385        | 27029                     | 26 November 2004       |
| R.80          | 28428                     | 3 February 2006        |
| R.150         | 28525                     | 17 February 2006       |
| R.1139        | 29385                     | 14 November 2006       |
| R.21          | 29532                     | 12 January 2007        |
| R.1113        | 32741                     | 25 November 2009       |
|               |                           | 28 November 2011       |
| R.990         | 34798                     | w.e.f. 1 December 2011 |
|               |                           | 26 October 2012 w.e.f. |
| R.876         | 35825                     | 1 December 2012        |
| 6             | 38384                     | 6 January 2015         |
| 1430          | 41326                     | 15 December 2017       |
|               |                           | w.e.f. 1 January 2018  |
| 26            | 42182                     | 23 January 2019 w.e.f. |
|               |                           | 1 January 2019         |
| R.175         | 43026                     | 17 February 2020       |
|               |                           | w.e.f. 1 March 2020    |

**as corrected by**

| <b>Notice</b>         | <b>Government Gazette</b> | <b>Date</b>                   |
|-----------------------|---------------------------|-------------------------------|
| 687                   | 36844                     | 13 September 2013             |
| <a href="#">R.310</a> | <a href="#">43094</a>     | <a href="#">13 March 2020</a> |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 51 \(1\)](#) of the Basic Conditions of Employment Act, 1997 make a sectoral determination establishing conditions of employment for employees in the Contract Cleaning Sector, South Africa in the schedule hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Sectoral Determination shall become binding.

M M S MDLADLANA  
Minister of Labour

**SCHEDULE**

**ARRANGEMENT OF REGULATIONS**

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- [2.](#) Definitions
- [3.](#) Remunerations
- [4.](#) Calculation of remuneration and wages
- [5.](#) Payment of remuneration
- [6.](#) Information about remuneration
- [7.](#) Deductions and other acts concerning remuneration
- [8.](#) Ordinary hours of work
- [9.](#) Overtime
- [10.](#) Payment of overtime
- [11.](#) Compressed working week
- [12.](#) Averaging of hours of work
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- [23.](#) Termination of employment
- [24.](#) Severance pay
- [25.](#) Uniforms, overalls, protective clothing and safety equipment
- [26.](#) Written particulars of employment
- [27.](#) Informing employees of their rights
- [28.](#) Certificate of service
- [29.](#) Attendance register
- [30.](#) Enforcement



**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 1. Area and scope of application.-(1) This determination shall apply in the Republic of South Africa to every employer in the Contract Cleaning Sector and to all employees in that trade, except-**

**1. Area and scope of application.**-(1) This determination shall apply in the Republic of South Africa to every employer in the Contract Cleaning Sector and to all employees in that trade, except-

- (a) a manager;
- (b) administrative personnel;
- (c) any employer or employee who is subject to a bargaining council agreement in terms the Labour Relations Act, 1995; or
- (d) employees who work less than 24 hours a month for an employee.

(2) For the purposes of determining the wage rate applicable to an employee, the area where the employee performed that work shall be the area contemplated in [clause 3](#) irrespective of whether or not the employer has an establishment in that area.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 2. Definitions.-Unless the context indicates otherwise, any expression used in this determination and which is defined in the Basic Conditions of Employment Act, 1997, has the same meaning as in that Act, further, unless inconsistent with the context-**

**2. Definitions.**-Unless the context indicates otherwise, any expression used in this determination and which is defined in the Basic Conditions of Employment Act, 1997, has the same meaning as in that Act, further, unless inconsistent with the context-

**"Act"** means the Pension Funds Act, 1956, as amended, and the regulations made in terms of that Act;  
[Definition of "[Act](#)" inserted by GNR.1196 of 2001.]

**"Actuary"** means the Actuary appointed in terms of the Rules of the Fund;  
[Definition of "[Actuary](#)" inserted by GNR.1196 of 2001.]

**"administrative personnel"** means employees who are charged by the employer with the performance of work entailing responsibility for taking decisions of an administrative nature in the conduct of any activity;

**"Administrators"** means NBC Negotiated Benefits Consultants (Pty) Ltd and such other administrator of the Fund's investments or the disposition of its benefits as may be appointed by the Board from time to time in accordance with the Act and the Rules;

[Definition of "[Administrators](#)" inserted by GNR.1196 of 2001.]

**"annual leave cycle"** means the period of 12 months employment with the same employee;

**"agreement"** includes a collective agreement;

**"Board"** means the Fund's board of trustees appointed or elected in accordance with its Rules and the Act;  
[Definition of "[Board](#)" inserted by GNR.1196 of 2001.]

**"CCMA"** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

**"cleaner"** means a person where a significant portion of the work to be performed requires that person so employed to clean office, school, business, factory, residential or any other premises, or any airplanes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned on a contractual basis and/or to clean the furniture and any other object(s) in such premises and vehicles, and/or to perform any work incidental thereto;  
[Definition of "[cleaner](#)" substituted by GNR.467 of 2001.]

**"Contract cleaning sector"** means the sector in which employers and employees are associated for the purpose of cleaning or washing by hand or machine, of furniture, windows, carpets, doors, floors, tools, machinery, under supervision at industrial and commercial premises, buildings, and flats that are let commercially or any airplanes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned;

[Definition of "[Contract cleaning sector](#)" substituted by GNR.467 of 2001 and by GNR.876 of 26 October 2012.]

**"Contribution"** means the amount payable monthly to the Fund by each Employer in the Contract Cleaning Sector in respect of each of his/her employees whose conditions of employment are governed by Sectoral Determination 1: Contract Cleaning Sector;

[Definition of "[Contribution](#)" inserted by GNR.1196 of 2001.]

**"day"** means a period of 24 hours measured from the time when the employee normally commences work;

**"Eligible Employee"** means any person (other than an independent contractor, Temporary Employee or an employee who is employed on a casual basis) who-

- (a) is employed by the Employer and works for more than 24 hours per month in the Contract Cleaning Sector and is defined as an employee as per the Sectoral Determination applicable to the Contract Cleaning Sector; and
- (b) receives or is entitled to receive any remuneration; and
- (c) has not reached the Normal Retirement Age as defined in the Rules; and
- (d) is not a member of a fund providing retirement benefits which was set up in terms of an agreement under the Labour Relations Act, 1956 or in terms of a collective agreement concluded in council in terms of the Labour Relations Act (Act [No. 66 of 1995](#)).

[Definition of "[Eligible Employee](#)" inserted by GNR.1196 of 2001.]

**"emergency work"** means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work;

**"employee"** means any person excluding an independent contractor, who works for another person for more than 24 hours per month in the Contract Cleaning Sector and who receives, or is entitled to receive, any remuneration;

**"Employer"** means any person who employs or provides work for-

- (a) any person in the Contract Cleaning Sector and remunerates him/her or who permits any person in any manner to assist him/her in the carrying on or conducting of his/her business; and employ and employment shall have corresponding meaning; and
- (b) any person in another sector performing functions or services similar to those performed in the Contract Cleaning Sector as defined in the Sectoral Determination applicable to the Contract Cleaning Sector.

[Definition of "[Employer](#)" inserted by GNR.1196 of 2001.]

**"establishment"** means any premises or part thereof, on or in connection with which one or more employees are employed in the Contract Cleaning Sector;

**"Fund"** means THE CONTRACT CLEANING NATIONAL PROVIDENT FUND;

[Definition of "[Fund](#)" inserted by GNR.1196 of 2001.]

**"Fund Salary"** means the Member's basic annual salary or wages, adjusted on a basis agreed to from time to time between the Employer and the Member; provided that for the purposes of the Fund, Fund Salary shall be determined on the first day of each month of membership of the Fund;

[Definition of "[Fund Salary](#)" inserted by GNR.1196 of 2001.]

**"hourly-rated employee"** means an employee whose wage is calculated on an hourly basis notwithstanding the frequency of the payment thereof;

**"incapacity"** means inability to work owing to any sickness or injury other than sickness or injury caused by an employee's own misconduct: Provided that any such inability to work, caused by an accident or scheduled disease for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993, shall only be regarded as incapacity during any period in respect of which no disablement payment is payable in terms of that Act;

**"law"** includes the common law;

**"manager"** means an employee who is charged by his/her employer with the overall supervision over, responsibility for, and direction of the activities of and establishment and the employees engaged therein;

**"medical practitioner"** means-

- (a) a person entitled to practice as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 50 of 1974](#)); or
- (b) a traditional healer;

**"Member"** means an Eligible Employee who, having been admitted to membership of the Fund in accordance with the Rules, has not ceased to be a Member in terms of the Rules;

[Definition of "[Member](#)" inserted by GNR.1196 of 2001.]

**"midwife"** means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978);

**"Month"** means a calendar month;

**"night work"** means work performed after 18:00 and before 06:00 the next day;

**"ordinary hours of work"** means the hours of work prescribed in [clause 8](#) but if by agreement between an employer and the employee the latter works a lesser number of ordinary hours, it means such shorter hours;

**"overtime"** means the time that an employee works during a day or a week in excess of ordinary hours of work;

"paid public holiday" means all public holidays declared as such in terms of the Public Holidays Act, 1994;

"Previous fund" shall mean any fund in which an Employer participated prior to becoming an Employer in the Fund and from which money was transferred in terms of [Section 14 \(1\)](#) of the Act;

[Definition of "Previous fund" inserted by GNR.1196 of 2001.]

"remuneration" means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State, and "remunerate" has a corresponding meaning;

"Rules" means the Rules of the Fund and such alterations as may at any time be applicable;

[Definition of "Rules" inserted by GNR.1196 of 2001.]

"shift worker" means an employee who is engaged in shift work in a workplace in which two or three consecutive shifts per day are worked on not more than six day per week;

"short time" means a temporary reduction in the number of ordinary hours of work owing to slackness of trade, shortage of raw materials, vagaries of the weather, a breakdown of plant or machinery or buildings that are unfit for use or is in danger of becoming unfit for use;

"Temporary Employee" means-

- (a) an employee who has been contracted to fill the position of an employee on sick leave, maternity or annual leave; or
- (b) an employee who has been contracted to work on a specific site where the contract with the Employer's client is for a period of not more than one month.

[Definition of "Temporary Employee" inserted by GNR.1196 of 2001.]

"the Act" means the Basic Conditions of Employment Act, 1997;

"Trade" means an industry or a service or a part of an industry or a service;

"wage" means that amount of money payable to an employee in terms of [clause 3](#) read with [clause 11](#) in respect of his/her ordinary hours of work: Provided that if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in [clause 3](#), it means such higher amount, and "weekly wage" has a corresponding meaning;

"weekly wage" see "wage";

"week" in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;

"work place" means any place where employees work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 3. Remunerations.-(1) With effect from 01 March 2020 an employer shall pay a contract cleaning worker at least the minimum wage prescribed in the schedule.**

**3. Remunerations.-(1)** With effect from 01 March 2020 an employer shall pay a contract cleaning worker at least the minimum wage prescribed in the schedule.

(2) Despite [clause 3 \(1\)](#), an employee who works for less than six (6) hours on any day must be paid for at least six (6) hours on that day.

(3) An annual bonus will be paid to all employees, during the month of December or on termination of employment. This bonus will be calculated as follows-

- (a) An employee shall receive an annual bonus equivalent to four point three three three weeks of the employee's weekly wage as from 1 December 2012.
- (b) Subject to [paragraph \(a\)](#) an employee who has not been in employment for a period of 12 months shall be paid a prorated bonus calculated as follows-
  - (i) The number of full calendar months service divided by 12 and multiplied by four point three three three times the employee's weekly wage.

#### WAGES TABLE

| Table 1: Minimum hourly rates for Contract Cleaning employees                                                                                                                                              |                                                                                                                                                                                                                                   |                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Area A                                                                                                                                                                                                     | Area B                                                                                                                                                                                                                            | Area C                        |
| <b>Metropolitan Councils:</b><br><b>City of Cape Town, Greater East Rand Metro, City of Johannesburg, Tshwane and Nelson Mandela.</b><br><b>Local Councils:</b><br><b>Emfuleni, Merafong, Mogale City,</b> | <b>All Areas in KwaZulu-Natal</b><br><b>NB: Conditions of employment for KwaZulu-Natal areas shall be subjected to the agreement concluded in the Bargaining Council for the Contract Cleaning Service Industry kwaZulu-Natal</b> | <b>In the rest of the RSA</b> |

|                                                               |                 |                      |
|---------------------------------------------------------------|-----------------|----------------------|
| <b>Metsimaholo, Randfontein,<br/>Stellenbosch, Westonaria</b> | <b>(BCCCI).</b> |                      |
| <b>Rate per hour</b>                                          |                 | <b>Rate per hour</b> |
| <b>R22.84</b>                                                 |                 | <b>R20.83</b>        |

[Clause 3 substituted by GNR.467 of 2001, by GNR.1135 of 2002, by GNR.1385 of 2004, corrected by GNR.80 of 2006, by GNR.150 of 2006, substituted by GNR.1139 of 2006, by GNR.21 of 2007, amended by GNR.1113 of 25 November 2009 and substituted by GNR.990 of 28 November 2011, by GNR.876 of 26 October 2012, corrected by GN 687 of 13 September 2013, amended by GN 6 of 6 January 2015 and substituted by GN 1430 of 15 December 2017, by GN 26 of 23 January 2019, by substituted by GNR.175 of 17 February 2020.and corrected by GNR.310 of 13 March 2020.]

(Editorial Note: Wording as per original *Government Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 4. Calculation of remuneration and wages.-(1) The wage of an employee shall be calculated as set out hereunder:**

**4. Calculation of remuneration and wages.-(1) The wage of an employee shall be calculated as set out hereunder:**

- (a) The daily wage of an employee shall be the employee's hourly wage multiplied by the number of ordinary hours worked for that day by such employee, provided that if an employee worked for less than four hours per day, such an employee shall be deemed to have worked four hours on that day and an employee shall be paid accordingly.

[[Para \(a\)](#) substituted by GNR.467 of 2001.]

- (b) The weekly wage of an employee shall be the hourly wage multiplied by the number of ordinary hours work prescribed for such employee in any week as stipulated in Clause 8 and an employee shall be paid accordingly.
- (c) The monthly wage of an employee shall be the weekly wage multiplied by four and one-third.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 5. Payment of remuneration.-(1) For employees, save as provided in clauses 10 (1) and 15 (1), an employer must pay to an employee any remuneration that is paid in money-**

**5. Payment of remuneration.-(1) For employees, save as provided in clauses 10 (1) and 15 (1), an employer must pay to an employee any remuneration that is paid in money-**

- (a) daily, weekly, fortnightly or monthly; and
- (b) in cash, by cheque or by direct deposit in an account designated by the employee.

**(2) Any remuneration paid by cash or by cheque must be given to each employee-**

- (a) at the workplace or at a place agreed to by the employer;
- (b) during the employee's working hours or within 15 minutes of the commencement or conclusion of those hours; and
- (c) in a sealed envelope which becomes the property of the employee.

**(3) An employer must pay remuneration-**

- (a) not later than seven days after the completion of the period for which the remuneration is payable; or
- (b) at the termination of the contract of employment.

(4) Clause 5 (3) (b) does not apply to any pension or provident fund payment to an employee that is made in terms of the rules of the fund.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 6. Information about remuneration.-(1) An employer must give an employee the following information in writing on each day the employee is paid:**

**6. Information about remuneration.-(1) An employer must give an employee the following information in writing on each day the employee is paid:**

- (a) the employer's name and address;
- (b) the employee's name or number on the payroll, and workplace;
- (c) the employee's occupation;

- (d) the period for which payment is made;
- (e) the amount and purpose of any deductions made from the remuneration;
- (f) the nett amount paid to the employee;
- (g) if relevant to the calculation of that employee's remuneration
  - (i) the employee's rate of remuneration and overtime rate;
  - (ii) the employee's allowance rate;
  - (iii) the number of ordinary hours worked by the employee;
  - (iv) the number of overtime hours worked by the employee;

[Sub-para (iv) substituted by GNR.467 of 2001.]
- (v) the number of hours worked by the employee on a Sunday or a public holiday during that period; and
- (vi) The written information required in terms of subclause (1) must be given to each employee;
- (h) at the workplace or at a place agreed to by the employee;
- (i) and such envelope or container on which these particulars are recorded or such statement shall become the property of the employee: Provided that-
  - (i) the particulars prescribed above may be recorded on such envelope or in such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
  - (ii) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 7. Deductions and other acts concerning remuneration.-(1) An employer may not make any deductions from an employee's remuneration other than the following:**

**7. Deductions and other acts concerning remuneration.-(1)** An employer may not make any deductions from an employee's remuneration other than the following:

- (a) an employee agrees in writing to deduction in respect of any accommodation, holiday, sick, medical, insurance, savings, trade union subscriptions or debt specified in the agreement.
 

[Para (a) amended by GNR.1196 of 2001.]
- (b) If an employee agrees in writing to deductions which the employer has paid or undertaken to pay to-
  - (i) any banking institution, building society, insurance business, registered financial institution, local authority, in respect of a payment on a loan granted to such an employee to acquire a dwelling;
  - (ii) any other organisation or body in respect of a dwelling or accommodation in a hostel occupied by such employee if such dwelling or hostel is provided through the instrumentality of such organisation or body wholly or partially from funds advanced for the that purpose by the state, a building society or a local authority;
- (c) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.

(2) An employer who deducts an amount from an employee's remuneration in terms of subclause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.

(3) Training fee: Subject to the provisions of any other act, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee.

(4) Purchase of goods: An employer shall not require an employee to purchase any goods from the employer or from any shop, place or persons nominated by the employer.

(5) Accommodation, meals and rations and payment in nature An employer shall not as a condition of employment require the employee to accept accom-modation, meals or rations from the employer or from any person or at any place nominated by the employee An employer shall not as a condition of employment require an employee to receive any in nature form of payment in lieu of wages or a part of the employee's wages.

(6) A deduction in terms of subclause (1) may be made to reimburse an employer for loss or damage only if-

- (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
- (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
- (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
- (d) the total deductions from the employee's remuneration in terms of this subsection do not exceed one-tenth of

the employee's remuneration in money.

(7) An employer may not require or permit an employee to-

- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
- (b) acknowledge receipt of an amount greater than the remuneration actually received.

(8) Except where otherwise provided in this determination, whenever an employee is absent from work other than on the instructions of the employer, a deduction proportionate to the period of such absence and calculated on the basis of the wage which such employee was receiving in respect of the employee's ordinary hours of work at the time of such absence.

(9) Short time: Whenever the ordinary hours of work specified in the Act are reduced on account of short time, a deduction not exceeding the amount of the employee's hourly wage in respect of each hour of such reduction; Provided that-

- (i) such deduction shall not exceed one third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work were reduced;
- (ii) no deduction shall be made in the case of short time arising out of slackness of trade or shortage of raw materials, unless the employer has given the employee notice on the previous day of the intention to reduce the ordinary hours of work;
- (iii) no deduction shall be made in the case of short time owing to a breakdown of machinery or because the building was unfit for use or is in danger of becoming unfit for use, in respect of the first two hours not worked, unless the employer has given the employee notice on the previous day that no work will be available;
- (iv) if the employee has reported for work, no deductions shall be made in the case of short time owing to bad weather in respect of the first two hours not worked, unless the employer has given the employee notice on the previous working day that no work will be available due to inclement weather;
- (v) Should work be stopped due to bad weather and if an employee has reported for work, the employee will be paid for the hours worked plus two hours. Provided that no fewer than four hours and no more than the previous ordinary day's wage will be paid on such a day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 8. Ordinary hours of work.-(1) An employer may not require or permit an employee to work more than-**

**8. Ordinary hours of work.-(1)** An employer may not require or permit an employee to work more than-

- (a) 45 hours in any week; and
- (b) nine hours in any day if the employee works for five days or fewer in a week; or
- (c) eight hours in any day if the employee works on more than five days in a week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 9. Overtime.-(1) An employer who employs 10 or more employees may not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed-**

**9. Overtime.-(1)** An employer who employs 10 or more employees may not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed-

- (a) 3 hours overtime a day; or
- (b) 10 hours overtime in any week.

[Sub-clause (1) amended by GNR.798 of 1999.]

(2) An employer who employs less than 10 employees may not require or permit employees to work overtime otherwise than in terms of an agreement concluded by the employer with the employees and such overtime shall not exceed-

[Sub-clause (2) amended by GNR.798 of 1999.]

- (a) 15 hours overtime in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 10. Payment of overtime.-(1) An employer shall pay an employee who works overtime at a rate of not less than one and a half times the hourly wage in respect of the overtime referred to in clause 9.**



**10. Payment of overtime.**-(1) An employer shall pay an employee who works overtime at a rate of not less than one and a half times the hourly wage in respect of the overtime referred to in [clause 9](#).

(2) Any time worked on Sundays and paid public holidays shall be paid in accordance with the provisions of clauses 16 and 17.

(3) Despite subclause (1), an agreement may provide for an employer to-

- (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.

(4) An employer must grant paid time off in terms of [subsection \(3\)](#) within one month of the employee becoming entitled to it.

(5) An agreement in writing may increase the period contemplated by subclause (4) to 12 months.

(6) An agreement concluded in terms of subclause (3) with an employee when the employee commences employment, or during the first three months of employment, lapses after one year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 11. Compressed working week.**-(1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 13](#), without receiving overtime pay.

**11. Compressed working week.**-(1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 13](#), without receiving overtime pay.

(2) An agreement in terms of subclause (1) may not require or permit an employee to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 12. Averaging of hours of work.**-(1) Despite [clause 8 \(1\)](#) and [9 \(1\) \(b\)](#), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.

**12. Averaging of hours of work.**-(1) Despite [clause 8 \(1\)](#) and [9 \(1\) \(b\)](#), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.

(2) An employer may not require or permit an employee who is bound by a agreement in terms of subclause (1) to work more than-

- (a) an average of 45 ordinary hours of work in a week over the agreed period;
- (b) an average of five hours' overtime in a week over the agreed period.

(3) An agreement in terms of subclause (1) lapses after 12 months.

(4) Subclause (3) only applies to the first two agreements concluded in terms of subclause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 13. Meal intervals.**-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

**13. Meal intervals.**-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval the employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.

(3) An employee must be remunerated-

- (a) for a meal interval in which the employee is required to work or is required to be available for work; and
- (b) for any portion of a meal interval that is in excess of 75 minutes unless the employee lives on the premises at which the workplace is situated.

(4) For the purposes of subclause (1), work is continuous unless it is interrupted by an interval of at least 60 minutes.

- (5) An agreement in writing may-
  - (a) reduce the meal interval to not less than 30 minutes;
  - (b) dispense with a meal interval for an employee who works fewer than six hours on a day.
  - (c) when on any day by reason of overtime worked an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 14. Rest periods.-(1) An employer shall grant to each of the employees a rest interval of not less than 15 minutes as near as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not be**

**14. Rest periods.**-(1) An employer shall grant to each of the employees a rest interval of not less than 15 minutes as near as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.

- (2) An employer must allow an employee-
  - (a) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
  - (b) a weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include Sunday.
- (3) A daily rest period in terms of subclause (1) (b) may, by written agreement, be reduced to 10 hours for an employee-
  - (a) who lives on the premises at which the workplace is situated; and
  - (b) whose meal interval lasts for at least three hours.
- (4) Despite subclause (1) (c), an agreement in writing may provide for-
  - (a) a rest period of at least 60 consecutive hours every two weeks; or
  - (b) an employee's weekly rest period reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 15. Payment for work on a Sunday.-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one a**

**15. Payment for work on a Sunday.**-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked.

(2) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of subclause (8) is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage.

(3) Despite subclause (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subclause (1) and (2).

(4) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of [clause 8](#), but is taken into account in calculating the overtime worked by the employee in terms of [clause 9 \(1\) \(b\)](#).

(5) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

(6) An employer must grant paid time off in terms of subclause (3) within one month of the employee becoming entitled to it.

(7) An agreement in writing may increase the period contemplated by subclause (6) to 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 16. Night work.-(1) An employer, who requires or permits an employee to perform night work, may do so, provided that-**

**16. Night work.**-(1) An employer, who requires or permits an employee to perform night work, may do so, provided that-



- (a) it is by agreement;
- (b) the employee receives in addition to the wage, an allowance of not less than 10 per cent of the hourly wage for each hour or part of an hour worked by the employee on night work;
- (c) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift;
- (d) if the transport cost is more than the daily cost to an employee, an employer who requires such an employee to perform night work must subsidize such employee for the transport expenses.

[Para. (d) inserted by GN 6 of 6 January 2015.]

(2) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must-

- (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands-
  - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
  - (ii) of the employee's right to undergo a medical examination in terms of [paragraph \(b\)](#);
- (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards as set out in [paragraph \(a\)](#);
  - (i) before the employee starts, or within a reasonable period of the employee starting, such work; and
  - (ii) at appropriate intervals the employee continues to perform such work; and
- (c) transfer the employee to a suitable day work within a reasonable time if-
  - (i) the employee suffers from health conditions associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(3) For the purposes of subclause (2) an employee works on a regular basis if the employee works for period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 17. Public holidays.-(1) An employer may not require an employee to work on a public holiday except in accordance with an agreement.**

**17. Public holidays.-(1)** An employer may not require an employee to work on a public holiday except in accordance with an agreement.

(2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-

- (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
- (b) an employee who does work on the public holiday-
  - (i) at least double the amount referred to in [paragraph \(a\)](#); or
  - (ii) if it is greater, the amount referred to in [paragraph \(a\)](#) plus the amount earned by the employee for the time worked on that day.

(3) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to-

- (a) the employee's ordinary daily wage; plus
- (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.

(4) An employer must pay an employee for a public holiday on the employee's usual pay day.

(5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 18. Annual leave.-(1) An employer must grant to an employee at least:**

**18. Annual leave.-(1)** An employer must grant to an employee at least:

- (a) 21 consecutive days' annual leave on full remuneration in respect of each annual leave cycle; or
- (b) by agreement, one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid; or

- (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.

(2) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.

(3) The employer shall pay an employee in respect of the leave prescribed in subclause (1) an amount not less than three times the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced.

(4) The leave prescribed in subclause (1) shall be granted and be taken at a time to be fixed by the employer: Provided that-

- (a) if such leave has not been granted earlier, it shall be granted and be taken not later than six months after the end of the annual leave cycle;
- (b) the period of leave shall not be concurrent with any period-
  - (i) during which an employee is absent on sick leave in terms of [clause 19](#) amounting in the aggregate to not more than 10 weeks in any period of 12 months;
  - (ii) during which the employee is under notice of termination of employment in terms of [clause 23](#).
- (c) If so requested an employer may grant an employee 12 days occasional leave on full pay in an annual leave cycle.
- (d) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave granted on full remuneration to the employee in a annual leave cycle.

(5) The remuneration in respect of the leave prescribed in subclause (1), read with subclause (3), shall be paid not later than the last working day before the date of commencement of the leave.

(6) Upon termination of employment the employer shall pay the employee the pay in respect any period of leave which has accrued to the employee but was not granted to the employee before the date of termination of the employment.

(7) If the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle as defined in subclause (1)-

- (i) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid; or
- (ii) remuneration calculated on any basis that is at least as favourable to the employee as that calculated in terms of subparagraph (i).

(8) For the purposes of this clause the expressions "employment" and "period of employment" shall be deemed to include any time during which the employer requires an employee not perform emergency work.

(9) Closing of establishment:

- (a) Notwithstanding anything to the contrary contained in this clause, an employer may for the purpose of annual leave at any time, but not more than once in any period of 12 months, close the establishment for 21 consecutive days, and in that case the employer shall remunerate the employee in terms of subclause (3) read with subclause (4) (d) as the case may be;
- (b) An employee who at the date of the closing of an establishment or the portion thereof in which the employee is employed, is not entitled to the full period of annual leave prescribed in subclause (1) shall, in respect of any leave due to the employee be paid by the employer at the employee's rate of remuneration immediately before the closing of the establishment, and for the purposes of annual leave thereafter employment shall be deemed to commence on the date of such closing of the establishment or portion of the establishment, as the case may be.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 19. Sick leave.-(1) During every sick leave cycle of 36 consecutive months of employment with the employer an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks**

**19. Sick leave.**-(1) During every sick leave cycle of 36 consecutive months of employment with the employer an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks. Provided that-

- (a) in the first 6 months of employment an employer shall grant an employee one-day's paid sick leave for every 26 days worked.

(2) An employer may, as a condition prior to payment of any amount claimed in terms of this clause by an employee in respect of any absence from work-

- (a) for more than three consecutive working days; or
- (b) on the working day immediately preceding or the working day immediately succeeding a Sunday or public holiday as defined, require the employee to produce a certificate within a reasonable period, signed by a registered medical practitioner, traditional healer or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament stating the nature and duration of the employee's incapacity;

- (c) an employer is not required to pay an employee in terms of this clause if the employee has been absent from work for more than three consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(3) For the purpose of this clause-

- (a) "employment" shall be deemed to include any period during which an employee is absent-
  - (i) on leave in terms of [clause 18](#);
  - (ii) on the instructions or at the request of the employer;
  - (iii) on sick leave in terms of subclause (1) or owing to incapacity in the circumstances set out in subclause (4);
  - (iv) for any reason not being in breach of the contract of employment amounting in the aggregate to not more than 36 work-days in a cycle of 36 consecutive months; and
  - (v) any time during which an employee is required by the employer not to do work because of bad weather, slackness of the trade or a breakdown of machinery or plant; and
  - (vi) any period of employment, which an employee has had with the same employer immediately before the date on which this determination became binding, and any sick leave on full pay granted under this determination.

(4) This clause does not apply to an inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries No. 130 of 1993), or except in respect of any period during which no compensation is payable in terms of those Acts.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 20. Maternity leave.-(1) An employee is entitled to at least four consecutive months' maternity leave.**

**20. Maternity leave.-(1)** An employee is entitled to at least four consecutive months' maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third semester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify an employee in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of subclause 5 must be given-

- (a) at least four weeks before the employee intends to commence maternity leave; or
- (b) if it is not reasonably practicable to do so, as soon as is reason-ably practicable.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 21. Protection of employee before birth and after birth of a child.-(1) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of the child.**

**21. Protection of employee before birth and after birth of a child.-(1)** No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of the child.

(2) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are not less favourable than her ordinary terms and conditions of employment, if-

- (a) the employee is required to perform night work, as defined in [clause 2](#) or her work poses a danger to her health or safety or that of her child; and
- (b) it is practicable for the employer to do so.

**22. Family responsibility leave.-(1)** This clause applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employee.

(2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days' paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

(3) Subject to subclause (5), an employer must pay an employee for a day's family responsibility leave-

- (a) the wage the employee would ordinarily have received for work on that day; and
- (b) on the employee's usual payday.

(4) An employee may take family responsibility leave in respect of the whole or a part of a day.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this section lapses at the end of the annual leave cycle in which it accrues.

(7) A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this section.

**23. Termination of employment.-(1)** Subject to the provisions of the Labour Relations Act of 1995 an employer or an employee, who desires to terminate the contract of employment, shall give notice in writing, except when it is given by an illiterate employee-

- (a) during the first four weeks of employment, not less than one working day's;
- (b) four weeks, if the employee has been employed for more than four weeks;
- (c) no agreement may require or permit an employee to give a period of notice longer than that required of the employer;
- (d) an employee or employer may terminate the contract without notice by paying the employee or the employer, as the case may be, in lieu of such notice not less than in the case of-
  - (i) one working day's notice, the daily wage the employee is receiving at the time of such termination;
  - (ii) four weeks' notice, double the weekly wage the employee is receiving at the time of such termination. Provided that this shall not affect-
    - (aa) the right of an employer or an employee to terminate the contract without notice for any cause recognised by law as sufficient;
    - (bb) provided further where the wage of an employee at the date of termination has been reduced by deductions in respect of short time, the expression "is receiving at the time of such termination" in terms of proviso (ii) of subclause (2) (d) shall, when an employer pays an employee in lieu of notice, be deemed to mean "would have received at the time of such termination had no deduction been made in respect of short-time".

[Sub-para. (ii) amended by GNR.798 of 1999.]

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that "[subclause \(2\) \(d\)](#)" was meant to read "[subclause \(1\) \(d\)](#)".)

(2) The notice prescribed in subclause (1) shall be given on any working day: Provided that-

- (a) the period of notice shall not run concurrently with, nor (a) the period of notice shall not run concurrently with, nor shall notice be hall notice be given during, an employee's absence on leave granted in terms of [clause 18](#),

or on sick leave granted in terms of [clause 19](#), or owing to incapacity in terms of [clause 19 \(4\)](#) where such absences amount in the aggregate to not more than 10 weeks in any period of 12 months' employment with the same employer; and

(Editorial Note: Wording as per original *Government Gazette*. Please note that the phrase "the period of notice shall not run concurrently with, nor" in [subregulation \(2\) \(a\)](#) has been erroneously repeated.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 24. Severance pay.-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**24. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 4](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 25. Uniforms, overalls, protective clothing and safety equipment.-(1) An employer shall supply in serviceable condition, free of charge, any uniform, overall, gumboots or other protective clothing which the employer requires the employee to wear or which**

**25. Uniforms, overalls, protective clothing and safety equipment.**-(1) An employer shall supply in serviceable condition, free of charge, any uniform, overall, gumboots or other protective clothing which the employer requires the employee to wear or which by any law the employer is required to provide for the employee, and any such uniform, overall, gumboots or other protective clothing shall remain the property of the employee.

(2) The employer must issue articles indicated in subclause (1) within seven days after an employee has commenced work provided that-

(i) where an employee's health and safety is at risk such articles must be issued immediately.

(3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of subclause (1) unless the loss or damage occurred in the course of employment and was due to the fault of the employee;

(4) if the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;

(5) the total amount of the debt does not exceed the actual amount of the loss or damage;

(6) the total deductions from the employee's remuneration in terms of this subclause do not exceed one-tenth of the employee's weekly wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 26. Written particulars of employment.-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-**

**26. Written particulars of employment.**-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-

(a) the full name and address of the employer;

(b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;

(c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;

(d) the date on which the employment began;

(e) the employee's ordinary hours of work and days of work;

(f) the employee's wage or the rate and method of calculating wages;

(g) the rate of pay for overtime work;

- (h) any other cash payments that the employee is entitled to;
- (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
- (j) how frequently remuneration will be paid;
- (k) any deductions to be made from the employee's remuneration;
- (l) the leave to which the employee is entitled;
- (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate;
- (n) a description of any council or sectoral determination which covers the employer's business;
- (o) any period of employment with a previous employer that counts towards the employee's period of employment;
- (p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in subclause (1) changes-

- (a) the written particulars must be revised to reflect the change; and
- (b) the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) The employer must keep written particulars in terms of this clause for a period of 12 months after the termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 27. Informing employees of their rights.-(1) An employer must ensure that a copy of the Determination is available and accessible to the employee.**

**27. Informing employees of their rights.-(1)** An employer must ensure that a copy of the Determination is available and accessible to the employee.

(2) give a copy of that sectoral determination-

- (i) to an employee who has paid the prescribed fee; and
- (ii) free of charge, on request, to an employee who is a registered trade union representative.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 28. Certificate of service.-(1) On termination of employment an employee is entitled to a certificate of service stating-**

**28. Certificate of service.-(1)** On termination of employment an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) a description of any council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 29. Attendance register.-(1) An employer shall provide an attendance register substantially in the prescribed format, in which the employer shall record in ink or indelible pencil the name and class of each of the employees and if an employee is unable**

**29. Attendance register.-(1)** An employer shall provide an attendance register substantially in the prescribed format, in which the employer shall record in ink or indelible pencil the name and class of each of the employees and if an employee



is unable to write, the employer shall on the employee's behalf for each day worked and on that day make the necessary entries in the presence of a person nominated by the employee, and shall sign such entries.

(2) An employer may, instead of an attendance register, provide a semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in subclause (1).

(3) Unless prevented from doing so by unavoidable causes, every employee shall, in respect of each day worked on that day-

(a) record in ink or indelible pencil in such attendance register referred to in subclause (1)-

- (i) the day of the week;
- (iii) the time work commenced;
- (iv) the time of commencement and termination of all meal or other intervals which are not deemed as ordinary hours of work;
- (v) the time of finishing work for the day;
- (vi) the time of commencement and termination of overtime worked for the day;
- (vii) the time of commencement and termination of work on a Sundays;
- (viii) the time of commencement and termination of work on a public holiday;
- (ix) the total amount of hours worked for the day; and
- (x) the employee's signature;

(Editorial Note: Numbering as per original *Government Gazette*.)

(b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following:

- (i) the time work commenced;
- (ii) the time of commencement and termination of all meal or other intervals which are not deemed as ordinary hours of work; and
- (iii) the time of finishing work for the day.

(4) An employer shall retain such attendance register referred to in subclause (1) or the information recorded by a semi-automatic time recorder referred to in subclause (2), as the case may be, for a period of not less than three years after the date of the last entry therein or thereon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 30. Enforcement.-(1) Enforcement of this determination is done in terms of chapter ten of the Basic Conditions of Employment Act, No. 75 of 1997.**

**30. Enforcement.-(1)** Enforcement of this determination is done in terms of chapter ten of the Basic Conditions of Employment Act, [No. 75 of 1997](#).

**All the provisions of Wage Determination 482, Contract Cleaning Trade, South Africa published under Government Notice No. 1484 of 20 November 1998 will be cancelled by this determination with effect from the date of publication.**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 31. Duration of employment.-(1) For the purposes of determining the length of an employee's employment with an employer for any provision of this determination, previous employment with the same employer must be taken into account if the break between**

**31. Duration of employment.-(1)** For the purposes of determining the length of an employee's employment with an employer for any provision of this determination, previous employment with the same employer must be taken into account if the break between the periods of employment is less than one year.

(2) Any payment made or any leave granted in terms of this determination to an employee contemplated in sub clause (1) during a previous period of employment must be taken into account in determining the employee's entitlement to leave or to a payment in terms of this determination.

[Clause 31 added by GNR.467 of 2001]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.622 of 14 May 1999: Sectoral Determination 1: Contract Cleaning Sector, South Africa/ 31. Contract cleaning national provident fund.-(1) Establishment and Objective of the Fund-**

**31. Contract cleaning national provident fund.-(1)** Establishment and Objective of the Fund-



(Editorial Note: Numbering as per original *Government Gazette*.)

- (a) A fund known as The Contract Cleaning National Provident Fund is hereby established;
- (b) The Fund shall be governed by its Rules and regulations in force from time to time;
- (c) The object of the Fund shall be, in terms of the Rules, to provide retirement and other benefits for employees and former employees of the Employers, and benefits in the event of their death and disability.

(2) Appointment of the Interim Board of Management-

- (a) The Director-General shall call for and facilitate the appointment of the interim board of management in consultation with the participants to the Fund in accordance with the agreed criteria.
- (b) The interim board of management shall be invested with the authority to-
  - (i) Register the Fund under the of the Pension Funds Act;
  - (ii) Seek approval of the Fund by the Financial Services Board and the South African Revenue Services; and
  - (ii) determine and settle the Rules of the Fund in accordance with the provision of the Pension Funds Act.

(Editorial Note: Numbering as per original *Government Gazette*.)

(3) Membership-

3.1 Employer Participation-

- (a) Subject to (b) below, any Employer in the Contract Cleaning Sector shall participate in the Fund with effect from the commencement of the Fund or the commencement of the Employer's business in the Contract Cleaning Sector, whichever is the later.
- (b) An Employer who, in respect of all his/her employees at the date of publication of this amendment, already participates in a retirement fund that-
  - (i) complies with the requirements of the Act;
  - (ii) has been approved by the Commissioner for the South African Revenue Service; and
  - (iii) provides benefits equal or better in all respect to those provided by the Fund;may, with the agreement of a majority of his/her employees, apply in writing to the Board for exemption from contributing to the Fund in accordance with the Rules, provided that-
  - (aa) the Board may only grant such exemption if, after consultation with the Actuary and due consideration of such documents and information in respect of that Employer's fund as it requires, it is of the opinion that the benefits provided by that Employer's fund are in all respect, equal to or better than those provided by the Fund;
  - (bb) the Board may grant exemption on such terms and conditions, and for such duration, as it may determine and, upon expiry of the period of exemption or, if sooner, non-compliance with any of the terms or conditions of exemption, the Employer concerned shall forthwith commence contributing to the Fund in respect of his/her employees subject to a new application for exemption as aforesaid.
- (c) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his/her employees' rights, with regard to the payment of all Contributions and benefits in terms of the rules of that Employer's retirement scheme and/or his/her employees' conditions of employment.

3.2 Member Eligibility and Participation-

- (a) **Eligibility**-All Eligible Employees will be able to join the Fund from the date specified in the Rules.
- (b) **Participation**-Participation shall be compulsory for all Eligible Employees, who immediately prior to and after the commencement of the Fund, were in Service of the Employer.
- (c) **Commencement**-Participation in the Fund in respect of all Eligible Employees shall, subject to the provisions in [paragraph \(a\)](#), commence on-
  - (i) the date of commencement of the Fund; or
  - (ii) the date of their becoming Eligible Employees, which ever is the later date.
- (d) **Continuation of participation**-
  - (i) If a Member ceases to be an Eligible Employee for reasons other than retirement, withdrawal from Service or death, the employee's participation in the Fund shall cease on the first day of the month following or coinciding with the date on which the employee ceases to be an Eligible Employee; provided that a Member whose membership of the Fund ceases in terms of this clause and who is re-employed in the Contract Cleaning Sector within three months prior to him receiving his benefits shall be deemed to have remained in Service and his membership of the Fund shall continue.
  - (ii) The Administrator shall calculate the Member's benefit in terms of the Rules as at the date on which the Member ceases to be an Eligible Employee. Such amount shall be retained in the Fund until it becomes payable in terms of the Rules, or shall be transferred to an approved pension fund, approved provident fund or approved retirement annuity fund for the benefit of the Member.
  - (iii) Given the provisions of the Rules, all Members shall be obliged to remain Members until their retirement, withdrawal from Service or death, as the case may be.

(4) Contributions-

- (a) **Commencement of contributions**-Contributions payable to the Administrator shall commence once the notification of registration and approval of the Fund has been gazetted.
- (b) **Contributions by the Member-**
- (i) Each Member shall make a monthly Contribution to the Fund throughout his/her service towards his/her retirement benefits at the rate of five point two five (5.25%) percent of the Member's Fund Salary or as amended by the Board of Trustees from time to time.
  - (ii) The Contributions referred to in (i) above shall be deducted from the Member's monthly wages and reflected through the wage records monthly.
  - (iii) The Member's Contributions shall be paid to the Fund by the Employer within seven (7) days after the end of the month in respect of which the Contributions were made.
- (c) **Contributions by the Employer-**
- (i) The Employer shall make a monthly Contribution in respect of each Member in its service at the rate of five point two five (5.25%) percent of the Member's Fund Salary or as amended by the Board of Trustees from time to time, to be allocated in terms of the Rules.
  - (ii) Contributions by the Employer must be paid to the Fund within seven (7) days after the end of the month in respect of which the Contributions were made.
  - (iii) Every Employer shall forward monthly to the Administrator a schedule of the total Members' and Employer's Contributions for the relevant month, so as to reach the office of the Administrator not later than the 15<sup>th</sup> day of the month following that in respect of which deductions were made.

(5) Administration of the Fund-

- (a) The Fund shall be managed by the Board and administered by the Administrator who shall administer the Fund on the instructions of the Board.
- (b) The Board may delegate such functions as the Administrators agree to perform in respect of the Fund.
- (c) A copy of the Rules and any amendment thereto shall be available for inspection by any employer or employee at the office of the Administrator.

[Clause 31 inserted by GNR.1196 of 2001 and substituted by GNR.1139 of 2006.]

**CERTIFICATE OF SERVICE**

**CONTRACT CLEANING TRADE,  
SOUTH AFRICA**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**  
This form is proof of employment with an employer.

**WHO FILLS IN  
THIS FORM?**  
The employer.

**WHERE DOES THIS  
FORM GO?**  
To the employee.

**INSTRUCTIONS**  
This form may be issued upon termination of employment.

**NOTE**  
The reason for termination of employment must only be given if requested by the employee.  
*This is only a model and not a prescribed form. Completing a document in another format containing the same information is sufficient compliance with*

I  
(Name and designation of person)  
of  
(Full name of employer)  
Address:  
in the (Trade)  
declare that  
(Full name of employee)  
(I.D. no.)  
was in employment  
from until  
as  
(Type of work/occupation)

any other information

On termination of service this employee was earning:  
R (Amount in words)

☐ per hour    ☐ per day    ☐ per week  
☐ per fortnight    ☐ per month    ☐ per year

Employer's signature    Date

**CONTRACT CLEANING  
TRADE,  
SOUTH AFRICA**

**READ THIS FIRST**



WHAT IS THE  
PURPOSE  
OF THIS FORM?

This form is a record of attendance.

## WHO FILLS IN THIS FORM?

The employee or if the employee is unable the employer.

WHERE DOES THIS  
FORM GO?

Must be kept in employer's possession.

## INSTRUCTIONS

- Records must be kept by the employer for a period of three years from the date of the last entry in the record
- No person may make a false entry in a record maintained.

## NOTE

Whenever an employer has required or permitted an employee to perform work on a Sunday and grants the employee a day off in the next succeeding week, the day off or day's leave must be clearly indicated in the date column on the day concerned.

*This is only a model and not a prescribed form. Completing a document in another format e.g. electronic clock card, containing the same information is sufficient.*

**SECTORAL DETERMINATION: CONTRACT CLEANING TRADE, SOUTH AFRICA**  
**ATTENDANCE REGISTER**

*Note - Employees must make entries only in the section of the register reserved for their use*

*Name of employee*

Employee number

Entries to be made by employees or if the employee is unable, the employer

[illegible]

[illegible]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa**

BASIC CONDITIONS OF EMPLOYMENT ACT 1997  
(ACT NO. 75 OF 1997)

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of [Section 55 \(1\)](#) of the Basic Conditions of Employment Act, 1997, make the Sectoral Determination in [the Schedule](#) in respect of the Clothing and Knitting Sector and fix the third Monday after the date of publication of this notice as the date from which the provisions of this determination shall be binding upon all employers and employees in the Sector.

## SCHEDULE

1. Definitions
2. Area and scope of determination
3. Remuneration
4. Payment of remuneration
5. Information concerning remuneration
6. Deductions and other matters concerning remuneration
7. Hours of work and overtime
8. Night work
9. Compressed working week
10. Averaging hours of work
11. Payment for work on a Sunday
12. Public holidays
13. Annual leave
14. Sick leave
15. Maternity leave
16. Family responsibility leave
17. Piece-work
18. Commission work
19. Prohibition of employment

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| <a href="#">20.</a>        | Termination of contract of employment      |
| <a href="#">21.</a>        | Severance pay                              |
| <a href="#">22.</a>        | certificate of service                     |
| <a href="#">23.</a>        | Uniforms, overalls and protective clothing |
| <a href="#">24.</a>        | Attendance register                        |
| <a href="#">25.</a>        | Written particulars of employment          |
| <a href="#">26.</a>        | Log book                                   |
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| <a href="#">Annexure A</a> | Certificate of service                     |
| <a href="#">Annexure B</a> | Attendance register                        |
| <a href="#">Annexure C</a> | Name and class of employee                 |
| <a href="#">Annexure D</a> | Daily log                                  |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 1. Definitions.-In this determination any word or expression to which a meaning has been assigned in the Basic Conditions of Employment Act, 1997, has the meaning so assigned, unless the context indicates otherwise:**

**1. Definitions.-**In this determination any word or expression to which a meaning has been assigned in the Basic Conditions of Employment Act, 1997, has the meaning so assigned, unless the context indicates otherwise:

**"agreement"** includes a collective agreement;

**"Bespoke Tailoring Industry"** means the making of outer garments for and to the measurements of individual persons but excludes the making of tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or are the responsibility of such dealers and the making of all classes of garments including quantity production tailoring made to the order of any department in the national or provincial sphere of government; Transnet and the South African Airways or local government;

**"CCMA"** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

**"commission work"** means any system under which an employee receives additional remuneration calculated on the value or volume of sales effected or on the value or number of orders submitted to and accepted by the employer;

**"daily wage"** means an employee's weekly wage divided by the number of days on which he or she ordinarily works in a week;

**"day"** means a period of 24 hours measured from the time when the employee normally commences work;

**"emergency work"** means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work;

**"employee"** means any person excluding an independent contractor, who works for another person for more than 24 hours per month in the clothing and knitting sector and who receives, or is entitled to receive, any remuneration;

**"establishment"** means any premises or part thereof, on or in connection with which one or more employees are employed in the clothing and knitting sector;

**"experience"** means the total period of employment an employee has had in the Bespoke Tailoring or the Clothing and Knitting Industry, whether within the Republic of South Africa or elsewhere, in any capacity other than as a driver of a motor vehicle, or a mechanic, and shall include-

- (a) in the case of a clerical employee, all periods of employment which such employee has had as a clerical employee, irrespective of the trade, industry or undertaking in which such experience was gained;
- (b) in the case of a presser or folder who has been in the laundry trade, seeking employment as a presser, ironer or folder in the clothing industry, half of his or her total experience in the laundry trade;
- (c) in the case of all other employees, each completed period of six months' training in any work similar to that for which wages are set out in this Agreement;

**"fully fashioned garment"** means a garment of which the form or body, body and sleeve, or sleeves, back and front, are fully shaped on a knitting machine;

**"hourly wage"** means an employee's weekly wage divided by his weekly ordinary hours of work;

**"incapacity"** means inability to work owing to any sickness or injury other than sickness or injury caused by an employee's own misconduct: Provided that any such inability to work, caused by an accident or scheduled disease for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act [No. 130 of 1993](#)), shall only be regarded as incapacity during any period in respect of which no disability payment is payable in terms of that Act;

**"laundry trade"** means the trade in which employers and employees are associated for the purpose of laundering, cleaning or dyeing all types of woven, spun, knitted or crocheted fabrics or articles made from such fabrics, including all operations incidental thereto or consequent thereon, if carried out by such employers and their employees;

**"law"** includes the common law;

**"medical practitioner"** means-

- (a) a person entitled to practice as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 50 of 1974](#)); or
- (b) a traditional healer;

**"midwife"** means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978);

**"month"** means a calendar month;

**"monthly wage"** means an employee's weekly wage multiplied by four and a third;

**"night work"** means work performed after 18:00 and before 06:00 the next day;

**"ordinary hours of work"** means the hours of work prescribed in [clause 7](#) but if by agreement between an employer and the employee the latter works a lesser number of ordinary hours, it means such shorter hours;

**"overtime"** means the time that an employee works during a day or a week in excess of ordinary hours of work, including overtime worked on a Sunday;

**"public holiday"** means all public holidays declared as such in terms of the Public Holidays Act, 1994 (Act [No. 36 of 1994](#));

**"piece-work"** means any system by which earnings are calculated upon the quantity or output of work performed;

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State, and "remunerate" has a corresponding meaning;

**"retail dressmaking"** means the making of single garments for girls and women to the measurement of individual persons, not as special measure orders from dealers whose customers' measurements are taken by or are the responsibility of such dealers;

**"retail millinery"** means the making of hats in shops for sale in such shops and the making of hats to the measurements of individual persons;

**"short time"** means a temporary reduction in the number of ordinary hours of work owing to slackness of trade, shortage of raw materials, vagaries of the weather, a breakdown of plant or machinery or buildings that are unfit for use or is or are in danger of becoming unfit for use;

**"the Act"** means the Basic Conditions of Employment Act, 1997;

**"wage"** means that amount of money payable to an employee in terms of [clause 3 \(1\)](#) in respect of his or her ordinary hours of work: Provided that if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in [clause 3](#), it means such higher amount, and "weekly wage" has a corresponding meaning;

**"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;

**"work place"** means any place where employees work.

### **1.1 Definitions of the Occupations, Capacities and Duties of Employees in the Clothing Division and Knitting Division:**

#### **(a) Definitions of the Occupations, Capacities and Duties of Employees in the Clothing Division only:**

"Category A Employee" means an employee engaged in any one or more of the following duties or capacities in the clothing division:

- (1) assistant storeperson;
- (2) automatic hydraulic hat presser;
- (3) belt person;
- (4) boiler attendant;
- (5) cardboard box maker;
- (6) cleaner;
- (7) coat turner;
- (8) covering buckles by hand or machine and/or trimming and cleaning belts after lining and belt have been machined together;
- (9) cutter of traveller's swatches;
- (10) despatch packer,
- (11) eyelet punching and letting;
- (12) general worker;
- (13) guiding material with paper through automatic pleating machine;

- (14) hat sprayer;
- (15) ironer of fusible interlinings with hand iron positioning and spot fusing of fusible interlinings with special machine;
- (16) layer by hand;
- (17) layer by machine;
- (18) marker;
- (19) operator;
- (20) packer;
- (21) patent turner (hand or machine);
- (22) pinner;
- (23) plain sewer;
- (24) putting fasteners on caps;
- (25) putting material between two paper looms (formers) and preparing for steambox in hand or loom pleating process;
- (26) putting prepared formers in steam box and taking them out again in hand or loom pleating;
- (27) riveting buckles, bending belt buckles, punching holes for buckles and prongs, pressing prongs into buckles, stapling buckles onto belt;
- (28) rubberising, i.e. waterproofing processes or the work of smearing rubber solution upon seams or edges and rolling them over with a small wooden hand roller, cleaning off any rubber solution, painting seams or oilskins and waterproof hats;
- (29) sorter;
- (30) spreading of PVC (plastic solution) in waterproofing process or on raincoats and protective wear;
- (31) stamper;
- (32) raking material out of looms in hand or loom pleating process;
- (33) waterproofing seams;
- (34) winder;
- (35) under-presser;

**"assistant storeperson"** means an employee other than a labourer who, under the supervision of a storeperson, assists in issuing or receiving goods;

**"automatic hydraulic hat presser"** means an employee operating an automatic hydraulic hat press used solely for shaping hats;

**"belt person"** means an employee other than a learner mechanic, engaged in fixing machine belts, oiling bearings, filling oil cans and similar work and assisting the establishment's mechanic;

**"boiler attendant"** means an employee under the supervision of a foreperson or factory manager, who is responsible for maintaining the water level and steam pressure of a boiler in an establishment, and who may stoke, rake, slice and draw the fire in such boiler;

**"cardboard box maker"** means an employee engaged in operating a cardboard box making machine;

**"cleaner"**, means an employee engaged in cutting or trimming off loose ends of cotton left in the garments by previous operators;

**"coat-turner"** means an employee engaged in turning coat facings out after machining;

**"despatch packer"** means an employee who, under the supervision of a foreperson or clerical employee, is wholly or mainly engaged in making up orders and in packing goods for transport, including the sealing of cellophane bags by hand or machine, or delivering in connection with the despatch department of an establishment;

**"general worker"** means an employee who is engaged in one or more of the following occupations:

- (a) binding, wiring or strapping boxes or bales or other containers;
- (b) carrying or stacking goods;
- (c) delivering letters or messages or light parcels within the factory premises;
- (d) folding or inserting mail, affixing postage stamps or labels for posting;
- (e) general gardening work;
- (f) loading or unloading vehicles, trailers or international standard containers;
- (g) making and serving tea or similar beverages and washing crockery, cutlery and kitchen utensils;



- (h) marking, stencilling or affixing labels on boxes, bales or other containers by hand;
- (i) mixing rubber solution for rubberised garments;
- (j) mopping or washing of toilet facilities;
- (k) operating a duplicating or addressograph or franking machine;
- (l) sweeping with a broom or dusting and wiping down chairs and tables;
- (m) washing or polishing of floors and staircases by machine or by hand;

**"hat sprayer"** means an employee engaged in spray painting hats;

**"ironer"** means an employee engaged in the ironing of fusible interlinings with hand iron positioning and spot fusing of fusible interlinings with special machine;

**"layer by hand"** means an employee engaged in laying up materials by hand preparatory to cutting;

**"layer by machine"** means an employee engaged in laying materials by machine preparatory to cutting;

**"marker"** means an employee engaged in marking the position of pockets, buttons and/or button holes;

**"operator"** means an employee who operates a-

- (a) hand operated button-covering machine;
- (b) a shrinking press;
- (c) a semi-automatic or automatic fusing machine;
- (d) semi-automatic press stud-machine; or
- (e) zip machine;

**"packer"** means an employee engaged in packing garments into boxes or other suitable wrappings or tying them into bundles prior to their being sent to the dispatch department;

**"patent turner"** means an employee engaged in turning out or over the edges of collars, facings, bands, cuffs, pockets or flaps whether by hand or machine;

**"pinner"** means an employee engaged in pinning unfinished or finished garments;

**"plain sewer"** means an employee engaged solely in performing by hand one or more of the following operations:

tacking permanent turn-ups; tacking waistband linings; sewing on hooks and eyes, tickets or press studs; fastening catch in tops of trousers; sewing on buttons; making and sewing on hangers; felling crutch linings in trousers, felling bottoms and waist-band linings, and various odds and ends of sewing; felling necks of vests; fastening edge stays and odds and ends of sewing; felling bottoms of linings or seams of same already basted into position; felling bindings; fastening facings inside already basted in position;

**"sorter"** means an employee engaged in sorting out garments or parts of garments for the various operations;

**"stamper"** means an employee engaged in stamping the size or identity work numbers on garments or parts of garments, or on any article connected with packaging or despatching of garments;

**"winder"** means an employee engaged in the winding or unwinding of lace, embroidery, braids, ribbons, bindings and elastic;

**"under-presser"** means an employee other than a presser employed in pressing processes.

**"Category B Employee"** means an employee engaged in one or more but not limited to the following duties or capacities in the clothing division:

- (1) baster;
- (2) clicker;
- (3) conveyor feeder;
- (4) cutter;
- (5) examiner;
- (6) factory clerk;
- (7) finisher by hand;
- (8) fitter-up;
- (9) folder;
- (10) lay copier;
- (11) machinist;
- (12) maker of bows for dresses;
- (13) operator of automatic lace, embroidery or monogramming machine;

- (14) presser;
- (15) seam welder;
- (16) setter of automatic pleating machines;
- (17) shaper;
- (18) sloper;

**"baster"** means an employee engaged in hand sewing in setting a coat or parts of a coat into position preparatory to other operations or underbasting, i.e. hand sewing of linings of coats into position preparatory to sewing the edge seams;

**"clicker"** means an employee who cuts out parts of garments from dyes using a mechanical or hydraulic press;

**"conveyor feeder"** means an employee responsible for feeding prepared parts of garments on to a conveyor for further operations and who may be assisted by one or more sorters;

**"cutter"** means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings by any method;

**"examiner"** means an employee who examines finished garments for quality;

**"finisher by hand"** means an employee who performs one or more of the following operations by hand:

- (a) putting pads or wadding into shoulders of coats;
- (b) fastening or serging sleeve-heads;
- (c) wadding sleeve-heads;
- (d) felling silk facings already basted into position;
- (e) making button-holes by hand;
- ( f ) felling sleeve-head linings, holding such in position with the fingers;
- (g) beader or embroiderer by hand;

**"fitter-up"** means an employee who takes the outside of garments together with the cut out linings (called trimmings) and adjusts the outside and insides together accurately so that parts may go forward to the machine to be put together correctly;

**"folder"** means an employee engaged in the folding of garments by machine or by hand and buttoning up of garments;

**"lay copier"** means an employee engaged in placing of numbered patterns on a lay to conform with a numbered photograph, diagram or plan;

**"machinist"** means an employee who performs by sewing machine any operation in the making of clothing;

**"presser"** means an employee employed in pressing the finished garment by hand or machine;

**"seam welder"** means an employee who joins seams by any method other than by a thread-sewing machine;

**"setter of automatic pleating machines"** means an employee engaged in setting of pleats on automatic pleating machines;

**"shaper"** means an employee engaged in shaping the lapels and collars of coats preparatory to under basting;

**"sloper"** means an employee engaged in marking or trimming the shape of the necks in the shirt section, preparatory to other operations.

**(b) Occupations, Capacities and Duties of Employees in the Knitting Division only:**

**"Category C Employee"** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

- (1) colouring mass-measurer;
- (2) cutter;
- (3) dyer's assistant;
- (4) handyperson;
- (5) knitting machine operator;
- (6) linker;
- (7) loader of magazine or comb;
- (8) mender;
- (9) overlocker;
- (10) plain sewer;
- (11) sewing machinist including button, buttonhole and hemming machinist;

- (12) shaper of fully fashioned garments;
- (13) warper;
- (14) wrap knitter;

**"colouring mass-measurer"** means an employee who, under the supervision of a dyer, mass-measures dye-stuff or other chemicals;

**"cutter"** means an employee who by means of a power-driven cutting machine, knife or shears is engaged in cutting garment lengths, fronts, backs or sleeves of fully fashioned garments or trimmings, who marks or cuts attachments, points of necks or armholes or trimmings and who may use a template for this purpose;

**"dyer's assistant"** means an employee who, under the supervision of a dyer, is engaged in mass-measuring or mixing colour substances or attending or operating machines used in the dyeing or finishing processes;

**"handyperson"** means an employee in a knitting establishment who does minor repairs or adjustments to machinery or equipment, other than machinery or equipment directly used in the manufacture of the products of an establishment, and who may effect minor repairs or renovations to buildings but who does not perform work normally done by an artisan;

**"knitting machine operator"** means an employee who operates one or a set of knitting machines and who may change needles, sliders and sinkers and straighten tricks, including chain and card control and running on after press-offs;

**"linker"** means an employee who is engaged in operating a linking machine for toe-closing of stockings or socks or for joining parts of fully fashioned garments or attaching trimmings to fully fashioned garments or parts of garments;

**"loader of magazine or comb"** means an employee engaged in the transferring of stitches onto the needles of a bar or magazine;

**"mender"** means an employee who is engaged in repairing knitting faults in garments or parts of garments, blanks, stockings or socks;

**"overlocker"** means an employee who operates an overlocking machine;

**"plain sewer"** means an employee engaged solely in performing by hand one or more of the following operations:

- (a) tacking permanent turn-ups; tacking waistband linings;
- (b) sewing on hooks and eyes, tickets and/or press studs;
- (c) fastening catch in tops of trousers;
- (d) sewing on buttons;
- (e) making and sewing on hangers;
- ( f ) felling crutch linings in trousers;
- (g) felling bottoms and waist-band linings, and various odds and ends of sewing;
- (h) felling necks of vests;
- (i) fastening edge stays and odds and ends of sewing;
- ( j ) felling bottoms of linings or seams of same already basted into position;
- (k) felling bindings and fastening facings inside already basted in position;

**"sewing machinist"** means an employee who by means of a sewing machine is engaged in any operation in the making of clothing including button, buttonhole and hemming machinist;

**"shaper of fully fashioned garments"** means an employee in a knitting establishment who, by means of a power-driven cutting machine, knife or shears is engaged in cutting garment lengths, fronts, backs or sleeves of fully fashioned garments or trimmings, who marks or cuts attachments, points of necks or armholes or trimmings and who may use a template for this purpose;

**"warper"** means an employee who prepares warps from cones or bobbins for a warp knitting or similar machine and prepares the beam;

**"wrap knitter"** means an employee operating one or a set of warp knitting machines and who may correct faults, change or straighten needles, fill bars or make minor adjustments to such machines.

**"Category D Employee"** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

**"backwinder"** means an employee who recovers yarn from a knitted article by winding it back onto a bobbin, comb, magazine or spool;

**"boiler attendant"** means an employee who, under supervision, maintains the water level and steam pressure in a boiler and who may make, maintain and draw the fire in such boiler;

**"cleaner"** means an employee engaged in cutting or trimming off loose ends of cotton or cloth left on garments or parts of garments by previous operators;

**"despatch packer"** means an employee who, under the supervision of a despatch clerk, is engaged in packing, assembling, marking, addressing and mass-measuring goods for despatch or delivery;

**"draw threader"** means an employee who separates knitted articles by removing the drawthread;

**"examiner"** means an employee who examines finished garments for quality;

**"floorwalker or runner"** means an employee engaged in carrying garments or parts of garments from one place to another within the workplace;

**"general worker"** means an employee who is engaged in one or more of the following duties:

- (a) binding, wiring or strapping boxes or bales or other containers;
- (b) carrying or stacking goods;
- (c) cutting up or otherwise destroying rejected hosiery or fabrics;
- (d) delivering letters or messages or light parcels within the factory premises;
- (e) folding or inserting mail, affixing postage stamps or labels for posting;
- ( f ) general gardening work;
- (g) lime-washing or colour-washing buildings or other structures;
- (h) loading or unloading vehicles, trailers or international standard containers;
- (i) making or maintaining fires, or removing refuse or ashes;
- ( j ) making and serving tea or similar beverages and washing crockery, cutlery and kitchen utensils;
- (k) marking, stencilling or affixing labels on boxes, bales or other containers by hand;
- (l) mixing rubber solution for rubberised garments;
- (m) mopping or washing of toilet facilities;
- (n) operating a duplicating or addressograph or franking machine;
- (o) sweeping with a broom or dusting and wiping down chairs and tables;
- (p) washing or polishing of floors and staircases by machine or by hand;

**"grader or sorter"** means an employee who is engaged in sorting or grading hosiery into pairs according to length and size or sorting trimmings, materials or parts of fully fashioned garments;

**"mender of socks"** means an employee who is engaged in repairing knitting faults in garments or parts of garments, blanks, stockings or socks;

**"operator"** means an employee who is an operator of a-

- (a) calendar machine;
- (b) slitting machine;
- (c) brushing, raising or cropping;
- (d) dye machine;
- (e) dyeing or hydro-extracting machine;

**"parcel maker"** means an employee engaged in closing or sealing parcels and cartons prior to despatch and delivery;

**"presser"** means an employee who is engaged in the ironing or pressing of finished garments by hand or machine, excluding open steam pressing or boarding of garments on automatic continuous steam belts;

**"pre- or post boarder or former"** means an employee who is engaged in placing or removing stockings, socks or garments on or from forms;

**"sampler"** means an employee engaged in the making up of sample cards;

**"seamer"** means an employee who is engaged in joining seams in stockings or socks by means of a seaming machine;

**"turner"** means an employee engaged in turning out or over the edges of collars, facings, bands, cuffs, pockets or flaps whether by hand or machine;

**"winder"** means an employee who is engaged in operating a yarn-winding machine;

**"yarn changer"** (pig tailor) means an employee who is responsible for loading and unloading the yarn on knitting machines, or an employee who brings yarn to and from the machines, removes fabric and cleans the machines and may stop the machine to change the yarn and may restart the machine only if he or she stopped the machine for the purpose of changing the yarn and shall not carry out any other functions of the knitting machine operator.

### **(c) Occupations, Capacities and Duties of Employees in the Clothing and Knitting Division:**

**"Category E Employee"** means an employee engaged in any one or more of the following duties or capacities in the knitting division:

- (1) assistant foreperson;
- (2) dyer;

- (3) patternmaker;
- (4) supervisor; and
- (5) mechanic;

**"assistant foreperson"** means an employee who under the supervision of a foreperson, is in charge of the employees, other than clerks, storepersons and dyers, in an establishment, who exercises control over such employees and who is responsible to the foreperson for the efficient performance by them and their duties;

**"mechanic"** means an employee engaged in the installation, repair and maintenance of boilers and machinery;

**"pattern maker"** means an employee engaged in designing or making master patterns;

**"dyer"** means an employee who is responsible for and engaged in dyeing or other finishing processes and who decides on the nature, mass, blending and application of the dyes or other chemicals to be used;

**"supervisor"** means an employee who, under the supervision of a foreperson is in charge of a group of employees in an establishment and who is responsible for the efficient performance by them of their duties and who may supervise set leaders or team leaders.

**(d) Other Occupations, Capacities and Duties of Employees in the Clothing and Knitting Division:**

**"band knife cutter"** means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings with a band knife;

**"clerical employee"** means an employee who is engaged in-

- (a) writing, typing and filing;
- (b) operating a calculating machine, computer terminal, punch-card machine or accounting machine;
- (c) any other clerical work and includes a cashier, despatch clerk, storeperson, shipping clerk, invoice clerk, workstudy clerk and telephone switchboard operator but does not include any other class of employee elsewhere defined, even though clerical work may form part of such an employee's work;

**"assistant head cutter"** means a person who assists the head-cutter in creating designs, styles, fashions and in making patterns, grading patterns and planning cutting jobs;

**"head cutter"** means a person who actively supervises the cutting room and designs, styles and fashions, makes patterns, grades patterns and who plans cutting jobs;

**"watchperson"** means an employee engaged in guarding premises, buildings or other property;

**"driver of a motor vehicle"** means an employee who is engaged in driving a motor vehicle and for the purpose of this definition "driving a motor vehicle" includes all periods of driving and any times spent by the driver on work connected with the vehicle or the load and all periods during which he or she is obliged to remain at his or her post in readiness to drive.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 2. Area and scope of determination.-(1) This determination shall apply to every employer in the Clothing and Knitting Sector as defined in subclause (2) and to all employees in that sector: Provided that the Determination shall not apply to-**

**2. Area and scope of determination.-(1)** This determination shall apply to every employer in the Clothing and Knitting Sector as defined in subclause (2) and to all employees in that sector: Provided that the Determination shall not apply to-

- (a) a new employer as defined in subclause (3);
- (b) a manager as defined in subclause (4).

(2) **"Clothing and knitting sector"** or "the sector" means the sector in which employers and employees are associated for the purpose of-

- (a) making, irrespective of the process or method used in such making, any one or more of the following classes of clothing, and includes the knitting of such articles as-
  - (i) all classes of men's and boys' tweed and linen hats and caps;
  - (ii) all classes of outer and undergarments for day wear, including shirts, collars, ties, socks, scarves, cloth belts and part of garments;
  - (iii) pajamas and other nightwear;
  - (iv) protective clothing;
  - (v) ladies' or men's gloves;
  - (vi) stockings or socks;
  - (vii) all classes of garments including quantity production tailoring made to the order of any Department in the national or provincial sphere of government; Transnet; the South African Airways; or Local government;

- (viii) tailored outer garments for the execution of special measure orders from dealers whose customers' measurements are taken by or on behalf of such dealers; and
- (b) conducting the knitting of clothing fabric where this is performed in conjunction with the manufacture of any one or more of the articles mentioned in (a) but does not include-
  - (i) retail dressing, retail millinery or the making of garments to the measurement of individual persons;
  - (ii) any manufacturing activity in the clothing, knitting or ladies' stockings industry for which a bargaining council is registered or deemed to have been registered in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995).
  - (iii) any manufacturing activity in the clothing, knitting or ladies' stockings industry for which a bargaining council is registered or deemed to have been registered in terms of the Labour Relations Act, and in respect of which that bargaining council has concluded a collective agreement covering essentially the same issues, and which is binding on such employers and employees.

[Sub-para. (iii) amended by GNR.1015 of 2002.]

(3) **"New employer"** means a business newly established in the clothing and knitting sector, during the first 12 months of its existence in the sector: Provided that if an existing business undergoes a change of name or ownership (including a change of directors, members or partners) while largely retaining the same employees and/or clients, it shall not be regarded as a new employer. [See also the proviso to [clause 3 \(1\)](#).]

(4) **"Manager"** means an employee who is charged by the employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include an employee in the same establishment who relieves or acts for a manager during the latter's absence.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 3. Remuneration.-(1) Minimum wages: The minimum wages which an employer shall pay to employees shall be as specified herein: Provided that-**

**3. Remuneration.-(1)** Minimum wages: The minimum wages which an employer shall pay to employees shall be as specified herein: Provided that-

- (i) if a new employer, as defined in [clause 2 \(3\)](#), has been engaged in the sector for a period of not more than 12 months such wages may be reduced by not more than 10 per cent during such period, whereafter the minimum wages specified herein shall become payable.
- (ii) an employer who, at the coming into effect of this determination, employs not more than 30 employees in the aggregate in or in connection with his business and whose annual turnover does not exceed R450 000.00 shall pay his employees, in the first 12 months after the coming into effect of this determination, 70% of the wages specified herein and thereafter pay the minimum wages as specified. For the purpose of this subclause "annual turnover" means, at any date, the turnover for the preceeding 12 months.

#### WAGES FOR EMPLOYEES IN THE CLOTHING DIVISION

##### CATEGORY A

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 207.81          | 222.31           | 241.65                       | 0-6 months         | 144.99          | 159.48           | 178.82                       |
| 7-12 months                                                                                        | 275.15          | 294.35           | 319.95                       | 7-12 months        | 191.97          | 211.16           | 236.76                       |

**"Category A"** means an employee engaged in any one or more of the following capacities or duties in the clothing division:

**Capacities:** Assistant Storeperson / Automatic Hydraulic Hat Presser / Belt Person/ Boiler Attendant / Cardboard Box Maker / Cleaner / Coat Turner / Cutter Of Traveller's Swatches / Despatch Packer / General Worker / Hat Sprayers / Ironer / Layer by Hand / Layer by Machine / Marker / Operator / Packer / Patent Turner / Pinner / Plain Sewer / Sorter / Stamper / Winder.

**Duties:** covering buckles by hand or machine and/or trimming and cleaning belts after lining and belts have been machined together / eyelet punching and letting / guiding material with paper through automatic pleating machine / putting fasteners on caps / putting material between two paper looms (formers) and preparing for steam box in hand or loom pleating process / putting prepared formers in steam box and taking them out again in hand or loom pleating / riveting buckles, bending belt buckles / punching holes for buckles and prongs / pressing prongs into buckles / stapling buckles onto belt / rubberising, i.e. waterproofing processes on the work of smearing rubber solution upon seams or edges and rolling them over with a small wooden hand roller / cleaning off any rubber solution, painting seams or oilskins and waterproof hats / spreading of PVC (plastic solution) in waterproofing process and/or on raincoats and protective wear / raking material out of looms in hand or loom pleating process.

# WAGES FOR EMPLOYEES IN THE CLOTHING DIVISION

## CATEGORY B

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 210.52          | 225.21           | 244.80                       | 0-6 months         | 146.88          | 161.56           | 181.15                       |
| 7-12 months                                                                                        | 230.65          | 246.74           | 268.20                       | 7-12 months        | 160.92          | 177.01           | 198.46                       |
| 13-18 months                                                                                       | 250.00          | 267.44           | 290.70                       | 13-18 months       | 174.42          | 191.86           | 215.11                       |
| 19-24 months                                                                                       | 275.15          | 294.35           | 319.95                       | 19-24 months       | 191.97          | 211.16           | 236.76                       |

**"Category B"** means an employee engaged in any one or more of the following capacities or duties in the clothing division:

Baster / Clicker / Conveyor Feeder / Cutter / Examiner / Finisher by Hand / Fitter-Up / Folder / Lay Copier / Machinist / Maker of Bows for Dresses / Operator of Automatic Lace, Embroidery or Monogramming Machine / Presser / Seam Welder / Setter of Automatic Pleating Machines / Shaper / Sloper / Any Other Employee Not Elsewhere Specified / Factory Clerk.

# WAGES FOR EMPLOYEES IN THE KNITTING DIVISION

## CATEGORY C

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 236.45          | 252.95           | 274.95                       | 0-6 months         | 164.97          | 181.46           | 203.46                       |
| 7-12 months                                                                                        | 268.57          | 287.31           | 312.30                       | 7-12 months        | 187.38          | 206.11           | 231.10                       |
| 13-18 months                                                                                       | 300.69          | 321.67           | 349.65                       | 13-18 months       | 209.79          | 230.76           | 258.74                       |
| 19-24 months                                                                                       | 332.43          | 355.62           | 386.55                       | 19-24 months       | 231.93          | 255.12           | 286.04                       |
| 25+ months                                                                                         | 364.55          | 389.98           | 423.90                       | 25+ months         | 254.34          | 279.77           | 313.68                       |

**"Category C"** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

Colouring Mass-Measurer / Cutter / Dyer's Assistant / Handyperson / Knitting Machine Operator / Linker / Loader of magazine or comb Mender / Overlocker / Plain Sewer / Sewing Machinist including button, buttonhole and hemming machinist / Shaper of fully fashioned garments / Warper / Wrap Knitter.

# WAGES FOR EMPLOYEES IN THE KNITTING DIVISION

## CATEGORY D

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 236.45          | 252.95           | 274.95                       | 0-6 months         | 161.97          | 181.46           | 203.46                       |
| 7-12 months                                                                                        | 260.06          | 278.20           | 302.40                       | 7-12 months        | 181.44          | 199.58           | 223.77                       |
| 13-18 months                                                                                       | 284.05          | 303.87           | 339.30                       | 13-18 months       | 198.18          | 217.99           | 244.42                       |
| 19-24 months                                                                                       | 307.66          | 329.13           | 357.75                       | 19-24 months       | 214.65          | 236.11           | 264.73                       |
| 25+ months                                                                                         | 357.20          | 382.12           | 415.35                       | 25+ months         | 249.21          | 274.13           | 307.35                       |



**"Category D"** means an employee engaged in any one or more of the following capacities or duties in the knitting division:

**Capacities:** Backwinder / Boiler Attendant / Cleaner / Despatch Packer / Draw Threader / Examiner / Floorwalker / General Worker / Grader / Mender of socks / Operator / Parcel Maker / Pre-Cutter / Presser / Pre- or post boarder or former / Sampler / Seamer / Sorter / Turner / Winder / Yarn changer (pig taylor).

**Duties:** Employees engaged in transferring, labeling, trimming off surplus threads / folding / carding and/or packing.

#### WAGES FOR EMPLOYEES IN THE CLOTHING AND KNITTING DIVISION

##### CATEGORY E

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 252.71          | 270.34           | 293.85                       | 0-6 months         | 176.31          | 193.94           | 217.44                       |
| 7-12 months                                                                                        | 297.00          | 310.50           | 337.50                       | 7-12 months        | 202.50          | 222.75           | 249.75                       |
| 13-18 months                                                                                       | 340.56          | 356.04           | 387.00                       | 13-18 months       | 232.20          | 255.42           | 286.38                       |
| 19-24 months                                                                                       | 384.51          | 401.99           | 436.95                       | 19-24 months       | 262.17          | 288.38           | 323.34                       |
| 25+ months                                                                                         | 431.24          | 450.84           | 490.05                       | 25+ months         | 294.03          | 323.43           | 362.63                       |

**"Category E"** means an employee engaged in any one or more of the following capacities or duties in the clothing and knitting division:

Assist Foreperson / Dyer / Mechanic / Patternmaker / Supervisor.

#### WAGES FOR EMPLOYERS IN THE CLOTHING AND KNITTING DIVISION

##### BAND KNIFE CUTTER

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 224.07          | 239.70           | 260.55                       | 0-6 months         | 156.33          | 171.96           | 192.80                       |
| 7-12 months                                                                                        | 248.06          | 265.37           | 288.45                       | 7-12 months        | 173.07          | 190.37           | 213.45                       |
| 13-18 months                                                                                       | 270.90          | 289.80           | 315.00                       | 13-18 months       | 189.00          | 207.90           | 233.10                       |
| 19-24 months                                                                                       | 296.44          | 317.12           | 344.70                       | 19-24 months       | 206.82          | 227.50           | 255.07                       |
| 25+ months                                                                                         | 333.14          | 358.52           | 389.70                       | 25+ months         | 233.82          | 257.20           | 288.37                       |

**"Band Knife Cutter"** means an employee who cuts out all articles of wearing apparel, linings, trimmings or interlinings with a bandknife.

#### WAGES FOR EMPLOYERS IN THE CLOTHING AND KNITTING DIVISION

##### CLERICAL

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 231.81          | 247.98           | 269.55                       | 0-6 months         | 161.73          | 177.90           | 199.46                       |
| 7-12 months                                                                                        | 261.99          | 280.27           | 304.65                       | 7-12 months        | 182.79          | 201.06           | 225.44                       |
| 13-18 months                                                                                       | 286.38          | 306.36           | 333.00                       | 13-18 months       | 199.80          | 219.78           | 246.42                       |

|              |        |        |        |              |        |        |        |
|--------------|--------|--------|--------|--------------|--------|--------|--------|
| 19-24 months | 341.33 | 365.14 | 396.90 | 19-24 months | 238.14 | 261.95 | 293.70 |
|--------------|--------|--------|--------|--------------|--------|--------|--------|

**"Clerical Employee"** means an employee who is engaged in the following capacities and duties in the clothing and knitting division:

**Capacities:** Cashier / Despatch Clerk / Storeperson / Shipping Clerk / Invoice Clerk / Work Study Clerk / Telephone Switchboard Operator.

**Duties:** writing, typing and filing / operating a calculating machine / computer Terminal / punch card machine or accounting machine / any other clerical work but does not include any other class of employee elsewhere defined, notwithstanding the fact that clerical work may form part of such employee's work.

#### WAGES FOR EMPLOYERS IN THE CLOTHING AND KNITTING DIVISION

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS    |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|-----------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                       | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                       | Per week        | Per week         | Per week                     |
| ASSIST HEAD CUTTER                                                                                 | 406.73          | 435.11           | 472.95                       | ASSIST HEAD CUTTER    | 283.77          | 312.14           | 349.98                       |
| HEAD CUTTER                                                                                        | 508.51          | 543.99           | 591.30                       | HEAD CUTTER           | 354.78          | 390.25           | 437.56                       |
| FORE-PERSON                                                                                        | 390.09          | 417.31           | 453.60                       | FORE-PERSON           | 272.16          | 299.37           | 335.66                       |
| WATCH-PERSON                                                                                       | 284.44          | 304.29           | 330.75                       | WATCH-PERSON          | 198.45          | 218.29           | 244.75                       |
| DRIVER 1 454kg                                                                                     | 267.41          | 286.07           | 310.95                       | DRIVER 1 454kg        | 186.57          | 205.22           | 230.10                       |
| DRIVER 2 454-2722 kg                                                                               | 292.57          | 312.98           | 340.20                       | DRIVER 2 454-2722 kg  | 204.12          | 224.53           | 251.74                       |
| DRIVER 3 2722-4540 kg                                                                              | 340.94          | 364.73           | 396.45                       | DRIVER 3 2722-4540 kg | 237.86          | 261.65           | 293.37                       |
| DRIVER 4 4540 kg                                                                                   | 412.15          | 440.91           | 479.25                       | DRIVER 4 4540 kg      | 287.55          | 316.30           | 354.64                       |

#### WAGES FOR EMPLOYERS IN THE CLOTHING AND KNITTING DIVISION ANY OTHER EMPLOYEES NOT ELSEWHERE SPECIFIED

| IN THE MAGISTERIAL DISTRICT OF HAMMARSDALE, CAMPERDOWN, UMZINTO, PAARL, STELLENBOSCH AND UITENHAGE |                 |                  |                              | IN ALL OTHER AREAS |                 |                  |                              |
|----------------------------------------------------------------------------------------------------|-----------------|------------------|------------------------------|--------------------|-----------------|------------------|------------------------------|
|                                                                                                    | First 12 months | Second 12 months | Third 12 months & thereafter |                    | First 12 months | Second 12 months | Third 12 months & thereafter |
|                                                                                                    | Per week        | Per week         | Per week                     |                    | Per week        | Per week         | Per week                     |
| 0-6 months                                                                                         | 210.52          | 225.21           | 244.80                       | 0-6 months         | 146.88          | 161.56           | 181.15                       |
| 7-12 months                                                                                        | 230.65          | 246.74           | 268.20                       | 7-12 months        | 160.92          | 177.01           | 198.46                       |
| 13-18 months                                                                                       | 250.00          | 267.44           | 290.70                       | 13-18 months       | 174.42          | 191.86           | 215.11                       |
| 19-24 months                                                                                       | 275.15          | 294.35           | 319.95                       | 19-24 months       | 191.97          | 211.16           | 236.76                       |

(2) Basis of contract.-For the purposes of this clause the contract of employment of an employee, shall be on a weekly basis, and except as provided for in [clause 6 \(4\)](#), he or she shall be paid in respect of a week not less than the full weekly wage prescribed in subclause (1), as read with the definition of "wage" in [clause 1](#) and with subclause (3), for an employee of his or her category in the area in which he or she works, whether he or she has in that week worked the maximum number of ordinary hours of work applicable to him or her or less.

(3) Differential wage.-An employer who requires or permits a member of one category of employees to perform work for longer than one hour on any day, either in addition to his or her own work or in substitution therefor, work of another category for which-

- (a) a wage higher than that of his or her own category is set out in subclause (1), shall pay to such employee in respect of that day, not less than the daily wage calculated at the higher rate; or

- (b) a rising scale of wages terminating in a wage higher than that of his or her own category is set out in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for his or her ordinary work: Provided that
  - (i) this subclause shall not apply where the difference between categories in terms of subclause (1) is based on experience;
  - (ii) unless expressly otherwise provided in a written contract between an employer and an employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another category for which the same or a lower wage is prescribed.

(4) Calculation of wages.-The hourly, daily or monthly wage of an employee shall be calculated as indicated in the definitions of these expressions in [clause 1](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 4. Payment of remuneration.-(1) An employee, except as provided for in clause 13 (6) and (7) shall be paid-**

**4. Payment of remuneration.**-(1) An employee, except as provided for in [clause 13 \(6\)](#) and [\(7\)](#) shall be paid-

- (a) weekly, fortnightly or monthly;
- (b) in cash, by cheque or by direct deposit into an account designated by the employee, and in South African currency;
- (c) remuneration in cash or by cheque-
  - (i) at the workplace or at a place agreed to by the employee;
  - (ii) during the employee's working hours or within 15 minutes of the commencement or conclusion of such hours;
- (d) remuneration not later than seven days after-
  - (i) the completion of a period for which the remuneration is payable;
  - (ii) the termination of the contract of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 5. Information concerning remuneration.-(1) The remuneration shall be in a sealed envelope which shall become the property of the employee, on which must be recorded or which must be accompanied by, a statement showing-**

**5. Information concerning remuneration.**-(1) The remuneration shall be in a sealed envelope which shall become the property of the employee, on which must be recorded or which must be accompanied by, a statement showing-

- (a) the employer's name and address;
- (b) the employee's name and occupation;
- (c) the period in respect of which payment is made;
- (d) the employee's rate of remuneration and overtime rate;
- (e) the number of ordinary hours worked by the employee during that period;
- (f) the number of overtime hours worked by the employee during that period;
- (g) the number of hours worked by the employee on a paid holiday or on a Sunday;
- (h) the employee's wage;
- (i) details of any other remuneration arising out of the employee's employment;
- (j) details of any deductions made; and
- (k) the actual amount paid to the employee.

(2) The particulars set out in subclause (1) may be coded on the envelope and such code shall be fully set out and explained in an accompanying notice or in a notice kept posted in a conspicuous place in the establishment, accessible to all employees affected thereby.

(3) Where the remuneration is deposited into the employee's account the employer shall hand to him or her the statement referred to in subclause (1).

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**6. Deductions and other matters concerning remuneration**

(1) *Training fee.*-Subject to any other law no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee.

(2) *Purchase of goods.*-An employer shall not require his or her employee to purchase any goods from him or her or from any shop, place or person nominated by him or her.

(3) *Accommodation.*-Subject to any other law, an employer shall not require his or her employee to accept accommodation, meals or rations from him or her or from any person or at any place nominated by him or her.

(4) *Deductions.*-An employer shall not levy any fines against his or her employee nor make any deductions from the employee's remuneration other than the following:

- (a) With the written consent of the employee, a deduction for any holiday, sick, medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
- (b) A deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
- (c) Whenever the ordinary hours of work are reduced because of short-time, a deduction not exceeding the amount of the employee's hourly wage in respect of each hour of such reduction: Provided that
  - (i) such deduction shall not exceed one third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - (ii) no deduction shall be made in the case of short-time arising from slackness of business or a shortage of raw materials or packing materials unless the employer has given his or her employee notice on the previous work-day of his or her intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short time owing to vagaries of the weather or a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given his or her employee notice on the previous day that no work will be available;
- (d) With the written consent of an employee, a deduction of any amount which the employer has paid or has undertaken to pay to-
  - (i) any banking institution, building society, insurance business, registered financing institution, local authority in respect of a payment on a loan granted to such employee to acquire a dwelling;
  - (ii) any organisation or body in respect of the rent of a dwelling or accommodation in a hostel occupied by such employee if such dwelling or hostel is provided through the instrumentality of such organisation or body wholly or partly from funds advanced for that purpose by the State or a body referred to in [subparagraph \(i\)](#);
- (e) With the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to him or her by the employer: Provided that any such deduction shall not exceed one quarter of the total remuneration due to the employee on the pay day concerned: Provided further that no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of [paragraph \(d\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 7. Hours of work and overtime**

**7. Hours of work and overtime**

(1) *Exclusions.*-

- (a) Subclauses (3), (4) (5) and (6) shall not apply to an employee while he or she is engaged on emergency work.
- (b) Subclauses (3) and (4) shall not apply to a watchperson: Provided that if a meal interval is granted to such an employee the time taken up by such interval shall be deemed to be time during which he or she worked.
- (c) Subclause (4) shall not apply to a driver or an employee who assists such driver on the vehicle.
- (d) Subclause (3), (4), (5) and (6) shall not apply to an employee who is remunerated according to an agreement under [clause 18](#).
- (e) Subclause (2), (3), (5) and (6) shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination made in substitution thereof.

(2) *Ordinary hours of work.*-An employer shall not require or permit an employee to work more ordinary hours of work than:

- (a) 45 in any week from Monday to Saturday, inclusive, and
- (b) subject to subparagraph (i), in the case of an employee who normally works on-

(aa) not more than five days in a week, nine on any day;

(ab) more than five days in a week, eight on any day, unless the hours on one day do not exceed five.

(3) *Meal intervals.*-An employer shall not require or permit an employee to work for more than five hours continuously without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that-

- (a) such interval may be reduced to not less than half an hour by written mutual agreement between an employer and an employee;
- (b) periods of work interrupted by intervals of less than one hour, except when proviso (a) or (e) applies, shall be deemed to be continuous;
- (c) if such interval is longer than one hour any period in excess of one and one quarter hours shall be deemed to be time worked;
- (d) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
- (e) when on any day by reason of overtime worked an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes;
- (f) a driver who during such interval does not work other than being or remaining in charge of the vehicle or its load shall for the purpose of this subclause be deemed not to have worked during such interval;
- (g) such interval need to be granted to a shift worker during his or her ordinary hours of work on any shift if he or she is given the opportunity during such hours of having a meal while at his or her post in terms of any law.

(4) *Rest intervals.*-An employer shall grant to each of his or her employees a rest interval of not less than 10 minutes as nearly as practicable in the middle of each first work period and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee: Provided that where an employer grants his or her employee a rest interval of not less than 20 minutes during each morning work period, the afternoon rest interval may be dispensed with.

Except as provided for in subclause (3) and (4) all hours of work of an employee on any day shall be consecutive.

(5) *Daily and weekly rest periods.*-

- (a) An employer must allow an employee-
  - (i) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
  - (ii) a weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include Sunday.
- (b) A daily rest period in terms of subclause 5 (a) may, by written agreement be reduced to 10 hours for an employee-
  - (i) whose meal interval lasts for at least three hours; or
  - (ii) who is a driver of a motor vehicle or an employee assisting on or accompanying a motor vehicle driven over a distance of more than 480 kms in one direction from the point of departure to the destination, if the ordinary hours of work of such a driver or other member of the vehicle staff, together with any overtime worked, do not exceed 14 hours on any day.
- (c) Despite subclause (a) (ii), an agreement in writing may provide for-
  - (i) rest period of at least 60 consecutive hours every two weeks; or
  - (ii) an employee's weekly rest period to be reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

(6) *Overtime.*-An employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by him or her with the employee and such overtime shall not exceed:

- (a) three hours on any day; or
- (b) 10 hours in any week:

Provided that this limitation shall not apply in respect of the employees referred to in subclause (5) (b) (ii).

(7) *Payment for overtime.*-

- (a) An employer shall pay an employee, who works overtime, at a rate of not less than one and a half times his or her hourly wage.

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**8. Night work.-(1) Exclusion: This clause shall not apply to an employee earning a wage in excess of the**

remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

- (2) An employer may only require or permit an employee to perform night work, if so agreed and if-
- (a) the employee is entitled to and shall receive payment of an allowance, which may be a shift allowance, or by a reduction of working hours; and
  - (b) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (3) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must-
- (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands-
    - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
    - (ii) of the employee's right to undergo a medical examination in terms of [paragraph \(b\)](#);
  - (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
    - (i) before the employee starts, or within a reasonable period of the employee's starting, such work; and
    - (ii) at appropriate intervals while the employee continues to perform such work; and
    - (iii) transfer the employee to suitable day work within a reasonable time if
    - (iv) the employee suffers from a health condition associated with the performance of night work; and
    - (v) it is practicable for the employer to do so.
- (4) For the purposes of subclause (3), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year.

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**9. Compressed working week.-(1) Exclusion:** This clause shall not apply to an employee earning an annual wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

- (2) An agreement in writing between an employer and an employee may require or permit the latter to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 7 \(3\)](#), without receiving overtime pay.
- (3) An agreement in terms of subclause (2) may not require or permit an employee to work-
- (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours' overtime in any week; or
  - (c) on more than five days in any week.

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**10. Averaging of hours of work.-(1) Exclusion:** This clause shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

- (2) Despite [clause 7 \(2\)](#) and [clause 7 \(7\)](#), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement.
- (3) An employer may not require or permit an employee who is bound by a collective agreement in terms of subclause (2) to work more than-
- (a) an average of 45 ordinary hours of work in a week over the agreed period;
  - (b) an average of five hours' overtime in a week over the agreed period;
- (4) A collective agreement in terms of subclause (2) lapses after 12 months.
- (5) Subclause (4) only applies to the first two collective agreements concluded in terms of subclause (2).

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**11. Payment for work on a Sunday.-(1) Exclusion:** This clause shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

(2) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked.

(3) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of subclause (2) is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage.

(4) Despite subclause (2) and (3), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subclause (2) and (3).

(5) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of [clause 7](#), but is taken into account in calculating the overtime worked by the employee in terms of [clause 7 \(6\)](#).

(6) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

(7) An employer must grant paid time off in terms of subclause (4) within one month of the employee becoming entitled to it.

(8) An agreement in writing may increase the period contemplated by subclause (7) to 12 months.

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**12. Public holidays.-(1) Exclusion:** Subclause (4) shall not apply to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

(2) An employer may not require an employee to work on a public holiday except in accordance with an agreement.

(3) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-

- (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
- (b) an employee who does work on the public holiday-
  - (i) at least double the amount referred to in [paragraph \(a\)](#); or
  - (ii) if it is greater, the amount referred to in [paragraph \(a\)](#) plus the amount earned by the employee for the time worked on that day.

(4) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to-

- (a) the employee's ordinary daily wage; plus
- (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.

(5) An employer must pay an employee for a public holiday on the employee's usual pay day.

(6) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 13. Annual leave.-(1) In this clause "annual leave cycle" means the period of 12 months employment with the same employer following-**

**13. Annual leave.-(1)** In this clause "annual leave cycle" means the period of 12 months employment with the same employer following-



- (a) the employee's commencement of work; or
  - (b) the completion of that employee's prior leave cycle.
- (2) Subject to subclause (4), an employer shall grant to an employee, and the employee shall take, in respect of an annual leave cycle, leave as follows:
- (a) a watchperson whose ordinary hours of work-
    - (i) exceeds 48 in a week and who normally works on-
      - (aa) not more than five days in a week, 20 consecutive work days;
      - (bb) more than five days in a week, 24 consecutive work days;
    - (ii) do not exceed 48 in a week and who normally works on-
      - (aa) not more than five days in a week, 15 consecutive work days;
      - (bb) more than five days in a week, 18 consecutive work days;
  - (b) any other class of employee who normally works on-
    - (i) not more than five days in a week, 15 consecutive work days;
    - (ii) more than five days in a week, 18 consecutive work days;
  - (c) an employee who works on an hourly or a daily basis, one hour for every 17 hours worked: Provided that an employee who normally works on-
    - (i) not more than five days in a week, one day for every 153 hours or 17 days worked;
    - (ii) more than five days in a week, one day for every 136 hours or 17 days worked:

Provided that an employee who before this determination became binding had been entitled to a longer period of annual leave than that prescribed in this subclause, shall retain the right to such leave while employed by the same employer.

(3) The employer shall pay an employee in respect of the leave mentioned in subclause (1), in the case of an employee referred to in-

- (a) subclause (2) (a) (i), an amount of not less than four times;
- (b) subclause (2) (a) (ii) or (2) (b), an amount of not less than three times;
- (c) subclause (2) (c), an amount proportional to the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced.

(4) The leave mentioned in subclause (2) shall be granted and be taken, as the case may be, at a time to be fixed by the employer: Provided that-

- (a) if such leave has not been granted and taken earlier, it shall be granted and be taken so as to commence within six months after the completion of the 12 months of employment to which it relates;
- (b) the period of leave shall not be concurrent with any period-
  - (i) of sick leave in terms of [clause 14 \(2\)](#) or with absence from work owing to incapacity in the circumstances set out in [clause 14 \(7\) \(b\) or \(c\)](#), amounting in the aggregate in any period of 12 months to not more than 15 weeks;
  - (ii) during which the employee is under notice of termination of employment in terms [clause 21](#); or
- (c) an employer may set off against such period of leave any days of occasional leave granted up to a maximum of 7 days per annum on full pay to his employee at such employee's written request during the period of employment to which the annual leave relates;
- (d) when an employer requires an employee to take leave before the expiration of the 12 months of employment to which such leave relates, the employer shall grant such employee the full period of leave accruable for 12 months of employment and, with due regard to the accrual of any increments in terms of [clause 3](#), shall pay such employee in respect of such leave an amount of not less than that which the employee would have been entitled to at the date on which the leave would normally have accrued;
- (e) if the employment of an employee referred to in [paragraph \(d\)](#) terminates before the expiration of 12 months in respect of which leave was granted in terms of that paragraph, the employer may set off the difference between the amount paid to the employee and the amount to which the employee would have been entitled in terms of subclause (7) had leave not been granted to him or her against the remuneration due to such an employee at the termination of the contract.

(5) The remuneration in respect of the leave mentioned in subclause (2), shall be paid not later than the last work day before the date of commencement of the leave or, at the written request of the employee, not later than the first pay-day after the expiration of the leave.

(6) An employee whose employment terminates during an incomplete leave cycle and who has been in employment for longer than 4 months shall, upon such termination and in addition to any other remuneration which may be due to him or her, be paid one day's remuneration in respect of every 17 days on which he or she worked or was entitled to be paid: Provided that an employer may make a proportionate deduction in respect of any period of leave granted to an employee in terms of proviso (c) to subclause (4).

(7) An employee who has become entitled to the period of leave mentioned in subclause (2), read with subclause (4) (c) and whose employment terminates before such leave has been granted and been taken, shall and with due regard



to subclause (9), upon such termination be paid the amount he or she would have received in respect of the leave had the leave been granted to and taken by him or her as at the date of the termination.

(8) For the purposes of this clause-

- (a) the weekly wage at any date of an employee who is engaged in piece-work or commission work shall be his or her average weekly remuneration for the preceding 13 weeks or, if a lesser period has been worked, for the number of completed weeks so worked;
- (b) "employment" and "period of employment" shall be deemed to include-
  - (i) any period in respect of which an employer pays an employee in lieu of notice in terms of [clause 21](#);
  - (ii) any period amounting in the aggregate in any period of 12 months, to not more than 15 weeks during which an employee is absent-
    - (aa) on leave in terms of this clause;
    - (bb) on sick leave in terms of [clause 14 \(2\)](#) or owing to incapacity in the circumstances set out in [clause 14 \(8\) \(b\)](#) or [\(c\)](#);
    - (cc) at the instance of his or her employer;
    - (dd) with the consent or condonation of his or her employer;
    - (ee) for any other reason that is not in breach of the contract of employment;
  - (iii) previous employment with the same employer if the break in employment is less than one year.
- (c) employment shall be deemed to commence-
  - (i) in the case of an employee who, before this determination became binding, had become entitled to a period of annual leave in terms of any law, on the date on which he or she last became entitled to leave under that law;
  - (ii) in the case of an employee who was in employment before this determination became binding and to whom any law providing for annual leave applied but who had not yet become entitled to a period of leave in terms thereof, on the date on which such employment commenced;
  - (iii) in the case of any other employee, on the date on which such employee entered the employer's service or the date on which this determination became binding, whichever is the later.

(9) (a) Despite anything to the contrary contained in this clause, an employer may for the purposes of annual leave, at any time, but not more than once in any period of 12 months, close his or her establishment for 14 consecutive days or suspend an activity for 14 consecutive days and in that case he or she shall remunerate his or her employee in terms of subclause (2) or in terms of [paragraph \(c\)](#) hereof, as the case may be.

(b) Whenever a paid holiday falls on a day which otherwise would be a work day for an employee and such paid holiday falls within the closed or suspension period referred to in paragraph, [\(a\)](#), another work day shall be added to the said closed or suspension period as a further period of leave and the employee shall be paid an amount of not less than his or her daily wage in respect of each such day added.

(c) An employee who, at the date on which an establishment or activity in which he or she is employed is closed or suspended, is not entitled to the full period of annual leave mentioned in subclause (2) shall, in respect of any leave due to him, be paid by his or her employer on the basis set out in subclause (7), and for the purposes of annual leave thereafter his or her employment shall be deemed to commence on the date of such closing of the establishment or suspension of the activity.

(10) An employer may not pay an employee instead of granting paid leave in terms of this clause, except upon termination of employment and in accordance with subclauses (6) and (7).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 14. Sick leave.-(1) For purposes of this clause "sick leave cycle" means the period of 36 months' employment with the same employer immediately following-**

**14. Sick leave.**-(1) For purposes of this clause "sick leave cycle" means the period of 36 months' employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior sick leave cycle.

(2) An employee is entitled to an amount of paid sick leave, during every sick leave cycle, equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite subclause (2) during the first six months of employment, an employee is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the employee's first leave cycle, reduce the employee's entitlement to sick leave in terms of subclause (2) by the number of days' sick leave taken in terms of subclause (3).

(5) If during the a sick leave cycle an employee is absent due to incapacity for longer than the number of days' sick leave to which he or she is entitled in terms of subclause (2) the employer shall not be required to pay the employee for the excess sick leave taken.

(6) Where an employer in terms of any law pays fees for hospital or medical treatment in respect of an employee, the fees so paid may be set off against the payment of sick leave.

(7) Payment for any period of absence on sick leave to an employee who is employed on piece-work or commission work shall be at the rate of not less than the employee's average remuneration for the last 13 weeks before the start of the sick leave or if a shorter period has been worked, for the number of completed weeks so worked.

(8) *Limitation.-*

An employer is not required to pay sick leave to an employee in terms of this clause-

- (a) if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and the employee fails to produce a medical certificate stating the nature and duration of his or her incapacity, after having been requested to do so by the employer.

the medical certificate referred to in this subclause must be issued by a medical practitioner or any other person who is certified to diagnose and treat patients and is registered with a professional council established by an Act of Parliament;

- (b) if the employer, at the written request of an employee, makes a contribution that is at least equal to that made by the employee, to any fund or organisation nominated by the employee which in the event of the employee's incapacity in the circumstances set out in this clause would ensure the payment to the employee of an amount not less than the equivalent of his or her wage for any period of such leave in terms of subclause (2);
- (c) for any period of incapacity of an employee in respect of which the employer is required by any law to pay to the employee not less than his or her full wage.

(9) Application to occupational accident or diseases.

This clause shall not apply to inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act [No. 130 of 1993](#)), except in respect of any period during which no compensation is payable in terms of that Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 15. Maternity leave.-(1) An employee is entitled to at least four consecutive months' maternity leave.**

**15. Maternity leave.-(1)** An employee is entitled to at least four consecutive months' maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of subclause (5) must be given-

- (a) at least four weeks before the employee intends to commence maternity leave;
- (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) Protection of employees before and after birth of a child:

- (a) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.
- (b) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-
  - (i) the employee is required to perform night work, as defined in [clause 8](#) or her work poses a danger to her health or safety or that of her child; and
  - (ii) it is practicable for the employer to do so.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and**

**16. Family responsibility leave.-(1)** This clause applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employer.

(2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days' paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

(3) Subject to subclause (5), an employer must pay an employee for a day's family responsibility leave-

- (a) the wage the employee would ordinarily have received for work on that day; and
- (b) on the employee's usual payday.

(4) An employee may take family responsibility leave in respect of the whole or a part of a day.

(5) Before paying an employee for leave in terms of this section, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 17. Piece-work.-(1) An employer may when engaging an employee or after at least one week's notice if the employee is already in his or her employ, introduce any piece-work system and, except as provided for in clause 6 (4), such employer shall pay the**

**17. Piece-work.-(1)** An employer may when engaging an employee or after at least one week's notice if the employee is already in his or her employ, introduce any piece-work system and, except as provided for in [clause 6 \(4\)](#), such employer shall pay the employee who is employed on such piece-work system remuneration at not less than the wage mentioned in [clause 3 \(1\)](#) for an employee of his or her category and experience, plus the rates applicable under such system:

(2) An employer shall keep posted up in a conspicuous place in his or her establishment a schedule reflecting the rates referred to in subclause (1) or he or she may in lieu thereof supply every employee engaged on piece-work with a letter signed by himself/herself, or on his or her behalf, setting out the said rates.

(3) An employer shall not require or permit an employee to undertake any work for him or her solely on piece-work basis and any amount payable to an employee in terms of subclause (1) shall be aside from and in addition to his or her wage, which shall not be less than the wage mentioned in [clause 3 \(1\)](#) for an employee of his or her category and experience.

(4) An employer who intends to cancel or amend any piece-work system in operation, or the rates applicable thereunder shall give an employee not less than one month's notice of such intention: Provided that an employer and an employee may agree on a longer period of notice, in which case the employer shall give notice for a period not shorter than that agreed upon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 18. Commission work.-(1) An employee who by agreement with an employer undertakes commission work on a regular basis shall be supplied by the employer, before such work is commenced, with a true copy of the agreement or a statement setting out the term**

**18. Commission work.-(1)** An employee who by agreement with an employer undertakes commission work on a regular basis shall be supplied by the employer, before such work is commenced, with a true copy of the agreement or a statement setting out the terms of the agreement, which shall include-

- (a) the wage payable to the employee, which shall not be less than the wage mentioned in [clause 3 \(1\)](#) for an employee of his or her category and experience, the rate of the commission and the conditions of entitlement thereto;
- (b) the day of the week or month on which commission earned is due and payable;
- (c) the type, description, number, quantity or value of sales or orders (individual, weekly, monthly or otherwise) which the employer is from time to time prepared to accept;
- (d) the day of payment of commission earned by the employee before termination of the contract of employment:

Provided that such day of payment shall be no later than the last work day of the month succeeding the month during which employment was terminated; and

(e) where applicable, the area in which the employee is required or permitted to work.

(2) Except as provided for in [clause 6 \(4\)](#), an employer shall pay an employee at not less than the wage and rate of commission agreed upon between them.

(3) The employee's wage and commission shall be paid on the day stipulated in the agreement referred to in subclause (1), and the provisions of [clause 4 \(1\)](#) shall not apply in respect of such payment.

(4) An employer shall not require or permit an employee to undertake any work for him or her on the basis of commission only and any amount payable to an employee as commission under an agreement entered into in terms of subclause (1) shall be aside from and in addition to the wage stipulated therein.

(5) An employer or an employee who intends to cancel or to negotiate for an alteration of an agreement in regard to commission work shall give written notice of such intention, and the period of such notice shall not be less than nor run concurrently with that required to terminate the contract of employment of such employee in terms of [clause 20](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 19. Prohibition of employment.-(1) An employer shall not-**

**19. Prohibition of employment.-(1)** An employer shall not-

(a) employ any person under the age of 15 years; or

(b) a child who is under the minimum school leaving age in terms of any law, if he or she is 15 years or older.

(2) An employer shall not employ a child in employment-

(a) that is inappropriate for a person of that age;

(b) that places at risk the child's wellbeing, education, physical or mental health or spiritual, moral or social development.

(3) All forced labour is prohibited.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 20. Termination of contract of employment.-(1) Despite clause 3 (2), an employer or an employee who desires to terminate the contract of employment, shall give-**

**20. Termination of contract of employment.-(1)** Despite [clause 3 \(2\)](#), an employer or an employee who desires to terminate the contract of employment, shall give-

(a) during the first four weeks of employment, not less than one week's notice;

(b) after the first four weeks but not more than one year of employment, not less than two weeks' notice of termination of contract;

(c) after one year of employment not less than four weeks' notice.

(2) The notice of termination of a contract of employment must be given in writing except when it is given by an employee who is not able to write.

(3) Where a notice of termination is given to an employee who is unable to read and understand it, the employer must arrange that the notice is explained to the employee in a language that the employee reasonably understands.

(4) An employer or an employee may terminate the contract of employment without notice by paying the employee or paying the employer, as the case may be, in lieu of such notice not less than in the case of-

(a) one week's notice, the weekly wage the employee is receiving at the time of such termination;

(b) two weeks' notice, the wages the employee is entitled to in the two weeks;

(c) four weeks' notice, the wages the employee is entitled to in the four weeks:

Provided that this shall not affect-

(i) the right of an employer or an employee to terminate the contract without notice for any cause recognised by law as sufficient;

(ii) any collective agreement which provides for a period of notice of equal duration on both sides shorter than that provided for in this clause;

(iii) the right of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of the Labour Relations Act, 1995 or any other law.

(5) Where there is an agreement in terms of proviso (ii) to subclause (4), the payment in lieu of notice shall be commensurate with the period of notice agreed upon.

(6) The notice referred to in subclause (1) shall be given on a work day: Provided that the period of notice shall not

run concurrently with nor shall notice be given during an employee's absence-

- (a) on leave in terms of [clause 13](#);
- (b) on sick leave in terms of [clause 14 \(2\)](#);
- (c) owing to incapacity in the circumstances set out in [clause 14 \(8\) \(b\)](#) or [\(c\)](#), amounting in the aggregate to not more than 15 weeks in a period of 12 months;
- (d) on maternity leave in terms of [clause 15](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 21. Severance pay.-(1) For the purposes of this section, "operational requirements" means requirements based on the economic, technological, structural or similar needs of any employer.**

**21. Severance pay.**-(1) For the purposes of this section, "operational requirements" means requirements based on the economic, technological, structural or similar needs of any employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 3](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).

(4) The payment of severance pay in compliance with this section does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 22. Certificate of service.-(1) On termination of employment an employee is entitled to a certificate of service stating-**

**22. Certificate of service.**-(1) On termination of employment an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) a description of any council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 23. Uniforms, overalls and protective clothing.-(1) An employer shall supply, free of charge, any uniform, overall, gumboots, cap or other protective clothing which he or she is required by any law to provide to an employee or which the employee is required to wear.**

**23. Uniforms, overalls and protective clothing.**-(1) An employer shall supply, free of charge, any uniform, overall, gumboots, cap or other protective clothing which he or she is required by any law to provide to an employee or which the employee is required by any law to wear.

(2) An employer to whom subclause (1) does not apply but nevertheless, explicitly or implicitly, requires an employee to wear any such protective clothing shall supply it free of charge.

(3) Any such protective clothing which has been provided to an employee free of charge shall remain the property of the employer.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 24. Attendance register.-(1) Exclusion: This clause shall not apply to a driver of a motor vehicle or an employee accompanying such a driver or to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination**

**24. Attendance register.**-(1) *Exclusion:* This clause shall not apply to a driver of a motor vehicle or an employee accompanying such a driver or to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1438 published on 13 November 1998 or in any other determination in substitution thereof.

(2) An employer shall provide in his or her establishment an attendance register substantially in the form of annexure "B" in which he or she shall record in ink or indelible pencil the name and class of each of his or her employees, and if such employee is unable to write his or her employer shall on his or her behalf for each day worked and for that day make the necessary entries in respect of items (i) to (iv) inclusive of subclause (4) (a), and sign such entries in the presence of a person nominated by the employee.

(3) An employer may, instead of an attendance register provide a semi-automatic time recorder together with the necessary cards, which shall be as nearly as practicable in the form of annexure "C", and supply to each employee such a card indicating the name or number of the employee and the date of termination of the week in respect of which it is to be used.

(4) Unless prevented from doing so by unavoidable circumstances, an employee shall in respect of each day worked by him or her and on that day-

- (a) record in ink or indelible pencil in the attendance register referred to in subclause (2)-
  - (i) the day of the week;
  - (ii) the time he or she commenced work;
  - (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
  - (iv) the time of finishing work for the day;
  - (v) the time of commencement and termination of overtime worked for the day;
  - (vi) the total number of hours worked for the day; and
  - (vii) his or her signature;
- (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder on a card supplied in terms of subclause (3) to show the following:
  - (i) the time he or she commenced work;
  - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
  - (iii) the time of finishing work for the day.

(5) An employer shall retain the attendance register referred to in subclause (3), as the case may be, for a period of not less than three years after the date of the last entry therein or thereon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 25. Written particulars of employment.**-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing:

**25. Written particulars of employment.**-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing:

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
- (c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
- (d) the date of employment;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's wage or the rate and method of calculating wages;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the employee is entitled to;
- (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
- (j) how frequently remuneration will be paid;
- (k) any deductions to be made from the employee's remuneration;
- (l) the leave to which the employee is entitled;
- (m) the period of notice required to terminate employment, or if employment is for a specified period, the date



when employment is to terminate;

- (n) a description of any council or sectoral determination which covers the employer's business;
- (o) any period of employment with a previous employer that counts towards the employee's period of employment;
- (p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in subclause (1) changes-

- (a) the written particulars must be revised to reflect the change; and
- (b) the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) The employer must keep written particulars in terms of this clause for a period of 12 months after the termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 26. Log book.-(1) An employer shall provide his or her driver with a log-book as nearly as practicable in the form of annexure "D".**

**26. Log book.**-(1) An employer shall provide his or her driver with a log-book as nearly as practicable in the form of annexure "D".

(2) Every driver shall, in the log-book referred to in subclause (1), keep a daily log in duplicate in respect of each day's work and shall within 24 hours of the completion of the work to which it relates deliver a copy thereof to his employer and the employer shall retain such copy for a period of at least three years subsequent to such delivery.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ 27. Keeping of sectoral determination.-(1) Every employer on whom this sectoral determination is binding must-**

**27. Keeping of sectoral determination.**-(1) Every employer on whom this sectoral determination is binding must-

- (a) keep a copy of the sectoral determination available in the workplace at all times;
- (b) make the copy available for inspection by an employee; and
- (c) give a copy of the sectoral determination-
  - (i) to an employee who has paid the prescribed fee; and
  - (ii) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

(All the provisions of Wage Determination 471: Clothing and Knitting Industry, Republic of South Africa published under Government Notice R934 of 3 May 1991 and all the subsequent amendments will be superseded by this determination with effect from the date of implementation.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ Annexure A CERTIFICATE OF SERVICE**

**Annexure A**  
**CERTIFICATE OF SERVICE**

CLOTHING AND KNITTING  
SECTOR

READ THIS FIRST



WHAT IS THE  
PURPOSE

I \_\_\_\_\_  
(name and designation of person)  
of \_\_\_\_\_  
(full name of employer)  
address: \_\_\_\_\_

### OF THIS FORM?

This form is proof of employment with an employer.

### WHO FILLS IN THIS FORM?

The employer.

### WHERE DOES THIS FORM GO?

To the employee.

### INSTRUCTIONS

This form may be issued upon termination of employment.

### NOTE

In terms of [section 42 \(g\)](#) the reason for termination of employment must only be given if requested by the employee.

This is only a model and not a prescribed form. Completing a document in another format containing the same information is sufficient compliance with the regulation.

in the

(trade)

declare that

(full name of employee)

(I.D. no.)

was in employment

from

until

as

(type of work/occupation)

any other information

On termination of service this employee was earning: R

(amount in words)

☐ PER HOUR

☐ PER DAY

☐ PER WEEK

☐ PER FORTNIGHT

☐ PER MONTH

☐ PER YEAR

Employer's signature

Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ Annexure B ATTENDANCE REGISTER**

### **Annexure B ATTENDANCE REGISTER**

### **CLOTHING AND KNITTING SECTOR**

### **READ THIS FIRST**



### **WHAT IS THE PURPOSE OF THIS FORM?**

This form is a record of attendance

### **WHO FILLS IN THIS FORM?**

The employee or if the employee is unable, the employer.

### **WHERE DOES THIS FORM GO?**

Must be kept in employer's possession.

### **INSTRUCTIONS**

- Records must be kept by the employer for a period of three years from the date of the last entry in the record [\[section 31 \(2\)\]](#);
- No person may



- An employer who keeps a record in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other employment law [\[section 31 \(4\)\]](#)

Whenever an employer has in terms of [section 16](#) of the Act required or permitted an employee to perform work on a Sunday and grants the employee a day off in the next succeeding week [in terms of [section 16 \(3\)](#)], the day off or day's leave must be clearly indicated in the date column on the day concerned.

Note - Employees must make entries only in the section of the register reserved for their use

Employee number

[illegible]

**Annexure C**  
NAME AND CLASS OF EMPLOYEE

**No**  
**week ended**

**Automatic Time Recorder**

| Day       | In | Out | In | Out | Total |
|-----------|----|-----|----|-----|-------|
| Sunday    |    |     |    |     |       |
| Monday    |    |     |    |     |       |
| Tuesday   |    |     |    |     |       |
| Wednesday |    |     |    |     |       |
| Thursday  |    |     |    |     |       |
| Friday    |    |     |    |     |       |
| Saturday  |    |     |    |     |       |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1007 of 13 October 2000: Sectoral Determination 4: Clothing and Knitting Sector, South Africa/ Annexure D DAILY LOG**

**Annexure D**  
DAILY LOG

**CLOTHING AND KNITTING  
SECTOR**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is a record of each days work.

**WHO FILLS IN  
THIS FORM?**

The employee.

**WHERE DOES THIS  
FORM GO?**

To the employer.

**INSTRUCTIONS**

The driver must deliver a copy of this form to the employer within 24 hours of the completion of the work to which the form relates.

**INSTRUCTIONS**

This is only a model and not a prescribed form. Completing a document in another format containing the same information is sufficient compliance with [clause 27](#).

**DAILY LOG**

Name of employer

Name of driver:

Date

Registration number of vehicle

Time of starting work

Time of finishing work

Number of hours worked

Meal interval from \_\_\_\_\_ to \_\_\_\_\_

Particulars of any accident or delay

Name(s) of employee(s) accompanying driver

Employer's signature \_\_\_\_\_ Date \_\_\_\_\_

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa**

| as amended by |                    |                                           |
|---------------|--------------------|-------------------------------------------|
| Notice        | Government Gazette | Date                                      |
| GNR.201       | 26049              | 18 February 2004                          |
| GNR.133       | 29635              | 16 February 2007                          |
| GNR.872       | 32525              | 25 August 2009 w.e.f.<br>1 September 2009 |
| GNR.757       | 33505              | 27 August 2010 w.e.f. 1<br>September 2010 |
| GNR.699       | 35634              | 28 August 2012 w.e.f. 1<br>September 2012 |

  

| as corrected by |                    |                  |
|-----------------|--------------------|------------------|
| Notice          | Government Gazette | Date             |
| GNR.1115        | 33804              | 26 November 2010 |
| GNR.725         | 35658              | 4 September 2012 |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of [section 56 \(1\)](#) of the Basic Conditions of Employment Act, 1997, amend Sectoral Determination 2 in *Government Gazette* No. 20618 dated 12 November 1999 by replacing the existing schedule with the schedule below, and fix the second Monday after the date of publication of this notice as the date from which the provisions of this determination shall be binding upon all employers and employees in the Sector.

M. M. S. MDLADLANA, MP  
*Minister of Labour*

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

|                              |                                                                 |
|------------------------------|-----------------------------------------------------------------|
| <a href="#">1.</a>           | Definitions                                                     |
| <a href="#">2.</a>           | Area and scope of determination                                 |
| <a href="#">3.</a>           | Remuneration                                                    |
| <a href="#">Table 1.</a>     | Minimum wages for all employees in the Civil Engineering Sector |
| <a href="#">Table 2.</a>     | Job Grading                                                     |
| <a href="#">4.</a>           | Calculation of wages                                            |
| <a href="#">5.</a>           | Payment of remuneration                                         |
| <a href="#">6.</a>           | Information concerning remuneration                             |
| <a href="#">7.</a>           | Deductions and other acts concerning remuneration               |
| <a href="#">8.</a>           | Ordinary hours of work                                          |
| <a href="#">9.</a>           | Overtime                                                        |
| <a href="#">10.</a>          | Payment for overtime                                            |
| <a href="#">11.</a>          | Meal intervals                                                  |
| <a href="#">12.</a>          | Rest period                                                     |
| <a href="#">13.</a>          | Compressed working week                                         |
| <a href="#">14.</a>          | Averaging hours of work                                         |
| <a href="#">15.</a>          | Payment for work on a Sunday                                    |
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| <a href="#">18.</a>          | Sick leave                                                      |
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| <a href="#">22.</a>          | Prohibition of employment                                       |
| <a href="#">23.</a>          | Termination of contract of employment                           |
| <a href="#">24.</a>          | Severance pay                                                   |
| <a href="#">25.</a>          | Certificate of service                                          |
| <a href="#">26.</a>          | Protective clothing                                             |
| <a href="#">27.</a>          | Attendance register                                             |
| <a href="#">28.</a>          | Written particulars of employment                               |
| <a href="#">29.</a>          | Retirement benefit fund                                         |
| <a href="#">29A.</a>         | Cross border work allowance                                     |
| <a href="#">30.</a>          | Keeping of sectoral determination                               |
| <a href="#">Annexure "A"</a> | Certificate of service                                          |
| <a href="#">Annexure "B"</a> | Attendance register                                             |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 1. Definitions.-Unless the context indicates otherwise, any expression which is used in this determination and which is defined in the Basic Conditions of Employment Act, 1997 has the same meaning as in that Act; further, unless inconsistent with the co**

**1. Definitions.-**Unless the context indicates otherwise, any expression which is used in this determination and which is defined in the Basic Conditions of Employment Act, 1997 has the same meaning as in that Act; further, unless inconsistent with the context-

**"administrative personnel"** mean employees who are charged by the employer with the performance of work entailing responsibility for taking decisions of an administrative nature in the conduct of any activity;

**"cross border work"** means work performed outside the borders of the Republic of South Africa.

[Definition of ["cross border work"](#) inserted by GNR.133 of 2007.]

**"employee"** means-

- (a) any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer.

**"emergency work"** means any work which owing to unforeseen circumstances such as fire, storm, land subsidence, accident, epidemic, act of violence, theft, a breakdown of plant, motor vehicles or machinery or a breakdown or threatened breakdown of structures, or any critical operational requirement, must be done without delay;

**"establishment"** means any premises or construction site or part thereof in, on or in connection with which one or more employees are employed in the Civil Engineering sector;

**"foreperson"** means an employee who is in charge of employees in an establishment or section of an establishment, who exercises control over such employees, and who is responsible for the efficient performance by them of their duties;

**"hourly-rated employee"** means an employee whose remuneration is calculated on an hourly basis notwithstanding the frequency of the payment thereof, and who is not a salaried employee;

**"law"** includes the common law;

**"local authority"** means a "local government body" as defined in the Local Government Transition Act, 1993;

**"manager"** means an employee who is charged by the employer with the overall supervision over, responsibility for, and direction of the activities of an establishment or a department of an establishment and the employees engaged therein;

**"overtime"** means the time that an employee works during a day, or a week, in excess of the ordinary hours of work prescribed for such employee in clause (1), but does not include work performed on a Sunday or a paid public holiday;

**"paid public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"pay"** means payment of remuneration in cash or by cheque or by other means;

**"permanent employee"** means any employee who is not an employee employed in terms of a limited duration contract;

**"piece-work"** means any system under which an employee's remuneration is based on the quantity of work done;

**"salaried employee"** means an employee whose remuneration is calculated on a monthly basis notwithstanding the number of hours or days actually worked, who performs work generally understood to be that of a salaried employee, and who is not a "hourly-rated employee";

**"self-propelled plant"** means a power-driven or pedestrian-operated self-propelled vehicle, other than a motor vehicle, which is designed or adapted principally to perform with or without a towed attachment, one or more functions while moving, and may also perform such functions while standing still;

**"short-time"** means a temporary reduction in the number of ordinary hours of work owing to vagaries of the weather, a slackness of trade, a shortage of materials, a breakdown of plant or machinery or a breakdown or threatened breakdown of structures, or any unforeseen contingencies and/or circumstances beyond the control of the employer or a temporary reduction in the number of ordinary hours of work owing to riots, unrest or acts of terrorism or disorder, which directly affect the employer's ability to provide work;

**"stationary plant"** means a power-driven device, whether or not mounted on a self-propelled or non-self-propelled vehicle, which is designed or adapted principally to perform one or more functions while standing still;

**"wage"** means the amount of money payable to an employee in terms of [clause 3](#) in respect of the ordinary hours of work as prescribed in [clause 8 \(1\)](#):

Provided that-

- (a) if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in [clause 3](#), it means such higher amount;
- (b) the first proviso shall not be so construed as to refer to or include any remuneration which an employee who is employed on any basis provided for in [clause 20](#) receives over and above the amount which the employee would have received had he or she not been employed on such a basis.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 2. Area and scope of the determination.-This determination shall apply to every employer and employee in the Civil Engineering Sector, as defined in subclause (2), in the Republic of South Africa, excluding any employee who is employed as a manager or i**

**2. Area and scope of the determination.-**This determination shall apply to every employer and employee in the Civil Engineering Sector, as defined in subclause (2), in the Republic of South Africa, excluding any employee who is employed as a manager or in a position more senior than that of a manager.

(1) The Civil Engineering Sector means the sector in which employers (other than local authorities) and employees are associated for the purpose of carrying out work of a civil engineering character and includes such work in connection with one or more of the following activities:

- (a) The construction of aerodrome runways or aprons; aqueducts; bins or bunkers; bridges; cable ducts; caissons; rafts or other marine structures; canals; cooling, water or other towers; dams; docks; harbours; quays or wharves; earthworks; encasements; housings or supports for plant, machinery or equipment; factory or works chimneys; filter beds; land or sea defence works; mine headgear; pipelines; piers; railways; reservoirs; river works; roads or streets; sewerage works; sewers; shafts or tunnels; silos; sports fields or grounds; swimming baths; viaducts or water treatment plants;
- (b) excavation work or the construction of foundations, lift shafts, piling, retaining walls, stairwells, underground parking garages or other underground structures;
- (c) the asphaltting, concreting, gravelling, levelling or paving of parking areas, pavements, roads, streets, aerodrome runways or aprons, premises or sites; and further includes-
  - (i) any work of a similar nature or work incidental to or consequent on any of the aforesaid activities; and
  - (ii) the making, repairing, checking or overhauling of tools, vehicles, plant, machinery or equipment in workshops which are conducted by employers engaged in any of the activities referred to in subclauses (2) (a), (2) (b) and (2) (c);
 but excludes-
  - (aa) work in connection with any one or more of the activities specified in subclause (2) (b) where such work, when undertaken in connection with the erection of structures having the general character of buildings and irrespective of whether or not such work involves problems of a civil engineering character, is carried out by the employers erecting such structures;
  - (bb) work in connection with any one or more of the activities specified in subclause (2) (c) when undertaken as an incidental operation in connection with the erection of structures having the general character of buildings or when undertaken by the employers erecting such structures;
  - (cc) any work falling within the scope of the Iron, Steel, Engineering and Metallurgical Industries as defined in the Main Agreement of the Bargaining Council for that Industry.

(2) The provisions of clauses 8 to 14 of this determination shall not apply to an employee whose earnings exceed an amount as determined by the Minister of Labour in terms of [section 6 \(3\)](#) read with section 59 (2) (c) of the Basic Conditions of Employment Act, 1997.

(3) The provisions of Clauses 8, 9, 10, 11, 12 and 16 shall not apply to an employee whose earnings exceed an amount as determined by the Minister of Labour in terms of section 6 (3) read with section 59 (2) (c) of the Basic Conditions of Employment Act, 1997.

[\[Sub-clause \(3\)\]](#) amended by GNR.201 of 2004.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 3. Remuneration.-(1) . . . . .**

**3. Remuneration.-(1) . . . . .**

[\[Sub-clause \(1\)\]](#) deleted by GNR.201 of 2004.]

(2) *Minimum wages:* The minimum wage which an employer, other than the employer referred to in subclause 1, shall pay to employees covered by this determination, with effect from the date on which this determination comes into operation the following:

**Table 1:  
Minimum wages for all employees in the Civil Engineering Sector**

[Table (1) amended by GNR.201 of 2004, substituted by GNR.133 of 2007, by r. 1 of GNR.872 of 25 August 2009 w.e.f. 1 September 2009, by GNR.757 of 27 August 2010 and by GNR.699 of 28 August 2012 and corrected by GNR.725 of 4 September 2012.]

| Grade                     | Current Rates | 01/09/2012 - 31/08/2013 |
|---------------------------|---------------|-------------------------|
| Task Grade 1/Patterson A1 | <b>R18.97</b> | <b>R20.50</b>           |
| Task Grade 2/Patterson A2 | <b>R19.07</b> | <b>R20.60</b>           |
| Task Grade 3/Patterson A3 | <b>R19.60</b> | <b>R21.17</b>           |
| Task Grade 4/Patterson B1 | <b>R20.27</b> | <b>R21.89</b>           |
| Task Grade 5/Patterson B2 | <b>R24.25</b> | <b>R26.19</b>           |
| Task Grade 6/Patterson B3 | <b>R27.54</b> | <b>R29.74</b>           |
| Task Grade 7/Patterson B4 | <b>R31.54</b> | <b>R34.06</b>           |
| Task Grade 8/Patterson B5 | <b>R35.36</b> | <b>R38.19</b>           |
| Task Grade 9/Patterson C1 | <b>R39.96</b> | <b>R43.16</b>           |

**Table 2:  
Job Grading**

[Table (2) inserted by GNR.133 of 2007.]

| <i>Task Grade</i>         | <i>Occupational group</i>   | <i>Job Title</i>                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Task Grade 1/Patterson A1 | General Worker              | General worker                                                                                                                                                                                                                                                                                                                                                    |
| Task Grade 2/Patterson A2 | Artisan Aid                 | Artisan Aid                                                                                                                                                                                                                                                                                                                                                       |
|                           | Construction Hand Grade IV  | Structures Construction Hand; Premix Paving Checker; Steel Bending Machine Operator; Civil Construction Bricklayer Grade II                                                                                                                                                                                                                                       |
|                           | Operator Grade V            | Boom Scraper Operator Pedestrian Roller Operator                                                                                                                                                                                                                                                                                                                  |
|                           | Checker                     | Checker                                                                                                                                                                                                                                                                                                                                                           |
|                           | Chainman                    | Chainman                                                                                                                                                                                                                                                                                                                                                          |
| Task Grade 3/Patterson A3 | Construction Hand Grade III | Shutter hand Grade III<br>Concrete Hand Grade II                                                                                                                                                                                                                                                                                                                  |
|                           | Operator Grade IV           | Track Rig Operator (general); Bore Pile Operator; Drilling Supervisor                                                                                                                                                                                                                                                                                             |
|                           | Site Support                | Junior Clerk                                                                                                                                                                                                                                                                                                                                                      |
| Task Grade 4/Patterson B1 | Construction Hand Grade II  | Shutter hand Grade II; Reinforcing Hand Grade II; Concrete Hand Grade I; Fence Erector; Guard Rail Erector                                                                                                                                                                                                                                                        |
|                           | Operator Grade III          | Concrete Mixer Operator; Continuous Flight Auger Operator; Batch Plant Operator; Concrete Dumper Operator; Concrete Pump Operator; Tower Crane Operator; General Premix Roller Operator; Milling Machine Operator; Paver Operator; Excavator Operator; Front End Loader Operator; TLB Operator; Dozer Operator; Grader Operator (general); Guniting Nozzle person |
|                           | Driver Grade II             | Motorcycle Driver; Tractor Driver; Light Motor Vehicle Driver; Driver Operator; Heavy Duty Driver (rigid); Extra Heavy Duty Driver (rigid)                                                                                                                                                                                                                        |
|                           | Site Support                | Material Tester                                                                                                                                                                                                                                                                                                                                                   |
| Task Grade 5/Patterson B2 | Construction Hand Grade I   | Shutter hand Grade I; Piling Auger Machine Operator; Reinforcing Hand Grade I; Pipe layer Grade I; Kerb layer Grade I; Civil Construction Bricklayer Grade I                                                                                                                                                                                                      |
|                           | Operator Grade II           | Mobile Crane Operator; Screed Operator; Scraper Operator                                                                                                                                                                                                                                                                                                          |
|                           | Driver Grade I              | Heavy Duty Driver (articulated); Extra Heavy Duty Driver (articulated)                                                                                                                                                                                                                                                                                            |
|                           | Site Support                | Assistant surveyor                                                                                                                                                                                                                                                                                                                                                |
| Task Grade 6/Patterson B3 | Operator Grade I            | Grader Operator (final level)                                                                                                                                                                                                                                                                                                                                     |
| Task Grade 7/Patterson B4 |                             | Supervisor Grade II; Plant Serviceman                                                                                                                                                                                                                                                                                                                             |
| Task Grade 8/Patterson B5 |                             | Supervisor Grade I                                                                                                                                                                                                                                                                                                                                                |
| Task Grade 9/Patterson C1 | Artisan                     | Diesel Mechanic, Fitter & Turner, Auto Electrician, Boilermaker, Welder.                                                                                                                                                                                                                                                                                          |

(3) .....

[Sub-clause. (3) deleted by GNR.133 of 2007.]

(4) **Year end bonus:** Subject to the provision of this sub-clause, employers shall-

(a) pay an employee an annual bonus as follows:

- (i) December 2009: 17 working days' pay;
- (ii) December 2010: 18 working days' pay;
- (iii) December 2011: 19 working days' pay; and
- (iv) December 2012: 20 working days' pay.

- (b) where agreements, substantive or otherwise, provide for bonuses in excess of that provided for in [paragraph \(a\)](#), such existing agreements shall prevail.
- (c) an employee shall not be entitled to the bonus amounts referred to in [paragraph \(a\)](#) unless he or she is employed by the employer in December of the year in which the bonus amount is to be paid and he or she has been continuously so employed for at least one full year.
- (d) an employee who is employed by the employer in December of the year in which a bonus amount is to be paid and who has been continuously so employed for at least 3 months, but for less than one full year, shall be entitled to a pro rata bonus payment.
- (e) an employee whose employment is terminated through no fault of his or her own, through retrenchment, retirement, disability or death, shall be entitled to a pro rata bonus payment.
- (f) no bonus payment shall be made to employees whose employment was terminated by reason of misconduct.
- (g) where an employee is absent for more than 10 working days in any one year, the bonus payment to which he or she is entitled shall be reduced by the proportion of total working days lost to total possible working days in a year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 4. Calculation of wages.-(1) The wage of an employee shall be calculated as set out hereunder-**

**4. Calculation of wages.-(1)** The wage of an employee shall be calculated as set out hereunder-

- (a) the hourly wage of an employee shall be the weekly wage divided by the number of ordinary hours of work prescribed for such employee in any week;
- (b) the daily wage of an employee shall be the hourly wage multiplied by-
  - (i) nine, in the case of an employee who works a five-day week;
  - (ii) seven and half, in the case of any other employee;
- (c) the weekly wage of an employee shall be the hourly wage multiplied by the number of ordinary hours of work prescribed for such employee in any week;
- (d) the monthly wage of an employee shall be four and a third times the weekly wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 5. Payment of remuneration.-(1) An employee, except as provided for in clause 17 (7) shall be paid:-**

**5. Payment of remuneration.-(1)** An employee, except as provided for in [clause 17 \(7\)](#) shall be paid:-

- (a) weekly, fortnightly or monthly;
- (b) in cash, by cheque or by direct deposit into an account designated by the employee, and in South African currency;
- (c) remuneration in cash or by cheque-
  - (i) at the workplace or at a place agreed to by the employee;
  - (ii) during the employee's working hours or within 15 minutes of the commencement or conclusion of such hours;
- (d) remuneration not later than seven days after-
  - (i) the completion of a period for which the remuneration is payable;
  - (ii) the termination of the contract of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 6. Information concerning remuneration.-(1) The remuneration shall be in a sealed envelope which shall become the property of the employee, on which must be recorded or which must be accompanied by, a statement showing-**

**6. Information concerning remuneration.-(1)** The remuneration shall be in a sealed envelope which shall become the property of the employee, on which must be recorded or which must be accompanied by, a statement showing-

- (a) the employer's name and address;
- (b) the employee's name and occupation;
- (c) the period in respect of which payment is made;
- (d) the employee's rate of remuneration and overtime rate;
- (e) the number of ordinary hours worked by the employee during that period;
- (f) the number of overtime hours worked by the employee during that period;
- (g) the number of hours worked by the employee on a paid public holiday or Sunday;
- (h) the employee's wage;
- (i) details of any other remuneration arising out of the employee's employment;
- (j) details of any deductions made; and
- (k) the actual amount paid to the employee.

(2) The particulars set out in subclause (1) may be coded on the envelope and such code shall be fully set out and explained in an accompanying notice or in a notice kept posted in a conspicuous place in the establishment, accessible to all employees affected thereby.

(3) Where the remuneration is deposited into the employee's account, the employer shall hand to him or her statement referred to in subclause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 7. Deductions and other acts concerning remuneration.-(1) An employer shall not levy any fines against an employee, nor shall an employer make any deductions from the employee's remuneration other than the following-**

**7. Deductions and other acts concerning remuneration.-(1)** An employer shall not levy any fines against an employee, nor shall an employer make any deductions from the employee's remuneration other than the following-

- (a) With the written consent of the employee, a deduction that relates to the conditions of employment entered into between the employer and the employee, and/or subscriptions to a trade union.
- (b) With the written consent of an employee a deduction of any amount which the employer has paid or undertaken to pay to-
  - (i) any banking institution, building society, insurance business, registered financial institution, local authority or the State in respect of a payment on a loan granted to such employee to acquire a dwelling;
  - (ii) any other organisation or body in respect of the rent of a dwelling or accommodation in a hostel occupied by such employee if such dwelling or hostel is provided through the instrumentality of such organisation or body wholly or partly from funds advanced for that purpose by the State, a building society or a local authority.
- (c) A deduction of any amount which an employer by law or order of any competent court is required or permitted to make.

(2) Except where otherwise provided in this determination, whenever an employee is absent from work other than at the instruction of the employer, a deduction proportionate to the period of the employee's absence and calculated on the basis of the wage which such employee was receiving in respect of the ordinary hours of work at the time of such absence.

(3) *Training fees:* No payment shall be made to, or accepted by, an employer either directly or indirectly in respect of the employment or training of an employee, except as provided for by the Skills Development Act.

(4) *Short time:* Whenever the ordinary hours of work prescribed in [clause 8](#) are reduced on account of short-time, excluding short-time owing to inclement weather-

- (a) a deduction not exceeding the amount of the employee's hourly wage in respect of each hour of such reduction provided that-
  - (i) such deduction shall not exceed one third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work were reduced;
  - (ii) no deduction shall be made in the case of short-time arising from slackness of trade or shortage of raw materials, unless the employer has given the employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short-time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings or structures, in respect of the first two hours not worked, unless the employer has given the employee notice on the previous working day that no work would be available due to such breakdown.
- (b) whenever the ordinary hours of work prescribed in [clause 8](#) are reduced on account of inclement weather, the following arrangements will apply-
  - (i) where no work has begun at all on site, and if an employee has reported for work, the employee will be



paid for the hours as set out hereunder,

- (aa) from 1 September 2009 for 6 hours;
- (bb) from 1 September 2010 for 7 hours;
- (cc) from 1 September 2011 for 8 hours;
- (dd) from 1 September 2012 for 9 hours;

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the year "20012" is intended to be "2012".)

- (ii) should work be stopped after the hours as set out in (i), the employee would be paid for the hours worked;
- (iii) should work be stopped during the hours as set out in (i), the employee will be paid for those hours only;
- (iv) where the employer has given his employees notice on the previous working day that no work will be available due to inclement weather, then no payment will be made, provided that [clause 7 \(4\) \(a\) \(i\)](#) is complied with.
- (v) Upon completion of the phasing-in of hours above, sub [clause 7 \(4\) \(b\) \(i\)](#) to [\(iv\)](#) will have no effect.  
[[Para. \(b\)](#) substituted by r. 3 of GNR.872 of 25 August 2009 w.e.f. 1 September 2009.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 8. Ordinary hours of work.-(1) An employer may not require or permit an employee to work more ordinary hours of work than-**

**8. Ordinary hours of work.-(1)** An employer may not require or permit an employee to work more ordinary hours of work than-

- (a) 45 hours in any week; and
- (b) nine hours in any day if the employee works for five-days or fewer in a week; or
- (c) eight hours in any day if the employee works on more than five days in a week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 9. Overtime.-(1) An employer may not require or permit an employee-**

**9. Overtime.-(1)** An employer may not require or permit an employee-

- (a) to work overtime except in accordance with an agreement;
- (b) to work more than-
  - (i) 3 hours' overtime a day; or
  - (ii) 10 hours' overtime a week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 10. Payment for overtime.-(1) An employer shall pay an employee who works overtime at a rate of not less than one and half times the ordinary wage in respect of the overtime referred to in clause 9 (1): Provided that any time worked on Sundays and paid**

**10. Payment for overtime.-(1)** An employer shall pay an employee who works overtime at a rate of not less than one and half times the ordinary wage in respect of the overtime referred to in [clause 9 \(1\)](#): Provided that any time worked on Sundays and paid public holidays shall be paid in accordance with the provisions of clauses 15 and 16.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 11. Meal intervals.-(1) An employer shall not require or permit an employee to work for more than five hours continuously without a meal interval of not less than half an hour during which interval such employee shall not be required or permitted to pe**

**11. Meal intervals.-(1)** An employer shall not require or permit an employee to work for more than five hours continuously without a meal interval of not less than half an hour during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that-

- (i) periods of work interrupted by intervals of less than half an hour, except when proviso (iv) below applies, shall be deemed to be continuous;
- (ii) if such interval is longer than half an hour, any period in excess of one hour shall be deemed to be time worked;
- (iii) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
- (iv) when, on any day, by reason of overtime work, an employer is required to give an employee a second meal interval, such interval may, at the request of the employee, be reduced to not less than 15 minutes;
- (v) a driver or an operator of self-propelled or stationary plant who during such interval does not work other than being or remaining in charge of a vehicle or such plant shall be deemed for the purposes of this subclause not to have worked during such interval.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 12. Rest period.-(1) An employer shall allow an employee-**

**12. Rest period.-(1) An employer shall allow an employee-**

- (a) a daily rest period of at least 12 consecutive hours between ending and recommencing work; and
  - (b) a weekly rest period of at least 36 consecutive hours, which, unless otherwise agreed, must include a Sunday.
- (2) Clauses 9 (1), 11 (1) and 16 (2) shall not apply to an employee while engaged in emergency work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 13. Compressed working week.-(1) An agreement in writing between an employer and an employee may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 11 (1), without receiving ov**

**13. Compressed working week.-(1) An agreement in writing between an employer and an employee may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 11 \(1\)](#), without receiving overtime pay.**

- (2) An agreement in terms of subclause (1) may not require or permit employee to work-
- (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours' overtime in any week; or
  - (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 14. Averaging hours of work.-(1) Despite clauses 8 and 9 the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement.**

**14. Averaging hours of work.-(1) Despite clauses 8 and 9 the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a collective agreement.**

- (2) An employer may not require or permit an employee whom is bound by a collective agreement in terms of subclause (1) to work more than-
- (a) an average of 45 ordinary hours of work in a week over the agreed period;
  - (b) an average of five hours' overtime in a week over the agreed period.
- (3) A collective agreement in terms of subclause (1) lapses after 12 months.
- (4) Subclause (3) only applies to the first two collective agreements concluded in terms of [subsection \(1\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 15. Payment for work on a Sunday.-(1) Whenever an employee works on a Sunday, the employer shall either-**

**15. Payment for work on a Sunday.-(1) Whenever an employee works on a Sunday, the employer shall either-**

- (a) pay the employee-

- (i) if he or she works for a period not exceeding four hours, not less than the daily wage; and
  - (ii) if he or she works for a period exceeding four hours, at a rate of not less than double the ordinary wage in respect of the total period worked on such Sunday, or not less than double the daily wage, whichever is the greater; or
- (b) pay the employee at a rate of not less than one and a third times his or her ordinary wage in respect of the total period worked on such Sunday, and grant the employee within seven days of such Sunday one day's leave, which shall not constitute annual leave in terms of [clause 17](#), and pay him or her in respect thereof not less than the daily wage: Provided that where such an employee is required or permitted to work for less than four hours on such Sunday he or she shall be deemed to have worked for four hours.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 16. Public holidays.-(1) Exclusion: Subclause (4) shall not apply to an employee earning a wage in excess of the remunerations stipulated by the Minister in the determination made in Regulation 1439 published on 13 November 1998 or in any other determ**

**16. Public holidays.**-(1) *Exclusion:* Subclause (4) shall not apply to an employee earning a wage in excess of the remunerations stipulated by the Minister in the determination made in Regulation 1439 published on 13 November 1998 or in any other determination in substitution thereof.

- (2) An employer may not require an employee to work on a public holiday except in accordance with an agreement.
- (3) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-
  - (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
  - (b) an employee who does work on the public holiday-
    - (i) at least double the amount referred to in [paragraph \(a\)](#); or
    - (ii) if it is greater, the amount referred to in [paragraph \(a\)](#) plus the amount earned by the employee for the time worked on that day.
- (4) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to-
  - (a) the employee's ordinary daily wage; plus
  - (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.
- (5) An employer must pay an employee for a public holiday on the employee's usual payday.
- (6) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 17. Annual leave.-(1) An employer shall grant to an employee who has completed less than five (5) continuous years' of service but who has been in employment for longer than four (4) months in the aggregate, 15 working days leave on full pay in respect**

**17. Annual leave.**-(1) An employer shall grant to an employee who has completed less than five (5) continuous years' of service but who has been in employment for longer than four (4) months in the aggregate, 15 working days leave on full pay in respect of each completed period of 12 months of employment accumulated at 1.25 days per month.

- (a) An employer shall grant an employee who has completed five (5) continuous years' of service with that employer-
  - (i) 16 working days leave for 2010, accumulated at 1.34 days per month;
  - (ii) 17 working days leave for 2011, accumulated at 1.42 days per month;
  - (iii) 18 working days leave for 2012, accumulated at 1.5 days per month.
- (b) An employer shall grant an employee who has completed five (5) continuous years of service after 2013 with that employer, eighteen (18) working days leave per annum.
- (c) Subject to [clause 17 \(1\)](#) and [17 \(1\) \(a\)](#) and [17 \(1\) \(b\)](#), a minimum of 10 days shall be taken consecutively by an employee, normally during the Civil Engineering Sector shut-down period, and the remaining days shall be granted, subject to sub-[clause 4](#), at a time agreed upon by the employee and the employer.  
[Sub-r. (1) substituted by GNR.757 of 27 August 2010 and corrected by GNR.1115 of 26 November 2010.]

(2) . . . . .

[Sub-r. (2) substituted by GNR.757 of 27 August 2010 and deleted by GNR.1115 of 26 November 2010.]

(3) An employer shall grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.

(4) If the leave prescribed in subclauses (1) and (2) has not been granted and taken earlier, it shall, save as provided in subclause (5), be granted and be taken so as to commence within four months after the completion of the 12 months of employment to which it relates or, if the employer and employee have agreed thereto in writing before the expiration of the said period of four months, the employer shall grant such leave to the employee and the employee shall take the leave from a date not later than two months after the expiration of the said period of four months: Provided that the period of leave shall not be concurrent with-

(a) sick leave granted in terms of [clause 18](#) or with absence from work owing to incapacity in the circumstances set out in clauses 18 (9) (a) or 18 (9) (b) amounting in the aggregate to not more than 12 days in any one period of 12 months;

(b) any period during which the employee is under notice of termination of employment in terms of [clause 22](#).

(5) At the written request of the employee, an employer may permit the leave to accumulate over a period of not more than 24 months of employment:

Provided that-

(a) the request is made by such employee not later than four months after the expiration of the first period of 12 months of employment to which the leave relates; and

(b) the date of receipt of the request is endorsed over the employee's signature by the employer, who shall retain the request at least until after the expiration of the period of leave.

(6) The leave referred to in subclause (5) shall be granted and be taken at a time to be fixed by the employer, and the provisos to subclause (4) shall apply to such leave.

(7) The remuneration in respect of leave granted in terms of this clause shall be paid not later than the last workday before the date of commencement of such leave, and shall be calculated at the employee's rate of remuneration at the time that the leave is granted.

(8) Upon termination of employment the employer shall pay the employee the pay in respect of any leave, which has accrued but not granted as at the time of such termination. Such leave payment shall be calculated at the employee's rate of remuneration as at the time of termination.

(9) For the purpose of this clause the expression "employment" shall be deemed to include-

(a) any period in respect of which an employer pays an employee in lieu of notice in terms of [clause 22](#);

(b) any period during which an employee is absent on sick leave in terms of [clause 18](#), or owing to incapacity in the circumstances set out in [clause 18 \(6\) \(c\)](#);

(c) any period during which an employee is absent at the instruction of the employer;

(d) any time during which an employee is required by the employer not to work because of the vagaries of the weather, slackness of trade or a breakdown of machinery or plant.

(10) Notwithstanding anything to the contrary contained in this clause, an employer may for the purposes of annual leave, at any time, but not more than once in any period of 12 months, close the establishment, or a portion of the establishment, for 14 consecutive days, plus an additional day for each paid public holiday which falls on a day during such period on which the employee would ordinarily have worked.

(11) An employee who as at the date of the closing of an establishment or the portion thereof in which he or she is employed, is not entitled to the full period of annual leave prescribed in terms of subclauses (1) and (2) shall, in respect of any leave due, be paid the leave accrued as at the date of such closure, and for the purposes of annual leave thereafter the employee's employment shall be deemed to commence on the date of such closing of the establishment or portion of the establishment, as the case may be.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 18. Sick leave.-(1) "sick leave cycle" means the period of 36 consecutive months' employment with the same employer immediately following-**

**18. Sick leave.-(1)** "sick leave cycle" means the period of 36 consecutive months' employment with the same employer immediately following-

(a) an employee's commencement of employment; or

(b) the completion of that employee's prior sick leave cycle.

(2) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite subclause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

(4) During an employee's first sick leave cycle, an employer may reduce the employee's entitlement to sick leave in terms of subclause (2) by the number of days sick leave taken in terms of subclause (3).

(5) Subject to subclause (7), an employer must pay an employee for a day's sick leave-

(a) the wage the employee would ordinarily have received for work on that day; and

- (b) on the employee's usual payday.
- (6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in terms of this clause if-
- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
  - (b) the employee's entitlement to pay-
    - (i) for any day's sick leave is at least 75 percent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
    - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of subclause (2).
  - (c) in the first 36 months of employment, an employee is absent owing to incapacity for a period in excess of the sick leave accrued in terms of subclause (2), the employer shall not, at that stage, be required to effect any payment in respect of the excess sick leave taken.
  - (d) However, if the employer has not previously done so, he or she shall at the end of the first cycle of 36 months of employment pay the employee an amount equal to not less than the difference between the sick leave payment made earlier and the employee's wage for the full period of incapacity, up to a maximum of 36 work-days. Such compensation shall be affected at the rate of the employee's wage as at the commencement of the incapacity:
  - (e) Provided further that where the contract of employment terminates before the end of the said first cycle the employee shall be entitled to claim payment from the employer of an amount equal to the difference between the sick leave pay already received and the wage for the full period of incapacity, but not exceeding payment at a rate of more than one work-day's wage for each completed of 26 days worked, and for the purposes of this proviso the expression "wage" shall mean the wage the employee was receiving as at the commencement of incapacity;
  - (f) where an employer is by any law required to pay fees for hospital or medical treatment in respect of an employee, and pays such fees, the amount so paid may be set off against the payment due in respect of absence owing to incapacity in terms of this clause;
  - (g) no unused sick leave may be accrued from one cycle to another.
- (7) An employer may, as a condition precedent to the payment of any amount claimed in terms of this clause by an employee in respect of any absence from work-
- (a) for more than three consecutive work-days; or
  - (b) on the work-day immediately preceding or the work-day immediately succeeding a Sunday or a paid holiday, require the employee to produce a certificate signed by a registered medical practitioner stating the nature and duration of the employee's incapacity: Provided that, when an employee has, during any period of up to eight weeks, received payment in terms of this clause on two or more occasions without producing such a certificate, the employer may, during the period of eight weeks immediately succeeding the last such occasion, require the production of such certificate in respect of any absence. Furthermore, an employer may require an employee to obtain a certificate issued by a medical practitioner nominated by the employer but at the employer's expense in order to satisfy the requirements of this clause.
- (8) For the purposes of this clause the expression-
- (a) "employment" shall be deemed to include any period during which an employee is absent-
    - (i) on leave in terms of [clause 17](#) or on the instructions or at the request of his employer or on sick leave in terms of subclause (2) amounting in the aggregate in any period of 12 months to not more than 10 weeks; and
    - (ii) due to the employee not being required to work because of the vagaries of the weather, slackness of trade or a breakdown of machinery or plant;
  - (b) "incapacity" means inability to work owing to any sickness or injury other than sickness or injury caused by an employee's own misconduct: Provided that any such inability to work, caused by an accident or a scheduled disease for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993, shall only be regarded as incapacity during any period in respect of which no disablement payment is payable in terms of that Act.
- (9) Clause 18, save for this subclause, shall not apply-
- (a) to an employee at whose written request the employer makes contributions, at least equal to those made by the employee, to any fund or organisation nominated by the employee, which fund or organisation guarantees to the employee in the event of incapacity in the circumstances set out in this clause, the payment to him or her of not less than in the aggregate the equivalent of the employee's wage for 36 workdays in each cycle of 36 months of employment, except that during the first 36 months of the payment of contributions by the employee, the guaranteed rate may be reduced by not less than the rate of accrual set out in the first proviso to subclause (2);
  - (b) in respect of any period of incapacity of an employee for which the employer is required by any other law to pay to the employee not less than his or her full wages.

**19. Maternity leave.-(1)** An employee is entitled to at least four consecutive months' maternity leave.

- (a) Subject to sub-[clause 19 \(1\)](#), an employee must receive 20% of her normal weekly wage, provided she has been continuously in service for two years before the expected date of birth and must remain in service for 1 year after birth.

[[Para. \(a\)](#) inserted by GNR.757 of 27 August 2010.]

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or  
(b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify an employer in writing unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave, and  
(b) return to work after maternity leave.

(6) Notification in terms of subclause (5) must be given-

- (a) at least four weeks before the employee intends to commence maternity leave;  
(b) if it is not reasonably practicable to do-so, as soon as is reasonably practicable.

(7) Protection of employees before and after birth of a child-

- (a) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.  
(b) During an employee's pregnancy and for a period of six months after the birth of her child, her employer must offer her suitable alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if it is practicable for the employer to do so.

**20. Family responsibility leave.-(1)** This clause applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and  
(b) who works for at least four days a week for that employer.

(2) An employer must grant an employee, during each annual leave cycle, at the request of an employee, four day's paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;  
(b) when the employee's child is sick; or  
(c) in the event of the death of-  
(i) the employee's spouse or life partner; or  
(ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

[[Sub-r. \(2\)](#) amended by GNR.757 of 27 August 2010.]

(3) Subject to subclause (5), an employer must pay an employee for a day's family responsibility leave-

- (a) the wage the employee would ordinarily have received for work on that day; and  
(b) on the employee's usual payday.

(4) An employee may take family responsibility leave in respect of the whole or part of a day.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.



**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 21. Piece work.-(1) An employer may, after giving at least one week's notice to an employee, introduce a piece-work system and, save as provided in clause 7, such employer shall pay such employee at the rate applicable under such system: Provided that,**

**21. Piece work.**-(1) An employer may, after giving at least one week's notice to an employee, introduce a piece-work system and, save as provided in [clause 7](#), such employer shall pay such employee at the rate applicable under such system: Provided that, irrespective of the quantity of work done, the employer shall pay such employee not less than, in respect of each week in which such piece-work is performed, the amount which the employer would have been required to pay such employee for that week had the employee been remunerated on the basis of time worked.

(2) An employer shall keep a schedule of the rates referred to in subclause (1) in a conspicuous place in the establishment.

(3) An employer who intends to cancel or amend the piece-work system in operation, or the rates applicable there under, shall give the employee employed on such system not less than one week's notice of such intention: Provided that an employer and the employee may agree on a longer period of notice, in which case the employer shall give notice for a period not shorter than that agreed upon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 22. Prohibition of employment.-(1) An employer shall not-**

**22. Prohibition of employment.**-(1) An employer shall not-

- (a) employ any person under the age of 15 years; or
- (b) a child who is under the minimum school leaving age in terms of any law, if he or she is 15 years or older;

(2) An employer shall not employ a child in employment-

- (a) that is inappropriate for a person of that age;
- (b) that places at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.

(3) All forced labour is prohibited.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 23. Termination of contract of employment.-(1) An employer or an employee, who wishes to terminate the contract of employment, shall give notice of termination of not less than-**

**23. Termination of contract of employment.**-(1) An employer or an employee, who wishes to terminate the contract of employment, shall give notice of termination of not less than-

- (a) one week, if the employee has been employed for four weeks or less;
- (b) two weeks, if the employee has been employed for more than four weeks but not more than one year;
- (c) four weeks, if the employee has been employed for one year or more.

(2) An employer may terminate the contract without notice by, subject to subclauses (3) and (4), paying the employee, in lieu of such notice not less than the remuneration the employee would have received, calculated in accordance with [clause 4](#), if the employee had worked during the notice period.

(3) The provision in subclause (2) for notice pay shall not affect the operation of any forfeitures or penalties that by law may be applicable in respect of an employee who deserts.

(4) Where the wage of an employee at the date of termination has been reduced by deductions in respect of short-time, the employer is obliged to pay the employee in lieu of notice at a rate as if no deduction has been made in respect of short-time.

(5) The notice prescribed in subclause (1) may be given on any work-day: Provided that the period of notice shall not run concurrently with nor shall notice be given during an employee's absence-

- (i) on leave in terms of [clause 17](#);
- (ii) on sick leave in terms of [clause 18](#);
- (iii) owing to incapacity in terms of circumstances set out in [clause 18 \(8\) \(b\)](#) amounting in the aggregate to not more than 10 weeks in any period of 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 24. Severance pay.-(1) For the purpose of this clause, "operational requirements" means**

**24. Severance pay.**-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of any employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 4](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternate employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 25. Certificate of service.**-(1) On termination of employment an employee is entitled to a certificate of service substantial in the form of annexure "A" stating-

**25. Certificate of service.**-(1) On termination of employment an employee is entitled to a certificate of service substantial in the form of annexure "A" stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) a description of any council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 26. Protective clothing.**-(1) An employer shall supply and maintain in serviceable condition, free of charge, any protective clothing that the employer requires the employee to wear, or that by any law the employer is compelled to provide to the employee

**26. Protective clothing.**-(1) An employer shall supply and maintain in serviceable condition, free of charge, any protective clothing that the employer requires the employee to wear, or that by any law the employer is compelled to provide to the employee, and any such protective clothing shall remain the property of the employer.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 27. Attendance register.**-(1) **Exclusion: This clause shall not apply to a driver of a motor vehicle or an employee accompanying such a driver or to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination**

**27. Attendance register.**-(1) **Exclusion:** This clause shall not apply to a driver of a motor vehicle or an employee accompanying such a driver or to an employee earning a wage in excess of the remuneration stipulated by the Minister in the determination made in Regulation 1439 published on 13 November 1998 or in any other determination in substitution thereof.

(2) An employer shall provide in his or her establishment an attendance register substantially in the form of annexure "B" in which he or she shall record in ink or indelible pencil the name and class of each of his or her employees, and if such employee is unable to write his or her employer shall on his or her behalf for each day worked and for that day make the necessary entries in respect of items (i) to (iv) inclusive of subclause (4) (a), and sign such entries in the presence of a person nominated by the employee.

(3) Unless prevented from doing so by unavoidable circumstances, an employee shall in respect of each day worked by him or her and on that day-

- (a) record in ink or indelible pencil in the attendance register referred to in subclause (2)-
  - (i) the day of the week;
  - (ii) the time he or she commenced work;



- (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
  - (iv) the time of finishing work that day;
  - (v) the time of commencement and termination of overtime worked for the day;
  - (vi) the total number of hours worked for the day; and
  - (vii) his or her signature.
- (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder on a card supplied in terms of subclause (3) to show the following:-
- (i) the time he or she commenced work;
  - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
  - (iii) the time of finishing work for the day.

(4) An employer shall retain the attendance register referred to in subclause (2), as the case may be, for a period of not less than three years after the date of the last entry therein or thereon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 28. Written particulars of employment.-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-**

**28. Written particulars of employment.-(1)** An employer must supply an employee, when the employee commences employment, with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
- (c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
- (d) the date of employment;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's wage or the rate and method of calculating wages;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the employee is entitled to and the value of the payment in kind;
- (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
- (j) how frequently remuneration will be paid;
- (k) any deductions to be made from the employee's remuneration;
- (l) the leave to which the employee is entitled;
- (m) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is terminated;
- (n) a description of any council or sectoral determination which covers the employer's business;
- (o) any period of employment with a previous employer that covers towards the employee's period of employment;
- (p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in subclause (1) changes-

- (a) the written particulars must be revised to reflect the change; and
- (b) the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) The employer must keep written particulars in terms of this clause for a period of 12 months after termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 29. Retirement benefit fund.-(1) All the employers who do not have a retirement benefit fund**

**in favour of their employees in place, shall by 1 March 2001, either join the Construction Industry Retirement Benefit Fund, or, whether independently or with**

**29. Retirement benefit fund.**-(1) All the employers who do not have a retirement benefit fund in favour of their employees in place, shall by 1 March 2001, either join the Construction Industry Retirement Benefit Fund, or, whether independently or with other employers, do whatever may be necessary to have a retirement benefit fund registered in terms of the Pension Funds Act, 1956, in favour of their employees and shall confer the benefits of membership of such fund on their permanent employees.

(2) The rules of the retirement benefit fund referred to above shall require that employers and employees contribute equally in respect of each employee's membership of the retirement benefit fund.

(3) The rules of the retirement benefit fund shall provide for a risk benefit fund, which shall provide for death, disability and funeral benefits.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 29A. Cross border work allowance.**-(1) An employer may only require or permit an employee to perform cross border work if so agreed provided that-

**29A. Cross border work allowance.**-(1) An employer may only require or permit an employee to perform cross border work if so agreed provided that-

- (a) the employer pays the employee an allowance;
- (b) the employer must ensure that the terms of the agreement are not less favourable than the basic conditions of employment as regulated by the provisions of this sectoral determination or any law that is applicable in the Republic of South Africa; and
- (c) the employer must ensure that the terms of the agreement and conditions of work are not less favourable than the same employee would enjoy if working in South Africa.
- (d) In the event where an employee is employed for a period of more than 12 months in another country, the employer must have an agreement with the Compensation Commissioner in terms of [section 23 \(1\) \(c\)](#) of the Compensation for Occupational Injuries and Diseases Act, Act [130 of 1993](#).

(2) An employer who requires an employee to perform work outside the borders of the Republic of South Africa must-

- (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee reasonably understands-
  - (i) of any health and safety hazards associated with that country that the employee is expected to be deployed to; and
  - (ii) of the employee's right to undergo a medical examination in terms of paragraph (3);

(3) At the request of the employee, enable the employee to undergo a medical examination, at the expense of the employer, concerning those hazards-

- (a) before the employee departs, or within a reasonable period;
- (b) at appropriate intervals while the employee continues to perform such work; and

(4) Transfer the employee to a suitable country within a reasonable time if-

- (a) the employee suffers from a health condition associated with the country in which the employee is working; and
- (b) it is practicable for the employer to do so.

[Clause 29A inserted by GNR.133 of 2007.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ 30. Keeping of sectoral determination.**-(1) Every employer on whom this sectoral determination is binding must-

**30. Keeping of sectoral determination.**-(1) Every employer on whom this sectoral determination is binding must-

- (a) keep a copy of the sectoral determination available in the workplace at all times;
- (b) make the copy available for inspection by an employee; and
- (c) give a copy of the sectoral determination-
  - (i) to an employee who has paid the prescribed fee; and
  - (ii) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

*(All the provisions of Wage Determination 480: Civil Engineering South Africa published under the Government Notice No. 366 on*

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ Annexure "A" CERTIFICATE OF SERVICE**

**Annexure "A"**  
CERTIFICATE OF SERVICE

**CIVIL ENGINEERING  
SECTOR,  
SOUTH AFRICA**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of employment with an employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued upon termination of employment.

**NOTE**

The reason for termination of employment must only be given if requested by the employee.

*This is only a model and not a prescribed form.*

Completing a document in another format containing the same information is sufficient compliance with the [clause 25](#).

I \_\_\_\_\_  
(Name and designation of person)  
of \_\_\_\_\_  
(Full name of employer)

Address: \_\_\_\_\_  
in the \_\_\_\_\_ (Trade)  
declare that \_\_\_\_\_  
(Full name of employee)  
(I.D no.)  
was in employment  
from \_\_\_\_\_ until \_\_\_\_\_  
as \_\_\_\_\_  
(Type of work/occupation)

any other information \_\_\_\_\_

On termination of service this employee was earning:  
R \_\_\_\_\_ (Amount in words)

☐ per hour    ☐ per day    ☐ per week  
☐ per fortnight    ☐ per month    ☐ per year

Employer's signature \_\_\_\_\_ Date \_\_\_\_\_

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.204 of 2 March 2001: Sectoral Determination 2: Civil Engineering Sector, South Africa/ Annexure "B" ATTENDANCE REGISTER**

**Annexure "B"**  
ATTENDANCE REGISTER

**CIVIL ENGINEERING**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

Completing a document in another format e.g. electronic clock card, containing the same information is sufficient compliance with the regulation.

[illegible]

[illegible]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership**

**Notice**  
R.234

**Date**  
15 March 2011

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997 (75 OF 1997)

M.M.S. MDLADLANA, MP  
Minister of Labour

## ARRANGEMENT OF REGULATIONS

|                            |                                                          |
|----------------------------|----------------------------------------------------------|
| <a href="#">22.</a>        | Proof of incapacity                                      |
| <a href="#">23.</a>        | Application to occupational accidents and diseases       |
| <a href="#">24.</a>        | Maternity leave                                          |
| <a href="#">25.</a>        | Protection of learners before and after birth of a child |
| <a href="#">26.</a>        | Family responsibility leave                              |
| <a href="#">27.</a>        | Contract of employment                                   |
| <a href="#">28.</a>        | Informing learners of their rights                       |
| <a href="#">29.</a>        | Keeping of records                                       |
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| <a href="#">31.</a>        | Payments on termination                                  |
| <a href="#">32.</a>        | Certificate of service                                   |
| <a href="#">33.</a>        | Disputes about this determination                        |
| <a href="#">34.</a>        | Keeping of the determination for learners                |
| <a href="#">Annexure A</a> | Certificate of service                                   |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 1. Definitions-In this Act, unless the context indicates otherwise-**

**1. Definitions-**In this Act, unless the context indicates otherwise-

**"Act"** means the Skills Development Act, 1998 (Act [No. 97 of 1998](#));

**"agreement"** includes a collective agreement;

**"allowance"** means the amount of money paid or payable to a learner in respect of ordinary hours of work or, if they are shorter, the hours a learner normally works in a day or week;

**"apprenticeship"** means a learnership in respect of a listed trade, and includes a trade-test in respect of that trade;  
[Definition of ["apprenticeship"](#) inserted by GNR.234 of 15 March 2011.]

**"artisan"** means a person that has been certified as competent to perform a listed trade in accordance with Act No. 37, 2008 SKILLS DEVELOPMENT AMENDMENT ACT, 2008;  
[Definition of ["artisan"](#) inserted by GNR.234 of 15 March 2011.]

**"bargaining council"** means a bargaining council registered in terms of the Labour Relations Act, 1995, and, in relation to the public service, includes the bargaining councils referred to in [section 35](#) of that Act;

**"CCMA"** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

**"collective agreement"** means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by one or more registered trade unions, on the one hand and, on the other hand-

- (a) one or more employers;
- (b) one or more registered employers' organisations; or
- (c) one or more employers and one or more registered employers' organisation;

and includes a collective agreement concluded in a bargaining council and binding in terms of either [section 31](#) or [32](#) of the Labour Relations Act, 1995;

**"credit"** means a credit as defined in the Regulations made under the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995) published in Government Notice 18787 of 28 March 1998;

**"dispute"** includes an alleged dispute;

**"Labour Relations Act, 1995"** means the Labour Relations Act, 1995 (Act [66 of 1995](#));

**"learner"** includes an apprentice;  
[Definition of ["learner"](#) inserted by GNR.234 of 15 March 2011.]

**"learnership"** includes an apprenticeship;  
[Definition of ["learnership"](#) inserted by GNR.234 of 15 March 2011.]

**"learning"** means the acquisition of knowledge, understanding, values, skill, competence or experience;  
[Definition of ["learning"](#) inserted by GNR.234 of 15 March 2011.]

**"learning programme"** includes a learnership, an apprenticeship, a skills programme and any other prescribed learning programme which includes a structured work experience component;  
[Definition of ["learning programme"](#) inserted by GNR.234 of 15 March 2011.]

**"medical practitioner"** means a person entitled to practise as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 56 of 1974](#));

**"midwife"** means a person registered or enrolled to practise as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978);

**"Minister"** means the Minister of Labour;

**"month"** means a calendar month;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 9](#) or in terms of any agreement in terms of clauses 11 or 12;

**"NQF level"** means a level of the National Technical Qualifications Framework referred to in the [regulation 3](#) of the Regulations made under the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995) published in Government Notice 18787 of 28 March 1998;

**"overtime"** means the time that a learner works during a day or a week in excess of ordinary hours of work;

**"public holiday"** means any day that is a public holiday in terms of the Public Holidays Act, 1994 (Act [No. 36 of 1994](#));

**"registered employers organisation"** means an employers' organisation registered under [section 96](#) of the Labour Relations Act, 1995;

**"registered trade union"** means a trade union registered under [section 96](#) of the Labour Relations Act, 1995;

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning;<sup>1</sup>

**"sector"** means an industry or a service or a part of an industry or a service;

**"sectoral determination"** means a sectoral determination made under Chapter Eight of the Basic Conditions of Employment Act, 1997;

**"wage"** means the amount of money paid or payable to a learner in respect of ordinary hours of work or, if they are shorter, the hours an employee ordinarily works in a day or a week;

**"week"** in relation to a learner, means the period of seven days within which the working week of that learner ordinarily falls;

**"work"** includes any time that the learner is required to spend in study periods or theoretical learning sessions with the training provider in terms of the learnership agreement;

**"workplace"** means any place where learners work.

#### **Footnotes**

- 1 Remuneration is given a specific meaning in [clause 7 \(5\)](#).

### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 2. Application of this determination.-(1) This determination applies to-**

#### **2. Application of this determination.-(1) This determination applies to-**

- (a) the employment of a learner-
  - (i) who has concluded a learnership agreement in terms of [section 17](#) of the Act; and
  - (ii) who was not in the employment of the employer party to the learnership agreement when the agreement was concluded.
- (b) to every employer who employs a learner contemplated in sub-paragraph (a) in respect of the employment of that learner.

(2) (a) This determination forms part of the contract of employment of any learner employed in terms of [section 18 \(2\)](#) of the Act.

(b) Sub-paragraph (a) does not prevent an employer and a learner concluding a contract of employment in terms of [section 18 \(2\)](#) of the Act, which contains terms, and conditions that are more favourable to the learner.

(3) This determination takes precedence over any collective agreement, except insofar as a collective agreement concluded after this determination comes into effect expressly provides for learners to receive an allowance or conditions of employment that are more favourable to the employee than provided for in this determination.

### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 3. Learner's allowances.-(1) An employer must pay a learner an allowance calculated in terms of this clause.**

#### **3. Learner's allowances.-(1) An employer must pay a learner an allowance calculated in terms of this clause.**

(2) Subject to subclause 3, a learner's allowance must be calculated as a percentage of the qualified wage in accordance with column 3 of Table A.

(3) No learner may be paid less than the applicable allowance specified in column 4 of Table A.



(4) For the purposes of this clause-

- (a) the "**qualified wage**" is the wage that the employer would pay the learner on obtaining the qualification for which the learnership is registered;
- (b) "**wage**" means the amount of money payable to an employee in respect of the hours of work an employee normally works, excluding any overtime.

(5) Subject to sub-clause (3), the annual minimum allowances-

- (a) The annualised CPI (Excluding Owner's Equivalent rent) should be utilised to calculate the annual increase on allowances.
- (b) For the purpose of this clause, the "CPI" is the Consumer Price Index as reported by Statistics South Africa six weeks before the increases become effective.

[[Sub-r. \(5\)](#) inserted by GNR.234 of 15 March 2011.]

Table A

[Table A substituted by GNR.234 of 15 March 2011.]

| <i>Exit level of learnership</i> | <i>Credit already earned by learner</i> | <i>Percentage of wage to be paid as allowance</i> | <i>Minimum allowance per week</i> | <i>Annual Increase</i>                                                               |
|----------------------------------|-----------------------------------------|---------------------------------------------------|-----------------------------------|--------------------------------------------------------------------------------------|
| NQF 1 or 2                       | 0 - 120                                 | 35%                                               | R204.47                           | Previous years minimum allowances per week + CPI (Excluding Owner's Equivalent Rent) |
|                                  | 121 - 240                               | 69%                                               | R408.92                           |                                                                                      |
| NQF 3                            | 0 - 120                                 | 17%                                               | R204.47                           |                                                                                      |
|                                  | 121 - 240                               | 40%                                               | R385.10                           |                                                                                      |
|                                  | 241 - 360                               | 53%                                               | R630.45                           |                                                                                      |
| NQF 4                            | 0 - 120                                 | 13%                                               | R204.47                           |                                                                                      |
|                                  | 121 - 240                               | 25%                                               | R408.92                           |                                                                                      |
|                                  | 241 - 360                               | 53%                                               | R630.45                           |                                                                                      |
|                                  | 361 - 480                               | 56%                                               | R920.09                           |                                                                                      |
| NQF 5 to 8                       | 0 - 120                                 | 8%                                                | R204.47                           |                                                                                      |
|                                  | 121 - 240                               | 18%                                               | R442.99                           |                                                                                      |
|                                  | 241 - 360                               | 27%                                               | R662.81                           |                                                                                      |
|                                  | 361 - 480                               | 38%                                               | R933.74                           |                                                                                      |
|                                  | 481 - 600                               | 49%                                               | R1192.70                          |                                                                                      |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 4. Calculation of remuneration and allowances.-(1) A learner's allowance is calculated by reference to the number of hours the learner normally works.**

**4. Calculation of remuneration and allowances.-(1)** A learner's allowance is calculated by reference to the number of hours the learner normally works.

(2) For the purposes of calculating the allowance of a learner, a learner is deemed normally to work-

- (a) 45 hours in a week, unless the learner ordinarily works a lesser number of hours in a week;
- (b) nine hours in a day, or seven and a half hours in the case of a learner who works for more than five days a week, or the number of hours that a learner works in a day in terms of an agreement concluded in accordance with [clause 11](#), unless the learner normally works a lesser number of hours in a day.

(3) A learner's monthly remuneration or allowance is four and one-third times the learner's weekly remuneration or allowance, respectively.

(4) If a learner's remuneration or allowance fluctuates significantly from period to period, any payment to that learner in terms of this Act must be calculated by reference to the learner's remuneration or allowance during-

- (a) the preceding 13 weeks; or
- (b) if the learner has been in employment for a shorter period, that period.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 5. Payment of remuneration.-(1) An employer must pay to a learner any remuneration that is paid in money-**

**5. Payment of remuneration.-(1)** An employer must pay to a learner any remuneration that is paid in money-

- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the learner.
- (2) Any remuneration paid in cash or by cheque must be given to each learner-
- (a) at the workplace or at a place agreed to by the learner;
  - (b) during the learner's working hours or within 15 minutes of the commencement or conclusion of those hours, and
  - (c) in a sealed envelope which becomes the property of the learner.
- (3) An employer must pay remuneration not later than seven days after
- (a) the completion of the period for which the remuneration is payable; or
  - (b) the termination of the learnership.
- (4) Subclause (3) (b) does not apply to any pension or provident fund payment to a learner that is made in terms of the rules of the fund.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 6. Information about remuneration.-(1) An employer must give a learner the following information in writing on each day the learner is paid:**

- 6. Information about remuneration.-(1)** An employer must give a learner the following information in writing on each day the learner is paid:
- (a) the employer's name and address,
  - (b) the learner's name and learnership;
  - (c) the period for which the payment is made;
  - (d) the learner's remuneration in money;
  - (e) the amount and purpose of any deduction made from the remuneration;
  - (f) the actual amount paid to the learner; and
  - (g) if relevant to the calculation of that learner's remuneration-
  - (h) the learner's rate of remuneration and overtime rate;
  - (i) the number of ordinary and overtime hours worked by the learner during the period for which the payment is made;
  - (j) the number of hours worked by the learner on a Sunday or public holiday during that period; and
  - (k) if an agreement to average working time has been concluded in terms of [clause 12](#), the total number of ordinary and overtime hours worked by the learner in the period of averaging.
- (2) The written information required in terms of subclause (1) must be given to each learner-
- (a) at the workplace or at a place agreed to by the learner; and
  - (b) during the learner's ordinary working hours or within 15 minutes of the commencement or conclusion of those hours.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 7. Deductions and other acts concerning remuneration.-(1) An employer may not make any deduction from a learner's remuneration unless-**

- 7. Deductions and other acts concerning remuneration.-(1)** An employer may not make any deduction from a learner's remuneration unless-
- (a) subject to subclause (2), the learner in writing agrees to the deduction in respect of a debt specified in the agreement; or
  - (b) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.
- (2) A deduction in terms of subclause (1) (a) may be made to reimburse an employer for loss or damage only if-
- (a) the loss or damage occurred in the course of employment and was due to the fault of the learner;
  - (b) the employer has followed a fair procedure and has given the learner a reasonable opportunity to show why the deductions should not be made;

- (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
- (d) the total deductions from the learner's remuneration in terms of this subclause do not exceed one-quarter of the learner's remuneration in money.

(3) A deduction in terms of subclause (1) (a) in respect of any goods purchased by the learner must specify the nature and quantity of the goods.

(4) An employer who deducts an amount from a learner's remuneration in terms of subclause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.

(5) An employer may not require or permit a learner to-

- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the learner's remuneration; or
- (b) acknowledge receipt of an amount greater than the remuneration actually received.

(6) An employer may not make any deduction from a learner's remuneration, or require a learner to repay any amount, in respect of any tools, materials, equipment, protective clothing, uniforms or training material required for the purposes of the learnership.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 8. Interpretation of day.-For the purposes of clauses 9 to 15, "day" means a period of 24 hours measured from the time when the learner normally commences work and "daily" has a corresponding meaning.**

**8. Interpretation of day.-**For the purposes of clauses 9 to 15, "day" means a period of 24 hours measured from the time when the learner normally commences work and "daily" has a corresponding meaning.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 9. Ordinary hours of work.-(1) Subject to clauses 8 to 18, an employer may not require or permit a learner to work more than-**

**9. Ordinary hours of work.-(1)** Subject to clauses 8 to 18, an employer may not require or permit a learner to work more than-

- (a) 45 hours in any week; and
- (b) nine hours in any day if the learner works for five days or fewer in a week; or
- (c) eight hours in any day if the learner works on more than five days in a week.

(2) A learner's ordinary hours of work in terms of subclause (1) may by agreement be extended by up to 15 minutes in a day but not more than 60 minutes in a week to enable a learner whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 10. Overtime.-(1) Subject to clauses 8 to 18, an employer may not require or permit a learner-**

**10. Overtime.-(1)** Subject to clauses 8 to 18, an employer may not require or permit a learner-

- (a) to work overtime except in accordance with an agreement;
- (b) to work more than-
  - (i) three hours' overtime a day;
  - (ii) ten hours' overtime a week.

(2) An employer must pay a learner at least one and one-half times the learner's allowance for overtime worked.

(3) Despite subclause (2), an agreement may provide for an employer to-

- (a) pay a learner not less than the learner's ordinary allowance for overtime worked and grant the learner at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant a learner at least 90 minutes' paid time off for each hour of overtime worked.

(4) (a) An employer must grant paid time off in terms of subclause (3) within one month of the learner becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to 12 months.

(5) An agreement concluded in terms of subclause (1) with a learner when the learner commences employment, or during the first three months of employment, lapses after one year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 11. Compressed working week.-(1) An agreement in writing may require or permit a learner to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 9, without receiving overtime pay.**

**11. Compressed working week.**-(1) An agreement in writing may require or permit a learner to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 9](#), without receiving overtime pay.

- (2) An agreement in terms of subclause (1) may not require or permit-a learner to work-
- (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours' overtime in any week, or
  - (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 12. Averaging of hours of work.-(1) Despite clauses 9 (1) and (2) and 10 (1) (b), the ordinary hours of work and overtime of a learner may be averaged over a period of up to four months in terms of a collective agreement.**

**12. Averaging of hours of work.**-(1) Despite clauses 9 (1) and (2) and 10 (1) (b), the ordinary hours of work and overtime of a learner may be averaged over a period of up to four months in terms of a collective agreement.

(2) An employer may not require or permit a learner who is bound by a collective agreement in terms of subclause (1) to work more than-

- (a) an average of 45 ordinary hours of work in a week over the agreed period;
  - (b) an average of five hours' overtime in a week over the agreed period;
  - (c) twelve hours in a day, inclusive of the meal intervals required in terms of [clause 13](#).
- (3) A collective agreement in terms of subclause (1) lapses after 12 months.
- (4) Subclause (3) only applies to the first two collective agreements concluded in terms of subclause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 13. Meal intervals.-(1) An employer must give a learner who works continuously for more than five hours a meal interval of at least one continuous hour.**

**13. Meal intervals.**-(1) An employer must give a learner who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval the learner may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another learner.

- (3) A learner must be remunerated-
- (a) for a meal interval in which the learner is required to work or is required to be available for work; and
  - (b) for any portion of a meal interval that is in excess of 75 minutes, unless the learner lives on the premises at which the workplace is situated.
- (4) For the purposes of this clause, work is continuous unless it is interrupted by an interval of at least 60 minutes.
- (5) An agreement in writing may-
- (a) reduce the meal interval to not less than 30 minutes;
  - (b) dispense with a meal interval for a learner who works fewer than six hours on a day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 14. Daily and weekly rest period.-(1) An employer must allow a learner-**

**14. Daily and weekly rest period.**-(1) An employer must allow a learner-

- (a) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
  - (b) a weekly rest period of at least 36 consecutive hours, which; unless otherwise agreed, must include Sunday.
- (2) A daily rest period in terms of subclause (1) (a) may, by written agreement, be reduced to 10 hours for a learner-
- (a) who lives on the premises at which the workplace is situated; and

- (b) whose meal interval lasts for at least three hours.
- (3) Despite subclause (1) (b), an agreement in writing may provide for-
  - (a) a rest period of at least 60 consecutive hours every two weeks; or
  - (b) a learner's weekly rest period to be reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 15. Pay for work on Sunday.-(1) An employer must pay a learner who works on a Sunday at double the learner's allowance for each hour worked, unless the learner ordinarily works on a Sunday, in which case the employer must pay the learner at one-and one**

**15. Pay for work on Sunday.**-(1) An employer must pay a learner who works on a Sunday at double the learner's allowance for each hour worked, unless the learner ordinarily works on a Sunday, in which case the employer must pay the learner at one-and one half times the learner's allowance for each hour worked.

(2) If a learner works less than the learner's ordinary shift on a Sunday and the payment that the learner is entitled to in terms of subclause (1) is less than the learner's ordinary daily allowance, the employer must pay the learner the learner's daily allowance.

(3) Despite subclauses (1) and (2), an agreement may permit an employer to grant a learner who works on a Sunday paid time off equivalent to the difference in value between the pay received by the learner for working on the Sunday and the pay that the learner is entitled to in terms of subclauses (1) and (2).

(4) Any time worked on a Sunday by a learner who does not ordinarily work on a Sunday is not taken into account in calculating a learner's ordinary hours of work in terms of [clause 9 \(1\)](#) and [\(2\)](#), but is taken into account in calculating the overtime worked by the learner in terms of [clause 10 \(1\) \(b\)](#).

(5) If a shift worked by a learner falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

(6) (a) An employer must grant paid time off in terms of subclause (3) within one month of the learner becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 16. Night work.-(1) In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.**

**16. Night work.**-(1) In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.

(2) An employer may only require or permit a learner to perform night work, if so agreed, and if-

- (a) the learner is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours; and
- (b) transportation is available between the learner's place of residence and the workplace at the commencement and conclusion of the learner's shift.

(3) An employer who requires a learner to perform work on a regular basis after 23:00 and before 06:00 the next day must-

- (a) inform the learner in writing, or orally if the learner is not able to understand a written communication, in a language that the learner understands-
  - (i) of any health and safety hazards associated with the work that the learner is required to perform; and
  - (ii) of the learner's right to undergo a medical examination in terms of [paragraph \(b\)](#);
- (b) at the request of the learner, enable the learner to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the learner starts; or within a reasonable period of the learner starting, such work; and
  - (ii) at appropriate intervals while the learner continues to perform such work; and
- (c) transfer the learner to suitable day work within a reasonable time if-
  - (i) the learner suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(4) For the purposes of subclause (3), a learner works on a regular basis if the learner works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year.

(5) The record of any medical examination performed in terms of this determination must be kept confidential and may be made available only-

- (a) in accordance with the ethics of medical practice;
- (b) if required by law or court order; or
- (c) if the employee has in writing consented to the release of that information.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 17. Public holidays.**2-(1) An employer may not require a learner to work on a public holiday except in accordance with an agreement.

**17. Public holidays.**2-(1) An employer may not require a learner to work on a public holiday except in accordance with an agreement.

(2) If a public holiday falls on a day on which a learner would ordinarily work, an employer must pay-

- (a) a learner who does not work on the public holiday, at least the allowance that the learner would ordinarily have received for work on that day;
- (b) a learner who does work on the public holiday-
  - (i) at least double the amount referred to in [paragraph \(a\)](#); or
  - (ii) if it is greater, the amount referred to in [paragraph \(a\)](#) plus the amount earned by the learner for the time worked on that day.

(3) If a learner works on a public holiday on which the learner would not ordinarily work, the employer must pay that learner an amount equal to-

- (a) the learner's daily allowance; plus
- (b) the amount earned by the learner for the work performed that day.

(4) An employer must pay a learner for a public holiday on the learner's usual pay day.

(5) If a shift worked by a learner falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

#### **Footnotes**

- 2 In terms of [section 2 \(2\)](#) of the Public Holidays Act, 1994 (Act [36 of 1994](#)), a public holiday is exchangeable for any other day, which is fixed by agreement or agreed to between the employer and the employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 18. Emergency work.**-(1) An employer may only require or permit a learner to work in excess of the limits on working times prescribed in clauses 8 to 17 in order to perform work which is required to be done without delay owing to circumstances for which

**18. Emergency work.**-(1) An employer may only require or permit a learner to work in excess of the limits on working times prescribed in clauses 8 to 17 in order to perform work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary working hours of work.

(2) Any work that any learner performs in terms of subclause (1) must be remunerated-

- (a) at overtime rates in accordance with [clause 10 \(2\)](#), or
- (b) if it is performed on a Sunday or on a public holiday at the applicable rate in terms of [clause 15](#) or [17](#) respectively.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 19. Annual leave.**-(1) A learner who has entered into a learnership agreement in respect of learnership requiring more than 120 credits is entitled to one week's paid leave for every 40 credits that the learner earns during the learnership or every four

**19. Annual leave.**-(1) A learner who has entered into a learnership agreement in respect of learnership requiring more than 120 credits is entitled to one week's paid leave for every 40 credits that the learner earns during the learnership or every four months worked whichever is the lesser.

(2) A learner is entitled to take leave referred to in subclause (1) during learnership.

(3) A learner who has accumulated sufficient leave is entitled to take up to three weeks leave consecutively in any year of the learnership.

(4) Unless a learner elects to accumulate leave for the purpose of subclause (3), an employer must grant leave not

later than four months after the leave was earned.

(5) An employer may not require or permit a learner to take annual leave during-

- (a) any other period of leave to which the learner is entitled in terms of clauses 21, 24 and 26; or
- (b) any period of notice of termination of learnership.

(6) Despite subclause (5), an employer must permit a learner, at the learner's written request, to take leave during a period of unpaid leave.

(7) An employer may reduce a learner's entitlement to leave by the number of days of occasional leave on full remuneration granted to the learner at the learner's request.

(8) An employer must grant a learner an additional day of paid leave if a public holiday falls on a day during a learner's annual leave on which the learner would ordinarily have worked.

(9) An employer may not require or permit a learner to work for the employer during any period of annual leave.

(10) Leave must be taken-

- (a) in accordance with an agreement between the employer and learner; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this clause.

(11) An employer may not pay a learner instead of granting paid leave in terms of this clause except-

- (a) on termination of learnership; and
- (b) in accordance with clause 31 (b).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 20. Pay for annual leave.-(1) An employer must pay a learner leave pay at least equivalent to the remuneration that the learner would have received for working for a period equal to the period of annual leave, calculated at the learner's rate of remuneration**

**20. Pay for annual leave.**-(1) An employer must pay a learner leave pay at least equivalent to the remuneration that the learner would have received for working for a period equal to the period of annual leave, calculated at the learner's rate of remuneration immediately before the beginning of the period of leave.

(2) For the purposes of calculating a learner's leave pay, a learner's remuneration-

- (a) includes the cash value of any payment in kind that forms part of the learner's remuneration unless the learner receives that payment in kind during the period of leave, but
- (b) excludes-
  - (i) gratuities;
  - (ii) allowances paid to a learner for the purposes of enabling a learner to work; and
  - (iii) any discretionary payments not related to the learner's hours of work or work performance.

(3) An employer must pay a learner leave pay-

- (a) before the beginning of the period of leave; or
- (b) by agreement, or the learner's usual pay day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 21. Sick leave.-(1) A learner is entitled to one day's paid sick leave for every 26 days, in which the learner works or receives training during a learnership.**

**21. Sick leave.**-(1) A learner is entitled to one day's paid sick leave for every 26 days, in which the learner works or receives training during a learnership.

(2) Subject to [clause 22](#); an employer must pay a learner for a day's sick leave-

- (a) the allowance the learner would ordinarily have received for work on that day; and
- (b) on the learner's usual pay day.

(3) An agreement may reduce the pay to which a learner is entitled in respect of any day's absence in terms of this clause if-

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the learner's entitlement to pay-
  - (i) for any day's sick leave is at least 75 per cent of the allowance payable to the learner for the ordinary



hours the learner would have worked on that day, and

- (ii) for sick leave over the sick leave cycle is at least equivalent to the learner's entitlement in terms of subclause (2).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 22. Proof of incapacity.**-(1) An employer is not required to pay a learner in terms of clause 21 if the learner has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the

**22. Proof of incapacity.**-(1) An employer is not required to pay a learner in terms of [clause 21](#) if the learner has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the learner was unable to work for the duration of the learner's absence on account of sickness or injury.

(2) The medical certificate must be issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

(3) If it is not reasonably practicable for a learner who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of subclause (1) unless the employer provides reasonable assistance to the learner to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 23. Application to occupational accidents or diseases.**-Clauses 21 and 22 do not apply to an inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993)

**23. Application to occupational accidents or diseases.**-Clauses 21 and 22 do not apply to an inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act [130 of 1993](#)), or the Occupational Diseases in Mines and Works Act, 1973 (Act [78 of 1973](#)), except in respect of any period during which no compensation is payable in terms of those Acts.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 24. Maternity leave.**3-(1) (a) A learner is entitled to at least four consecutive months' maternity leave.

**24. Maternity leave.**3-(1) (a) A learner is entitled to at least four consecutive months' maternity leave.

(b) A learner is not entitled to receive her allowance during any period of maternity leave she takes.

(2) A learner may commence maternity leave-

(a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or

(b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the learner's health or that of her unborn child.

(3) No learner may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) A learner who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the learner had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) A learner must notify an employer in writing, unless the learner is unable to do so, of the date on which the learner intends to-

(a) commence maternity leave; and

(b) return to work after maternity leave.

(6) Notification in terms of subclause (5) must be given-

(a) at least four weeks before the learner intends to commence maternity leave; or

(b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

### **Footnotes**

- 3 In terms of section 187 (1) (e) of the Labour Relations Act, 1995, predissmissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 25. Protection of learners before and after birth of a child.-(1) No employer may require or permit a pregnant learner or a learner who is nursing her child to perform work that is hazardous to her health or the health of her child.**

**25. Protection of learners before and after birth of a child.-(1)** No employer may require or permit a pregnant learner or a learner who is nursing her child to perform work that is hazardous to her health or the health of her child.

(2) During a learner's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

- (a) the learner is required to perform night work, as defined in [clause 16 \(1\)](#) or her work poses a danger to her health or safety or that of her child; and
- (b) it is practicable for the employer to do so.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 26. Family responsibility leave.-(1) This clause applies to a learner-**

**26. Family responsibility leave.-(1)** This clause applies to a learner-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employer.

(2) An employer must grant a learner, during each annual leave cycle, at the request of the learner, three days' paid leave, which the learner is entitled to take-

- (a) when the learner's child is born;
- (b) when the learner's child is sick; or
- (c) in the event of the death of-
  - (i) the learner's spouse or life partner, or
  - (ii) the learner's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

(3) Subject to subclause (5), an employer must pay a learner for a day's family responsibility leave-

- (a) the allowance the learner would ordinarily have received for work on that day; and
- (b) on the learner's usual pay day.

(4) A learner may take family responsibility leave in respect of the whole or a part of a day.

(5) Before paying a learner for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.

(6) A learner's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

(7) A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this clause.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 27. Contract of employment.-(1) A contract of employment concluded between an employer and a learner in terms of section 18 (2) of the Act must-**

**27. Contract of employment.-(1)** A contract of employment concluded between an employer and a learner in terms of [section 18 \(2\)](#) of the Act must-

- (a) be in writing and be signed by the employer and the learner;
- (b) be concluded when the learner commences employment; and
- (c) to the extent appropriate, contain the following particulars:
  - (i) the full name and address of the employer;
  - (ii) the name of the learner and the learnership;
  - (iii) the place of work, and, where the learner is required or permitted to work at various places, an indication of this;
  - (iv) the date on which the employment began;
  - (v) the learner's ordinary hours of work and days of work, including the time that the learner is required to

spend in study periods or theoretical learning sessions with the training provider;

- (vi) the learner's allowance or the rate and method of calculating the allowance;
- (vii) the rate of pay for overtime work;
- (viii) any other cash payments that the learner is entitled to;
- (ix) any payment in kind that the learner is entitled to and the value of the payment in kind;
- (x) how frequently remuneration will be paid;
- (xi) any deductions to be made from the learner's remuneration;
- (xii) the leave to which the learner is entitled;
- (xiii) the date when employment is to terminate;
- (xiv) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the learner where a copy of each may be obtained.

(2) The learner must be supplied with a copy of the contract of employment.

(3) When any matter listed in subclause (1) changes-

- (a) the contract of employment must be revised to reflect the change;
- (b) the employer and the learner must initial the change; and
- (c) the learner must be supplied with a copy of the contract reflecting the change.

(4) If a learner is not able to understand the written contract, the employer must ensure that it is explained to the learner in a language and in a manner that the learner understands.

(5) A contract of employment in terms of this clause must be kept by the employer for a period of three years after the termination of the learnership.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 28. Informing learners of their rights.-An employer must display at the workplace where it can be read by learners a statement in the prescribed form of the learner's rights under this Act in the official languages, which are spoken in the workplace.**

**28. Informing learners of their rights.-**An employer must display at the workplace where it can be read by learners a statement in the prescribed form of the learner's rights under this Act in the official languages, which are spoken in the workplace.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 29. Keeping of records.-(1) Every employer must keep a record containing at least the following information:**

**29. Keeping of records.-(1)** Every employer must keep a record containing at least the following information:

- (a) the learner's name and learnership;
- (b) the time worked by each learner;
- (c) the remuneration paid to each learner;
- (d) the date of birth of any learner under 18 years of age.

(2) A record in terms of subclause (1) must be kept by the employer for a period of three years from the termination of the learnership.

(3) No person may make a false entry in a record maintained in terms of subclause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 30. Termination.-(1) An employer may only terminate the contract of employment of a learner if-**

**30. Termination.-(1)** An employer may only terminate the contract of employment of a learner if-

- (a) the period of duration specified in the learnership agreement has expired;
- (b) the learner successfully completes the learnership;
- (c) the employer and learner have agreed in writing to terminate the learnership agreement, or if there is no such agreement the SETA which registered the agreement approves its termination; or
- (d) the learner is fairly dismissed for a reason related to the learner's conduct or capacity as an employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 31. Payments on termination.-(1) On termination of employment, an employer must pay a learner-**

**31. Payments on termination.-(1) On termination of employment, an employer must pay a learner-**

- (a) for any paid time off that the learner is entitled to in terms of [clause 10 \(3\)](#) or [15 \(3\)](#) and that the learner has not taken;
- (b) remuneration calculated in accordance with [clause 20 \(2\)](#) for any period of leave due in terms of [clause 19 \(1\)](#) that the learner has not taken.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 32. Contract cleaning national provident fund.-(1) Establishment and Objective of the Fund-**

**32. Contract cleaning national provident fund.-(1) Establishment and Objective of the Fund-**

- (a) A fund known as The Contract Cleaning National Provident Fund is hereby established;
- (b) The Fund shall be governed by its Rules and regulations in force from time to time;
- (c) The object of the Fund shall be, in terms of the Rules, to provide retirement and other benefits for employees and former employees of the Employers, and benefits in the event of their death and disability.

**(2) Appointment of the Interim Board of Management-**

- (a) The Director-General shall call for and facilitate the appointment of the interim board of management in consultation with the participants to the Fund in accordance with the agreed criteria.
- (b) The interim board of management shall be invested with the authority to-
  - (i) Register the Fund under the of the Pension Funds Act;
  - (ii) Seek approval of the Fund by the Financial Services Board and the South African Revenue Services; and
  - (iii) determine and settle the Rules of the Fund in accordance with the provision of the Pension Funds Act.

**(3) Membership-**

**3.1 Employer Participation-**

- (a) Subject to (b) below, any Employer in the Contract Cleaning Sector shall participate in the Fund with effect from the commencement of the Fund or the commencement of the Employer's business in the Contract Cleaning Sector, whichever is the later.
- (b) An Employer who, in respect of all his/her employees at the date of publication of this amendment, already participates in a retirement fund that-
  - (i) complies with the requirements of the Act;
  - (ii) has been approved by the Commissioner for the South African Revenue Service; and
  - (iii) provides benefits equal or better in all respect to those provided by the Fund;

may, with the agreement of a majority of his/her employees, apply in writing to the Board for exemption from contributing to the Fund in accordance with the Rules, provided that-

- (aa) the Board may only grant such exemption if, after consultation with the Actuary and due consideration of such documents and information in respect of that Employer's fund as it requires, it is of the opinion that the benefits provided by that Employer's fund are in all respect, equal to or better than those provided by the Fund;
- (bb) the Board may grant exemption on such terms and conditions, and for such duration, as it may determine and, upon expiry of the period of exemption or, if sooner, non-compliance with any of the terms or conditions of exemption, the Employer concerned shall forthwith commence contributing to the Fund in respect of his/her employees subject to a new application for exemption as aforesaid.
- (c) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his/her employees' rights, with regard to the payment of all Contributions and benefits in terms of the rules of that Employer's retirement scheme and/or his/her employees' conditions of employment.

**3.2 Member Eligibility and Participation-**

- (a) **Eligibility**-All Eligible Employees will be able to join the Fund from the date specified in the Rules.
- (b) **Participation**-Participation shall be compulsory for all Eligible Employees, who immediately prior to and after the commencement of the Fund, were in Service of the Employer.
- (c) **Commencement**-Participation in the Fund in respect of all Eligible Employees shall, subject to the provisions in [paragraph \(a\)](#), commence on-

- (i) the date of commencement of the Fund; or
  - (ii) the date of their becoming Eligible Employees, whichever is the later date.
- (d) **Continuation of participation-**
- (i) If a Member ceases to be an Eligible Employee for reasons other than retirement, withdrawal from Service or death, the employee's participation in the Fund shall cease on the first day of the month following or coinciding with the date on which the employee ceases to be an Eligible Employee; provided that a Member whose membership of the Fund ceases in terms of this clause and who is re-employed in the Contract Cleaning Sector within three months prior to him receiving his benefits shall be deemed to have remained in Service and his membership of the Fund shall continue.
  - (ii) The Administrator shall calculate the Member's benefit in terms of the Rules as at the date on which the Member ceases to be an Eligible Employee. Such amount shall be retained in the Fund until it becomes payable in terms of the Rules, or shall be transferred to an approved pension fund, approved provident fund or approved retirement annuity fund for the benefit of the Member.
  - (iii) Given the provisions of the Rules, all Members shall be obliged to remain Members until their retirement, withdrawal from Service or death, as the case may be.
- (4) **Contributions-**
- (a) **Commencement of contributions-**Contributions payable to the Administrator shall commence once the notification of registration and approval of the Fund has been gazetted.
- (b) **Contributions by the Member-**
- (i) Each Member shall make a monthly Contribution to the Fund throughout his/her service towards his/her retirement benefits at the rate of five point two five (5.25%) percent of the Member's Fund Salary or as amended by the Board of Trustees from time to time.
  - (ii) The Contributions referred to in (i) above shall be deducted from the Member's monthly wages and reflected through the wage records monthly.
  - (iii) The Member's Contributions shall be paid to the Fund by the Employer within seven (7) days after the end of the month in respect of which the Contributions were made.
- (c) **Contributions by the Employer-**
- (i) The Employer shall make a monthly Contribution in respect of each Member in its service at the rate of five point two five (5.25%) percent of the Member's Fund Salary or as amended by the Board of Trustees from time to time, to be allocated in terms of the Rules.
  - (ii) Contributions by the Employer must be paid to the Fund within seven (7) days after the end of the month in respect of which the Contributions were made.
  - (iii) Every Employer shall forward monthly to the Administrator a schedule of the total Members' and Employer's Contributions for the relevant month, so as to reach the office of the Administrator not later than the 15<sup>th</sup> day of the month following that in respect of which deductions were made.
- (5) **Administration of the Fund-**
- (a) The Fund shall be managed by the Board and administered by the Administrator who shall administer the Fund on the instructions of the Board.
  - (b) The Board may delegate such functions as the Administrators agree to perform in respect of the Fund.
  - (c) A copy of the Rules and any amendment thereto shall be available for inspection by any employer or employee at the office of the Administrator.
- [Clause 32 inserted by GNR.1196 of 2001, substituted by GNR.1139 of 2006 and corrected by GNR.21 of 2007.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 33. Disputes about this determination.-(1) A party dispute in terms of this determination may refer the dispute to the CCMA by submitting a completed Form 7.11 published in terms of the Labour Relations Act 66 of 1995.**

**33. Disputes about this determination.-(1)** A party dispute in terms of this determination may refer the dispute to the CCMA by submitting a completed Form 7.11 published in terms of the Labour Relations Act [66 of 1995](#).

(2) The party who refers a dispute in terms of subclause (1) must satisfy the CCMA that a copy of the referral has been served on all the other parties to the dispute.

(3) The relevant provisions of Part C and D, Chapter VII of the Labour Relations Act 66 of 1995, read with the changes required by the context, apply in respect of a dispute referred to in terms of subclause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ 34. Keeping of the determination for learners.-(1) Every employer on whom this determination is binding must-**

**34. Keeping of the determination for learners.**-(1) Every employer on whom this determination is binding must-

- (a) keep a copy of the determination available in the workplace at all times;
- (b) make the copy available for inspection by a learner, and
- (c) give a copy of the determination-
  - (i) to a learner who has paid the prescribed fee; and
  - (ii) free of charge, on request, to a learner who is a trade union representative or a member of a workplace forum.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 519 of 15 June 2001: Sectoral Determination 5: Learnership/ Annexure A CERTIFICATE OF SERVICE**

**Annexure A**  
**CERTIFICATE OF SERVICE**

**DETERMINATION OF TERMS  
AND CONDITIONS OF  
EMPLOYMENT FOR LEARNERS**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of  
learnership with an  
employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the learner.

**INSTRUCTIONS**

The reason for termination  
of learnership must only be  
given if requested by the  
learner.

**NOTE**

*This is only a model and not  
a prescribed form.  
Completing a document in  
another format containing  
the same information is  
sufficient compliance with  
[clause 32](#).*

I  
(Name and designation of person)  
of  
(Full name of employer)  
Address:  
in the (Trade)  
declare that  
(Full name of learner)  
(I.D No.)  
was in learnership  
from until  
as  
(Type of learnership)  
any other information  
On termination of learnership this learner was earning:  
R (Amount in words)  
☐ per hour ☐ per day ☐ per week  
☐ per fortnight ☐ per month ☐ per year  
Employer's signature Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa**

**GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa**

DEPARTMENT OF LABOUR

BASIC CONDITIONS OF EMPLOYMENT ACT, [NO 75 OF 1997](#)

**as amended by**

| Notice | Government Gazette                          | Date                                       |
|--------|---------------------------------------------|--------------------------------------------|
| R.1104 | 28223                                       | 11 November 2005<br>w.e.f. 1 December 2005 |
| R.1225 | 31612                                       | 14 November 2008<br>w.e.f. 1 December 2008 |
| R.737  | 32397                                       | 17 July 2009                               |
| R.986  | 34797                                       | 28 November 2011 w.e.f. 1<br>December 2011 |
| R.919  | 38237                                       | 24 November 2014 w.e.f. 1<br>December 2014 |
|        | as corrected by GNR.953 of 26 November 2014 |                                            |
| R.919  | 38237                                       | 24 November 2014                           |
|        | as corrected by GNR.953 of 26 November 2014 |                                            |
| 1429   | 41326                                       | 15 December 2017<br>w.e.f. 1 January 2018  |
| 1332   | 42077                                       | 3 December 2018                            |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 51 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), make a Sectoral Determination establishing conditions of employment and minimum wages for employees in the Domestic Worker Sector, South Africa, which appears in the schedule hereto and determine 1 September 2002 as the date from which the provisions of this Sectoral Determination shall be binding.

MMS MDLADLANA, MP  
MINISTER OF LABOUR

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PART A:  
APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 1. Application.-(1) The determination applies to the employment of all domestic workers in the Republic of South Africa including domestic workers-**

**1. Application.**-(1) The determination applies to the employment of all domestic workers in the Republic of South Africa including domestic workers-

- (a) employed or supplied by employment services;
- (b) employed as independent contractors.

(2) This determination does not apply to domestic workers-

- (a) employed on farms on which employees performing agricultural work are employed;
- (b) covered by another sectoral determination in terms of the Basic Conditions of Employment Act; or
- (c) covered by an agreement of a bargaining council in terms of the Labour Relations Act, 1995.

(3) Only clauses 2 and 3 setting minimum wages apply to domestic workers who work less than 24 hours per month for an employer.

(4) The provisions of the Basic Conditions of Employment Act apply to all domestic workers covered by this determination and their employers in respect of any matter not regulated by this sectoral determination.

PART B:  
WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 2. Wages.-(1) With effect from 1 November 2002, an employer must pay a domestic worker at least the minimum wage prescribed in this clause.**

**2. Wages.**-(1) With effect from 1 November 2002, an employer must pay a domestic worker at least the minimum wage prescribed in this clause.

(2) An employer must pay a domestic worker who works more than 27 ordinary hours of work per week-

- (a) at least the weekly or monthly wage set out in Table 1; or
- (b) by agreement between the employer and domestic worker, at least the hourly rate set out in Table 1 for every hour or part of an hour that the domestic worker works.

(3) An employer must pay a domestic worker who works 27 or less ordinary hours of work per week-

- (a) at least the weekly or monthly wage set out in Table 2;
- (b) by agreement between the employer and domestic worker, at least the hourly rate set out in Table 2 for every hour or part of an hour that the domestic worker works.

(4) A domestic worker who works for less than four hours on any day must be paid for four hours' work on that day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 3. Annual wage increases.-(1) Every domestic worker must be granted wage increases of at least 8% on 1 November 2003 and on 1 November 2004.**

**3. Annual wage increases.**-(1) Every domestic worker must be granted wage increases of at least 8% on 1 November 2003 and on 1 November 2004.

(2) The wage increases in terms of sub-clause (1) must be calculated on the domestic worker's actual wage in the preceding month.

(3) If the annual increase in the Consumer Price Index reported by Statistics South Africa six weeks before a wage increase in terms of this clause comes into effect is 10% or higher, domestic workers will be entitled to receive a wage increase equivalent to the increase in the Consumer Price Index.

(4) Any wage increase in excess of 8% required in terms of sub-clause (3) must be published in the *Government Gazette* as an amendment to this sectoral determination.

| DOMESTIC WORKER SECTOR MINIMUM WAGES:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |           |                                                                                                                                                                                          |             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Table 1: Area A<br>Minimum wages for domestic workers who work more than 27 ordinary hours per week                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |           | Table 2: Area A<br>Minimum wages for domestic workers who work 27 ordinary hours per week or less                                                                                        |             |
| Bergrivier Local Municipality, Breederivier Local Municipality, Buffalo City Local Municipality, Cape Agulhas Local Municipality, Cederberg Local Municipality, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane Metropolitan Municipality, Drakenstein Local Municipality, Ekurhuleni Metropolitan Municipality, Emalahleni Local Municipality, Emfuleni Local Municipality, Ethekwini Metropolitan Unicity, Gamagara Local Municipality, George Local Municipality, Hibiscus Coast Local Municipality, Karoo Hoogland Local Municipality, Kgatelopele Local Municipality, Khara Hais Local Municipality, Knysna Local Municipality, Kungwini Local Municipality, Kouga Local Municipality, Langeberg Local Municipality, Lesedi Local Municipality, Makana Local Municipality, Mangaung Local Municipality, Matzikama Local Municipality, Metsimaholo Local Municipality, Middelburg Local Municipality, Midvaal Local Municipality, Mngeni Local Municipality, Mogale Local Municipality, Mosselbaai Local Municipality, Msunduzi Local Municipality, Mtubatu Local Municipality, Nama Khoi Local Municipality, Nelson Mandela, Nokeng tsa Taemane Local Municipality, Oudtshoorn Local Municipality, Overstrand Local Municipality, Plettenbergbaai Local Municipality, Potchefstroom Local Municipality, Randfontein Local Municipality, Richtersveld Local Municipality, Saldanha Bay Local Municipality, Sol Plaatjie Local Municipality, Stellenbosch Local Municipality, Swartland Local Municipality, Swellendam Local Municipality, Theewaterskloof Local Municipality, Umdoni Local Municipality, uMhlathuze Local Municipality and Witzenberg Local Municipality. |           |                                                                                                                                                                                          |             |
| Minimum rates for the period 3 December 2018 to promulgation of the minimum wage provision contained in the National Minimum Wage Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           | Minimum rates for the period 3 December 2018 to promulgation of the minimum wage provision contained in the National Minimum Wage Act.                                                   |             |
| Hourly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 13.69     | Hourly Rate (R)                                                                                                                                                                          | 16.03       |
| Weekly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 616.03*   | Weekly Rate (R)                                                                                                                                                                          | 432.78***   |
| Monthly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 2669.24** | Monthly Rate (R)                                                                                                                                                                         | 1875.22**** |
| Table 1: Area B (Areas not mentioned in Area A)<br>Minimum wages for domestic workers who work more than 27 ordinary hours per week                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |           | Table 2: Area B (Areas not mentioned in Area A) Minimum wages for domestic workers who work 27 ordinary hours per week or less                                                           |             |
| Hourly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 12.47     | Hourly Rate (R)                                                                                                                                                                          | 14.72       |
| Weekly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 561.27*   | Weekly Rate (R)                                                                                                                                                                          | 397.37***   |
| Monthly Rate (R)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 2431.97** | Monthly Rate (R)                                                                                                                                                                         | 1721.81**** |
| * Indicative weekly rate for employees working a maximum of 45 ordinary hours per week.<br>** Indicative monthly rate for employees working a maximum of 45 ordinary hours per week.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |           | *** Indicative weekly rate for employees working a maximum of 27 ordinary hours per week.<br>**** Indicative monthly rate for employees working a maximum of 27 Ordinary hours per week. |             |

[Table substituted by GNR.1104 of 2005, by r. 1 of GNR.1225 of 14 November 2008 and amended by GNR.737 of 17 July 2009 and substituted by GNR.986 of 28 November 2011, by GNR.919 of 24 November 2014 (as corrected by GNR.953 of 26 November 2014), GN 1429 of 15 December 2017 and by GN 1332 of 3 December 2018.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 4. Calculation of wages.-(1) The wage of a domestic worker must be calculated by reference to the domestic worker's ordinary hours of work.**

**4. Calculation of wages.-(1)** The wage of a domestic worker must be calculated by reference to the domestic worker's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the hourly wage of a domestic worker is obtained by-
  - (i) dividing the daily wage by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly wage by the number of ordinary hours worked in a week;
- (b) the daily wage of a domestic worker is obtained by-
  - (i) multiplying the hourly wage by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly wage by the number of ordinary hours worked in a week;
- (c) the weekly wage of a domestic worker is obtained by-
  - (i) multiplying the hourly wage by the number of ordinary hours worked in a week; or
  - (ii) multiplying the daily wage by the number of days worked in a week; or
  - (iii) dividing the monthly wage by four and one-third (13/3);
- (d) the monthly wage of a domestic worker is obtained by multiplying the weekly wage by four and a third (13/3).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic**

**5. Payment of wages.-(1)** An employer must pay a domestic worker-

- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the domestic worker.
- (2) Any payment in cash or by cheque must be given to each domestic worker-
- (a) at the workplace;
  - (b) during the domestic worker's working hours; and
  - (c) in a sealed envelope which becomes the property of the domestic worker.
- (3) An employer must pay a domestic worker on the normal pay day agreed to by the domestic worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 6. Information concerning pay.-(1) On every pay day, the employer must give the domestic worker a statement showing-**

**6. Information concerning pay.-(1)** On every pay day, the employer must give the domestic worker a statement showing-

- (a) the employer's name and address;
  - (b) the domestic worker's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the domestic worker's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by the domestic worker during that period;
  - (f) the number of overtime hours worked by the domestic worker during that period;
  - (g) the number of hours worked by the domestic worker on a public holiday or on a Sunday;
  - (h) the domestic worker's wage;
  - (i) details of any other pay arising out of the domestic worker's employment;
  - (j) details of any deductions made; and
  - (k) the actual amount paid to the domestic worker.
- (2) An employer must retain a copy or record of each statement for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 7. Prohibited acts concerning pay.-(1) An employer may not receive any payment directly or indirectly, or withhold any payment from a domestic worker in respect of-**

**7. Prohibited acts concerning pay.-(1)** An employer may not receive any payment directly or indirectly, or withhold any payment from a domestic worker in respect of-

- (a) the employment or training of that domestic worker;
- (b) the supply of any work equipment or tools;
- (c) the supply of any work clothing; or
- (d) any food supplied to the domestic worker while the domestic worker is working or is at the workplace.

(2) An employer may not require a domestic worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.

(3) An employer may not levy a fine against a domestic worker.

(4) An employer may not require or permit a domestic worker to-

- (a) repay any pay except for overpayments previously made by the employer resulting from an error in calculating the domestic worker's pay; or
- (b) acknowledge receipt of an amount greater than the pay actually received.

**8. Deductions.-**An employer may not make any deduction from a domestic worker's pay except-

- (a) a deduction, calculated on the basis of the domestic worker's wage, proportionate to the length of any period that the domestic worker is absent from work, other than an absence on paid leave or at the instance of the employer;
- (b) deduction of not more than 10% of the wage for a room or other accommodation supplied to the domestic worker by the employer if the accommodation-
  - (i) is weatherproof and generally kept in good condition;
  - (ii) has at least one window and door, which can be locked;
  - (iii) has a toilet and bath or shower, if the domestic worker does not have access to any other bathroom;
- (c) with the written consent of the domestic worker, a deduction of any amount which the employer has paid or has undertaken to pay-
  - (i) to any holiday, sick, medical, insurance, savings, provident or pension fund of which the domestic worker is a member;
  - (ii) to any registered trade union in respect of subscriptions;
  - (iii) to any banking institution, building society, insurance business, registered financing institution or local authority in respect of a payment on a loan granted to the domestic worker to acquire a dwelling;
  - (iv) to any person or organisation in respect of the rent of a dwelling or accommodation occupied by the domestic worker;
- (d) a deduction, not exceeding one-tenth of the wage due to the domestic worker on the pay-day concerned, towards the repayment of any amount loaned or advanced to the domestic worker by the employer; or
- (e) a deduction of any amount which an employer is required to make by law or in terms of a court order or arbitration award.

PART C:  
PARTICULARS OF EMPLOYMENT

**9. Written particulars of employment.-**(1) An employer must supply a domestic worker, when the domestic worker starts work with the following particulars in writing:

- (a) the full name and address of the employer;
- (b) the name and occupation of the domestic worker, or a brief description of the work for which the domestic worker is employed;
- (c) the place of work, and where the domestic worker is required or permitted to work at various places, an indication of this;
- (d) the date on which the employment began;
- (e) the domestic worker's ordinary hours of work and days of work;
- (f) the domestic worker's wage or the rate and method of payment;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the domestic worker is entitled to;
- (i) any payment in kind that the domestic worker is entitled to and the value of the payment in kind;
- (j) how frequently wages will be paid;
- (k) any deductions to be made from the domestic worker's wages;
- (l) the leave to which the domestic worker is entitled to; and
- (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate.

(2) If a domestic worker is not able to understand the written particulars, the employer must ensure that they are explained to the domestic worker in a language and in a manner that the domestic worker understands.

(3) The employer must revise the written particulars if the employer and domestic worker agree to any change in the

domestic worker's terms of employment.

- (4) The employer must sign the written particulars and any change in the terms of clause (3).
- (5) The employer may require the domestic worker to-
  - (a) acknowledge receipt of the written particulars in writing on a copy of the particulars; or
  - (b) if the domestic worker is unable to or refuses to acknowledge receipt, record that the domestic worker has received a copy of the written particulars.
- (6) An employer must retain a copy of the written particulars while the domestic worker is employed and for three years thereafter.

PART D:  
HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 10. Ordinary hours of work.-An employer may not require or permit a domestic worker to work more than-**

**10. Ordinary hours of work.-**An employer may not require or permit a domestic worker to work more than-

- (a) 45 hours in any week; and
- (b) nine hours on any day if the domestic worker works for five days or less in a week; or
- (c) eight hours in any day if the domestic worker works on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 11. Overtime.-An employer may not require or permit a domestic worker-**

**11. Overtime.-**An employer may not require or permit a domestic worker-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the domestic worker;
- (b) to work more than 15 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 12. Payment of overtime.-**(1) An employer must pay a domestic worker at least one and one-half times the domestic worker's wage for overtime worked.

**12. Payment of overtime.-**(1) An employer must pay a domestic worker at least one and one-half times the domestic worker's wage for overtime worked.

- (2) Despite sub-clause (1), an agreement may provide for an employer to-
  - (i) pay a domestic worker not less than the domestic worker's ordinary wage for overtime worked and grant the domestic worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
  - (ii) grant a domestic worker at least 90 minutes' paid time off for each hour of overtime worked.
- (3) (a) An employer must grant paid time off in terms of sub-clause (2) within one month of the domestic worker becoming entitled to it.
  - (b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to twelve months.
  - (c) An agreement concluded in terms of [paragraph \(b\)](#) with a domestic worker when the domestic worker commences employment, or during the first three months of employment, is only valid for one year.
- (4) Any time worked on Sundays or public holidays must be paid in accordance with the provisions for Sundays and public holidays in clauses 17 and 18.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 13. Night work.-**(1) For the purposes of this clause, "night work" means work performed after 18:00 and before 06:00 the next day.

**13. Night work.**-(1) For the purposes of this clause, "night work" means work performed after 18:00 and before 06:00 the next day.

(2) An employer may only require or permit a domestic worker to perform night work, if agreed in writing and if-

- (a) the domestic worker is compensated by the payment of an allowance; and
- (b) the domestic worker resides at the workplace or transport is available between the domestic worker's place of residence and the workplace at the beginning and end of the domestic worker's shift.

(3) The amount of the allowance in terms of clause 1 (a) must be agreed between the employer and the domestic worker.

(4) An employer who requires a domestic worker to perform work for a period of longer than one hour after 22:00 and before 06:00 the next day at least five times per month or 50 times per year must comply with [sections 17 \(3\)](#) and [\(4\)](#) of the Basic Conditions of Employment Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 14. Standby.**-(1) For the purposes of this clause, "standby" means any period between 20:00 and 06:00 the next day when a domestic worker is required to be at the workplace and is permitted to rest or sleep but must be available to work if necessary.

**14. Standby.**-(1) For the purposes of this clause, "standby" means any period between 20:00 and 06:00 the next day when a domestic worker is required to be at the workplace and is permitted to rest or sleep but must be available to work if necessary.

(2) An employer may only require or permit a domestic worker to be on standby if is agreed in writing and if the domestic worker is compensated by the payment of an allowance of at least R 30, 00 per shift.

[Sub-clause (2) amended by r 2 of GNR.1225 of 14 November 2008.]

(3) An employer may not require or permit a domestic worker to be on stand by more than five times per month or 50 times per year.

(4) An employer may only require or permit a domestic worker to perform work which is required to be done without delay.

(5) An employer must pay a domestic worker for any time worked during any period of standby at-

- (a) the domestic worker's overtime rate calculated in terms of 12 (1); or
- (b) grant the domestic worker paid time-off in terms of clauses 12 (2) and (3).

[Sub-clause (5) amended by r 3 of GNR.1225 of 14 November 2008.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 15. Meal intervals.**-(1) An employer must give a domestic worker who works continuously for more than five hours a meal interval of at least one continuous hour.

**15. Meal intervals.**-(1) An employer must give a domestic worker who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval, a domestic worker may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another domestic worker.

(3) A domestic worker must be paid-

- (a) for a meal interval in which the domestic worker is required to be available for work;
- (b) for any portion of a meal interval that is in excess of 75 minutes, unless the domestic worker lives at the workplace.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.

(5) An agreement in writing may-

- (a) reduce the meal interval to not less than 30 minutes;
- (b) dispense with a meal interval for a domestic worker who works fewer than six hours on a day.

(6) Whenever an employer is required to give a domestic worker a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 16. Rest period.**-(1) An employer must grant a domestic worker-



**16. Rest period.**-(1) An employer must grant a domestic worker-

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
- (b) weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include a Sunday.

(2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for a domestic worker-

- (a) who lives at the workplace is situated; and
- (b) whose meal interval lasts for at least three hours.

(3) Despite sub-clause (1) (b), an agreement in writing may provide for a rest period of at least 60 consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 17. Payment for work on Sunday.**-(1) An employer must pay a domestic worker who works on a Sunday-

**17. Payment for work on Sunday.**-(1) An employer must pay a domestic worker who works on a Sunday-

- (a) at double the domestic worker's wage for each hour worked; or
- (b) if the work is part of the domestic worker's ordinary hours of work, at one and one half times the domestic worker's wage for each hour worked.

(2) If the payment calculated in terms of sub-clause (1) is less than the domestic worker's daily wage, the employer must pay the domestic worker, for the time worked on that Sunday, the domestic worker's daily wage.

(3) Despite sub-clauses (1) and (2), an agreement may permit an employer to grant a domestic worker who works on a Sunday paid time off equivalent to the difference in value between the pay received by the domestic worker for working on a Sunday and the pay the domestic worker is entitled to receive in terms of sub-clauses (1) and (2) at double the domestic worker's wage for each hour worked.

(4) (a) A domestic worker must grant paid time off in terms of sub-clause (3) within one month of the domestic worker becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) for 12 months.

(5) Any time worked on a Sunday by domestic worker who does not normally work on a Sunday is not taken into account in calculating a domestic worker's ordinary hours of work in terms of [clause 10](#), but is taken into account in calculating the overtime worked by the domestic worker in terms of clause 11 (1) (b).

(6) If a shift worked by a domestic worker falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 18. Public holidays.**-(1) An employer may not require a domestic worker to work on a public holiday, except in accordance with an agreement.

**18. Public holidays.**-(1) An employer may not require a domestic worker to work on a public holiday, except in accordance with an agreement.

(2) If a public holiday falls on a day on which a domestic worker would otherwise have worked, an employer must pay a domestic worker-

- (a) who does not work on the public holiday the domestic worker's daily wage;
- (b) who does work on the public holiday at least double the daily wage.

(3) If a domestic worker who works on a public holiday on which the domestic worker would not normally work, the employer must pay that domestic worker an amount equal to-

- (a) the domestic worker's daily wage; plus
- (b) the domestic worker's hourly wage for each hour worked on the public holiday.

(4) An employer must pay a domestic worker for a public holiday on the domestic worker's normal payday.

(5) If a shift worked by a domestic worker falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.



**19. Annual Leave.-(1)** An employer must grant a domestic worker-

- (a) at least three weeks' annual leave on full pay in respect of each 12 months of employment (the "annual leave cycle");
- (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the domestic worker worked or was entitled to be paid; or
- (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the domestic worker worked or was entitled to be paid.

(2) An employer must grant a domestic worker an additional day of paid leave if a public holiday falls on a day during a domestic worker's annual leave on which the domestic worker would otherwise have worked.

(3) An employer may reduce a domestic worker's entitlement to annual leave by the number of days of occasional leave on full pay granted to the domestic worker at the domestic worker's request in that annual leave cycle.

(4) An employer must grant-

- (a) at least three weeks' annual leave on full pay in respect of each 12 months of employment (the "annual leave cycle") not later than six months after the end of the annual leave cycle or the year in which the leave was earned;
- (b) the leave earned in one year over a continuous period, if requested by the domestic worker.

(5) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and employee; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this section.

(6) An employer may not require or permit an employee to take annual leave during-

- (a) any other period of leave to which the employee is entitled in terms of this Chapter; or
- (b) any period of notice of termination of employment.

(7) An employer may not require or permit a domestic worker to work for the employer during any period of annual leave.

(8) An employer may not pay a domestic worker instead of granting paid leave in terms of the clause except on termination of employment in terms of [clause 25](#).

(9) An employer must pay a domestic worker leave pay at least equivalent to the full pay the domestic worker would receive for working for a period equal to the period of leave calculated on the basis of the domestic worker's rate of pay immediately before the period of leave.

(10) Leave pay in terms of clause (9) must be calculated on the basis of the domestic worker's rate of pay immediately before the period of leave.

(11) An employer must pay a domestic worker leave pay before the beginning of the period of leave.

**20. Sick leave.-(1)** For purposes of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

- (a) when the domestic worker commenced work; or
- (b) the end of the domestic worker's prior sick leave cycle.

(2) During every sick leave cycle, a domestic worker is entitled to an amount of paid sick leave equal to the number of days the domestic worker would normally work during a period of six weeks.

(3) Despite sub-clause (2) during the first six months of work, a domestic worker is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the domestic worker's first leave cycle, reduce the domestic worker's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) Where an employer, at the request of the domestic worker, pays fees for a domestic worker's hospital or medical treatment, the fees paid may be set off against the worker's pay.

(6) An employer may require a domestic worker who has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period to produce a medical certificate before paying the domestic worker in terms of this clause.

(7) The medical certificate in terms of sub-clause (6) must-

- (a) be issued and signed by a medical practitioner, a traditional healer, a professional nurse who is authorised to issue certificates, or any other person who is certified to diagnose and treat patients and is registered with a professional council, established by an Act of Parliament; and

- (b) state that the domestic worker was unable to work for the duration of the domestic worker's incapacity.

(8) If it is not reasonably practicable for a domestic worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of this clause unless the employer provides reasonable assistance to the domestic worker to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 21. Family responsibility leave.-(1) This clause applies to a domestic worker-**

**21. Family responsibility leave.-(1) This clause applies to a domestic worker-**

- (a) who has been employed by an employer for longer than four months; and
- (b) who works on at least four days a week for that employer.

(2) An employer must grant a domestic worker, during each 12 months of employment, at the request of the domestic worker, five days' leave, which the domestic worker is entitled to take-

- (a) when the domestic worker's child is born;
- (b) when the domestic worker's child is sick; or
- (c) in the event of the death of-
  - (i) the domestic worker's spouse or life partner; or
  - (ii) the domestic worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.

(3) A domestic worker may take family responsibility leave in respect of the whole or part of the day.

(4) Subject to sub-clause (5), an employer must pay a domestic worker for a day's family responsibility leave-

- (a) the wage the domestic worker would normally have received for work on that day; and
- (b) on the domestic worker's usual payday.

(5) Before paying a domestic worker for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.

(6) A domestic worker's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 22. Maternity leave1.-(1) A domestic worker is entitled to at least four consecutive months' maternity leave.**

**22. Maternity leave<sup>1</sup>.-(1) A domestic worker is entitled to at least four consecutive months' maternity leave.**

(2) A domestic worker may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the domestic worker's health or that of her unborn child.

(3) A domestic worker may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) A domestic worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the domestic worker had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) A domestic worker must notify an employer in writing, unless the domestic worker is unable to do so, of the date on which the domestic worker intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

- (a) at least four weeks before the domestic worker intends to commence maternity leave;
- (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) No employer may require or permit a pregnant domestic worker or a domestic worker who is nursing her child to perform work that is hazardous to her health or the health of her child.

PART F:  
PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

**Footnotes**

- 1 In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract. With effect from 1 April 2003, domestic workers will be covered by the Unemployment Insurance Act, 2001 and will be entitled to claim maternity benefits in terms of that Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 23. Prohibition of child labour and forced labour.-(1) No person may employ as a domestic worker a child-**

**23. Prohibition of child labour and forced labour.-(1)** No person may employ as a domestic worker a child-

- (a) who is under 15 years of age; or
  - (b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.<sup>2</sup>
- (2) No person may employ a child<sup>3</sup> in an employment-
- (a) that is inappropriate for a person of that age;
  - (b) that places at risk the child's well being, education, physical or mental health, or spiritual, moral or social development.
- (3) An employer must maintain for three years a record of the name, date of birth and address of every domestic worker under the age of 18 years employed by them.
- (4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (5) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).
- (6) A person who employs a child in contravention of sub-clause (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of [sections 46](#) and [48](#) of the Basic Conditions of Employment Act respectively, read with [section 93](#) of that Act.

PART G:  
TERMINATION OF EMPLOYMENT

**Footnotes**

- 2 [Section 31 \(1\)](#) of the South African Schools Act, 1996 (Act [No. 84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.
- 3 This applies to children under 18 years of age.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 24. Termination of employment.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

- 24. Termination of employment.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-
- (a) one week, if the domestic worker has been employed for six months or less;
  - (b) four weeks, if the domestic worker has been employed for more than six months.
- (2) The employer and domestic worker may agree to a longer notice period but the agreement may not require or permit a domestic worker to give a period of notice longer than that required of the employer.
- (3) (a) Notice of termination of contract of employment must be given in writing except when it is given by an illiterate domestic worker;
- (b) If a domestic worker who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the domestic worker in an official language the domestic worker reasonably understands.
- (4) Notice of termination of a contract of employment given by an employer must-
- (a) not be given during any period of leave to which the domestic worker is entitled in terms of [clause 17 \(1\)](#);
  - (b) not run concurrently with any period of leave to which the domestic worker is entitled in terms of this determination, except sick leave.

(5) Nothing in this clause affects the right of-

- (a) a dismissed domestic worker to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) an employer or a domestic worker to terminate a contract of employment without notice for any cause recognized by law.

(6) Instead of giving a domestic worker notice in terms of this clause, an employer may pay the domestic worker the full pay the domestic worker would have received if the domestic worker had worked during the notice period.

(7) If a domestic worker gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the full pay referred to in sub-clause (6), unless the employer and domestic worker agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 25. Payment on termination.-(1) On termination of employment, an employer must pay a domestic worker all monies due to the domestic worker for any-**

**25. Payment on termination.**-(1) On termination of employment, an employer must pay a domestic worker all monies due to the domestic worker for any-

- (a) wages, allowance or other payments that have not been paid;
- (b) paid time-off that the domestic worker is entitled to in terms of [clause 12](#) or [17](#) that the domestic worker has not taken;
- (c) leave in terms of [clause 19](#) that the domestic worker has not taken, irrespective of whether the domestic worker has completed an annual leave cycle or year of service, unless the domestic worker has not been employed longer than four months.

(2) For the purposes of [clause 25 \(1\) \(c\)](#), a domestic worker is entitled to be paid in respect of any period for which leave was not granted-

- (i) one week's wages for every four months worked; or
- (ii) one day's wages in respect of every 17 days on which the domestic worker worked or was entitled to be paid.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 26. Accommodation on termination.-(1) If the employer of a domestic worker who resides at the workplace or in other accommodation supplied by the employer terminates the contract of employment of that domestic worker before the date on which the employ**

**26. Accommodation on termination.**-(1) If the employer of a domestic worker who resides at the workplace or in other accommodation supplied by the employer terminates the contract of employment of that domestic worker before the date on which the employer was entitled to do so in terms this clause, the employer is required to provide the domestic worker with accommodation for a period of one month or if it is a longer period, until the contract of employment could lawfully have been terminated.

(2) If a domestic worker elects to remain in accommodation in terms of sub-clause (8) after the employer has terminated the domestic worker's contract of employment in terms of this clause, the employer may deduct for that period 10% of the amount the employer is required to pay in terms of this clause as the value of the accommodation.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 27. Severance pay.-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.<sup>4</sup>**

**27. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.<sup>4</sup>

(2) An employer must pay a domestic worker who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's full pay for each completed year of continuous service with that employer.

(3) A domestic worker who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect a domestic worker's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the domestic worker may refer the dispute in writing to the CCMA.

#### **Footnotes**

- 4 Illustrative examples of the employers' "operational requirements" include if the employer moves to another city or country; if the employer is no longer able to afford a domestic worker; if a child no longer requires a child-minder; if an employer moves to a smaller house and as a result no longer requires a domestic worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 28. Certificate of service.-On termination of employment, a domestic worker is entitled to a certificate of service stating-**

**28. Certificate of service.-**On termination of employment, a domestic worker is entitled to a certificate of service stating-

- (a) the domestic worker's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the domestic worker was employed at the date of termination;
- (e) any relevant training received by the domestic worker;
- (f) the pay at date of termination; and
- (g) if the domestic worker requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 29. Employment services.-(1) A domestic worker whose services have been provided by an employment service is employed by that employment service for the purposes of this determination if the employment service pays the domestic worker.**

**29. Employment services.-(1)** A domestic worker whose services have been provided by an employment service is employed by that employment service for the purposes of this determination if the employment service pays the domestic worker.

(2) An employment service contemplated in sub-clause (1) and the client are jointly and severally liable if the employment service, in respect of a domestic worker who provides services to that client, does not comply with the determination or any provision of the Basic Conditions of Employment Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 30. Keeping of sectoral determination.-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the domestic worker has access.**

**30. Keeping of sectoral determination.-**Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the domestic worker has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ 31. What words mean in this determination.-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-**

**31. What words mean in this determination.-**Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-

"**agreement**" includes a collective agreement;

"**Basic Conditions of Employment Act**" means Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#));

"**child**" means a person who is under 18 years of age;

"**day**" means, for the purposes of measuring hours of work, a period of 24 hours measured from the time when the domestic worker normally commences work;

"**dispute**" includes an alleged dispute;

"**domestic worker**" means any domestic worker or independent contractor who performs domestic work in a private household and who receives, or is entitled to receive, pay and includes-

- (a) a gardener;
- (b) a person employed by a household as a driver of a motor vehicle; and
- (c) a person who takes care of children, the aged, the sick, the frail or the disabled;
- (d) domestic workers employed or supplied by employment services;

**"employment service"** means any person who recruits, procures or provides domestic workers for clients in return for payment, regardless of which party pays the domestic worker;

**"full pay"** means wages, overtime pay, allowances and any other payment in money that a domestic worker is entitled to in consequence of their employment;

**"incapacity"** means inability to work owing to sickness or injury;

**"night work"** means work performed after 18:00 and before 06:00 the next day;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 10](#);

**"overtime"** means the time that the domestic worker works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave or family responsibility leave that a domestic worker is entitled to in terms of [Part E](#) of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"wage"** means the amount of money paid or payable to a domestic worker in respect of ordinary hours of work or, if they are shorter, the hours a domestic worker normally works in a day or week;

**"week"** in relation to a domestic worker, means the period of seven days within which the working week of that domestic worker normally falls;

**"workplace"** means any place where domestic workers work.

## ANNEXURES

### National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ Annexure 1 GUIDELINES ON WRITTEN PARTICULARS OF EMPLOYMENTS

#### Annexure 1 GUIDELINES ON WRITTEN PARTICULARS OF EMPLOYMENT<sup>5</sup>

##### 1. Notice period and termination of employment

In terms of the Sectoral Determination, any party to an employment contract must give written notice, except when an illiterate domestic worker gives it, as follows:

- . One week, if employed for six months or less.
- . Four weeks if employed for more than six months.

Notice must be explained orally by or on behalf of the employer to a domestic worker if he/she is not able to understand it.

The employer is required to provide the domestic worker who resides in accommodation that is situated on the premises of the employer or that is supplied by the employer, with accommodation for a period of one month, or if it is a longer period, until the contract of employment could lawfully have been terminated.

All monies due to the domestic worker for any wages, allowance or other payments that have not been paid, paid time-off not taken and pro-rata leave must be paid.

##### 2. Procedure for termination of employment

Whilst the contract of employment makes provision for termination of employment, it must be understood that the services of an employee may not be terminated unless a valid and fair reason exists and fair procedure is followed. If an employee is dismissed without a valid reason or without a fair procedure, the employee may approach the CCMA for assistance.

Pro-rata leave and severance pay might be payable.

In the event of a domestic worker being unable to return to work due to disability, the employer must investigate the nature of the disability and ascertain whether or not it is permanent or temporary. The employer must try to accommodate the employee as far as possible for example, amending or adapting their duties to suit the disability.

However, in the event of it not being possible for the employer to adapt the domestic workers duties and/or to find alternatives, then such employer may terminate the services of the domestic worker.

The Labour Relations Act, [No. 66 of 1995](#) sets out the procedures to be followed at the termination of services in the Code of Good Practice, in Schedule 8.

### **3. Wage/Remuneration/Payment**

There is a prescribed minimum rate of remuneration. Additional payments (such as for overtime or work on Sundays or Public Holidays) are calculated from the total remuneration as indicated in clause 5.3 of the contract. The total remuneration is the total of the money received by the employee and the payment in kind, which may not be more than 10% of the wage for accommodation.

### **4. Transport allowances, bonuses, increases**

Sectoral Determination 7: Domestic Sector, South Africa does not regulate these and are therefore open to negotiation between the parties.

### **5. Hours of work**

#### **5.1 Normal hours (excluding overtime):**

A domestic worker may not be made to:

- . work more than 45 hours a week;
- . work more than nine hours per day for a five day work week;
- . work more than eight hours a day for a six day work week; and

#### **5.2 Overtime: A domestic worker may not work more than 15 hours' overtime per week but may not work more than 12 hours on any day, including overtime.**

Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

#### **5.3 Daily and weekly rest periods:**

##### **5.3.1 A daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours, which must include Sunday, unless otherwise agreed, must be allowed.**

##### **5.3.2 The daily rest period may by agreement be reduced to 10 hours for an employee who lives on the premises whose meal interval lasts for at least three hours.**

##### **5.3.3 The weekly rest period may by agreement be extended to 60 consecutive hours every two weeks or be reduced to eight hours in any week if the rest period in the following week is extended equivalently.**

#### **5.4 Standby:**

##### **5.4.1 Standby means any period between 20:00 and 06:00 the next day when a domestic worker is required to be at the workplace and is permitted to rest or sleep but must be available to work if necessary.**

##### **5.4.2 May only done if it is agreed in writing and on not more than five times per month must be compensated by the payment of an allowance of at least R20,00 per shift.**

#### **5.5 Night work - after 18:00 and before 06:00: Worked only if agreed to in writing and must be compensated by an allowance and if the domestic resides at the workplace or transport is available.**

### **6. Meal intervals**

A domestic worker is entitled to a one-hour break for a meal after not more than five hours' work. Such interval may be reduced to 30 minutes, by agreement between the parties. When a second meal interval is required because of overtime worked, it may be reduced to not less than 15 minutes.

If required or permitted to work during this period, remuneration must be paid.

### **7. Sunday work**

Work on Sundays is voluntary and a domestic worker can therefore not be forced to work on a Sunday.

If the employee works on a Sunday he/she shall be paid double the daily wage.

If the employee ordinarily works on a Sunday he/she shall be paid one and one-half time the wage for every hour worked. Paid time off in return for working on a Sunday may be agreed upon.

### **8. Public Holidays**

The days mentioned in the Public Holidays Act must be granted but the parties can agree to further public holidays. Work on a public holiday is entirely voluntary and a domestic worker may not be forced to work on such public holiday.

The official public holidays are:

|                  |                       |
|------------------|-----------------------|
| New Years Day    | Youth Day             |
| Human Rights Day | National Woman's Day  |
| Good Friday      | Heritage Day          |
| Family Day       | Day of Reconciliation |
| Freedom Day      | Christmas Day         |
| Workers Day      | Day of Goodwill       |

Any other day declared an official public holiday from time to time should also be granted.

These days can be exchanged for any other day by agreement.



If the employee works on a public holiday he/she shall be paid double the normal day's wage.

## **9. Annual Leave**

Annual leave may not be less than three weeks per year for full-time workers or by agreement, one day for every 17 days worked or one hour for every 17 hours worked. The leave must be granted not later than six months after completion of the period of 12 consecutive months of employment. The leave may not be granted concurrent with any period of sick leave, nor with a period of notice of termination of the contract of employment.

## **10. Sick leave**

During every sick leave cycle of 36 months an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

During the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

The employer is not required to pay an employee if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

## **11. Maternity leave**

The employee is entitled to at least four consecutive months' maternity leave. The employer is not obliged to pay the domestic worker for the period for which she is off work due to her pregnancy. However the parties may agree that the domestic worker will receive part of or her entire salary/wage for the time that she is off due to pregnancy.

## **12. Family responsibility leave**

Employees employed for longer than four months and for at least four days a week are entitled to take five days' paid family responsibility leave during each leave cycle when the employee's child is born, or when the employee's child is sick or in the event of the death of the employee's spouse or life partner or parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

## **13. Deduction from the remuneration**

The Sectoral Determination prohibits an employer from deducting any monies from the worker's wages without his/her written permission.

A deduction of not more than 10% of the wage may be deducted for a room or other accommodation provided it is kept in a good condition, has at least one window and a door, which can be locked, and he/she has access to a bathroom.

## **14. Other issues**

There are certain other issues which are not regulated by the Sectoral Determination such as probationary periods, right of entry to the employer's premises, afternoons off, weekends off and pension schemes, medical aid schemes, training/school fees, funeral benefits and savings account, however the aforementioned may be negotiated between the parties and included in the contract of employment.

## **15. Prohibition of Employment**

The Sectoral Determination prohibits employment of any person under the age of 15 and it is therefore important for an employer to verify the age of the domestic worker by requesting a copy of the identity document or birth certificate.

## **16. Other conditions of employment**

There is no provision which prevents any other conditions of employment being included in a contract of employment but any provision, which sets conditions, which are less favourable than those set by the Determination, would be invalid.

### **Footnotes**

- 5 These guidelines are not meant to be a complete summary of the Sectoral Determination and/or legal advice. Should there be any doubt as to rights and/or obligations in terms of this determination or written particulars of employment, such queries can be directed to the local office of the Department of Labour, who will gladly assist.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ Annexure 2 WRITTEN PARTICULARS OF EMPLOYMENT (DOMESTIC WORKER)**

### **Annexure 2 WRITTEN PARTICULARS OF EMPLOYMENT (DOMESTIC WORKER)**

particulars  
of charge  
of Labour

**Given by:**

(herein after referred to as "the employer")

Address of employer:

to

(herein after referred to as "the employer")

**1. Commencement**

Employment will begin on \_\_\_\_\_ and continue until terminated  
as set out in [clause 6](#) of the guidelines.

**2. Place of work**

**3. Job description**

Job Title

*(e.g.. Domestic worker, child minder, gardener, etc)*

**4. Duties**

*See job description attached to the guidelines)*

**5. Hours of work (See Guideline 5)**

5.1 Normal working hours will be \_\_\_\_\_ hours per week, made up as  
follows:

Monday/Tuesday/Wednesday/Thursday/Friday: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

Other breaks:

Saturdays: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

Other breaks:

Sundays: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

Other breaks:

5.2 Overtime will only be worked as agreed from time to time and will be paid  
at the rate of one and a half times of the total wage as set out in [clause](#)  
[5.2](#) of the guidelines.

5.3 Standby will only be done if agreed from time to time whereby an  
allowance will be paid of at least R20,00 per standby shift.

**6. Wages (See Guidelines 4 and 5)**

6.1 The employees wage shall be paid in cash on the last working  
day \_\_\_\_\_ R  
of every week/month and shall be:

6.2 The employee shall be entitled to the following allowances/other cash payments/payment in kind:

6.2.1 A weekly/monthly transport allowance of R

6.2.2 Meals per week/month to the value of R

6.2.3 Accommodation per week/month to the value of R

6.3 The following deductions are agreed upon:

R

R

R

6.4 The total value of the above remuneration shall be  
(The total of clauses 5.1 to 5.2.3)  
(Modify or delete clauses 5.2.1 to 5.2.3 as needed)

R

6.5 The employer shall review the employee's salary/wage on or before 1 November of every year.

## 7. Termination of employment

Either party can terminate this agreement with one week's notice during the first six months of employment and with four weeks' notice thereafter. Notice must be given in writing except when it is given by an illiterate domestic worker. In the case where the domestic worker is illiterate notice must be explained orally by or on behalf of the employer.

## 8. Sunday work

Any work on Sundays will be by agreement between parties and will be paid according to [clause 7](#) of the guidelines.

## 9. Public Holidays

Any work on holidays will be by agreement and will be paid according to [clause 8](#) of the guidelines.

## 10. Annual Leave

The employee is entitled to three weeks' paid leave after every 12 months of continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer.

## 11. Sick leave

11.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

11.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.

11.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.

11.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.

## 12. Maternity leave

(Tick the applicable clauses in the space provided)

12.1 The employee will be entitled to months maternity leave without pay; ☐  
or

12.2 The employee will be entitled to ..... months maternity leave ☐  
on pay

## 13. Family responsibility leave

The employee will be entitled to five days' family responsibility leave during each leave cycle if he or she works on at least four days a week.

#### 14. Accommodation

(Tick the applicable boxes)

- 14.1 The employee will be provided with accommodation for as long as the employee is in the service of the employer, and which shall form part of his/her remuneration package. ☐
- 14.2 The accommodation may only be occupied by the worker, unless prior arrangement with the employer. ☐
- 14.3 Prior permission should be obtained for visitors who wish to stay the night. However where members of the employee's direct family are visiting, such permission will not be necessary. ☐

#### 15. Clothing (Delete this clause if not applicable)

sets of uniforms will be supplied to the employee free of charge by the employer and will remain the property of the employer.

#### 16. Other conditions of employment or benefits

#### 17. General

Any changes to the written particulars will only be valid if agreed to by both parties.

EMPLOYER

Acknowledgement of receipt by employee:

Date:

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ Annexure 3 JOB DESCRIPTION**

#### Annexure 3 JOB DESCRIPTION

Indicate functions required by a ✓ in the appropriate block

|                                                        |                          |                                                      |                          |
|--------------------------------------------------------|--------------------------|------------------------------------------------------|--------------------------|
| Child minding / baby sitting                           | <input type="checkbox"/> | Laundry - machine wash                               | <input type="checkbox"/> |
| Minding old/sick employer or relative                  | <input type="checkbox"/> | Laundry - hand wash                                  | <input type="checkbox"/> |
| General tidying of house                               | <input type="checkbox"/> | Hanging out of laundry                               | <input type="checkbox"/> |
| Making of beds                                         | <input type="checkbox"/> | Washing of curtains                                  | <input type="checkbox"/> |
| Vacuuming of carpets                                   | <input type="checkbox"/> | Ironing                                              | <input type="checkbox"/> |
| Vacuuming of upholstery                                | <input type="checkbox"/> | Small mending job, e.g. replacing buttons, hems, etc | <input type="checkbox"/> |
| Dusting                                                | <input type="checkbox"/> | Defrosting and cleaning fridge & freezer             | <input type="checkbox"/> |
| Wiping down of all appliances e.g. T.V. etc            | <input type="checkbox"/> | Cleaning of windows and glass doors inside and out   | <input type="checkbox"/> |
| Cleaning of walls, light switches, doors etc           | <input type="checkbox"/> | Cleaning of all used equipment e.g. vacuum cleaner   | <input type="checkbox"/> |
| Cleaning of ornaments                                  | <input type="checkbox"/> | Packing away of groceries                            | <input type="checkbox"/> |
| Cleaning of toilets, basins, baths, showers, taps etc. | <input type="checkbox"/> | Removal of refuse for collection                     | <input type="checkbox"/> |
|                                                        | <input type="checkbox"/> | Sweeping of outside patios, steps, etc               | <input type="checkbox"/> |

|                                   |                          |                                         |                          |
|-----------------------------------|--------------------------|-----------------------------------------|--------------------------|
| Mopping of tiled/vinyl floors     | <input type="checkbox"/> | Wiping down of outside lights           | <input type="checkbox"/> |
| Cleaning of inside of cupboards   | <input type="checkbox"/> | Cleaning of outside rooms and cloakroom | <input type="checkbox"/> |
| Cleaning of stove and oven        | <input type="checkbox"/> | General driving duties and errands      | <input type="checkbox"/> |
| Preparation/cooking of breakfast  | <input type="checkbox"/> | Wash cars                               | <input type="checkbox"/> |
| Preparation/cooking of lunch      | <input type="checkbox"/> | Maintain garden in clean and tidy       | <input type="checkbox"/> |
| Preparation/cooking of supper     | <input type="checkbox"/> | condition                               | <input type="checkbox"/> |
| Setting of table                  | <input type="checkbox"/> | Caring for pool                         | <input type="checkbox"/> |
| Cleaning away after               | <input type="checkbox"/> | Mow lawns                               | <input type="checkbox"/> |
| breakfast/lunch/supper            | <input type="checkbox"/> | Weeding                                 | <input type="checkbox"/> |
| Polishing of floors and verandahs | <input type="checkbox"/> | Trimming and pruning                    | <input type="checkbox"/> |
| Cleaning brass and silver         | <input type="checkbox"/> | Washing and grooming of dogs            | <input type="checkbox"/> |
| Washing of Walls                  | <input type="checkbox"/> | Painting of walls                       | <input type="checkbox"/> |
| Other                             | <input type="checkbox"/> |                                         |                          |
|                                   | <input type="checkbox"/> | <input type="checkbox"/>                | <input type="checkbox"/> |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.1068 of 15 August 2002: Sectoral Determination 7: Domestic Worker Sector, South Africa/ Annexure 4 PAYS LIP**

**Annexure 4  
PAYS LIP**

**SECTORAL  
DETERMINATION 7:  
DOMESTIC WORKER SECTOR,  
SOUTH AFRICA**

**Clause 5**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is a record of information about remuneration.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This information must be given to a domestic worker with her remuneration in a sealed envelope-

- At the workplace or at a place agreed to by the employee; and
- During the employee's ordinary working hours or within 15 minutes of the commencement or conclusion of those hours.
- The full value of remuneration including payment in kind must be specified.
- This is only a model and not a prescribed form.* Completing a document in another format containing the same information is sufficient compliance with this clause.

NAME OF EMPLOYER:

ADDRESS:

NAME OF EMPLOYEE:

ID NO:

OCCUPATION/GRADE:

PAY PERIOD: FROM

TO

BASIC WAGE:

MANNER OF PAYMENT:

☐ per hour ☐ per day

(Tick applicable block)

☐ per week ☐ per fortnight

☐ per month

Rate No of hours Rand earned

Ordinary hours worked

Overtime worked

Sundays time worked

Public holidays time worked

Payment in kind

Standby

Allowances (specify)

SUBTOTAL

R

DEDUCTIONS: P.A.Y.E.  
UNION

OTHER (Full details)

SUBTOTAL

R

TOTAL AMOUNT DUE

R

**Annexure 5**  
CERTIFICATE OF SERVICE

**SECTORAL  
DETERMINATION 7:  
DOMESTIC WORKER SECTOR,  
SOUTH AFRICA**

**Clause 28**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of  
employment with an  
employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued  
upon termination of  
employment.

**NOTE**

In terms of [clause 28\(g\)](#)  
the reason for termination  
of employment must only  
be given if requested by  
the employee.

*This is only a model and not  
a prescribed form.*  
Completing a document in  
another format containing  
the same information is  
sufficient compliance with  
the regulation.

I \_\_\_\_\_  
(name and designation of person)  
of \_\_\_\_\_  
(full name of employer)  
address: \_\_\_\_\_  
declare that \_\_\_\_\_  
(full name of employee)  
(I.D no.) \_\_\_\_\_  
was in employment  
from \_\_\_\_\_ until \_\_\_\_\_  
as \_\_\_\_\_  
(type of work/occupation)

any other information \_\_\_\_\_

On termination of service this employee was earning:  
R \_\_\_\_\_ (amount in words)

☐ per hour      ☐ per day      ☐ per week  
☐ per fortnight      ☐ per month      ☐ per year

Employer's signature \_\_\_\_\_ Date \_\_\_\_\_

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 55 \(1\)](#) read with [section 55 \(6\) \(b\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), make a Sectoral Determination establishing conditions of employment for children engaged in the performance of advertising, artistic and cultural activities in South Africa, which appears in the schedule hereto and fix the second Monday after the date of publication of this notice as the date from which the provisions of the said Sectoral Determination shall be binding.

(signed)  
M M S MDLADLANA  
Minister of Labour

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

#### [PART A](#): SCOPE OF APPLICATION

- [1.](#) Scope of application
- [2.](#) Granting of permit

#### [PART B](#): EMPLOYMENT

- [3.](#) Contract of employment

#### [PART C](#): REMUNERATION

- [4.](#) Payment of remuneration
- [5.](#) Information concerning pay
- [6.](#) Deductions
- [7.](#) Prohibited acts concerning pay

#### [PART D](#): HOURS OF WORK

- [8.](#) Hours of work
- [9.](#) Rest periods
- [10.](#) Food and refreshments
- [11.](#) Night work

#### [PART E](#): PROTECTIONS

- [12.](#) Recreational areas
- [13.](#) Accommodation
- [14.](#) Transport
- [15.](#) Reasonable access
- [16.](#) Dangerous and hazardous performances
- [17.](#) Keeping of sectoral determination

#### [PART F](#): OFFENCES AND LEGAL PROCEEDINGS

- [18.](#) Offences
- [19.](#) Evidence of age
- [20.](#) Penalties

#### [PART G](#): MISCELLANEOUS

- [21.](#) Delegation
- [22.](#) Definitions
- [SD 10.1](#) Application for a permit
- [SD 10.2](#) Permit in terms of [clause 2](#)

#### PART A: SCOPE OF APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 1. Scope of application.-(1) This Determination applies to the employment of children under 15 years of age in the performance of advertising, artistic and cultural activities.**

**1. Scope of application.**-(1) This Determination applies to the employment of children under 15 years of age in the performance of advertising, artistic and cultural activities.

(2) An employer that has been granted a permit in terms of this Determination allowing it to employ children under 15 years of age in advertising, artistic and cultural activities must comply with this Determination.

(3) An employer that has not been granted a permit in terms of this Determination is prohibited by section 43 of the Basic Conditions of Employment Act from employing children.

(4) This Determination does not apply to a child's participation in activities that are not for profit-making purposes performed under the auspices of one of the following organizations:

- (a) a school attended by the child; or



- (b) a youth organization, amateur dramatic society, church or other religious institution to which the child belongs.

(5) The provisions of the Basic Conditions of Employment Act apply to children and employers covered by this Determination in respect of any matter not regulated by this Determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 2. Granting of permit.-(1) With effect from 16 August 2004, no person may employ a child in advertising, artistic and cultural activities, except in terms of a permit granted in terms of this Determination.**

**2. Granting of permit.**-(1) With effect from 16 August 2004, no person may employ a child in advertising, artistic and cultural activities, except in terms of a permit granted in terms of this Determination.

(2) Despite [clause 2 \(1\)](#), within three months of the date on which the Sectoral Determination comes into effect, an employer must apply for a permit for children who are in employment on that date as required by [clause 2 \(4\)](#).

(3) The following persons may not employ a child in advertising, artistic and cultural activities:

- (a) a person under 18 years at the date of applying for a permit; and
- (b) anyone convicted of any offence under any law protecting children, any employment law or any law regulating advertising, artistic and cultural activities within the five years preceding the application for a permit.

(4) A person who is not disqualified in terms of sub-clause (3) must apply to the Minister for a permit in the Form of SD 10.1 to this Determination. A permit must be issued in the Form of SD 10.2 to this Determination.

(5) The Minister may require an applicant to submit further information in support of an application.

(6) The Minister-

- (a) must determine the period for which a permit is granted;
- (b) may impose conditions on the granting of any permit;
- (c) must issue a permit granted in writing; and
- (d) must notify any applicant who has been refused a permit in writing.

#### PART B: EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 3. Contract of employment.-(1) Before a child starts work, an employer must conclude a written contract of employment with either-**

**3. Contract of employment.**-(1) Before a child starts work, an employer must conclude a written contract of employment with either-

- (a) the parent or legal guardian of the child; or
- (b) an agent, if authorized in writing by the child's parent or legal guardian.

(2) A contract of employment concluded in terms of sub-clause (1) must contain at least the following information:

- (a) the full name and address of the employer;
- (b) the full name of the child, and a description of the work for which the child is employed;
- (c) date of birth of the child;
- (d) the place of work, and where the child is required or permitted to work at various places, details of each of the places;
- (e) the date on which employment commences;
- (f) the child's hours and days of work;
- (g) the child's remuneration or the rate and method of calculating payment;
- (h) any other cash payments that the child is entitled to;
- (i) any food or accommodation payment that the child is entitled to and the value of the food or accommodation;
- (j) any other payment in kind that the child is entitled to and the value of that payment;
- (k) how frequently remuneration will be paid;
- (l) any deductions to be made from the child's wages;

(m) the leave to which the child is entitled;

(n) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate.

(3) The parent, legal guardian or agent of the child must sign the contract of employment on behalf of the child, specifying the capacity in which they are signing.

(4) Any change in the child's terms of employment, must be recorded in writing and signed by the employer and the parent, legal guardian or authorised agent.

(5) An employer must retain a copy of the contract of employment while the child is employed by the employer and for three years thereafter.

#### PART C: REMUNERATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 4. Payment of remuneration.-(1) Any remuneration due to a child must be paid to the parent or legal guardian of the child-**

**4. Payment of remuneration.-(1)** Any remuneration due to a child must be paid to the parent or legal guardian of the child-

(a) in South African currency;

(b) daily, weekly, fortnightly or monthly; and

(c) in cash, by cheque or by direct deposit into an account designated by the child's parent or legal guardian.

(2) Any payment in cash or by cheque must be given to the parent or legal guardian of the child-

(a) at the workplace;

(b) during the child's working hours; and

(c) in a sealed envelope which becomes the property of the child, and which the child or the parent or legal guardian of the child is entitled to retain.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 5. Information concerning pay.-(1) On every pay day, the employer must give to the parent, legal guardian or agent of the child a statement showing-**

**5. Information concerning pay.-(1)** On every pay day, the employer must give to the parent, legal guardian or agent of the child a statement showing-

(a) the employer's name and address;

(b) the child's name and type of work done;

(c) the period in respect of which payment is made;

(d) the number of hours worked by the child in that period;

(e) the number of hours worked by the child on a public holiday or on a Sunday, calculated in accordance with sections 16 and 18 respectively of the Basic Conditions of Employment Act;

(f) the child's remuneration;

(g) details of any other pay arising out of the child's employment;

(h) details of any deductions made; and

(i) the actual amount paid to the child.

(2) An employer must retain a copy or record of each statement in terms of sub-clause (1) for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 6. Deductions.-(1) An employer may not make any deduction from a child's remuneration unless-**

**6. Deductions.-(1)** An employer may not make any deduction from a child's remuneration unless-

(a) the parent or legal guardian of the child agrees in writing to the deduction in respect of a debt specified in the agreement; or

(b) the deduction is required or permitted in terms of a law, agreement, court order or arbitration award.

(2) A deduction in terms of sub-clause (1) (a) in respect of any goods purchased on behalf of the child must specify the nature and quantity of the goods.

(3) An employer who deducts an amount from a child's remuneration in terms of sub-clause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 7. Prohibited acts concerning pay.-(1) An employer may not receive any payment directly or indirectly, or withhold any payment from a child in respect of-**

**7. Prohibited acts concerning pay.**-(1) An employer may not receive any payment directly or indirectly, or withhold any payment from a child in respect of-

(a) the employment or training of that child;

(b) the supply of any work equipment or tools;

(c) the supply of any work clothing;

(d) any food supplied to the child or the child's parent, legal guardian, agent or child-minder while the child is working or is at the workplace;

(e) any accommodation provided for the child or the child's parent, legal guardian, agent or child-minder.

(2) An employer may not require a child or a child's parent, legal guardian or agent to purchase any goods from the employer or from any person, shop or other business nominated by the employer.

(3) An employer may not levy a fine against a child.

(4) An employer may not require or permit a child or the child's parent, legal guardian or agent to-

(a) repay any amount paid except for overpayments previously made by the employer resulting from an error in calculating the child's pay; or

(b) acknowledge receipt of an amount greater than the pay actually received.

#### PART D: HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 8. Hours of work.-(1) For purposes of this Determination the maximum permissible hours of work are-**

**8. Hours of work.**-(1) For purposes of this Determination the maximum permissible hours of work are-

(a) in respect of a child aged over ten years, four hours a day;

(b) in respect of a child of ten years or younger, three hours a day.

(2) An employer may not require or permit a child to work for longer than the maximum permissible hours of work.

(3) An employer may not require or permit a child to be present at the workplace on any day for more than-

(a) ten hours, in the case of a child aged over ten years;

(b) eight hours, in the case of a child aged older than five years but not older than ten years;

(c) six hours, in the case of a child aged younger than five years.

(4) No employer may force a child to perform when the child is not ready or fit to do so.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 9. Rest periods.-(1) An employer must give a child a rest break of at least 30 minutes-**

**9. Rest periods.**-(1) An employer must give a child a rest break of at least 30 minutes-

(a) after two hours of continuous work, in the case of children over ten years; and

(b) after one and a half hours of continuous work, in the case of children aged ten years or younger.

(2) If, due to the nature of a performance, it is not practicable for a child to be granted a rest break in accordance

with sub-clause (1), the employer must give the child a rest break as soon as this is practicable.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 10. Food and refreshments.-(1) An employer must ensure that the child is provided with nutritious food and drinks appropriate to the age of the child at all times, unless this is impracticable due to the nature of the performance.**

**10. Food and refreshments.**-(1) An employer must ensure that the child is provided with nutritious food and drinks appropriate to the age of the child at all times, unless this is impracticable due to the nature of the performance.

(2) An employer must ensure that a child has a separate meal area away from adults, other than the child's parent, legal guardian or child minder.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 11. Night work.-(1) For the purposes of this clause "night work" means work performed after 22h00 and before 05h00 the next day.**

**11. Night work.**-(1) For the purposes of this clause "night work" means work performed after 22h00 and before 05h00 the next day.

(2) A child may not be required or permitted to perform night work on more than three occasions per week.

(3) No employer may require or permit a child to perform night work unless the parent or legal guardian of the child has given permission in writing, and-

- (a) the employer has submitted to the parent or legal guardian written reasons why the work must be performed at night;
- (b) the child is compensated by payment of an allowance that is agreed to by the child's parent or legal guardian; and
- (c) at the request of the parent or legal guardian of the child, the employer has enabled the child to undergo a medical examination, for the account of the employer.

## PART E: PROTECTIONS

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 12. Recreational areas.-During a call the employer must provide safe areas for a child to rest and play.**

**12. Recreational areas.**-During a call the employer must provide safe areas for a child to rest and play.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 13. Accommodation.-(1) No child may be required to work away from home unless the full details of the accommodation arrangements are supplied to, and approved by, the parent or legal guardian of the child, and the accommodation-**

**13. Accommodation.**-(1) No child may be required to work away from home unless the full details of the accommodation arrangements are supplied to, and approved by, the parent or legal guardian of the child, and the accommodation-

- (a) is supplied free of charge to the child;
- (b) is clean, comfortable, suitable and safe for the child;
- (c) is not occupied by any adult other than the parent, legal guardian or child minder of the child; and
- (d) has sufficient bedding, lavatories and washing facilities for the child.

(2) If a child is required to stay overnight on location, the employer must ensure that the child is accompanied by the parent, legal guardian or child minder of the child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 14. Transport.-(1) Unless otherwise**

**agreed with the parent or legal guardian of the child, an employer must provide safe transport between the child's home or accommodation and the workplace for the child and the child's parent, legal guardian or child**

**14. Transport.**-(1) Unless otherwise agreed with the parent or legal guardian of the child, an employer must provide safe transport between the child's home or accommodation and the workplace for the child and the child's parent, legal guardian or child minder-

- (a) whenever the child is required to travel;
- (b) at the end of any workday; and
- (c) at the beginning and end of the child's performance, if the child is performing night work or working away from home.

(2) The employer must ensure that transport to the child's home or accommodation is available at the end of a performance without delay.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 15. Reasonable access.**-Subject to reasonable production requirements, an employer must ensure that a parent, legal guardian, agent or child minder has reasonable access to a child during a call, and that the parent, legal guardian, or child minder may-

**15. Reasonable access.**-Subject to reasonable production requirements, an employer must ensure that a parent, legal guardian, agent or child minder has reasonable access to a child during a call, and that the parent, legal guardian, or child minder may-

- (a) accompany the child to wardrobe, make-up, hairdressing and dressing room facilities; and
- (b) if the child is working on a film, television or advertising production be within the sight and sound of the child.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 16. Dangerous and hazardous performances.**-(1) An employer must ensure that a child is not exposed to unhealthy practices, physical danger, emotional harm, excessive strain or stress at any time while on call.

**16. Dangerous and hazardous performances.**-(1) An employer must ensure that a child is not exposed to unhealthy practices, physical danger, emotional harm, excessive strain or stress at any time while on call.

(2) An employer may not require or permit the child to perform if the parent or legal guardian of the child believes that the child will be exposed to danger of any kind.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 17. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available at the workplace in a place to which the parent, legal guardian or agent

**17. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available at the workplace in a place to which the parent, legal guardian or agent of the child has access.

#### PART F: OFFENCES AND LEGAL PROCEEDINGS

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 18. Offences.**-It is an offence to-

**18. Offences.**-It is an offence to-

- (a) employ a child in contravention of this Determination;
- (b) assist in the employment of a child in contravention of this Determination;
- (c) discriminate against an employer who refuses to permit a child to be employed in contravention of this Determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 19. Evidence of age.-In any proceedings in terms of this Determination, if the age of a child is a relevant factor for which insufficient evidence is available, it is for the party who alleges that the employment complied with the provisions of this Det**

**19. Evidence of age.-**In any proceedings in terms of this Determination, if the age of a child is a relevant factor for which insufficient evidence is available, it is for the party who alleges that the employment complied with the provisions of this Determination to prove that it was reasonable for that party to believe, after investigation, that the child was not below the permitted age of employment of children.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 20. Penalties.-(1) Any magistrate's court has jurisdiction to impose a penalty for an offence provided for in this Determination.**

**20. Penalties.-(1)** Any magistrate's court has jurisdiction to impose a penalty for an offence provided for in this Determination.

(2) Any person convicted of an offence in terms of any provisions of this Determination may be sentenced to a fine or imprisonment for a period not longer than three years.

#### PART G: MISCELLANEOUS

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 21. Delegation.-(1) The Minister may in writing delegate or assign to the Director-General or any employee in the public service of the rank of Assistant Manager or of a higher rank, any power or duty conferred or imposed upon the Minister in terms of**

**21. Delegation.-(1)** The Minister may in writing delegate or assign to the Director-General or any employee in the public service of the rank of Assistant Manager or of a higher rank, any power or duty conferred or imposed upon the Minister in terms of this Determination.

(2) A delegation or assignment in terms of sub-clause (1) does not limit or restrict the Minister's authority to exercise or perform the delegated or assigned power or duty.

(3) Any person to whom a power or duty is delegated or assigned in terms of sub-clause (1) must exercise or perform that power or duty subject to the direction of the Minister.

(4) The Minister may at any time-

- (a) withdraw a delegation or assignment made in terms of sub-clause (1); and
- (b) withdraw or amend any decision made by a person exercising or performing a power or duty delegated or assigned in terms of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.882 of 29 July 2004: Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities, South Africa/ 22. Definitions.-In this Determination, unless the context indicates otherwise-**

**22. Definitions.-**In this Determination, unless the context indicates otherwise-

**"agent"** means a person who is authorised to act for, or on behalf of, a child in contractual relations with an employer;

**"Basic Conditions of Employment Act"** means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#));

**"call"** means the time spent by a child under the supervision of, or on the premises of the employer, including time spent outside a performance;

**"child"** means any person younger than 15 years of age;

**"child minder"** means a person appointed to attend to the child's needs during call;

**"Determination"** means the Sectoral Determination for children in the performance of advertising, artistic and cultural activities;

**"Director-General"** means the Director-General of Labour;

**"employment"** means the engagement of a child by a natural or legal person to perform any work, regardless of whether the child-

- (a) is remunerated or not;
- (b) is contracted for a specific period of time or to perform a specific task, or for an indefinite period of time; or
- (c) is engaged as an independent contractor.

**"legal guardian"** means-

- (a) a person other than a parent, with parental authority over a child; or
- (b) a person responsible for the administration of a child's estate and who has the capacity to assist or represent the child in legal proceedings or in the performance of juristic acts, and includes a manager of an institution at which the child resides.

**"Minister"** means the Minister of Labour;

**"parent"** means a parent with parental authority over a child, including guardianship and custody;

**"school"** includes any institution for educating, training or giving instruction in any discipline.

[Form SD 10.1 substituted by GNR.1202 of 2006.]

**SD 10.1**

**DEPARTMENT OF LABOUR  
APPLICATION FOR A PERMIT**

**N.B. ALL APPLICABLE FIELDS MUST BE COMPLETED**

**A. EMPLOYER PARTICULARS**

**(COMPLETE SECTION 2 FOR INDIVIDUAL EMPLOYERS  
OR SECTION 3 FOR ORGANIZATION)**

1. FULL NAME OF EMPLOYER OR COMPANY TRADING NAME

2. PLEASE COMPLETE IF APPLICATION IS ON BEHALF OF AN INDIVIDUAL

2.1 ARE YOU A SOUTH AFRICAN CITIZEN?

☐ YES ☐ NO

2.2 TYPE IF IDENTIFICATION PROVIDED

☐ ID ☐ PASSPORT ☐ WORK PERMIT

NUMBER:

*(Supply at least one of the following)*

UIF REFERENCE NUMBER:

SARS NUMBER:

COMPANY REGISTRATION NUMBER:

COMPENSATION COMMISSIONER REGISTRATION NUMBER:

3. PLEASE COMPLETE IF APPLYING ON BEHALF OF AN ORGANISATION

*(Supply at least one of the following)*

UIF REFERENCE NUMBER:

SARS NUMBER:

*(Field must be completed)*

COMPANY REGISTRATION NUMBER:

COMPENSATION COMMISSIONER REGISTRATION NUMBER:

4. NATURE IF BUSINESS

☐ Advertising ☐ Artistic ☐ Cultural

☐ Broadcasting ☐ Modeling ☐ Other

*(Specify if other)*

5. HOW DO YOU PREFER TO BE NOTIFIED?

☐ POST ☐ FAX

2. POSTAL ADDRESS:



**SECTORAL  
DETERMINATION 10:  
CHILDREN IN  
PERFORMING OF  
ADVERTISING,  
ARTISTIC AND  
CULTURAL  
ACTIVITIES**  
Clause: 2

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is an application for a permit to involve children under the age of 15 years in the performance of advertising, artistic and cultural activities.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

The Provincial Executive Manager

**INSTRUCTIONS**

Attach the following:

- . Part C must be completed for each child that an employer intends to employ.

**Attach the following:**

- . Proof of consent by parent/guardian.
- . Proof of age of each child.
- . Rehearsal/Performance/Time Certificate/Passport/Work permit: Schedule

**NOTE**

A Department of Labour official may conduct an inspection to verify the information or seek more information in relation to your application.

If there is insufficient space on the form use separate piece of paper.

**3. POSTAL CODE:**

TEL.NO. (    )                      FAX. NO. (    )  
EMAIL:

**PROVINCE:**

- ☐ Eastern Cape   ☐ Free State   ☐ Gauteng  
☐ KwaZule-Natal   ☐ Limpopo   ☐ Mpumalanga  
☐ Northern Cape   ☐ North-West   ☐ Western Cape

**B. DETAILS OF APPLICATION**

**1. MOTIVATION AND REASONS WHY THE APPLICATION FOR THE PERMIT SHOULD BE GRANTED:**

**2. CHILDREN WILL BE INVOLVED IN THE FOLLOWING PROJECTS:**

- ☐ Acting   ☐ Advertising   ☐ Broadcasting   ☐ Dancing  
☐ Modeling   ☐ Singing   ☐ Other

**3. PERIOD FOR WHICH PERMIT IS SOUGHT: From:**  
**To:**

**4. NUMBER OF CHILDREN INVOLVED IN THE FOLLOWING AGE GROUPS:**

Aged 10 but younger than 15 years:

Aged 5 but younger than 10:

Aged younger than 5:

TOTAL NUMBER OF CHILDREN INVOLVED:

**5. SIGNATURE:**

NAME:

POSITION:

DATE:

**C. INFORMATION REQUIRED FOR EACH CHILD:**

(To be completed for each child to be employed. Copies can be made and be attached.)

**1. Full name of the child as per Birth**

Certificate/Passport/Work permit:

Surname:

First Name(s):

**2. Is the child a South African Citizen?   ☐ YES   ☐ NO**

**3. Type of ID provided:   ☐ Birth Certificate   ☐ Work Permit**  
☐ Passport

**4. Birth Certificate/Passport/Permit number of the child:**

**5. Date of birth:                      Age of child:**

**6. Gender of child:                      ☐ Male   ☐ Female**

**7. Indicate how often the child is going to work/perform per day and week:**

Mon

Tue  
Wed  
Thurs  
Fri  
Sat  
Sun

Days of week: (tick)

No. of working hours per day

No. of hours per day present at the workplace

No. of working hours per week:

No. of hours present at the workplace:

8. Is the child currently attending an educational institution?

☐ Yes ☐ No

(a) Will this work/performance affect attendance:

☐ Yes ☐ No

9. Proof of consent (Attached) ☐ Yes ☐ No

10. Proof of age (Attached) ☐ Yes ☐ No

#### ADDRESSES OF PROVINCIAL DIRECTORS

In the province of KwaZulu/Natal:  
The Provincial Executive Manager  
Department of Labour  
P O Box 940  
**DURBAN**  
4000  
TEL: (031) 336 2000  
FAX: (031) 336 2300

In the province of Northern Cape:  
The Provincial Executive Manager  
Department of Labour  
Private Bag X5012  
**KIMBERLEY**  
8300  
TEL: (053) 838 1500/6284  
FAX: (053) 832 8167

|                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>In the Northern Province:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>Private Bag X9368<br/><b>POLOKWANE</b><br/>0700<br/>TEL: (015) 290 1744<br/>FAX: (015) 290 1670</p>                                                                                                                                                                                                | <p>In the province of North-West:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>Private Bag X2040<br/><b>MMABATHO</b><br/>2735<br/>TEL: (018) 387 8100<br/>FAX: (018) 384 2745</p>                                                                                                                                                                                                                                                                                    |
| <p>In the province of Eastern Cape:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>Private Bag X9005<br/><b>EAST LONDON</b><br/>5200<br/>TEL: (043) 701 3000<br/>FAX: (043) 743 9719</p>                                                                                                                                                                                       | <p>In the Province of the Western Cape:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>P O Box 872<br/><b>CAPE TOWN</b><br/>8000.<br/>TEL: (021) 441 8000<br/>FAX: (021) 441 8135</p>                                                                                                                                                                                                                                                                                  |
| <p>In the province of Gauteng:<br/><b>Gauteng-North:</b><br/><br/>In the Magisterial Districts of:<br/>Bronkhorstspuit, Cullinan,<br/>Krugersdorp, Pretoria, Randfontein,<br/>Soshanguve I, Soshanguve 2, and<br/>Wonderboom.<br/><br/>The Provincial Executive Manager<br/>Department of Labour<br/>P O Box 393<br/><b>PRETORIA</b><br/>0001<br/>TEL: (012) 309 5000<br/>FAX: (012) 320 2367</p> | <p>In the province of Gauteng:<br/><b>Gauteng-South:</b><br/><br/>In the Magisterial Districts of: Alberton,<br/>Boksburg, Brakpan, Germiston. Heidelberg,<br/>Johannesburg, Kempton Park, Oberholza,<br/>Randburg, Roodepoort, Nigel, Benoni,<br/>Springs, Vanderbijlpark, Vereeniging and<br/>Westonaria.<br/><br/>The Provincial Executive Manager<br/>Department of Labour<br/>P O Box 4560<br/><b>JOHANNESBURG</b><br/>2000<br/>TEL: (011) 497 3000/3222<br/>FAX: (011) 497 3076</p> |
| <p>In the Province of Mpumalanga:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>Private Bag X7263<br/><b>WITBANK</b><br/>1035<br/>TEL: (013) 655 8700<br/>FAX: (013) 690 2622</p>                                                                                                                                                                                             | <p>In the Province of the Free State:<br/>The Provincial Executive Manager<br/>Department of Labour<br/>PO Box 522<br/><b>BLOEMFONTEIN</b><br/>9300<br/>TEL: (051) 505 6200/6284<br/>FAX: (051) 447 9353</p>                                                                                                                                                                                                                                                                              |

| SD 10.2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DEPARTMENT OF LABOUR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                               |
| PERMIT IN TERMS OF CLAUSE 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b><u>SECTORAL DETERMINATION 10:</u></b></p> <p><b><u>CHILDREN IN PERFORMANCE OF ADVERTISING, ARTISTIC AND CULTURAL ACTIVITIES</u></b></p> <p><b>Clause: 2</b></p> <p><b>READ THIS FIRST</b></p> <p></p> <p><b>WHAT IS THE PURPOSE OF THIS FORM?</b></p> <p>To record a permit for children involved in the performance of advertising, artistic and cultural activities.</p> <p><b>WHO FILLS IN THIS FORM?</b></p> | <p>The Minister of Labour, grant the following permit in terms of Clause 2 of the Sectoral Determination.</p> <ol style="list-style-type: none"> <li>1. Employer</li> <li>2. Extent of the variation</li> <li>3. Names of the children in respect of whom the determination applies.</li> <li>4. Conditions on which determination is granted:</li> <li>5. Period for which the permit is granted:</li> </ol> |

The minister.

**WHERE DOES THIS  
FORM GO?**

To the applicant.

**SIGNED** under delegated authority in terms of  
section 85 of the Basic Conditions of Employment  
Act, 1997 at ..... on this the ..... day of  
.....

**DIRECTOR GENERAL: LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector**

**GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector**

| <b>as amended by</b>   |                           |                                   |
|------------------------|---------------------------|-----------------------------------|
| <b>Notice</b>          | <b>Government Gazette</b> | <b>Date</b>                       |
| R.675                  | 31162                     | 20 June 2008                      |
| R.737                  | 32397                     | 17 July 2009                      |
| R.530                  | 34392                     | 27 June 2011 w.e.f. 1 July 2011   |
| 479                    | 35462                     | 22 June 2012 w.e.f. 1 July 2012   |
| 455                    | 36619                     | 1 July 2013                       |
| 537                    | 37813                     | 9 July 2014 w.e.f. 1 July 2014    |
| 857                    | 40157                     | 25 July 2016 w.e.f. 1 July 2016   |
| 1153                   | 41218                     | 1 November 2017                   |
| <b>as corrected by</b> |                           |                                   |
| <b>Notice</b>          | <b>Government Gazette</b> | <b>Date</b>                       |
| R.618                  | 36753                     | 16 August 2013 w.e.f. 1 July 2013 |

**DEPARTMENT OF LABOUR**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 55 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), make a Sectoral Determination establishing conditions of employment and minimum wages for the Taxi Sector in South Africa, which appears in the schedule hereto and fix the 2nd Monday after publication as the date from which the provisions of the said Sectoral Determination shall be binding.

(Signed)  
M M S MDLADLANA, MP  
Minister of Labour

**SCHEDULE**

**ARRANGEMENT OF REGULATIONS**

[PART A](#)  
**APPLICATION**

- [1.](#) Scope of application

[PART B](#)  
**MINIMUM WAGES**

- [2.](#) Minimum wages  
[4.](#) Calculation of wages  
[5.](#) Payment of wages  
[6.](#) Information concerning pay  
[7.](#) Prohibited acts concerning pay  
[8.](#) Deductions  
[9.](#) Boarding allowances

[PART C](#)  
**PARTICULARS OF EMPLOYMENT**

- [10.](#) Written particulars of employment

[PART D](#)  
**HOURS OF WORK**

- [11.](#) Ordinary hours of work

- [12.](#) Overtime
- [13.](#) Payment of overtime
- [14.](#) Work on Sundays
- [15.](#) Work on public holidays
- [16.](#) Night work
- [17.](#) Meal intervals
- [18.](#) Rest period

#### [PART E](#)

##### ANNUAL LEAVE

- [19.](#) Annual leave
- [20.](#) Sick leave
- [21.](#) Family responsibility leave
- [22.](#) Maternity leave.6

#### [PART F](#)

##### PROHIBITION OF EMPLOYMENT OF CHILDREN AND FORCED LABOUR

- [23.](#) Prohibition of child labour
- [24.](#) Prohibition of forced labour
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#### [PART G](#)

##### TERMINATION OF EMPLOYMENT

- [26.](#) Notice of termination of employment
- [27.](#) Payment instead of notice
- [28.](#) Payments on termination
- [29.](#) Severance pay
- [30.](#) Certificate of service

#### [PART H](#)

##### GENERAL PROVISIONS

- [31.](#) Keeping of sectoral determination
- [32.](#) Presumption as to who is an employee
- [33.](#) Cancellation of wage determination
- [34.](#) Definitions

#### [ANNEXURES](#)

- [Annexure A](#) Attendance Register
- [Annexure B](#) Payslip
- [Annexure C](#) Certificate of Service

#### [GUIDELINES](#)

- [1.](#) Notice period and termination of employment
- [2.](#) Procedure for termination of employment
- [3.](#) Wage/remuneration/payment
- [4.](#) Transport allowances, bonuses, increases
- [5.](#) Hours of work
- [6.](#) Overtime
- [7.](#) Daily and weekly rest periods
- [8.](#) Meal intervals
- [9.](#) Sunday work
- [10.](#) Public Holidays
- [11.](#) Annual leave
- [12.](#) Sick leave
- [13.](#) Maternity leave
- [14.](#) Family responsibility leave
- [15.](#) Deduction from the remuneration
- [16.](#) Other issues
- [17.](#) Prohibition of Employment
- [18.](#) Other Conditions of Employment

#### PART A APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 1. Scope of application.-(1) Subject to sub-clauses (3) and (4), the determination applies to the employment of all employees working in the taxi sector, as defined.**

- 1. Scope of application.**-(1) Subject to sub-clauses (3) and (4), the determination applies to the employment of all employees working in the taxi sector, as defined.
- (2) This determination applies throughout the Republic of South Africa.
- (3) For the purposes of this determination, an employee in the taxi sector includes, but is not limited to-
- taxi drivers;
  - administrative staff;
  - rank marshals;
  - employees engaged to clean vehicles, premises, machinery, tools, or any other articles used in relation to taxi operations;
  - employees who check and collect fares from passengers and who manage the loading of passengers into different taxi vehicles.
- (4) The determination does not apply to-
- owner-drivers;
  - employers and employees in the metered taxi sector;
  - any person employed in activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995.
- (5) The provisions of the Basic Conditions of Employment Act, 1997 apply to all employees and employers in the sector covered by this determination in respect of any matter that is not regulated by this sectoral determination.
- (6) Only clauses 2 and 3 setting minimum wages and regulating annual increases to minimum wages, apply to employees who work for an employer in the taxi sector for less than 24 hours in a month.

## PART B MINIMUM WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 2. Minimum wages.**-(1) With effect from 1 October 2017 an employer must pay an employee, at least the minimum wage prescribed in this clause.

**2. Minimum wages.**-(1) With effect from 1 October 2017 an employer must pay an employee, at least the minimum wage prescribed in this clause.

[Sub-r. (1) substituted by GNR.675 of 20 June 2008, by GNR.530 of 27 June 2011, by GN 479 of 22 June 2012, by GN 455 of 1 July 2013, by GN 857 of 25 July 2016 and by GN 1153 of 1 November 2017.]

(2) An employer must pay an employee who works 48 hours per week, at least the monthly wage set out in Table 1 below.

(3) Employees who work less than 48 hours per week must be paid at least the hourly rate set out in Table 1 below, times the number of hours worked in a month.

(4) If an employee who works 48 hours per week is paid weekly or fortnightly, the employer must calculate the weekly or fortnightly wage in such a way as to ensure that the employee is not paid less than the minimum monthly wage set out in sub-clause (2).

| <b>Table 1: Minimum wages for employees in the Taxi Sector</b> |                                                                                                                                                                         |         |        |                                                                                                                                    |         |         |                                                                                                                                    |         |        |
|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|--------|------------------------------------------------------------------------------------------------------------------------------------|---------|---------|------------------------------------------------------------------------------------------------------------------------------------|---------|--------|
| Job Categories                                                 | Minimum rate for the period<br>1 July 2015 to 30 June 2016                                                                                                              |         |        | Minimum rate for the period<br>1 August 2016 to 30 June 2017                                                                       |         |         | Minimum rate for the period<br>1 October 2017 to 30 June 2018                                                                      |         |        |
|                                                                | Monthly                                                                                                                                                                 | Weekly  | Hourly | Monthly                                                                                                                            | Weekly  | Hourly  | Monthly                                                                                                                            | Weekly  | Hourly |
| Drivers                                                        | R3,030.67                                                                                                                                                               | R697.13 | R14.51 | R3,207.95                                                                                                                          | R740.35 | R 15.42 | R3,413.26                                                                                                                          | R787.73 | R16.41 |
| Admin Workers                                                  | R3,020.67                                                                                                                                                               | R697.13 | R14.51 | R3,207.95                                                                                                                          | R740.35 | R 15.42 | R3,413.26                                                                                                                          | R787.73 | R16.41 |
| Rank marshals                                                  | R2,414.63                                                                                                                                                               | R557.26 | R11.60 | R2,564.33                                                                                                                          | R591.81 | R 12.32 | R2,728.45                                                                                                                          | R629.68 | R13.11 |
| Workers not specified                                          | R2,112.81                                                                                                                                                               | R487.60 | R10.15 | R2,243.80                                                                                                                          | R517.83 | R 10.78 | R2,387.40                                                                                                                          | R550.97 | R11.47 |
|                                                                | Minimum wage increased by CPI (excluding owners equivalent rent) as released by STATSSA six weeks prior to the increment date (4.6%) plus 1.5% add to the total of 6.1% |         |        | Minimum wage increased by CPI (excluding owners equivalent rent) as released by STATSSA six weeks prior to the increment date 6.2% |         |         | Minimum wage increased by CPI (excluding owners equivalent rent) as released by STATSSA six weeks prior to the increment date 6.4% |         |        |

[Table 1 substituted by GNR.675 of 20 June 2008, amended by GNR.737 of 17 July 2009 and substituted by GNR.530 of 27 June 2011, by GN 479 of 22 June 2012, by GN 455 of 1 July 2013 (as corrected by GNR.618 of 16 August 2013), by GN 537 of 9 July 2014, by GN 857 of 25 July 2016 and by GN 1153 of 1 November 2017.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 3. Annual increase.-(1) Subject to sub-clause (3), the minimum wage-**

**3. Annual increase.-(1)** Subject to sub-clause (3), the minimum wage-

- (a) set in terms of [clause 2](#) will increase by the CPIX + 2% for the period of 12 months commencing one year after this determination comes into effect;
- (b) set in terms of [paragraph \(a\)](#) will increase by the CPIX + 2% for the period commencing two years after this determination comes into effect.

(2) For the purposes of this clause, the CPIX is the Consumer Price Index<sup>1</sup> as reported by Statistics South Africa six weeks before the increase becomes effective.

(3) If the CPIX is 10% or higher at a date contemplated in sub-clause (2), the minimum wage will be increased by the CPIX and the increase determined in sub-clause (1) (a) or (b) will not apply.

**Footnotes**

- 1 Defined by Statistics South Africa as the Consumer Price Index excluding interest rates on mortgage bonds for the historical metropolitan and other urban areas.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 4. Calculation of wages.-(1) The wages of an employee must be calculated by reference to that employee's ordinary hours of work.**

**4. Calculation of wages.-(1)** The wages of an employee must be calculated by reference to that employee's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the daily wage of an employee is obtained by multiplying the hourly wage by the number of ordinary hours, worked in a day;
- (b) the weekly wage of an employee is obtained by multiplying the hourly wage by the number of ordinary hours worked in a week.
- (c) the monthly wage of an employee is obtained by multiplying the weekly wage by four and one third.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 5. Payment of wages.-(1) An employer must pay an employee covered by the determination-**

**5. Payment of wages.-(1)** An employer must pay an employee covered by the determination-

- (a) in South African currency;
- (b) daily, weekly, fortnightly or monthly; and
- (c) in cash, by cheque or by direct deposit into an account designated by the employee.

(2) Any payment in cash or by cheque must be given to each employee-

- (a) at the workplace or at a place agreed to in writing by the employee;
- (b) during the employee's working hours; and
- (c) in a sealed envelope which becomes the property of the employee.

(3) An employer must pay an employee on the normal pay-day agreed to in writing by the employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 6. Information concerning pay.-(1) On every pay-day, the employer must give the employee a statement showing-**

**6. Information concerning pay.-(1)** On every pay-day, the employer must give the employee a statement showing-

- (a) the employer's name and address;
- (b) the employee's name and occupation;
- (c) the employee's wage rate, overtime rate and allowance rate;



- (d) the period in respect of which payment is made;
- (e) the number of ordinary hours worked by the employee during that period;
- (f) the number of overtime hours worked by the employee during that period;
- (g) the number of hours worked by the employee on a public holiday or on a Sunday;
- (h) the employee's total wage for the period;
- (i) details of any other pay arising out of the employee's employment;
- (j) details of any deductions made;
- (k) the employer's registration number with the Unemployment Insurance Fund and the employer's contribution to the Fund; and
- (l) the actual amount paid to the employee.

(2) An employer must retain a copy or record of each statement for three years.

(3) Unless there is an agreement in writing to the contrary, an employer must maintain an attendance register which indicates the hours of work, overtime, night work and work on Sundays and public holidays in respect of every employee.

(4) An attendance register maintained in terms of sub-clause (3), must be kept by the employer for a period of three years from the date of the last entry in the record.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 7. Prohibited acts concerning pay.-(1) An employer may not withhold any payment from an employee or require an employee to pay the employer or any other person in respect of-**

**7. Prohibited acts concerning pay.-(1)** An employer may not withhold any payment from an employee or require an employee to pay the employer or any other person in respect of-

- (a) the employment or training of that employee;
- (b) the supply of any work equipment or tools; or
- (c) the supply of anything necessary to ensure compliance with health and safety requirements.<sup>2</sup>

(2) An employer may not levy a fine against an employee.

(3) An employer may not require or permit an employee to-

- (a) repay any amount paid except for overpayments previously made by the employer resulting from an error in calculating the employee's pay; or
- (b) acknowledge receipt of an amount greater than the pay actually received.

#### **Footnotes**

- 2 An employer may not make any deduction from remuneration or require or permit an employee to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of an employee ([section 23](#) of the Occupational Health and Safety Act, [85 of 1993](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 8. Deductions.-(1) An employer may not make any deduction from an employee's pay except-**

**8. Deductions.-(1)** An employer may not make any deduction from an employee's pay except-

- (a) on the written request of an employee, a deduction of an amount which the employer has paid or undertaken to pay to a third party including but not limited to-
  - (i) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the employee is a member;
  - (ii) any registered trade union in respect of subscriptions;
  - (iii) any bank, building society, insurance business, registered financing institution, or local authority in respect of a payment on a loan granted to the employee to acquire a dwelling;
  - (iv) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the employee;
- (b) with the agreement of the employee, a deduction, not exceeding one-tenth of the wage due to the employee on the pay-day concerned, towards the repayment of any amount loaned or advanced to the employee by the employer;
- (c) a deduction of any amount which the employer is required to make by law or in terms of a court order or arbitration award; or
- (d) with the written agreement of the employee, and subject to sub-clause (2), a deduction to reimburse an

employer for loss or damage.

(2) A deduction in terms of sub-clause (1) (d) may only be made if-

- (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
- (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made;
- (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
- (d) the total deduction from the employee's pay in terms of this sub-clause does not exceed one-quarter of the employee's total wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 9. Boarding allowances.-(1) If an employer requires an employee to sleep over at a place other than where the employee resides, the employer must either-**

**9. Boarding allowances.**-(1) If an employer requires an employee to sleep over at a place other than where the employee resides, the employer must either-

- (a) Pay the employee the amount as reflected in table 2 below per night; or employer must arrange accommodation for an employee

| <b>Table 2: Boarding allowance as from 1 October 2017 to 30 June 2018</b>                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Previous year boarding allowance of R 349.70 plus CPI of 6.4% as released by STATSSA six weeks prior to the increment date. New boarding allowance <b>R372.08</b> |

[[Sub-r. \(1\)](#) amended by GN 455 of 1 July 2013 and substituted by GN 455 of 1 July 2013 (as corrected by GNR.618 of 16 August 2013), by GN 537 of 9 July 2014, by GN 857 of 25 July 2016 and by GN 1153 of 1 November 2017.]

(2) Unless agreed otherwise, if an employee is paid an accommodation allowance in terms of [sub-clause \(1\)](#), the allowance must be paid before the employee starts a journey.

(3) If the employer chooses to reimburse the employee's reasonable expenses in terms of sub-clause 1 (b)-

- (a) the employer must do so in terms of a framework established by the employer and communicated to all affected employees;
- (b) the employee must be paid an amount estimated to cover those costs before starting a journey; and
- (c) on return, the employee must produce proof of any expenditure in the form of invoices or receipts.

#### PART C PARTICULARS OF EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 10. Written particulars of employment.-(1) An employer must supply an employee, when the employee starts work with the following particulars in writing-**

**10. Written particulars of employment.**-(1) An employer must supply an employee, when the employee starts work with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
- (c) the place of or places where the employee is required or permitted to work or, in the case of a driver, the place where the driver is required to report for work and the routes on which the driver is to drive;
- (d) the date on which employment began;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's wage or the rate and method of payment;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the employee is entitled to;
- (i) any payment in kind received by the employee;
- (j) how frequently wages will be paid;

(k) any deductions to be made from the employee's wages;

(l) the leave to which the employee is entitled;

(m) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.

(2) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(3) The employer must revise the written particulars if there is any change in the employee's terms of employment.

(4) An employer must retain a copy of the written particulars while the employee is employed and for three years thereafter.

#### PART D HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 11. Ordinary hours of work.-(1) An employer may not require or permit an employee to work more than-**

**11. Ordinary hours of work.-(1)** An employer may not require or permit an employee to work more than-

(a) 48 hours in any week; and

(b) ten hours on any day if the employee works for five days or less in a week;<sup>3</sup> or

(c) eight hours in any day if the employee works for more than five days in any week.

(2) In respect of employees who regularly work on Sundays or public holidays, work on those days is part of ordinary hours worked unless there is an agreement to the contrary, except that work on Sundays or public holidays must be paid at the rates set out in clauses 14 and 15.

#### **Footnotes**

3 As an employee may not work more than 48 ordinary hours of work a week, an employee who works for 10 hours on four days, for example, may not work more than 8 hours on the fifth day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 12. Overtime.-(1) An employer may not require or permit an employee-**

**12. Overtime.-(1)** An employer may not require or permit an employee-

(a) to work overtime except in accordance with an agreement concluded by the employer and the employee;

(b) to work more than 15 hours overtime a week; or

(c) to work more than 12 hours, including overtime, on any day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 13. Payment of overtime.-(1) An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.**

**13. Payment of overtime.-(1)** An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

(a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes time off on full pay for every hour of overtime worked; or

(b) grant an employee at least 90 minutes paid time off for each hour of overtime worked.

(3) An employer must grant paid time off in terms of sub-clause (2) within one month of the employee becoming entitled to it.

(4) An agreement in writing may increase the period contemplated by sub-clause (3) to twelve months.

(5) An agreement concluded in terms of sub-clause (4) with an employee when the employee commences employment, or during the first three months of employment, is only valid for one year.

(6) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 14 and 15.

**14. Work on Sundays.**-(1) An employer must pay an employee who works on a Sunday-

- (a) if the employee works for five hours or less, the employee's ordinary daily wage;
- (b) if the employee works for more than five hours, one and a half times the employee's ordinary daily wage.

(2) Despite sub-clause (1), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of sub-clause (1).

(3) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of [clause 11](#), but is taken into account in calculating the overtime worked by the employee in terms of [clause 12](#).

(4) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

(5) (a) An employer must grant paid time off in terms of sub-clause (2) within one month of the employee becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to 12 months.

(c) An agreement concluded in terms of [paragraph \(b\)](#) with an employee when the employee commences employment, or during the first three months of employment, is only valid for one year.

**15. Work on public holidays<sup>4</sup>.**-(1) An employer may not require an employee to work on a public holiday except in accordance with an agreement.

(2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-

- (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
- (b) an employee who does work on the public holiday-
  - (i) at least double the amount referred to in [paragraph \(a\)](#); or
  - (ii) if it is greater, the amount referred to in [paragraph \(a\)](#) plus the amount earned by the employee for the time worked on that day.

(3) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to-

- (a) the employee's ordinary daily wage; plus
- (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.

(4) An employer must pay an employee for a public holiday on the employee's usual pay day.

(5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

**Footnotes**

<sup>4</sup> In terms of [section 2 \(2\)](#) of the Public Holidays Act, 1994 (Act [No. 36 of 1994](#)), a public holiday is exchangeable for any other day which is fixed by agreement or agreed to between the employer and the employee.

**16. Night work.**-(1) For the purposes of this determination, "night work" means work performed after 20:00 and before 05:00 the next day.

(2) An employer may only require or permit an employee to perform night work, by agreement and if-

- (a) the employee is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours; and

- (b) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (3) An employer who requires an employee to perform work on a regular basis after 20:00 and before 05:00 the next day must-
  - (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands-
    - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
    - (ii) of the employee's rights to undergo a medical examination in terms of [paragraph \(b\)](#);
  - (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
    - (i) before the employee starts, or within a reasonable period of the employee starting, such work; and
    - (ii) at appropriate intervals while the employee continues to perform such work; and
  - (c) transfer the employee to suitable day work within a reasonable time if-
    - (i) the employee suffers from a health condition associated with the performance of night work; and
    - (ii) it is practicable for the employer to do so.
- (4) Sub-clause (3) applies to employees who work after 20:00 and before 05:00 at least five times per month or 50 times per year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 17. Meal intervals.-(1) Subject to sub-clause (3), an employer must give an employee who works continuously for more than five hours, a meal interval of at least one continuous hour.**

- 17. Meal intervals.**-(1) Subject to sub-clause (3), an employer must give an employee who works continuously for more than five hours, a meal interval of at least one continuous hour.
- (2) The meal interval may be taken at a specific agreed time or whenever it is practicable to do so but may not be taken later than six hours after the employee began work.
  - (3) For the purposes of sub-clause (1), a driver is deemed not to be working continuously if for a period of at least one hour the driver's only duty is to be in charge of the vehicle which the driver drives, or in charge of its load.
  - (4) During a meal interval, an employee may be required or permitted to perform only those duties that cannot be left unattended and cannot be performed by another employee.
  - (5) An employee must be paid for a meal interval in which the employee is required to be available for work.
  - (6) An agreement in writing may-
    - (a) reduce the meal interval to not less than 30 minutes;
    - (b) dispense with a meal interval for an employee who works fewer than six hours on a day.
  - (7) Whenever an employer is required to give an employee a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 18. Rest period.-(1) An employer must grant an employee-**

- 18. Rest period.**-(1) An employer must grant an employee-
- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
  - (b) a weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.
- (2) A daily rest period in terms of sub-clause 1 (a) may, in terms of a written agreement, be reduced to ten hours for an employee-
- (a) who lives on the premises at which the workplace is situated; and
  - (b) whose meal interval lasts for at least three hours.
- (3) Despite sub-clause (1) (b), an agreement in writing may provide for-
- (a) a rest period of at least sixty consecutive hours every second week; or
  - (b) the reduction of an employee's weekly rest period by up to eight hours in any week if the rest period in the following week is extended equivalently.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 19. Annual leave.-(1) An employer must grant an employee-**

**19. Annual leave.-(1)** An employer must grant an employee-

- (a) at least three weeks leave on full pay in respect of each twelve months of employment (the "annual leave cycle");
- (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the employee worked or was entitled to be paid; or
- (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the employee worked or was entitled to be paid.

(2) Leave granted in terms of sub-clause (1) (a)-

- (a) must be granted not later than six months after the end of the annual leave cycle;
- (b) must be granted over a continuous period, if requested by the employee.

(3) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would otherwise have worked.

(4) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave on full pay granted to the employee at the employee's request in that annual leave cycle.

(5) Annual leave must be taken-

- (a) at a time agreed between the employer and the employee; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this section.

(6) An employer may not require or permit an employee to take annual leave during-

- (a) any other period of leave to which the employee is entitled in terms of this determination; or
- (b) any period of notice of termination of employment.

(7) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(8) An employer may not pay an employee instead of granting paid leave in terms of this clause except on termination of employment in terms of clause 27 (1) (b).

(9) An employer must pay an employee leave pay at least equivalent to the remuneration the employee would have received for working for a period equal to the period of leave, calculated at the employee's remuneration rate immediately before the beginning of the period of leave.

(10) An employer must pay an employee leave pay before the beginning of the period of leave.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 20. Sick leave.-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-**

**20. Sick leave.-(1)** For the purpose of this clause "**sick leave cycle**" means the period of 36 months employment with the same employer immediately following-

- (a) when the employee commenced work; or
- (b) the end of the employee's prior sick leave cycle.

(2) During every sick leave cycle, the employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite sub-clause (2) during the first six months of work, the employee is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the employee's first leave cycle, reduce the employee's entitlement to sick leave in terms of sub-clause (2) by the number of day's sick leave taken in terms of sub-clause (3).

(5) Where an employer, at the request of the employee, pays fees for an employee's hospital or medical treatment, the fees paid may be set off against the worker's pay.

(6) An employer is not required to pay the employee in terms of this clause if the employee has been absent from work for more than three consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the absence on account of sickness or injury.

(7) Within the scope of their professional expertise, a medical certificate in terms of sub-clause (6) may be provided

by any person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament, including-

- (a) a medical practitioner;
- (b) a clinic nurse practitioner;
- (c) a traditional healer;<sup>5</sup>
- (d) a community health worker; or
- (e) a psychologist.

#### **Footnotes**

- 5 Until such time as the Interim Traditional Health Practitioners Council of the Republic of South Africa is established in terms of the Traditional Health Practitioners Act, 2004 an employer may accept a certificate from a traditional healer notwithstanding the fact that the traditional healer will not be registered with a professional council established by an Act of Parliament.

### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 21. Family responsibility leave.-(1) This clause applies to an employee-**

#### **21. Family responsibility leave.-(1) This clause applies to an employee-**

- (a) who has been employed by an employer for longer than four months; and
  - (b) who works on at least four days a week for that employer.
- (2) An employer must grant an employee, during each 12 months of employment, at the request of the employee, three days' paid leave, which the employee is entitled to take-
- (a) when the employee's child is born;
  - (b) when the employee's child is sick; or
  - (c) in the event of the death of-
    - (i) the employee's spouse or life partner; or
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) An employer and an employee may conclude a written agreement in terms of which an employer may reduce an employee's entitlement to annual leave in terms of [clause 19](#) of this determination by the number of days of family responsibility leave on full remuneration granted to the employee at the employee's request in terms of this clause.
- (4) An employee may take family responsibility leave in respect of the whole or part of the day.
- (5) Subject to sub-clause (6), an employer must pay an employee for a day's family responsibility leave-
- (a) the wage the employee would normally have received for work on that day; and
  - (b) on the employee's usual pay-day.
- (6) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.
- (7) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

### **National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 22. Maternity leave<sup>6</sup>-(1) An employee is entitled to at least four consecutive months' maternity leave.**

#### **22. Maternity leave<sup>6</sup>-(1) An employee is entitled to at least four consecutive months' maternity leave.**

- (2) An employee may commence maternity leave-
- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (3) An employee may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-
- (a) commence maternity leave; and



(b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

(a) at least four weeks before the employee intends to commence maternity leave; or

(b) if it is not reasonably practicable to give notice in terms of sub-clause 6 (a), as soon as is reasonably practicable.

(7) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.

(8) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

(a) the employee is required to perform night work, as defined in [clause 15](#) or her work poses a danger to her health or safety or the health and safety of her child; and

(b) it is practicable for the employer to do so.

## PART F

### PROHIBITION OF EMPLOYMENT OF CHILDREN AND CHILD LABOUR

#### Footnotes

6 In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract. An employee may claim maternity benefits in terms of the Unemployment Insurance Act, 2001.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 23. Prohibition of child labour.-(1) No person may employ a child in the taxi sector-**

**23. Prohibition of child labour.-(1)** No person may employ a child in the taxi sector-

(a) who is under 15 years of age; or

(b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.<sup>2</sup>

(2) No person may employ a child in any employment in the taxi sector-

(a) that is inappropriate for a person of that age;

(b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) An employer must maintain for three years, a record of the name, date of birth and address of every employee under the age of 18 years employed by them.

#### Footnotes

7 [Section 31 \(1\)](#) of the South African Schools Act (Act [No. 84 of 1996](#)) requires every parent to cause every learner for whom he or she is responsible to attend a school until the last day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 24. Prohibition of forced labour.-(1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.**

**24. Prohibition of forced labour.-(1)** Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(2) No person may, for their own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 25. Offences.-A person who employs a child in contravention of clause 22 or engages in any form of forced labour in contravention of clause 23, commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, rea**

**25. Offences.-**A person who employs a child in contravention of [clause 22](#) or engages in any form of forced labour in contravention of [clause 23](#), commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act



respectively, read with section 93 of that Act.

PART G  
TERMINATION OF EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 26. Notice of termination of employment.-(1) A contract of employment terminable at the instance of a party may be terminated on notice of not less than-**

**26. Notice of termination of employment.**-(1) A contract of employment terminable at the instance of a party may be terminated on notice of not less than-

- (a) one week, if the employee has been employed for six months or less;
- (b) two weeks, if the employee has been employed for more than six months but not more than one year;
- (c) four weeks if the employee has been employed for one year or more.

(2) The employer and employee may agree to a longer notice period, but the agreement may not require or permit an employee to give a period of notice longer than that required of the employer.

(3) (a) Notice of termination of a contract of employment must be given in writing except when it is given by an illiterate employee.

(b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(4) Notice of termination of a contract of employment given by an employer must-

- (a) not be given during any period of leave to which the employee is entitled in terms of this determination;
- (b) not run concurrently with any period of leave to which the employee is entitled in terms of this determination, except sick leave.

(5) Nothing in this clause affects the right-

- (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) of an employer or an employee to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 27. Payment instead of notice.-(1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the wage the employee would have received, if the employee had worked during the notice period.**

**27. Payment instead of notice.**-(1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the wage the employee would have received, if the employee had worked during the notice period.

(2) If an employee gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the wage referred to in sub-clause (1), unless the employer and the employee agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 28. Payments on termination.-(1) On termination of employment, an employer must pay an employee all monies due to the employee including-**

**28. Payments on termination.**-(1) On termination of employment, an employer must pay an employee all monies due to the employee including-

- (a) any remuneration that has not been paid;
- (b) any paid time off that the employee is entitled to in terms of clauses 13 (2) or 14 (2) that the employee has not taken;
- (c) remuneration calculated in accordance with [clause 19 \(9\)](#) for any period of annual leave due in terms of [clause 19 \(1\)](#) that the employee has not taken; and
- (d) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle-
  - (i) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the employee as that calculated in

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 29. Severance pay.-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**29. Severance pay.**-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements, severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 2](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 30. Certificate of service.-(1) On termination of employment, an employee is entitled to a certificate of service stating-**

**30. Certificate of service.**-(1) On termination of employment, an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the employee was employed at the date of termination;
- (e) any relevant training received by the employee;
- (f) the pay at date of termination; and
- (g) if the employee requests, the reason for termination of employment.

#### PART H GENERAL PROVISIONS

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 31. Keeping of sectoral determination.-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available in the workplace in a place to which the employee has access.**

**31. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available in the workplace in a place to which the employee has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 32. Presumption as to who is an employee.-(1) A person who works for, or renders services to, any other person in the taxi sector is presumed, until the contrary is proved, to be an employee, regardless of the form of the contract, if any one or more o**

**32. Presumption as to who is an employee.**-(1) A person who works for, or renders services to, any other person in the taxi sector is presumed, until the contrary is proved, to be an employee, regardless of the form of the contract, if any one or more of the following factors is present-

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;

- (c) the person forms part of the employer's organisation;
- (d) the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- (e) the person is economically dependant on the other person for whom that person works or renders services;
- (f) the person is provided with tools of trade or work equipment by the other person; or
- (g) the person only works for or renders services to one person.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 33. Cancellation of wage determination.-Wage determination 452 for the Road Passenger Transportation Trade is cancelled with effect from the date that this determination becomes binding.**

**33. Cancellation of wage determination.**-Wage determination 452 for the Road Passenger Transportation Trade is cancelled with effect from the date that this determination becomes binding.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ 34. Definitions.-(1) Unless the context indicates otherwise-**

**34. Definitions.**-(1) Unless the context indicates otherwise-

**"administrative staff"** are employees who are responsible for general administrative functions including typing, filing, faxing, photocopying, answering the telephone, and receiving visitors;

**"agreement"** includes a collective agreement, and any agreement in terms of this determination;

**"Basic Conditions of Employment Act"** means the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#));

**"CCMA"** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

**"child"** means a person who is under 18 years of age;

**"day"** means, for the purposes of measuring hours of work, a period of 24 hours, measured from the time when an employee normally commences work;

**"dispute"** includes an alleged dispute;

**"driver"** means an employee, other than a chauffeur, who drives a motor vehicle, excluding a bus, and for the purposes of this determination the expression **"drives a motor vehicle"** includes all periods of driving, any time spent by the driver on work connected with the vehicle or the load and all periods during which the driver is obliged to remain at his or her post in readiness to drive, and **"taxi driver"** has the same meaning;

**"employee"** means-

- (a) any person who is employed mainly or wholly in the taxi sector, who works for another person or for the State and who receives, or is entitled to receive, any remuneration, but excludes an independent contractor; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer in the taxi sector;

**"hours of work"** includes all periods during which the driver of a vehicle or employees accompanying a driver are-

- (a) engaged in driving for purposes of transporting passengers;
- (b) engaged with other work connected with the vehicle or the load;
- (c) obliged to remain at or near their vehicles in readiness to work;

**"metered taxi industry"** means the taxi industry where-

- (a) fares are dependent on the mileage travelled;
- (b) mileage is mechanically recorded by means of a meter;
- (c) customers determine the routes and timing of operations;

**"night work"** means work performed between 20h00 and 05h00;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 11](#);

**"overtime"** means the time that the employee works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave, family responsibility leave or maternity leave that an employee is entitled to in terms of [Part E](#) of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"rank marshals"** are employees who work at a taxi rank and who manage the allocation of passengers to drivers on a particular route according to an agreed roster;

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"taxi sector"** means the sector in which employers and employees are associated for the purpose of conveying for reward on any public road any person by means of a self-propelled vehicle intended to carry not more than 35 persons, including the driver simultaneously, and includes all operations incidental thereto or consequent thereon but excludes the metered taxi industry;

**"wage"** means the amount of money paid or payable to an employee in respect of ordinary hours of work or, if they are shorter, the hours an employee normally works in a day or week;

**"week"** in relation to an employee, means the period of seven days within which the working week of that employee falls;

**"workplace"** means the employer's premises and any other place where the employee works, such as a taxi rank.

(2) Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in the Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ Annexures Annexure A**

## **Annexures**

### **Annexure A**

#### **ATTENDANCE REGISTER**

**SECTORAL  
DETERMINATION 11:  
TAXI SECTOR, SOUTH  
AFRICA**

**READ THIS FIRST**



**PURPOSE OF THIS  
FORM?**

This form is a record of  
attendance

**WHO FILLS IN  
THIS FORM?**

The employee or if the  
employee is unable, the  
employer.

**WHERE DOES THIS  
FORM GO?**

Must be kept in employer's  
possession.

**INSTRUCTIONS**

- Employees earning in excess of the amount determined by the Minister in terms of section 6 (3) of the BCEA is excluded from completing the register.
- *This is only a model and not a prescribed form.* Completing a document in another format e.g. electronic clock card, containing the same information is sufficient compliance with the regulation.

Entries to be made by employees or if the employee is unable, the employer

[illegible]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ Annexure B**

## Annexure B

## SECTORAL DETERMINATION 11: TAXI SECTOR, SOUTH AFRICA

## Clause 6

## PAYSLIP

**READ THIS FIRST**
**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is a record of information about remuneration.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This information must be given to an employee with his/her remuneration in a sealed envelope which becomes the property of the employee-

- At the workplace or at a place agreed to by the employee; and
- During the employee's ordinary working hours or within 15 minutes of the commencement or conclusion of those hours.
- The full value of remuneration including payment in kind must be specified.
- *This is only a model and not a prescribed form.* Completing a document in another format containing the same information is sufficient compliance with this clause.

NAME OF EMPLOYER:

ADDRESS:

NAME OF EMPLOYEE:

ID NO:

OCCUPATION/GRADE:

PAY PERIOD FROM: TO

BASIC WAGE:

MANNER OF PAYMENT: U PER HOUR U PER DAY  
U PER WEEK  
U PER FORTNIGHT  
U PER MONTH

(Tick applicable block)

Rate No. of hours Rand earned

Ordinary hours worked

Overtime worked

Sundays time worked

Public holidays time worked

Payment in kind

Standby

Allowances (specify)

TOTAL R

DEDUCTIONS: P.A.Y.E.  
UIF

OTHER (Full details)

TOTAL R

TOTAL AMOUNT DUE R

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ Annexure C**

**Annexure C**
**SECTORAL  
DETERMINATION 11:  
TAXI SECTOR,  
SOUTH AFRICA**
**Clause 30**
**READ THIS FIRST**

**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of

**CERTIFICATE OF SERVICE**

I,

(name and designation of person)

of

(full name of employer)

Address:

In the

(trade)

employment with an employer.

### WHO FILLS IN THIS FORM?

The employer.

### WHERE DOES THIS FORM GO?

To the employee.

### INSTRUCTIONS

This form may be issued upon termination of employment.

### NOTE

In terms of clause 30 (g) the reason for termination of employment must only be given if requested by the employee.

*This is only a model and not a prescribed form.*

Completing a document in another format containing the same information is sufficient compliance with the regulation.

declare that

(full name of employee)

(I.D. no.)

was in employment

from

until

as

(type of work/occupation)

any other information

On termination of service this employee was earning: R

(amount in words)

U PER HOUR

U PER DAY

U PER WEEK

U PER FORTNIGHT

UPER MONTH

U PER YEAR

Employer's signature

Date

## DEPARTMENT OF LABOUR WRITTEN PARTICULARS OF EMPLOYMENT

**Sample of written particulars  
Provided free of charge  
by the Department of Labour**

**Entered Into Between**

\_\_\_\_\_  
**(herein after referred to as "the employer")**

Address of employer:

**and**

\_\_\_\_\_  
**(herein after referred to as "the employee")**

**1. Commencement**

Employment will begin on  
as set out in [clause 4](#).

and continue until terminated

**2. Place of work**

**3. Job description**

Job Title

Duties

**4. Termination of employment** (See Guidelines 1 and 2)

Termination of this contract will be \_\_\_\_\_ weeks. Notice must be given in writing. In the case where an employee is illiterate notice may be given by that employee verbally.

- The parties agree that on termination of the contract of employment, the employer shall furnish the employee with a certificate of service and the UI 19.

**5. Wages** (See Guidelines 3 and 4)

5.1 The employees wage shall be paid in cash on the last working day of every week/month and shall be:

R

5.2 The employee shall be entitled to the following allowances/payment in



- kind: R
- 5.2.1 A weekly/monthly transport allowance of: R
- 5.3 The total value of the above remuneration shall be: R
- (The total of clauses 5.1 to 5.2.1)
- (Modify or delete clauses 5.2 to 5.2.1 as needed)
- 5.4 The employer shall review the employee's salary/wage on or before 1 July of every year.
- 6. Hours of work (See Guideline 5)**
- 6.1 Normal working hours will be \_\_\_\_\_ hours per week, made up as follows:
- Monday/Tuesday/Wednesday/Thursday/Friday: am to pm
- Meal interval will be from: to
- Other breaks:
- Saturdays: am to pm
- Meal intervals will be from: to
- Other breaks:
- Sundays: am to pm
- Meal intervals will be from: to
- Other breaks:
- 6.2 Overtime will only be worked as agreed from time to time and will be paid at the rate of one and a half times of the total wage as set out in [clause 12](#).
- 7. Sunday Work (See Guideline 9)**
- Any work on Sundays will be by agreement between parties from time to time and will be paid according to [clause 9](#) of the guidelines.
- 8. Public Holidays (See Guideline 10)**
- The employee will be entitled to all official holidays on full pay.
- If an employee does not work on a public holiday, he/she shall receive normal payment for that day.
- If the employee works on a public holiday, he/she shall be paid double.
- 9. Annual Leave (See Guideline 11)**
- 9.1 The employee is entitled to \_\_\_\_\_ consecutive days' paid leave after every 12 months of continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer. However the employer must grant annual leave not later than six months after the end of the annual leave cycle.
- 10. Sick leave (See Guideline 12)**
- 10.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.
- 10.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.
- 10.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.
- 10.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.
- 11. Maternity leave (See Guideline 13)**
- (Tick the applicable clauses in the space provided)
- 11.1 The employee will be entitled to \_\_\_\_\_ months maternity leave without pay; ☐
- or
- 11.2 The employee will be entitled to ..... months maternity leave on pay. ☐
- 12. Family responsibility leave (See Guideline 14)**
- The employee will be entitled to three days' family responsibility leave during each leave cycle.
- 13. Deductions from remuneration (See Guideline 15)**
- The employer may not deduct any monies from the employee's wage unless the employee has agreed to this in writing on each occasion.
- 14. Other conditions of employment or benefits**

**15. General**

Any changes to this agreement will only be valid if they are in writing and have been agreed to and signed by both parties.

THUS DONE AND SIGNED AT \_\_\_\_\_ DAY OF \_\_\_\_\_ YEAR

ON THIS

EMPLOYER

EMPLOYEE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.409 of 28 April 2005: Sectoral Determination 11: Taxi Sector/ GUIDELINES**

**GUIDELINES**

**1. Notice period and termination of employment**

In terms of the Sectoral Determination, any party to an employment contract must give written notice, except when given by an illiterate employee, as follows:

- . One week, if employed for six months or less;
- . Two weeks, if employed for more than six months but less than one year; and
- . Four weeks, if employed for one year or more.

Notice must be explained orally by or on behalf of the employer to an employee who is not able to understand it.

All monies due to an employee for any wages, allowance or other payments that have not been paid, paid time-off not taken and *pro-rata* leave must be paid.

**2. Procedure for termination of employment**

Whilst the contract of employment makes provision for termination of employment, it must be understood that the services of an employee may not be terminated unless a valid and fair reason exists and fair procedure is followed. If an employee is dismissed without a valid reason or without a fair procedure, the employee may approach the CCMA for assistance.

*Pro-rata* leave and severance pay might be payable.

In the event of an employee being unable to return to work due to disability, the employer must investigate the nature of the disability and ascertain whether or not it is permanent or temporary. The employer must try to accommodate the employee as far as possible, for example, amending or adapting their duties to suit the disability. However, in the event of it not being possible for the employer to adapt the employee and/or to find alternatives, then such employer may terminate the services of the employee.

The Labour Relations Act, [66 of 1995](#), sets out the procedures to be followed at the termination of services in the Code of Good Practice, in Schedule 8.

**3. Wage/remuneration/payment**

There is a prescribed minimum rate of remuneration. Additional payments (such as for overtime or work on Sundays or Public Holidays) are calculated from the total remuneration as indicated in [clause 5](#) of the contract.

**4. Transport allowances, bonuses, increases**

These are open to negotiation between the parties unless prescribed by the Sectoral Determination (boarding allowance, night work allowance etc).

**5. Hours of work**

**5.1 Normal hours (excluding overtime)**

An employer may not require or permit an employee to work more than-

- 5.1.1 48 hours in any week; and
- 5.1.2 ten hours on any day if the employee works for five days or less in a week;<sup>1</sup> or
- 5.1.3 eight hours in any day if the employee works for more than five days in any week.

**6. Overtime**

An employee may not work more than 10 hours overtime per week and may not work more than 12 hours on any day, including overtime.

Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

**7. Daily and weekly rest periods**

A daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours, which must include Sunday, unless otherwise agreed, must be allowed.

**8. Meal intervals**

An employee is entitled to a one-hour break for a meal after not more than five hours work. Such interval may be

reduced to 30 minutes, by agreement between the parties. If required or permitted to work during this period, remuneration must be paid.

The meal interval may be taken at a specific agreed time or whenever it is practicable to do so but may not be taken later than six hours after the employee began work.

## **9. Sunday work**

Work on Sundays is voluntary and an employee can therefore not be forced to work on a Sunday.

If the employee works on a Sunday he/she shall be paid double the daily wage. If the employee ordinarily works on a Sunday he/she shall be paid one and one-half time the wage for every hour worked.

## **10. Public Holidays**

The days mentioned in the Public Holidays Act must be granted but the parties can agree to further public holidays. Work on a public holiday is entirely voluntary and an employee may not be forced to work on such public holiday.

The official public holidays are:

|                  |                       |
|------------------|-----------------------|
| New Years Day    | Youth Day             |
| Human Rights Day | National Woman's Day  |
| Good Friday      | Heritage Day          |
| Family Day       | Day of Reconciliation |
| Freedom Day      | Christmas Day         |
| Workers Day      | Day of Goodwill       |

Any other day declared an official public holiday from time to time should also be granted.

These days can be exchanged for any other day by agreement.

If the employee works on a public holiday he/she shall be paid double the normal day's wage.

## **11. Annual leave**

Annual leave may not be less than 21 consecutive days for full-time workers or by agreement, one day for every 17 days worked or one hour for every 17 hours worked.

The leave must be granted not later than six months after completion of the period of 12 consecutive months of employment. The leave may not be granted concurrent with any period of sick leave, nor with a period of notice of termination of the contract of employment.

## **12. Sick leave**

During every sick leave cycle of 36 months an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

During the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

The employer is not required to pay an employee if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

## **13. Maternity leave**

The employee is entitled to at least four consecutive months' maternity leave. The employer is not obliged to pay the employee for the period for which she is off work due to her pregnancy. However, the parties may agree that the employee will receive part of her entire salary/wages for the time that she is off due to pregnancy.

## **14. Family responsibility leave**

Employees employed for longer than four months and for at least four days a week are entitled to take three days' paid family responsibility leave during each leave cycle when the employee's child is born, when the employee's child is sick or in the event of the death of the employee's spouse or life partner or parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

## **15. Deduction from the remuneration**

The Sectoral Determination prohibits an employer from deducting any monies from the employee's wages without his/her written permission.

## **16. Other issues**

There are certain other issues which are not regulated by the Sectoral Determination such as probationary periods, right of entry to the employer's premises, afternoons off, weekends off and pension schemes, medical aid schemes, training/school fees, funeral benefits and savings account. However, the aforementioned may be negotiated between the parties and included in the contract of employment.

## 17. Prohibition of Employment

The Sectoral Determination prohibits employment of any person under the age of 15 and it is therefore important for an employer to verify the age of the employee by requesting a copy of the identity document or birth certificate.

## 18. Other Conditions of Employment

There is no provision which prevents any other conditions of employment being included in a contract of employment but any provision which sets conditions which are less favorable than those set by the Act, would be invalid.

**NB:** These guidelines are not meant to be a complete summary of the Basic Conditions of Employment Act and/or legal advice. Should there be any doubt as to rights and/or obligations in terms of the Act or terms of any clause of the suggested Contract of Employment, such queries can be directed to the local office of the Department of Labour, who will gladly assist.

### Footnotes

- 1 As an employee may not work more than 48 ordinary hours of work a week, an employee who works for 10 hours on four days, for example, may not work more than 8 hours on the fifth day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)**

### **GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)**

| as amended by   |                    |                                          |
|-----------------|--------------------|------------------------------------------|
| Notice          | Government Gazette | Date                                     |
| R.141           | 31888              | 13 February 2009                         |
| R.737           | 32397              | 17 July 2009                             |
|                 |                    | 18 January 2012<br>(w.e.f. 1 March 2012) |
| 29              | 34946              | 5 February 2013<br>(w.e.f. 1 March 2013) |
| 65              | 36115              | 3 February 2016<br>w.e.f. 1 March 2016   |
| 137             | 39648              |                                          |
| as corrected by |                    |                                          |
| Notice          | Government Gazette | Date                                     |
| R.141           | 35067              | 24 February 2012                         |

#### DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [Section 51 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), make a Sectoral Determination establishing conditions of employment for employees in the Farm Worker Sector, South Africa, which appears in the schedule hereto and fix 1 March 2006 as the date from which the provisions of the said Sectoral Determination shall become binding.

All the provisions of the Sectoral Determination 8: Farm Worker Sector, South Africa published under Government Notice No. 24114 of 2 December 2002 and the clarification notice published under Government Notice No 25657 of 31 October 2003, will be superseded by this determination with effect from 1 March 2006.

(Signed)

**M.M.S. MDLADLANA, MP**  
**MINISTER OF LABOUR**

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#### PART A

##### APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 1. Scope of application.-(1) The determination applies to the employment of farm workers in all farming activities in the Republic of South Africa.**

**1. Scope of application.**-(1) The determination applies to the employment of farm workers in all farming activities in the Republic of South Africa.

(2) Without limiting its meaning, "farming activities" includes primary and secondary agriculture, mixed farming, horticulture, aqua farming and the farming of animal products or field crops excluding the Forestry Sector.

(3) For the purposes of this determination, a farm worker includes-

- (a) a domestic worker employed in a home on a farm;
- (b) a security guard employed to guard a farm or other premises where farming activities are conducted, who is not employed in the private security industry; and

(4) Subject to clause (3), this determination does not apply to any person employed in activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995.

(5) The provisions of the Basic Conditions of Employment Act apply to all farm workers covered by this determination and their employers in respect of any matter that is not regulated by this sectoral determination.

#### PART B

##### MINIMUM WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 2. Minimum wage levels.-(1) With effect from 1**

**2. Minimum wage levels.**-(1) With effect from 1 March 2016 an employer must pay a farm worker at least the minimum wage prescribed in [table 1](#).

[[Sub-r. \(1\)](#) substituted by r. 1 of GNR.141 of 13 February 2009, by r. 1 of GN 29 of 18 January 2012, by r. 1 of GN 65 of 5 February 2013 and by r. 1 of GN 137 of 3 February 2016.]

| Table 1: Minimum wages for employees in the Farm worker Sector                                                                                                 |         |          |        |                                              |        |        |                                              |        |        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------|--------|----------------------------------------------|--------|--------|----------------------------------------------|--------|--------|
| Minimum rate for the period                                                                                                                                    |         |          |        | Minimum rate for the period                  |        |        | Minimum rate for the period                  |        |        |
| 1 March 2016<br>to<br>28 February 2017                                                                                                                         |         |          |        | 1 March 2017<br>to<br>28 February 2018       |        |        | 1 March 2018<br>to<br>28 February 2019       |        |        |
| Monthly                                                                                                                                                        | Weekly  | Daily    | Hourly | Monthly                                      | Weekly | Hourly | Monthly                                      | Weekly | Hourly |
| R2778.83                                                                                                                                                       | R641.32 | R128.26* | R14.25 | Previous year's minimum wage +<br>CPI** + 1% |        |        | Previous year's minimum wage +<br>CPI** + 1% |        |        |
| * For an employee who works 9 hours per day.                                                                                                                   |         |          |        |                                              |        |        |                                              |        |        |
| ** The CPI to be utilised is the available CPI excluding owners' equivalent rent as released by Statistics South Africa six weeks prior to the increment date. |         |          |        |                                              |        |        |                                              |        |        |

[[R. 3](#) substituted by r. 2 of GNR.141 of 13 February 2009, amended by GNR.737 of 17 July 2009, substituted by GN 29 of 18 January 2012, corrected by GNR.141 of 24 February 2012, amended by GN 65 of 5 February 2013 and by GN 137 of 3 February 2016.]

(2) An employer must pay a farm worker

(a) who works less than 45 ordinary hours of work per week at least the hourly rate as set out in [Table 1](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 3. Minimum wages for farm workers under 18 years of age.**-(1) An employer must pay a farm worker who is 15 years of age or older, but not less than 18 years and who works for 35 hours per week or less at least the hourly rate, specified in Table 1.

**3. Minimum wages for farm workers under 18 years of age.**-(1) An employer must pay a farm worker who is 15 years of age or older, but not less than 18 years and who works for 35 hours per week or less at least the hourly rate, specified in [Table 1](#).

| Table 1: Minimum wages for employees in the Farm worker Sector                                                                                       |         |         |         |                                                |        |        |                                                |        |        |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|------------------------------------------------|--------|--------|------------------------------------------------|--------|--------|
| Minimum rate for the period                                                                                                                          |         |         |         | Minimum rate for the period                    |        |        | Minimum rate for the period                    |        |        |
| 1 March 2013 to 28 February 2014                                                                                                                     |         |         |         | 1 March 2014 to 28 February 2015               |        |        | 1 March 2015 to 29 February 2016               |        |        |
| Monthly                                                                                                                                              | Weekly  | Daily   | Hourly  | Monthly                                        | Weekly | Hourly | Monthly                                        | Weekly | Hourly |
| R2274.83                                                                                                                                             | R525.00 | R105.00 | *R11.66 | Previous year's minimum wage<br>+ CPI** + 1.5% |        |        | Previous year's minimum wage<br>+ CPI** + 1.5% |        |        |
| * For an employee who works 9 hours per day.                                                                                                         |         |         |         |                                                |        |        |                                                |        |        |
| ** The CPI to be utilized is the available CPI for the lowest quintile as released by Statistics South Africa six weeks prior to the increment date. |         |         |         |                                                |        |        |                                                |        |        |

[[R. 3](#) substituted by r. 2 of GNR.141 of 13 February 2009 and amended by GNR.737 of 17 July 2009 and substituted by GN 29 of 18 January 2012 and corrected by GNR.141 of 24 February 2012 and amended by GN 65 of 5 February 2013.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 4. Calculation of wages or remuneration.**-(1) The wage or remuneration of a farm worker is calculated by reference to the farm worker's ordinary hours of work.

**4. Calculation of wages or remuneration.**-(1) The wage or remuneration of a farm worker is calculated by reference to the farm worker's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

(a) the hourly wage or remuneration of a farm worker is obtained by-

(i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;

(b) the daily wage or remuneration of a farm worker is obtained by-

(i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or

(ii) dividing the weekly wage or remuneration by the number of days worked in a week.

- (c) the weekly wage or remuneration of a farm worker is obtained by-
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
  - (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or
  - (iii) dividing the monthly wage or remuneration by four and one-third (13/3).
- (d) the monthly wage or remuneration of a farm worker is obtained by multiplying the weekly wage or remuneration by four and a third (13/3).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 5. Payment of remuneration.-(1) An employer must pay a farm worker-**

- 5. Payment of remuneration.-(1)** An employer must pay a farm worker-
- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the farm worker.
- (2) Any payment in cash or by cheque must be given to each farm worker-
- (a) at the workplace;
  - (b) during the farm worker's working hours; and
  - (c) in a sealed envelope which becomes the property of the farm worker.
- (3) An employer must pay a farm worker on the normal payday agreed to in writing by the farm worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 6. Information concerning pay.-(1) On every pay day, the employer must give the farm worker a statement showing-**

- 6. Information concerning pay.-(1)** On every pay day, the employer must give the farm worker a statement showing-
- (a) the employer's name and address;
  - (b) the farm worker's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the farm worker's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by a farm worker during that period;
  - (f) the number of overtime hours worked by the farm worker during that period;
  - (g) the number of hours worked by the farm worker on a paid holiday or on a Sunday;
  - (h) the farm worker's wage;
  - (i) details of any other pay arising out of the farm worker's employment;
  - (j) details of any deductions made;
  - (k) the employer's registration number with the Unemployment Insurance Fund and the employee's contribution to the Fund; and
  - (l) the actual amount paid to the farm worker.
- (2) An employer must retain a copy or record of each statement for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 7. Prohibited acts concerning pay.-(1) An employer may not withhold any payment from a farm worker or require a farm worker to pay the farmer or any other person in respect of-**

- 7. Prohibited acts concerning pay.-(1)** An employer may not withhold any payment from a farm worker or require a farm worker to pay the farmer or any other person in respect of-
- (a) the employment or training of that farm worker;

(b) the supply of any work equipment or tools; or

(c) the supply of any work clothing.<sup>1</sup>

(2) An employer may not require a farm worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.

(3) An employer may not levy a fine against a farm worker.

(4) An employer may not require or permit a farm worker to-

(a) repay any amount or remuneration paid except for overpayments previously made by the employer resulting from an error in calculating the farm worker's wage; or

(b) acknowledge receipt of an amount greater than the wage or remuneration actually received.

#### **Footnotes**

- 1 An employer may not make any deduction from remuneration or require or permit a farm worker to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of a farm worker ([section 23](#) of the Occupational Health and Safety Act, [85 of 1993](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 8. Deductions.-(1) An employer may not make any deduction from a farm worker's wage except-**

**8. Deductions.-(1)** An employer may not make any deduction from a farm worker's wage except-

(a) a deduction not exceeding 10 percent of the farm worker's wage made in accordance with sub-clause (2) for food supplied to the farm worker;

(b) a deduction not exceeding 10 percent of the farm worker's wage made in accordance with sub-clause (4) for accommodation in which the farm worker ordinarily resides;

(c) at the written request of a farm worker, a deduction of an amount which the employer has paid or undertaken to pay to a third party contemplated by sub-clause (7);

(d) a deduction, not exceeding one-tenth of the wage due to the farm worker on the pay-day concerned, towards the repayment of any amount loaned or advanced to the farm worker by the employer; and

(e) a deduction of any amount which the employer is required to make by law or in terms of a court order or arbitration award.

(2) An employer may only make a deduction in respect of accommodation and/ or food in terms of sub-clause (2) (a) or (2) (b) respectively if-

(a) the food or accommodation is provided free of charge by the employer to the farm worker at the employer's cost;

(b) the food or accommodation is provided on a consistent and regular basis as a condition of employment;

(c) no additional deduction is made from the farm worker's remuneration for food or accommodation;

(d) in the case of accommodation, no deduction is made by the employer for electricity, water or other services; and

(e) the deduction does not exceed the cost to the employer of supplying food or accommodation, as the case may be.

(3) A deduction in terms of sub-clause (1) (b) may only be made for a house that meets the following requirements:

(a) the house has a roof that is durable and waterproof;

(b) the house has glass windows that can be opened;

(c) electricity is available inside the house if the infrastructure exists on the farm;

(d) safe water is available inside the house or in close proximity, which is not more than 100m, from the house;

(e) a flush toilet or pit latrine is available in, or in close proximity, to the house; and

(f) the house is not less than 30 square meters in size.

(4) An employer may not make any deduction for accommodation in terms of sub-clause (1) (b) in respect of a farm worker who is under 18 years of age.

(5) An employer may only make a deduction in terms of sub-clause (1) (b) in respect of one farm worker residing in any house.

(6) (a) Subject to sub-clause (1) (b) where more than two farm workers reside in communal accommodation, the maximum deduction that the employer may make in total in respect of all the farm workers who reside in that accommodation is 25% of the applicable minimum wage payable to an individual farm worker.<sup>2</sup>

(b) An equal amount must be deducted in respect of each of the farm workers residing in accommodation contemplated by [paragraph \(a\)](#).



- (7) A deduction may only be made in respect of [clause 8 \(1\) \(c\)](#) in respect of a payment made or to be made to-
- (a) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the farm worker is a member,
  - (b) any registered trade union in respect of subscriptions;
  - (c) any bank, building society, insurance business, registered financing institution, local authority in respect of a payment on a loan granted to the farm worker to acquire a dwelling;
  - (d) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the farm worker.
- (8) An employer may not make any deduction in respect of the grazing of a farm worker's livestock;
- (9) A deduction may be made to reimburse an employer for loss or damage only if-
- (a) the loss or damage occurred in the course of employment and was due to the fault of the farm worker;
  - (b) the employer has followed a fair procedure and has given the farm worker a reasonable opportunity to show why the deductions should not be made;
  - (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
  - (d) the total deductions from the farm worker's remuneration in terms of this subsection do not exceed one-quarter of the employee's remuneration in money.
- (10) A deduction of any goods purchased by the employee must specify the nature and quantity of the goods and the amount that correlates with a proof of purchase.
- (11) An employer who deducts an amount from an employee's remuneration for payment to a third party must pay the amount to that party in accordance with the time period and other requirements specified in the deed of purchase agreement, law, court order or arbitration award.
- (12) An employer may not require or permit an employee to-
- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
  - (b) acknowledge receipt of an amount greater than the remuneration actually received.

## PART C PARTICULARS OF EMPLOYMENT

### **Footnotes**

- 2 If the applicable minimum wage is R994.00 per month, the maximum deduction that may be made in total from the workers living in communal accommodation as a whole is R248.50 per month. The deduction to be made from an individual farm worker may not exceed 10% of that workers wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 9. Written particulars of employment.-(1) An employer must supply a farm worker, when the farm worker starts work with the following particulars in writing-**

- 9. Written particulars of employment.-(1)** An employer must supply a farm worker, when the farm worker starts work with the following particulars in writing-
- (a) the full name and address of the employer;
  - (b) the name and occupation of the farm worker, or a brief description of the work for which the farm worker is employed;
  - (c) the place of work, and where the farm worker is required or permitted to work at various places, an indication of this;
  - (d) the date on which employment began;
  - (e) the farm worker's ordinary hours of work and days of work;
  - (f) the farm worker's wage or the rate and method of payment;
  - (g) the rate of pay for overtime work;
  - (h) any other cash payments that the farm worker is entitled to;
  - (i) any food or accommodation payment that the farm worker is entitled to and the value of the food or accommodation calculated in accordance with [clause 8](#);
  - (j) any other payment in kind received by the farm worker;
  - (k) how frequently wages will be paid;
  - (l) any deductions to be made from the farm worker's wages;
  - (m) the leave to which the farm worker is entitled to; and

- (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.
- (2) If a farm worker is not able to understand the written particulars, the employer must ensure that they are explained to the farm worker in a language and in a manner that the farm worker understands.
- (3) The employer must revise the written particulars if there is any change in the farm worker's terms of employment.
- (4) An employer must retain a copy of the written particulars while the farm worker is employed and for three years thereafter.

#### PART D HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 10. Emergency work.-(1) Clauses 11, 13, 16 (1), 17 (1), 18 (1) and 19 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which**

**10. Emergency work.**-(1) Clauses 11, 13, 16 (1), 17 (1), 18 (1) and 19 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by farm workers during their ordinary hours of work.<sup>3</sup>

(2) Sub-clause (1) does not affect the obligation of an employer to pay a farm worker for any work performed at the farm worker's ordinary rate of pay or overtime rate, as the case may be.

#### **Footnotes**

- 3 Where an "emergency" situation such as a veld-fire or the outbreak of a disease among livestock persists, it will be reasonable to expect the employer to rotate work or to obtain additional temporary workers to assist to deal with the emergency.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 11. Ordinary hours of work.-(1) An employer may not require or permit a farm worker to work more than-**

**11. Ordinary hours of work.**-(1) An employer may not require or permit a farm worker to work more than-

- (a) 45 hours in any week<sup>4</sup>; and
- (b) nine hours on any day if the farm worker works for five days or less in a week; or
- (c) eight hours in any day if the farm worker works for more than five days in any week.

#### **Footnotes**

- 4 A farm worker who is under 18 years of age may not work more than 35 hours in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 12. Extension of ordinary hours of work for farm workers.-(1) A worker and an employer may conclude a written agreement in terms of which the farm worker's ordinary hours of work-**

**12. Extension of ordinary hours of work for farm workers.**-(1) A worker and an employer may conclude a written agreement in terms of which the farm worker's ordinary hours of work-

- (a) are extended by not more than five hours per week for a period of not more than four months in any continuous period of twelve months; and
- (b) are reduced by the same number of hours during a period of the same duration in the same twelve month period.

(2) An agreement in terms of sub-clause (1) may not extend the farm worker's ordinary hours of work to more than ten hours on any day.

(3) During any period of extended or reduced ordinary hours of work in terms of sub-clause (1), the employer must pay the farm worker the wage the farm worker would have received for the farm worker's normal ordinary hours of work.

(4) If a farm worker's employment terminates for any reason at a time when the farm worker has worked a great number of extended ordinary hours than reduced ordinary hours, the employer must pay the worker for the extended ordinary hours worked at the overtime rate in terms of [clause 13](#).

(5) An employer who concludes a contract in terms of this clause must-

- (a) supply the farm worker with a copy of the contract; and

- (b) record any extended or reduced hours work in terms of the contract on the statement supplied to the worker in terms of [clause 6](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 13. Overtime.-(1) An employer may not require or permit a farm worker-**

**13. Overtime.-(1)** An employer may not require or permit a farm worker-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the farm worker;
- (b) to work more than 15 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 14. Payment of overtime.-(1) An employer must pay a farm worker at least one and one-half times the farm worker's wage for overtime worked.**

**14. Payment of overtime.-(1)** An employer must pay a farm worker at least one and one-half times the farm worker's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (i) pay a farm worker not less than the farm worker's ordinary wage for overtime worked and grant the farm worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (ii) grant a farm worker at least 90 minutes' paid time off for each hour of overtime worked.

(3) (a) An employer must grant paid time off in terms of sub-clause (2) within one month of the farm worker becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to twelve months.

(c) An agreement concluded in terms of [paragraph \(b\)](#) with a farm worker when the farm worker commences employment, or during the first three months of employment, is only valid for one year.

(4) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 16 and 20.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 15. Compressed working week.-(1) An agreement in writing may require or permit a farm worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 18, without receiving overtime pay.**

**15. Compressed working week.-(1)** An agreement in writing may require or permit a farm worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 18](#), without receiving overtime pay.

(2) An agreement in terms of sub-clause (1) may not require or permit an farm worker to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 16. Work on Sundays.-(1) An employer must pay a farm worker who works on a Sunday in accordance with the following table:**

**16. Work on Sundays.-(1)** An employer must pay a farm worker who works on a Sunday in accordance with the following table:

| <i>Time worked on a Sunday</i>                 | <i>Payment</i>                           |
|------------------------------------------------|------------------------------------------|
| One hour or less                               | Double the wage for one hour             |
| More than one hour but not more than two hours | Double the ordinary wage for time worked |

|                                                  |                                                                                                                          |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| More than two hours but not more than five hours | The ordinary daily wage.                                                                                                 |
| More than five hours                             | The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage. |

(2) For the purposes of sub-clause (1), a farm worker who does not reside on the employer's farm who works on a Sunday must be regarded as having worked at least two hours on that day.

(3) Any time worked on a Sunday by a farm worker is not taken into account in calculating a farm worker's ordinary hours of work in terms of [clause 11](#), but is taken into account in calculating the overtime worked by the farm worker in terms of [clause 13](#).

(4) If a shift worked by a farm worker falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 17. Night work.-(1) In section, "night work" means work performed after 20:00 and before 04:00 the next day.**

**17. Night work.-(1)** In section, "night work" means work performed after 20:00 and before 04:00 the next day.

(2) An employer may only require or permit a farm worker to perform night work, if so agreed, and if-

- (a) the employer pays the farm worker an allowance of at least 10% of the farm worker's ordinary daily wage; and
- (b) transportation is available between the farm worker's place of residence and the workplace at the commencement and conclusion of the farm worker's shift.

(3) An employer who requires a farm worker to perform work on a regular basis after 20:00 and before 04:00 the next day must-

- (a) inform the farm worker in writing, or orally if the farm worker is not able to understand a written communication, in a language that the farm worker understands-
  - (i) of any health and safety hazards associated with the work that the farm worker is required to perform; and
  - (ii) of the farm worker's rights to undergo a medical examination in terms of [paragraph \(b\)](#).
- (b) at the request of the farm worker, enable the farm worker to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the farm worker starts, or within a reasonable period of the farm worker starting, such work;
  - (ii) at appropriate intervals while the farm worker continues to perform such work; and
- (c) transfer the farm worker to suitable day work within a reasonable time if-
  - (i) the farm worker suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(4) Sub-clause (3) applies to farm workers who work after 20:00 and before 04:00 at least five times per month or 50 times per year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 18. Meal intervals.-(1) An employer must give a farm worker who works continuously for more than five hours, a meal interval of at least one continuous hour.**

**18. Meal intervals.-(1)** An employer must give a farm worker who works continuously for more than five hours, a meal interval of at least one continuous hour.

(2) During a meal interval, a farm worker may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another farm worker.

(3) A farm worker must be paid-

- (a) for a meal interval in which the farm worker is required to be available for work; and
- (b) for any portion of a meal interval that is in excess of 75 minutes, unless the farm worker lives on the farm or at the workplace.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.

(5) An agreement in writing may-

(a) reduce the meal interval to not less than 30 minutes; and

(b) dispense with a meal interval for a farm worker who works fewer than six hours on a day.

(6) Whenever an employer is required to give a farm worker a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 19. Rest period.-(1) An employer must grant a farm worker-**

**19. Rest period.**-(1) An employer must grant a farm worker-

(a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;

(b) weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.

(2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for a farm worker

(a) who lives where the workplace is situated; and

(b) whose meal interval lasts for at least three hours.

(3) despite sub-clause (1) (b), an agreement in writing may provide for a rest period of at least sixty consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 20. Public holidays.-(1) An employer may not require a farm worker to work on a public holiday, except in accordance with an agreement.**

**20. Public holidays.**-(1) An employer may not require a farm worker to work on a public holiday, except in accordance with an agreement.

(2) If a public holiday falls on a day on which a farm worker would ordinarily work, an employer must pay-

(a) a farm worker who does not work on the public holiday, at least the wage that the farm worker would ordinarily have received for work on that day;

(b) a farm worker who does work on the public holiday-

(i) at least double the daily wage; or

(ii) if it is greater, the amount referred to in sub-clause(2) (a) plus the amount earned by the employee for the time worked on that day.

(3) If a farm worker who works on a public holiday on which the farm worker would not normally work, the employer must pay that farm worker an amount equal to-

(a) the farm worker's daily wage; plus

(b) the farm worker's hourly wage for each hour worked on the public holiday.

(4) An employer must pay a farm worker for a public holiday on the farm worker's normal payday.

(5) If a shift worked by a farm worker falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

## PART E LEAVE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 21. Annual leave.-(1) An employer must grant a farm worker-**

**21. Annual leave.**-(1) An employer must grant a farm worker-

(a) at least three weeks leave on full pay in respect of each twelve months of employment (the 'annual leave cycle');

(b) by agreement, at least one day of annual leave on full pay for every 17 days on which the farm worker worked or was entitled to be paid; or

- (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the farm worker worked or was entitled to be paid.
- (2) An employer must grant a farm worker an additional day of paid leave if a public holiday falls on a day during a farm worker's annual leave on which the farm worker would otherwise have worked.
- (3) An employer may reduce a farm worker's entitlement to annual leave by the number of days of occasional on full pay granted to the farm worker at the farm worker's request in that annual leave cycle.
- (4) An employer must grant-
  - (a) at least three weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle') not later than six months after the end of the annual leave cycle or the year in which leave was earned.
  - (b) The leave earned in one year over a continuous period, if requested by the farm worker.
- (5) Annual leave must be taken-
  - (a) in accordance with an agreement between the employer and the farm worker; or
  - (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this sub-clause.
- (6) An employer may not require or permit a farm worker to take annual leave during-
  - (a) any other period of leave to which the farm worker is entitled in terms of this chapter; or
  - (b) any period of notice of termination of employment.
- (7) An employer may not require or permit a farm worker to work for the employer during any period of annual leave.
- (8) An employer may not pay a farm worker instead of granting paid leave in terms of the clause except on termination of employment in terms of [clause 26](#).
- (9) An employer must pay a farm worker leave pay at least equivalent to the remuneration the farm worker would have received for working for a period equal to the period of leave, calculated at the farm worker's rate of remuneration immediately before the beginning of the period of leave.
- (10) An employer must pay a farm worker leave pay before the beginning of the period of leave.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 22. Sick leave.-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-**

- 22. Sick leave.-(1)** For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-
- (a) when the farm worker commenced work; or
  - (b) the end of the farm worker's prior sick leave cycle.
- (2) During every sick leave cycle, the farm worker is entitled to an amount of paid sick leave equal to the number of days the farm worker would normally work during a period of six weeks.
- (3) Despite sub-clause (2) during the first six months of work, the farm worker is entitled to one day's sick leave for every 26 days worked.
- (4) An employer may, during the farm worker's first leave cycle, reduce the farm worker's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).
- (5) Where an employer, at the request of the farm worker, pays fees for a farm worker's hospital or medical treatment, the fees paid may be set off against the worker's pay.
- (6) An employer is not required to pay the farm worker in terms of this clause if the farm worker has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the farm worker was unable to work for the duration's absence on account of sickness or injury.
- (7) Within the scope of their professional expertise, a medical certificate in terms of sub-clause (6) may be provided by-
- (a) a medical practitioner;
  - (b) a clinic nurse practitioner;
  - (c) a traditional healer;
  - (d) a community health worker;
  - (e) a psychologist;
  - (f) any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament; or
  - (g) any other health professional authorized to diagnose medical conditions.



(8) If it is not reasonably practicable for a farm worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (1) unless the employer provides reasonable assistance to the farm worker to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 23. Family responsibility leave.-(1) This clause applies to a farm worker-**

**23. Family responsibility leave.-(1)** This clause applies to a farm worker-

- (a) who has been employed by an employer for longer than four months; and
  - (b) who works on at least four days a week for that employer.
- (2) An employer must grant a farm worker, during each 12 months of employment, at the request of the farm worker, three days' paid leave, which the farm worker is entitled to take-
- (a) when the farm worker's child is born;
  - (b) when the farm worker's child is sick; or
  - (c) in the event of the death of-
    - (i) the farm worker's spouse or life partner; or
    - (ii) the farm worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.
- (3) A farm worker may take family responsibility leave in respect of the whole or part of the day.
- (4) Subject to sub-clause (5), an employer must pay a farm worker for a day's family responsibility leave-
- (a) the wage the farm worker would normally have received for work on that day; and
  - (b) on the farm worker's usual payday.
- (5) Before paying a farm worker for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.
- (6) A farm worker's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 24. Maternity leave5.-(1) A farm worker is entitled to at least four consecutive month's maternity leave.**

**24. Maternity leave<sup>5</sup>.-(1)** A farm worker is entitled to at least four consecutive month's maternity leave.

- (2) A farm worker may commence maternity leave-
- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the farm worker's health or that of her unborn child.
- (3) A farm worker may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) A farm worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the farm worker had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) A farm worker must notify an employer in writing, unless the farm worker is unable to do so, of the date on which the farm worker intends to-
- (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of sub-clause (5) must be given-
- (a) at least four weeks before the farm worker intends to commence maternity leave;
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) No employer may require or permit a pregnant farm worker or a farm worker who is nursing her child to perform work that is hazardous to her health or the health of her child.
- (8) During a farm worker's pregnancy, and for a period of six months after birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-
- (a) the farm worker is required to perform night work, as defined in [clause 17](#) or her work poses a danger to her

- health or safety or that of her child; and
- (b) it is practicable for the employer to do so

## PART F PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

### Footnotes

- 5 In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of a farm worker on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow a farm worker to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract. A farm worker may claim maternity benefits in terms of the Unemployment Insurance Act, 2001.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 25. Prohibition of child labour and forced labour.-(1) No person may employ in farming activities a child-**

**25. Prohibition of child labour and forced labour.-(1)** No person may employ in farming activities a child-

- (a) who is under 15 years of age; or
  - (b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.<sup>6</sup>
- (2) No person may employ a child in an employment-
- (a) that is inappropriate for a person of that age;
  - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) An employer must maintain for three years, a record of the name, date of birth and address of every farm worker under the age of 18 years employed by them.
- (4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (5) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).
- (6) A person who employs a child in contravention of sub-clause (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.
- (7) An employer may not require or permit a child who is 15 years of age or older but younger than 18-
- (a) to work after 18h00 and before 6h00 the following day;
  - (b) to work more than 35 hours in any week; and
  - (c) without limiting sub-clause (2), to work with chemicals.

## PART G TERMINATION OF EMPLOYMENT

### Footnotes

- 6 [Section 31\(1\)](#) of the South African Schools Act (Act [84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 26. Termination of employment.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

- 26. Termination of employment.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-
- (a) one week if the farm worker has been employed for six months or less;
  - (b) four weeks, if the farm worker has been employed for more than six months.
- (2) The employer and farm worker may agree to a longer notice period, but the agreement may not require or permit a farm worker to give a period of notice longer than that required of the employer.
- (3) (a) Notice of termination of contract of employment must be given in writing except when it is given by an illiterate farm worker.



(b) If a farm worker who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the farm worker in an official language the farm worker reasonably understands.

(4) Notice of termination of a contract of employment given by an employer must-

- (a) not be given during any period of leave to which the farm worker is entitled in terms of [clause 21](#).
- (b) not run concurrently with any period of leave to which the farm worker is entitled in terms of this determination, except sick leave.

(5) Nothing in this clause affects the right-

- (a) of a dismissed farm worker to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) of an employer or a farm worker to terminate a contract of employment without notice for any cause recognized by law.

(6) Nothing in clauses 26, 27, 28 and [clause 29](#) of this determination affects the rights of farm workers accrued in terms of any land reform processes.<sup>7</sup>

#### Footnotes

7 The Land Reform (Labour Tenancy) Act [No 3 of 1996](#), Extension of Security of Tenure Act [No 62 of 1997](#)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 27. Payment instead of notice.-(1) Instead of giving a farm worker notice in terms of this clause, an employer may pay the farm worker the remuneration the farm worker would have received, if the farm worker had worked during the notice period.**

**27. Payment instead of notice.**-(1) Instead of giving a farm worker notice in terms of this clause, an employer may pay the farm worker the remuneration the farm worker would have received, if the farm worker had worked during the notice period.

(2) If a farm worker gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the remuneration referred to in sub-clause (1), unless the employer and the farm worker agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 28. Accommodation, livestock and crops on termination.-(1) This clause applies if the employer of a farm worker terminates the contract of employment of that farm worker-**

**28. Accommodation, livestock and crops on termination.**-(1) This clause applies if the employer of a farm worker terminates the contract of employment of that farm worker-

- (a) before the date on which the employer was entitled to do so in terms of [clause 26](#); or
- (b) in terms of [clause 27](#).

(2) If the farm worker resides in accommodation on the premises of the employer or that is supplied by the employer, the employer is required to provide the farm worker with accommodation for a period of one month, or if it is a longer period, until the contract of employment could lawfully have been terminated.

(3) A farm worker who keeps livestock on the land of the employer is entitled to keep that livestock for the period stipulated in the contract of employment or for one month from the date on which the contract of employment was terminated in terms of sub-clause (1).

(4) (a) A farm worker who has standing crops on the land of the employer is entitled to tend to those crops and harvest and remove them within a reasonable time after they become ready for harvesting, unless the employer pays the farm worker an agreed amount for the crops.

(b) Paragraph (a) applies in addition to a farm worker who terminates the contract of employment in accordance with [clause 26](#).

(5) If a farm worker elects to remain in accommodation in terms of sub-clause (2) after the employer has terminated the farm worker's contract of employment in terms of sub-clause (1), the employer may deduct an amount calculated in accordance with [clause 8](#) from the amount that the employer is required to pay the farm worker in terms of [clause 29](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 29. Payments on termination.-(1) On termination of employment, an employer must pay a farm worker all monies due to the farm worker including-**

**29. Payments on termination.**-(1) On termination of employment, an employer must pay a farm worker all monies due to the farm worker including-

- (a) any remuneration that has not been paid;
- (b) any payment owing in respect of extended ordinary hours of work in terms of [clause 11](#);
- (c) any paid time off that the farm worker is entitled to in terms of [clause 14](#) or [16](#) that the farm worker has not taken;
- (d) remuneration calculated in accordance with [clause 21 \(9\)](#) for any period of annual leave due in terms of [clause 21 \(1\)](#) that the farm worker has not taken; and
- (e) if the farm worker has been in employment longer than four months, in respect of the farm worker's annual leave entitlement during an incomplete annual leave cycle as defined in [clause 21 \(1\)](#)-
  - (i) one day's remuneration in respect of every 17 days on which the farm worker worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the farm worker as that calculated in terms of [subparagraph \(i\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 30. Severance pay.-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**30. Severance pay.**-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay a farm worker who is dismissed for reasons based on the employer's operational requirements, severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer.

(3) A farm worker who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect a farm worker's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the farm worker may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 31. Certificate of service.-(1) On termination of employment, a farm worker is entitled to a certificate of service stating-**

**31. Certificate of service.**-(1) On termination of employment, a farm worker is entitled to a certificate of service stating-

- (a) the farm worker's full name;
- (b) the name and address of the employer;
- (c) a description of any council or sectoral employment standards by which the employers business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or brief description of the work for which the farm worker was employed at the date of termination;
- (f) the remuneration at the date of termination;
- (g) any relevant training received by the farm worker;
- (h) the pay at date of termination; and
- (i) if the farm worker requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 32. Keeping of sectoral determination.-(1) Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or a summary, available in the workplace in a place to which the farm worker has access.**

**32. Keeping of sectoral determination.**-(1) Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or a summary, available in the workplace in a place to which the farm worker has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 33. Temporary employment services.-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides farm workers to a client if that person remunerates the farm workers.**

**33. Temporary employment services.-(1)** In this clause, **"temporary employment service"** means any person who, for reward, procures for or provides farm workers to a client if that person remunerates the farm workers.

(2) For the purpose of this Determination, a farm worker whose services have been procured for, or provided to, a client by a temporary employment service is employed by of that temporary employment service, and the temporary employment service is that person's employer.

(3) The employment service and the client are jointly and severally liable to comply with this determination in respect of its farm workers.

(4) If the employment service is in default of its obligation to make any payment in terms of this determination to a farm worker for a period of thirty days, the client concerned becomes liable to make payment.

(5) A client that in terms of this clause makes any payment that is owing to a farm worker is entitled to recover such amount from the employment service

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 34. Presumption as to who is a farm worker.-(1) A person who works for, or renders services to, any other person in farming activities is presumed, until the contrary is proved, to be a farm worker, regardless of the form of the contract, if any one or**

**34. Presumption as to who is a farm worker.-(1)** A person who works for, or renders services to, any other person in farming activities is presumed, until the contrary is proved, to be a farm worker, regardless of the form of the contract, if any one or more of the following factors is present:

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) the person forms part of the employer's organisation;
- (d) the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- (e) the person is economically dependant on the other person for whom that person works or renders services;
- (f) the person is provided with tools of trade or work equipment by the other person; or
- (g) the person only works for or renders services to one person.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ 35. What words mean in this determination.-(1) Any expression in this determination, which is defined in the Basic Conditions of Employment act and is not defined in this clause, has the same meaning as in the Act and-**

**35. What words mean in this determination.-(1)** Any expression in this determination, which is defined in the Basic Conditions of Employment act and is not defined in this clause, has the same meaning as in the Act and-

**"agreement"** includes a collective agreement;

**"Basic Conditions of Employment Act"** means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#))

**"child"** means a person who is under 18 years of age;

**"day"** means, for the purposes of measuring hours of work, a period of 24 hours, measured from the time when a farm worker normally commences work;

**"dispute"** includes an alleged dispute;

**"employee"** means-

- (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer;

**"farm worker"** means an employee who is employed mainly or wholly in connection with farming activities, and includes a domestic worker employed in a home on a farm and a security guard employed on a farm or other agricultural premises, excluding a security guard, employed in the private security industry;

"forestry sector" refers to forestry operations related to the planting, growing, tending and harvesting of trees. Forestry operations end at the gate to the plantation.

"incapacity" means inability to work owing to sickness or injury;

"ordinary hours of work" means the hours of work permitted in terms of [clause 11](#);

"overtime" means the time that the farm worker works during a day or in a week in excess of ordinary hours of work;

"paid leave" means any annual leave, paid sick leave or family responsibility leave that a farm worker is entitled to in terms of [Part E](#) of this determination;

"payment in kind" means any payment other than cash made or owing to the farm worker, to a value agreed to in either a contract of employment, collective agreement, provided that the agreed value may not be less than the cost to the employer or farm owner of providing the payment in kind;

"public holiday" means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

"remuneration" means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

"wage" means the amount of money paid or payable to a farm worker in respect of ordinary hours of work or, if they are shorter, the hours a farm worker normally works in a day or week;

"week" in relation to a farm worker, means the period of seven days within which the working week of that farm worker falls;

"work place" means any place where farm worker works.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ WRITTEN PARTICULARS OF EMPLOYMENT**

**WRITTEN PARTICULARS OF EMPLOYMENT**

|                                                                                                                           |                                                           |  |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|--|
| Sample of written particulars provided free of charge by the Department of Labour                                         | <b>WRITTEN PARTICULARS OF EMPLOYMENT</b><br>(FARM WORKER) |  |
|                                                                                                                           | Given by:                                                 |  |
|                                                                                                                           | (hereinafter referred to as "the employer")               |  |
|                                                                                                                           | Address of employer:                                      |  |
|                                                                                                                           | (hereinafter referred to as "the employee")               |  |
| <b>1. Commencement</b>                                                                                                    |                                                           |  |
| Employment started/will start on _____ and continue until _____ terminated in terms of clauses 1 and 2 of the guidelines. |                                                           |  |
| <b>2. Place of work</b>                                                                                                   |                                                           |  |
|                                                                                                                           |                                                           |  |
| <b>3. Job description</b>                                                                                                 |                                                           |  |
| Job Title                                                                                                                 | Farm Worker:                                              |  |
|                                                                                                                           | Tractor driver/truck driver/labourer etc                  |  |
| Duties:                                                                                                                   |                                                           |  |
|                                                                                                                           |                                                           |  |

#### 4. Hours of work

4.1 Normal working hours will be \_\_\_\_\_ hours per week, made up as follows:

Monday / Tuesday / Wednesday / Thursday / Friday: \_\_\_\_\_ am  
to \_\_\_\_\_ pm

Meal intervals will be from:  
to

Other breaks:

Saturdays \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to

Other breaks:

Sundays: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to

Other breaks:

4.2 Hours of work will be extended with by not more than five hours per week during \_\_\_\_\_ and reduced by the same hours during \_\_\_\_\_.

4.3 Overtime will only be worked as agreed from time to time and will be paid at the rate of one and a half times of the total wage as set out in [clause 5.3](#) of the guidelines.

#### 5. Wage

5.1 The employees wage shall be paid in cash on the last working day of every week/month and shall be:

R

5.2 The employee shall be entitled to the following allowances/other cash payments/payment in kind:

5.2.2 Accommodation per week/month to the value of

R

5.2.3 Food per week/month to the value of

R

5.3 The following deductions are agreed upon:

R

R

R

R

5.4 The total value of the above remuneration shall be  
(The total of clauses 5.1 to 5.3)  
(Modify or delete clauses 5.2 to 5.3 as needed)

R

5.5 The employer shall review the employee's salary/wage on or before 1 March of every year.

#### 6. Termination of employment

Either party can terminate this agreement with one week's notice during the first six months of employment and with four weeks' notice thereafter. Notice must be given in writing except when it is given by an illiterate farm worker. In the case where the farm worker is illiterate notice must be explained orally by or on behalf of the employer.

On giving notice of termination the employer is to provide the employee who resides in accommodation that belongs to the farmer accommodation for a period of a month. A farmer is also obliged to allow the farm worker who has standing crops on the land a reasonable time to harvest the crop or the farmer may pay the worker an agreed amount for that crop.

#### 7. Sunday work

Any work on Sundays will be by agreement between the parties and will be paid according to [clause 7](#) of the guidelines.

#### **8. Public Holidays**

Any work on public holidays will be by agreement and will be paid according to [clause 8](#) of the guidelines.

#### **9. Annual Leave**

The employee is entitled to three weeks paid leave after every 12 months of continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer.

#### **10. Sick leave**

10.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

10.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.

10.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.

10.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.

#### **11. Maternity leave**

*(Tick the applicable clauses in the space provided).*

11.1 The employee will be entitled to ..... months maternity leave without pay; or

11.2 The employee will be entitled to ..... months maternity leave on ..... pay.

#### **12. Family responsibility leave**

The employee will be entitled to three days family responsibility leave during each leave cycle if he or she works on at least four days a week.

#### **13. Accommodation**

*(Tick the applicable boxes).*

13.1 The employee will be provided with accommodation for as long as the employee is in the service of the employer, which shall form part of his/her remuneration package.

13.2 The accommodation may only be occupied by the worker and his/her immediate family, unless by prior arrangement with the employer.

13.3 Prior permission should be obtained for visitors who wish to stay the night. However where members of the employee's direct family are visiting, such permission will not be necessary.

#### **14. Clothing**

*(Delete this clause if not applicable)*

sets of uniforms/protective clothing will be supplied to the employee free of charge by the employer and will remain the property of the employer.

sets of boots/gumboots will be supplied to the employee free of charge by the employer and will remain the property of the employer.

will be supplied to the employee free of charge by the employer and will remain the property of the employer.

#### **15. Other conditions of employment or benefits**

#### **16. General**

Any changes to the written particulars will only be valid if agreed to by both parties.

EMPLOYER

Acknowledgement of receipt by employee:

Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (Government Gazette No. 28518)/ GUIDELINES**

**GUIDELINES**

**1. Notice period and termination of employment**

In terms of the Sectoral Determination, any party to an employment contract must give written notice, except when an illiterate farm worker gives it, as follows:

- . One week, if employed for six months or less
- . Four weeks if employed for more than six months.

Notice must be explained orally by or on behalf of the employer to a farm worker if he/she is not able to understand it.

The employer is required to provide the farm worker who resides in accommodation that is situated on the premises of the employer or that is supplied by the employer, with accommodation for a period of one month, or if it is a longer period, until the contract of employment could lawfully have been terminated.

The farm worker is entitled to keep livestock on the premises for a period of one month or until the contract of employment could lawfully have been terminated.

The farm worker who has standing crops on the land is entitled to tend to those crops, harvest and remove them within a reasonable time after they become ready for harvesting unless the employer pays the farm worker an agreed amount for the crops.

All monies due to the farm worker for any wages, allowance or other payments that have not been paid, paid time-off not taken and pro-rata leave must be paid.

**2. Procedure for termination of employment**

Whilst the contract of employment makes provision for termination of employment, it must be understood that the services of an employee may not be terminated unless a valid and fair reason exists and fair procedure is followed. If an employee is dismissed without a valid reason or without a fair procedure, the employee may refer the matter to the CCMA for assistance.

Pro-rata leave and severance pay is payable.

In the event of a farm worker being unable to return to work due to disability, the employer must investigate the nature of the disability and ascertain whether or not it is permanent or temporary. The employer must try to accommodate the employee as far as possible for example, amending or adapting their duties to suit the disability. However, in the event of it not being possible for the employer to adapt the farm worker's duties and/or to find alternatives due to the disability, then such employer may terminate the services of the farm worker.

The Labour Relations Act, [66 of 1995](#) sets out the procedures to be followed at the termination of services in the Code of Good Practice, in Schedule 8.

**3. Wage/Remuneration/Payment**

There is a prescribed minimum wage. Additional payments (such as for overtime or work on Sundays or Public Holidays) are calculated from the total wage as indicated in [clause 5.3](#) of the contract. The total remuneration is the total of the money received by the employee and the payment in kind, which may not be more than 10% each of the wage for food and accommodation.

**4. Transport allowances**

Sectoral Determination 13: Farm workers Sector, South Africa does not regulate this and is therefore open to negotiation between the parties.

**5. Hours of work**

**5.1 *Normal hours (excluding overtime)***

A farm worker may not be made to:

- . work more than 45 ordinary hours a week;
- . work more than nine hours per day for a five day work week; and
- . work more than eight hours a day for a six day work week.



## 5.2 *Extension of ordinary hours of work*

By written agreement, ordinary hours of work may be extended by not more than five hours per week for a period of not more than four months and be reduced by the same number of hours during a period of the same duration in the same twelve-month period.

The employer must pay the farm worker the wage he/she would have received for his/her normal hours worked.

Extended hours not reduced must be paid as overtime on termination.

## 5.3 *Overtime*

A farm worker may not work more than 15 hours overtime per week but may not work more than 12 hours on any day, including overtime.

Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

## 5.4 *Daily and weekly rest periods*

5.4.1 A daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours, which must include Sunday, unless otherwise agreed, must be allowed.

5.4.2 The daily rest period may by agreement be reduced to 10 hours for an employee who lives on the premises whose meal interval lasts for at least three hours.

5.4.3 The weekly rest period may by agreement be extended to 60 consecutive hours every two weeks or be reduced to eight hours in any week if the rest period in the following week is extended equivalently.

## 5.5 *Night work*

5.5.1 Night work means work performed after 20:00 and before 04:00

5.5.1 Only worked if agreed to in writing and must be compensated by an allowance of at least 10% the ordinary daily wage and if transport is available.

## 6. **Meal intervals**

A farm worker is entitled to a one-hour break for a meal after not more than five hours work. Such interval may be reduced to 30 minutes, by agreement between the parties. When a second meal interval is required because of overtime worked, it may be reduced to not less than 15 minutes. If required or permitted to work during this period, remuneration must be paid.

## 7. **Work on Sundays**

Must be paid as follows:

| <i>Time worked on a Sunday</i>                   | <i>Payment</i>                                                                                                           |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| One hour or less                                 | Double the wage for one hour                                                                                             |
| More than one hour but not more than two hours   | Double the ordinary wage for time worked                                                                                 |
| More than two hours but not more than five hours | The ordinary daily wage.                                                                                                 |
| More than five hours                             | The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage. |

A farm worker who does not reside on the farm who works on a Sunday must be regarded as having worked at least two hours on that day.

## 8. **Public Holidays**

The days mentioned in the Public Holidays Act must be granted but the parties can agree to further public holidays. Work on a public holiday is entirely voluntary and a farm worker may not be forced to work on such public holiday.

The official public holidays are:

|                  |                       |
|------------------|-----------------------|
| New Years Day    | Youth Day             |
| Human Rights Day | National Woman's Day  |
| Good Friday      | Heritage Day          |
| Family Day       | Day of Reconciliation |
| Freedom Day      | Christmas Day         |
| Workers Day      | Day of Goodwill       |

Any other day declared an official public holiday from time to time must also be granted.

These days can be exchanged for any other day by agreement.

If the employee works on a public holiday he/she shall be paid double the normal day's wage.

#### **9. Annual Leave**

Annual leave may not be less than three weeks per year for full-time workers or by agreement, one day for every 17 days worked or one hour for every 17 hours worked.

The leave must be granted not later than six months after completion of the period of 12 consecutive months of employment. The leave may not be granted concurrent with any period of sick leave, nor with a period of notice of termination of the contract of employment.

#### **10. Sick leave**

During every sick leave cycle of 36 months an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

During the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

The employer is not required to pay an employee if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

#### **11. Maternity leave**

The employee is entitled to at least four consecutive months' maternity leave. The employer is not obliged to pay the farm worker for the period for which she is off work due to her pregnancy. However the parties may agree that the farm worker will receive part of or her entire salary/wage for the time that she is off due to pregnancy.

#### **12. Family responsibility leave**

Employees employed for longer than four months and for at least four days a week are entitled to take three days' paid family responsibility leave during each leave cycle when the employee's child is born, or when the employee's child is sick or in the event of the death of the employee's spouse or life partner or parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

#### **13. Deductions from the remuneration**

The Sectoral Determination prohibits an employer from deducting any monies from the farm worker's wages without his/her written permission.

A deduction of not more than 10% each of the wage may be deducted for food and accommodation provided on a consistent and regular basis and provided the house has a roof that is durable and waterproof, has a glass window that can be opened, electricity and water on tap is available inside the house and a flush toilet or pit latrine is available inside or in close proximity to the house.

#### **14. Other issues**

There are certain other issues which are not regulated by the Sectoral Determination such as probationary periods, right of entry to the employer's premises, afternoons off, weekends off and pension schemes, medical aid schemes, training/school fees, funeral benefits and savings account. However the aforementioned may be negotiated between the parties and included in the contract of employment.

#### **15. Prohibition of Employment**

The Sectoral Determination prohibits employment of any person under the age of 15 and it is therefore important for an employer to verify the age of the farm worker by requesting a copy of the identity document or birth certificate.

#### **16. Other conditions of employment**

There is no provision, which prevents any other conditions of employment being included in a contract of employment but any provision, which sets conditions, which are less favourable than those set by the Determination, would be invalid.

These guidelines are not meant to be a complete summary of the Sectoral Determination and/or legal advice. Should there be any doubt as to rights and/or obligations in terms of the Act or terms of any clause of the suggested Contract of Employment, such queries can be directed to the local offices of the Department of Labour, that will gladly assist.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa**

**GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa**

DEPARTMENT OF LABOUR

**as amended by**

**Notice**

**Government Gazette**

**Date**

|       |       |                                        |
|-------|-------|----------------------------------------|
| R.362 | 32060 | 27 March 2009 w.e.f.<br>1 April 2009   |
| 30    | 34947 | 18 January 2012<br>w.e.f. 1 April 2012 |
| 168   | 36224 | 8 March 2013 w.e.f. 1<br>April 2013    |
| 208   | 38562 | 13 March 2015 w.e.f.<br>1 April 2015   |
| 138   | 39648 | 3 February 2016<br>w.e.f. 1 March 2016 |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 51 (1) of the Basic Conditions of Employment Act, 1997, make a Sectoral Determination establishing conditions of employment and wages for employers and employees in the Forestry Sector, South Africa, in the schedule hereto and determine 1st April 2006 as the date from which provisions of the said Sectoral Determination shall become binding.

(Signed)  
**MMS MDLADLANA, MP**  
**MINISTER OF LABOUR**

## ARRANGEMENT OF REGULATIONS

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- [1.](#) Scope of application

### [PART B](#)

#### MINIMUM WAGES

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- [3.](#) . . . . .
- [4.](#) Minimum wages for forestry workers under 18 years of age
- [5.](#) Task-based payment
- [6.](#) Calculation of wages or remuneration
- [7.](#) Payment of remuneration
- [8.](#) Information concerning pay
- [9.](#) Prohibited act concerning pay
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- [12.](#) Emergency work
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#### LEAVE

- [24.](#) Annual leave
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- [28.](#)

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#### TERMINATION OF EMPLOYMENT

- [29.](#) Termination of employment
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- ## Form Guidelines

## SCOPE OF APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 1. Scope of application.-(1) The determination applies to the employment of forestry workers in all forestry activities in the Republic of South Africa.**

**1. Scope of application.**-(1) The determination applies to the employment of forestry workers in all forestry activities in the Republic of South Africa.

(2) For the purpose of this determination Forestry Sector refers to forestry operations related to planting, growing, tending and harvesting of trees. Without limiting its meaning, 'forestry activities' includes:

- (a) commercial timber growers;
- (b) emergent timber growers;
- (c) contractors where the majority of time is spent in relation to forestry contracting activities;
- (d) all transportation within the sector not covered by the Road Freight Bargaining Council;
- (e) a domestic worker employed in a home on a plantation where forestry activities take place;
- (f) a security guard employed to guard a plantation or other premises where forestry activities are conducted, who is not employed in the private security sector.

(3) The determination does not apply to:

- (a) mixed farming employers where majority of the time is spent in relation to farming activities;
- (b) community forestry employers and employees;
- (c) employers where the majority of the time is spent in relation to conservation forestry activities;
- (d) any person employed or engaged in forestry activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995 and includes but is not limited to:
  - (i) transportation covered by the Road Freight Bargaining Council;
  - (ii) the forest products sector, which includes all primary and secondary timber processing activities including the pulp and paper sector and whose operations are currently covered by bargaining council agreements.

## PART B

### MINIMUM WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 2. MINIMUM WAGES.-(1) With effect from 01 March 2016, an employer must pay a forestry worker at least the minimum wage prescribed in terms of table 1.**

**2. MINIMUM WAGES.**-(1) With effect from 01 March 2016, an employer must pay a forestry worker at least the minimum wage prescribed in terms of [table 1](#).

| Table 1: Minimum wages for employees in the Forestry Sector                                    |         |        |                                                                       |        |        |                                                                       |        |        |
|------------------------------------------------------------------------------------------------|---------|--------|-----------------------------------------------------------------------|--------|--------|-----------------------------------------------------------------------|--------|--------|
| Minimum rate for the period<br>1 March 2016<br>to<br>28 February 2017                          |         |        | Minimum rate for the period<br>1 March 2017<br>to<br>28 February 2018 |        |        | Minimum rate for the period<br>1 March 2018<br>to<br>28 February 2019 |        |        |
| Monthly                                                                                        | Weekly  | Hourly | Monthly                                                               | Weekly | Hourly | Monthly                                                               | Weekly | Hourly |
| R2778.83                                                                                       | R641.32 | R14.25 | Previous year's minimum wage +<br>CPI* + 1%                           |        |        | Previous year's minimum wage +<br>CPI* + 1%                           |        |        |
| * The CPI to be utilised is the available CPI excluding owners' equivalent rent as released by |         |        |                                                                       |        |        |                                                                       |        |        |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 3. ....**

**3. ....**

[R. 3 substituted by GNR.362 of 27 March 2009 w.e.f. 1 April 2009 and deleted by GN 30 of 18 January 2012 w.e.f. 1 April 2012.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 4. Minimum wages for forestry workers under 18 years of age.-(1) An employer must pay a forestry worker who is 15 years of age or older, but less than 18 and who works for 35 hours per week or less at least the hourly rate or remuneration, specified in**

**4. Minimum wages for forestry workers under 18 years of age.-(1)** An employer must pay a forestry worker who is 15 years of age or older, but less than 18 and who works for 35 hours per week or less at least the hourly rate or remuneration, specified in [Table 1](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 5. Task-based payment.-(1) An employer and forestry worker may agree in writing that the forestry worker will perform task-based work on a regular basis.**

**5. Task-based payment.-(1)** An employer and forestry worker may agree in writing that the forestry worker will perform task-based work on a regular basis.

(2) An employer must pay a forestry worker who is employed on such a task-based system, remuneration at not less than the wage prescribed in clause 2 (2), plus the rates applicable under such system.

(3) An employer shall not require or permit a forestry worker to undertake any work for him or her solely on the basis of the quantity of work done. Any amount payable to a forestry worker for task-based work in terms of sub-clause (2) shall be aside from and in addition to his or her wage, which shall not be less than the wage prescribed in clause 2 (2).

(4) An agreement to perform task-based work in terms of this clause must be concluded before the work is commenced and must include-

- (a) the forestry worker's wage and rate per task;
- (b) the basis for calculating task-based payments;
- (c) the period over which task-based payments are calculated which may not be longer than one month;
- (d) when the employer must pay task-based payments to the forestry worker which may not be longer than seven days after the end of the period in which the payment is earned; and
- (e) the type, description, number, quantity, margin, profit, or orders (individual, weekly, monthly or otherwise) for which the forestry worker is entitled to earn wages.

(5) (a) An employer must ensure that a schedule reflecting the wage and rates referred to in [clause 5 \(2\)](#) is accessible to the forestry workers at all times.

(b) The employer must supply the forestry worker with a copy of the agreement to perform task-based work.

(6) An employer who intends to cancel or amend any task-based system in operation or the rates applicable there under shall give the affected forestry workers not less than one month notice of such intention. The parties may agree in writing on a longer notice period.

(7) A forestry worker who performs task-based work, or otherwise, his/her ordinary hours of work may be reduced on account of short-time provided that:

- (a) A deduction made in the case of short time should not exceed one third of the forestry worker's weekly wage, irrespective of the number of hours by which the ordinary hours of work were reduced.
- (b) Short time is applicable when unforeseen circumstances such as machinery breakdowns, weather fluctuations, and slackness of trade or shortage of raw materials exist.
- (c) No deductions shall be made in the case of short time arising from machinery breakdowns, slackness of trade or shortage of raw materials unless the employer has given notice on the previous working day.
- (d) Whenever short time is worked due to inclement weather, forestry workers should be paid for at least four hours if work has not started for the day or was stopped within the first four hours. Should work be stopped after the first four hours forestry workers should be paid for hours worked. The one-third provision will apply

if the employer has given notice the previous working day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 6. Calculation of wages or remuneration.-(1) The wage or remuneration of a forestry worker is calculated by reference to the forestry worker's ordinary hours of work.**

**6. Calculation of wages or remuneration.-(1)** The wage or remuneration of a forestry worker is calculated by reference to the forestry worker's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination

- (a) the hourly wage or remuneration of a forestry worker is obtained by-
  - (i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;
- (b) the daily wage or remuneration of a forestry worker is obtained by-
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly wage or remuneration by the number of days worked in a week.
- (c) the weekly wage or remuneration of a forestry worker is obtained by
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
  - (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or
  - (iii) dividing the monthly wage or remuneration by four and one-third (13/3).
- (d) the monthly wage or remuneration of a forestry worker is obtained by multiplying the weekly wage or remuneration by four and a third (13/3).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 7. Payment of remuneration.-(1) An employer must pay a forestry worker**

**7. Payment of remuneration.-(1)** An employer must pay a forestry worker

- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the forestry worker.
- (2) Any payment in cash or by cheque must be given to each forestry worker-
- (a) at the workplace;
  - (b) during the forestry worker's working hours; and
  - (c) in a sealed envelope which becomes the property of the forestry worker.
- (3) An employer must pay a forestry worker on the normal payday agreed to in writing by the forestry worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 8. Information concerning pay.-(1) On every pay day, the employer must give the forestry worker a statement showing-**

**8. Information concerning pay.-(1)** On every pay day, the employer must give the forestry worker a statement showing-

- (a) the employer's name and address;
- (b) the forestry worker's name and occupation;
- (c) the period in respect of which payment is made;
- (d) the forestry worker's wage rate and overtime rate;
- (e) the number of ordinary hours worked by a forestry worker during that period;
- (f) the number of overtime hours worked by the forestry worker during that period;
- (g) the number of hours worked by the forestry worker on a paid holiday or on a Sunday;
- (h) the forestry worker's wage;

- (i) details of any other pay arising out of the forestry worker's employment;
  - (j) details of any deductions made;
  - (k) the employer's registration number with the Unemployment Insurance Fund and the employer's contribution to the Fund; and
  - (l) the actual amount paid to the forestry worker.
- (2) An employer must retain a copy or record of each statement for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 9. Prohibited acts concerning pay.-(1) An employer may not withhold any payment from a forestry worker or require a forestry worker to pay the employer or any other person in respect of-**

**9. Prohibited acts concerning pay.-(1)** An employer may not withhold any payment from a forestry worker or require a forestry worker to pay the employer or any other person in respect of-

- (a) the employment or training of that forestry worker;
- (b) the supply of any work equipment or tools; or
- (c) the supply of any work clothing.<sup>1</sup>

(2) An employer may not require a forestry worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.

(3) An employer may not levy a fine against a forestry worker.

(4) An employer may not require or permit a forestry worker to

- (a) repay any amount paid except for overpayments previously made by the employer resulting from an error in calculating the forestry worker's pay; or
- (b) acknowledge receipt of an amount greater than the pay actually received.

#### **Footnotes**

- 1 An employer may not make any deduction from remuneration or require or permit a forestry worker to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of a forestry worker (section 23 of the Occupational Health and Safety Act, No: 85 of 1993).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 10. Deductions and other acts concerning remuneration.-(1) An employer may not make any deduction from a forestry worker's remuneration except-**

**10. Deductions and other acts concerning remuneration.-(1)** An employer may not make any deduction from a forestry worker's remuneration except-

- (a) a deduction not exceeding 10 percent of the forestry worker's wage for accommodation in which the forestry worker ordinarily resides;
- (b) a deduction not exceeding 10 percent of the forestry worker's wages made in accordance with [clause 10 \(1\) \(a\)](#) for food supplied to the forestry worker "on a payment in kind" basis except where a written agreement has been signed as contemplated in clause (10) (1) (d);
- (c) at the written request of a forestry worker, a deduction of an amount which the employer has paid or undertaken to pay to a third party contemplated by sub-clause (7);
- (d) where a written agreement has been signed by the employer and forestry worker in respect of the repayment of monies owed to the employer by the forestry worker in respect of:
  - (i) loans;
  - (ii) the provision of food over and above the 10% allowable deduction requested by the forestry worker; or
  - (iii) credit extended to the forestry worker in respect of purchases freely made by the forestry worker;
- (e) the deduction is required or permitted in terms of a law, collective agreement, Court order or arbitration award;
- (f) a deduction of any amount which the employer is required to make by law or in terms of a Court order or arbitration award.

(2) An employer may only make a deduction in respect of accommodation or food in terms of [clause 10 \(1\) \(a\)](#) or [\(b\)](#) respectively if

- (a) the food or accommodation is provided free of charge by the employer to the forestry worker at the employer's cost;

- (b) the food or accommodation is provided on a consistent and regular basis as a condition of employment;
  - (c) no additional deduction is made from the forestry worker's remuneration for food or accommodation except in the case of a written agreement in respect of food as is contemplated in [clause 10 \(1\) \(d\)](#);
  - (d) in the case of accommodation, no deduction is made by the employer for electricity, water or other services; and
  - (e) the deduction does not exceed the cost to the employer of supplying food or accommodation, as the case may be.
- (3) A deduction in terms of [clause 10 \(1\) \(a\)](#) may only be made for a house that meets the following requirements:
- (a) the house has a roof that is durable and waterproof;
  - (b) the house has glass windows that can be opened;
  - (c) safe water is available inside the house, or in close proximity which is not more than 100m from the house;
  - (d) electricity, if the infrastructure exists on the farm or plantation;
  - (e) a flush toilet or pit latrine is available in, or in close proximity to the house; and
  - (f) the house is not less than 30 square metres in size.
- (4) An employer may not make any deduction for accommodation in terms of sub-clause (1) (a) in respect of a forestry worker who is under 18 years of age.
- (5) An employer may only make a deduction in terms of sub clause (1) (a) in respect of one forestry worker residing in any house.
- (6) (a) Subject to [clause 10 \(1\) \(a\)](#) where more than two forestry workers reside in communal accommodation, the maximum deduction that the employer may make in total in respect of all the forestry workers who reside in that accommodation is 25% of the applicable minimum wage payable to an individual forestry worker.
- (b) An equal amount must be deducted in respect of each of the forestry workers residing in accommodation contemplated by [paragraph \(a\)](#).
- (7) A deduction may only be made in respect of [clause 10 \(1\) \(c\)](#) in respect of a payment made or to be made to
- (a) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the forestry worker is a member,
  - (b) any registered trade union in respect of subscriptions;
  - (c) any bank, building society, insurance business, registered financial institution, local authority in respect of a payment on a loan granted to the forestry worker to acquire a dwelling;
  - (d) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the forestry worker.

## PART C PARTICULARS OF EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 11. Written particulars of employment.-(1) An employer must supply a forestry worker, when the forestry worker starts employment, with the following particulars in writing-**

- 11. Written particulars of employment.-(1)** An employer must supply a forestry worker, when the forestry worker starts employment, with the following particulars in writing-
- (a) the full name and address of the employer;
  - (b) the name and occupation of the forestry worker, and a brief description of the work for which the forestry worker is employed;
  - (c) the place of work, and where the forestry worker is required or permitted to work at various places, an indication of this;
  - (d) the date on which employment began;
  - (e) the forestry worker's ordinary hours of work and days of work;
  - (f) the forestry worker's wage or the rate and method of payment;
  - (g) the rate of pay for overtime work;
  - (h) any other cash payments that the forestry worker is entitled to;
  - (i) any food or accommodation payment that the forestry worker is entitled to and the value of the food or accommodation calculated in accordance;
  - (j) any other payment in kind received by the employer;
  - (k) how frequently wages will be paid;



- (l) any deductions to be made from the forestry worker's wages;
- (m) the leave to which the forestry worker is entitled to;
- (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.

(2) If a forestry worker is not able to understand the written particulars, the employer must ensure that they are explained to the forestry worker in a language and in a manner that the forestry worker understands.

(3) The employer must revise the written particulars if there is any change in the forestry worker's terms of employment.

(4) An employer must retain a copy of the written particulars while the forestry worker is employed and for three years thereafter.

## PART D HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 12. Emergency work.-(1) Clauses 13, 15 (1), 18 (1), 19 (1), 21 (1) and 22 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and wh**

**12. Emergency work.**-(1) Clauses 13, 15 (1), 18 (1), 19 (1), 21 (1) and 22 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by forestry workers during their ordinary hours of work

(2) Sub-clause (1) does not affect the obligation of an employer to pay a forestry worker for any work performed at the forestry worker's ordinary rate of pay or overtime rate, as the case may be.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 13. Ordinary hours of work.-(1) An employer may not require or permit a forestry worker to work more than**

**13. Ordinary hours of work.**-(1) An employer may not require or permit a forestry worker to work more than

- (a) 45 hours in any week<sup>2</sup>; and
- (b) nine hours on any day if the forestry worker works for five days or less in a week; or
- (c) eight hours in any day if the forestry worker works for more than five days in any week.

### Footnotes

2 A forestry worker who is under 18 years of age may not work more than 35 hours in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 14. Extension of ordinary hours of work for forestry workers.-(1) A forestry worker and an employer may conclude a written agreement in terms of which the forestry worker's ordinary hours of work-**

**14. Extension of ordinary hours of work for forestry workers.**-(1) A forestry worker and an employer may conclude a written agreement in terms of which the forestry worker's ordinary hours of work-

(2) A forestry worker who is under 18 years of age may not work more than 35 hours in any week.

- (a) are extended by not more than five hours per week for a period of not more than four months in any continuous period of twelve months; and
- (b) are reduced by the same number of hours during a period of the same duration in the same twelve-month period.

(2) An agreement in terms of sub-clause (1) may not extend the forestry worker's ordinary hours of work to more than ten hours on any day.

(3) During any period of extended or reduced ordinary hours of work in terms of sub-clause (1), the employer must pay the forestry worker the wage the forestry worker would have received for the forestry worker's normal ordinary hours of work.

(4) If a forestry worker's employment terminates for any reason at a time when the forestry worker has worked a greater number of extended ordinary hours than reduced ordinary hours, the employer must pay the forestry worker for the extended ordinary hours worked at the overtime rate in terms of [clause 15](#).

(5) An employer who concludes a contract in terms of this clause must-

- (a) supply the forestry worker with a copy of the contract; and
- (b) record any extended or reduced hours worked in terms of the contract on the statement supplied to the forestry worker in terms of [clause 5](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 15. Overtime.-(1) An employer may not require or permit a forestry worker-**

**15. Overtime.-(1)** An employer may not require or permit a forestry worker-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the forestry worker;
- (b) to work more than 15 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

(2) An agreement concluded in terms of sub-clause (1) (a) with a forestry worker when the forestry worker commences employment, or during the first three months of employment, is only valid for one year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 16. Payment of overtime.-(1) An employer must pay a forestry worker at least one and one-half times the forestry worker's wage for overtime worked.**

**16. Payment of overtime.-(1)** An employer must pay a forestry worker at least one and one-half times the forestry worker's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (a) pay a forestry worker not less than the forestry worker's ordinary wage for overtime worked and grant the forestry worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant a forestry worker at least 90 minutes' paid time off for each hour of overtime worked.

(3) An employer must grant paid time off in terms of sub-clause (2) within one month of the forestry worker becoming entitled to it.

(4) An agreement in writing may increase the period contemplated by sub-clause (3) to twelve months.

(5) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 18 and 23.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 17. Compressed working week.-(1) An agreement in writing may require or permit a forestry worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 21, without receiving overtime pay.**

**17. Compressed working week.-(1)** An agreement in writing may require or permit a forestry worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 21](#), without receiving overtime pay.

(2) An agreement in terms of sub-clause (1) may not require or permit a forestry worker to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 18. Work on Sundays.-(1) An employer must pay a forestry worker who works on a Sunday in accordance with the following table:**

**18. Work on Sundays.-(1)** An employer must pay a forestry worker who works on a Sunday in accordance with the following table:

| <i>Time worked on a Sunday</i>                 | <i>Payment</i>                           |
|------------------------------------------------|------------------------------------------|
| One hour or less                               | Double the wage for one hour             |
| More than one hour but not more than two hours | Double the ordinary wage for time worked |

|                                                  |                                                                                                                          |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| More than two hours but not more than five hours | The ordinary daily wage.                                                                                                 |
| More than five hours                             | The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage. |

(2) Any time worked on a Sunday by a forestry worker is not taken into account in calculating a forestry worker's ordinary hours of work in terms of [clause 12](#), but is taken into account in calculating the overtime worked by the forestry worker in terms of [clause 14](#).

(3) If a shift worked by a forestry worker falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 19. Night work.-(1) In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.**

**19. Night work.-(1)** In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.

(2) An employer may only require or permit a forestry worker to perform night work if so agreed and if-

- (a) the employer pays the forestry worker an allowance of at least 10% of the forestry worker's ordinary daily wage; and
- (b) transportation is available between the forestry worker's place of residence and the workplace at the commencement and conclusion of the forestry worker's shift.

(3) An employer who requires a forestry worker to perform work on a regular basis after 23:00 and before 06:00 the next day must

- (a) inform the forestry worker in writing, or orally if the forestry worker is not able to understand a written communication, in a language that the forestry worker reasonably understands-
  - (i) of any health and safety hazards associated with the work that the forestry worker is required to perform; and
  - (ii) of the forestry worker's right to undergo a medical examination in terms of [paragraph \(b\)](#);
- (b) at the request of the forestry worker, enable the forestry worker to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the forestry worker starts, or within a reasonable period of the forestry worker starting such work;
  - (ii) at appropriate intervals while the forestry worker continues to perform such work; and
- (c) transfer the forestry worker to suitable day work within a reasonable time if-
  - (i) the forestry worker suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(4) Sub-clause (3) applies to a forestry worker who works after 23:00 and before 06:00 at least five times per month or 50 times per year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 20. Stand-by.-(1) The employer shall pay the forestry worker on standby as follows-**

**20. Stand-by.-(1)** The employer shall pay the forestry worker on standby as follows-

- a) stand-by allowance of at least 10% of the forestry worker's ordinary daily wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 21. Meal intervals.-(1) An employer must give a forestry worker who works continuously for more than five hours a meal interval of at least one continuous hour.**

**21. Meal intervals.-(1)** An employer must give a forestry worker who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval, a forestry worker may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another forestry worker.

(3) A forestry worker must be paid-

- (a) for a meal interval in which the forestry worker is required to be available for work.
  - (b) for any portion of a meal interval that is in excess of 75 minutes, unless the forestry worker lives on the plantation or at the workplace.
- (4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.
- (5) An agreement in writing may-
- (a) Reduce the meal interval to not less than 30 minutes;
  - (b) dispense with a meal interval for a forestry worker who works fewer than six hours on a day.
- (6) If the forestry worker is not able to understand the written agreement contemplated by sub clause (5) above, the employer must ensure that the agreement is explained to the forestry worker in a language that the forestry worker reasonably understands.
- (7) Whenever an employer is required to give a forestry worker a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 22. Rest period.-(1) An employer must grant a forestry worker-**

**22. Rest period.-(1) An employer must grant a forestry worker-**

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
  - (b) weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.
- (2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for a forestry worker
- (a) who lives where the workplace is situated; and
  - (b) whose meal interval lasts for at least three hours.
- (3) Despite sub-clause (1) (b), an agreement in writing may provide for a rest period of at least sixty consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 23. Public holidays.-(1) An employer may not require a forestry worker to work on a public holiday, except in accordance with an agreement.**

- 23. Public holidays.-(1) An employer may not require a forestry worker to work on a public holiday, except in accordance with an agreement.**
- (2) If a public holiday falls on a day on which a forestry worker would otherwise have worked, an employer must pay-
- (a) a forestry worker who does not work on the public holiday the forestry worker's daily wage or task rate;
  - (b) a forestry worker who does work on the public holiday at least double the daily wage or double the task rate.
- (3) If a forestry worker works on a public holiday on which the forestry worker would not normally work, the employer must pay the forestry worker an amount equal to-
- (a) the forestry worker's daily wage; plus
  - (b) the forestry worker's hourly wage for each hour worked on the public holiday.
- (4) An employer must pay a forestry worker for a public holiday on the forestry worker's normal payday.
- (5) If a shift worked by a forestry worker falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.
- (6) In accordance with section 2 (2) of the Public Holidays Act, 1994 the parties can exchange a public holiday for any other day.

PART E  
LEAVE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 24. Annual leave.-(1) An employer must grant a forestry worker-**

**24. Annual leave.**-(1) An employer must grant a forestry worker-

- (a) at least three weeks (21 consecutive days) leave on full pay in respect of each twelve months of employment (the 'annual leave cycle'); or
- (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the forestry worker worked or was entitled to be paid; or
- (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the forestry worker worked or was entitled to be paid.

(2) An employer must grant a forestry worker an additional day of paid leave if a public holiday falls on a day during a forestry worker's annual leave on which the forestry worker would otherwise have worked.

(3) An employer may reduce a forestry worker's entitlement to annual leave by the number of days of occasional leave on full pay granted to the forestry worker at the forestry worker's request in that annual leave cycle.

(4) An employer must grant-

- (a) the annual leave not later than six months after the end of the annual leave cycle in which leave was earned;
- (b) The leave earned in one year over a continuous period, if requested by the forestry worker.

(5) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and the forestry worker; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this section.

(6) An employer may not require or permit a forestry worker to take annual leave during-

- (a) any other period of leave to which the forestry worker is entitled in terms of this [Part E](#); or
- (b) any period of notice of termination of employment.

(7) An employer may not require or permit a forestry worker to work for the employer during any period of annual leave.

(8) An employer may not pay a forestry worker instead of granting paid leave in terms of the clause except on termination of employment in terms of [clause 29](#).

(9) An employer must pay a forestry worker leave pay at least equivalent to the remuneration the forestry worker would have received for working for a period equal to the period of leave, calculated at the forestry worker's wage immediately before the beginning of the period of leave.

(10) An employer must pay a forestry worker leave pay before the beginning of the period of leave or, by agreement, on the forestry worker's usual pay day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 25. Sick leave.**-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

**25. Sick leave.**-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

- (a) when the forestry worker commenced work; or
- (b) the end of the forestry worker's prior sick leave cycle.

(2) During every sick leave cycle, the forestry worker is entitled to an amount of paid sick leave equal to the number of days the forestry worker would normally work during a period of six weeks.

(3) Despite sub-clause (2), during the first six months of work, the forestry worker is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the forestry worker's first leave cycle, reduce the forestry worker's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) Where an employer, at the request of the forestry worker, pays fees for a forestry worker's hospital or medical treatment, the fees paid may be set off against the forestry worker's pay.

(6) An employer is not required to pay the forestry worker in terms of this clause if the forestry worker has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the forestry worker was unable to work for the duration of the forestry worker's absence on account of sickness or injury.

(7) Within the scope of their professional expertise, a medical certificate in terms of sub-clause (6) may be provided by

- (a) a medical practitioner;
- (b) a clinic nurse practitioner;
- (c) a traditional healer;
- (d) a community health worker;

- (e) a psychologist;
- (f) any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament; or
- (g) any other health professional authorized to diagnose medical conditions.

(8) If it is not reasonably practicable for a forestry worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (1) unless the employer provides reasonable assistance to the forestry worker to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 26. Family responsibility leave.-(1) This clause applies to a forestry worker-**

**26. Family responsibility leave.-(1) This clause applies to a forestry worker-**

- (a) who has been employed by an employer for longer than four months; and
- (b) who works on at least four days a week for that employer.

(2) An employer must grant a forestry worker, during each. 12 months of employment, at the request of the forestry worker, three days' paid leave, which the forestry worker is entitled to take-

- (a) when the forestry worker's child is born;
- (b) when the forestry worker's child is sick; or
- (c) in the event of the death of
  - (i) the forestry worker's spouse or life partner; or
  - (ii) the forestry worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.

(3) A forestry worker may take family responsibility leave in respect of the whole or part of the day.

(4) Subject to sub-clause (5), an employer must pay a forestry worker for a day's family responsibility leave-

- (a) the wage the forestry worker would normally have received for work on that day; and
- (b) on the forestry worker's usual payday.

(5) Before paying a forestry worker for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.

(6) A forestry worker's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 27. Maternity leave.-(1) A forestry worker is entitled to at least four consecutive month's maternity leave.**

**27. Maternity leave.-(1) A forestry worker is entitled to at least four consecutive month's maternity leave.**

(2) A forestry worker may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the forestry worker's health or that of her unborn child.

(3) A forestry worker may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) A forestry worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the forestry worker had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) A forestry worker must notify an employer in writing, unless she is unable to do so, of the date on which the forestry worker intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

- (a) at least four weeks before the forestry worker intends to commence maternity leave;
- (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) No employer may require or permit a pregnant forestry worker or a forestry worker who is nursing her child to perform work that is hazardous to her health or the health of her child, including operating dangerous machinery or



handling and/or using spray chemicals.

(8) During a forestry worker's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

- (a) the forestry worker is required to perform night work, as defined in [clause 15](#) or her work poses a danger to her health or safety or that of her child; and
- (b) it is practicable for the employer to do so

## PART F PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 28. Prohibition of child labour and forced labour.-(1) No person may employ in forestry activities a child-**

**28. Prohibition of child labour and forced labour.-(1)** No person may employ in forestry activities a child-

- (a) who is under 15 years of age; or
- (b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.<sup>4</sup>

(2) No person may employ a child in an employment-

- (a) that is inappropriate for a person of that age;
- (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) An employer must maintain for three years, a record of the name, date of birth and address of every forestry worker under the age of 18 years employed by them.

(4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(5) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).

(6) A person who employs a child in contravention of sub-clause (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.

(7) An employer may not require or permit a child who is 15 years of age or older but younger than 18-

- (a) to work after 18:00 and before 06:00 the following day;
- (b) to work more than 35 hours in any week
- (c) without limiting sub-clause (2), to work with agro-chemicals.

## PART G TERMINATION OF EMPLOYMENT

### **Footnotes**

- 4 [Section 31\(1\)](#) of the South African Schools Act (Act [84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 29. Termination of employment.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

**29. Termination of employment.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week if the forestry worker has been employed for six months or less;
- (b) four weeks, if the forestry worker has been employed for six months or more.

(2) The employer and forestry worker may agree to a longer notice period, but the agreement may not require or permit a forestry worker to give a period of notice longer than that required of the employer.

(3) Notice of termination of contract of employment must be given in writing except when it is given by an illiterate forestry worker. If a forestry worker who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the forestry worker in an official language the forestry worker reasonably understands.

- (4) Notice of termination of a contract of employment given by an employer must-
  - (a) not be given during any period of leave to which the forestry worker is entitled in terms of [clause 24 \(1\)](#)
  - (b) not run concurrently with any period of leave to which the forestry worker is entitled in terms of this determination, except sick leave.
- (5) Nothing in this clause affects the right
  - (a) of a dismissed forestry worker to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
  - (b) of an employer or a forestry worker to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 30. Payment instead of notice.-(1) Instead of giving a forestry worker notice in terms of this clause, an employer may pay the forestry worker the wages the forestry worker would have received, if the forestry worker had worked during the notice period**

**30. Payment instead of notice.**-(1) Instead of giving a forestry worker notice in terms of this clause, an employer may pay the forestry worker the wages the forestry worker would have received, if the forestry worker had worked during the notice period.

(2) If a forestry worker gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the wages referred to in sub-clause (1), unless the employer and the forestry worker agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 31. Accommodation, livestock and crops on termination.-(1) This clause applies if the employer of a forestry worker terminates the contract of employment of that forestry worker**

**31. Accommodation, livestock and crops on termination.**-(1) This clause applies if the employer of a forestry worker terminates the contract of employment of that forestry worker

- (a) before the date on which the employer was entitled to do so in terms of [clause 29](#); or
- (b) in terms of [clause 30](#).

(2) If the forestry worker resides in accommodation on the premises of the employer or that is supplied by the employer, the employer is required to provide the forestry worker with accommodation for a period of one month or, if it is a longer period, until the contract of employment could lawfully have been terminated.

(3) A forestry worker who keeps livestock on the land of the employer is entitled to keep that livestock for the period stipulated in the contract of employment or for one month from the date on which the contract of employment was terminated in terms of sub-clause (1).

(4) (a) A forestry worker who has standing crops on the land of the employer is entitled to tend to those crops and harvest and remove them within a reasonable time after they become ready for harvesting, unless the employer pays the forestry worker an agreed amount for the crops.

(b) Paragraph (a) applies in addition to a forestry worker who terminates the contract of employment in accordance with [clause 29](#).

(5) If a forestry worker elects to remain in accommodation in terms of sub-clause (2) after the employer has terminated the forestry worker's contract of employment in terms of sub-clause (1), the employer may deduct an amount calculated in accordance with [clause 10 \(1\) \(a\)](#) from the amount that the employer is required to pay the forestry worker in terms of [clause 30](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 32. Payments on termination.-(1) On termination of employment, an employer must pay a forestry worker all monies due to the forestry worker including-**

**32. Payments on termination.**-(1) On termination of employment, an employer must pay a forestry worker all monies due to the forestry worker including-

- (a) any remuneration that has not been paid;
- (b) any payment owing in respect of extended ordinary hours of work in terms of [clause 13](#);
- (c) any paid time-off that the forestry worker is entitled to in terms of [clause 16](#) that the forestry worker has not taken;
- (d) remuneration calculated in accordance with [clause 24 \(9\)](#) for any period of annual leave due in terms of [clause](#)



[24 \(1\)](#) that the forestry worker has not taken; and

- (e) if the forestry worker has been in employment longer than four months, in respect of the forestry worker's annual leave entitlement during an incomplete annual leave cycle as defined in section 24 (1)-
  - (i) one day's remuneration in respect of every 17 days on which the forestry worker worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the forestry worker as that calculated in terms of [subparagraph \(i\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 33. Severance pay.-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**33. Severance pay.-(1)** For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay a forestry worker who is dismissed for reasons based on the employer's operational requirements, severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer.

(3) A forestry worker who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect a forestry worker's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the forestry worker may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 34. Certificate of service.-(1) On termination of employment, a forestry worker is entitled to a certificate of service stating-**

**34. Certificate of service.-(1)** On termination of employment, a forestry worker is entitled to a certificate of service stating-

- (a) the forestry worker's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the forestry worker was employed at the date of termination;
- (e) any relevant training received by the forestry worker;
- (f) the pay at date of termination; and
- (g) if the forestry worker so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 35. Keeping of sectoral determination.-(1) Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or a guideline, available in the workplace in a place to which the forestry worker has access.**

**35. Keeping of sectoral determination.-(1)** Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or a guideline, available in the workplace in a place to which the forestry worker has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 36. Temporary employment services.-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides forestry workers to a client if that person remunerates the forestry workers.**

**36. Temporary employment services.-(1)** In this clause, "temporary employment service" means any person who, for reward, procures for or provides forestry workers to a client if that person remunerates the forestry workers.

(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides forestry workers to a client if that person remunerates the forestry workers.

(2) For the purpose of this determination, a forestry worker whose services have been procured for, or provided to, a client by a temporary employment service is employed by that temporary employment service, and the temporary employment service is that person's employer.

(3) The temporary employment service and the client are jointly and severally liable to comply with this determination in respect of its forestry workers.

(4) If the temporary employment service is in default of its obligation to make any payment in terms of this determination to a forestry worker for a period of thirty days, the client concerned becomes liable to make payment.

(5) A client that in terms of this clause makes any payment that is owing to a forestry worker is entitled to recover such amount from the employment service.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 37. Presumption as to who is a forestry worker.-(1) A person who works for, or renders services to, any other person in forestry activities is presumed, until the contrary is proved, to be a forestry worker, regardless of the form of the contract if an**

**37. Presumption as to who is a forestry worker.-(1)** A person who works for, or renders services to, any other person in forestry activities is presumed, until the contrary is proved, to be a forestry worker, regardless of the form of the contract if any one or more of the following factors is present:

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) the person forms part of the employer's organisation;
- (d) the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- (e) the person is economically dependant on the other person for whom that person works or renders services;
- (f) the person is provided with tools of trade or work equipment by the other person; or
- (g) the person only works for or renders services to one person.

(Editorial Note: Numbering as per *Gazette*)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ 39. What words mean in this determination.-(1) Any expression in this determination, which is defined in the Basic Conditions of Employment Act (the Act) and is not defined in this clause, has the same meaning as in the Act and-**

**39. What words mean in this determination.-(1)** Any expression in this determination, which is defined in the Basic Conditions of Employment Act (the Act) and is not defined in this clause, has the same meaning as in the Act and-

**"agreement"** includes a collective agreement;

**"Basic Conditions of Employment Act"** means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#))

**"child"** means a person who is under 15 years of age;

**"contractor"** means individuals and legal entities who render sivicultural, harvesting and transport services to the Forestry Industry for commercial gain and for whom these forestry contracting activities make up the majority of the time spent on all contracting or sub-contracting activities undertaken by these businesses.

**"commercial timber growers"** a farmer who cultivates a commercially viable amount of timber for profit.

**"conservation forestry"** refers to the maintenance and protection of natural (indigenous) forests and woodlands in South Africa on a sustainable level.

**"day"** means, for the purposes of measuring hours of work, a period of 24 hours, measured from the time when a forestry worker normally commences work;

**"dispute"** includes an alleged dispute;

**"emergent contractor"** refers to a previously disadvantage individual or company owned by a previously disadvantage person that has started to operate as a contractor within the past five years, sometimes with the support of another sector organisation.

**"emergent timber growers"** refers to a previously disadvantage person who has started growing timber within the past ten years, usually with the support of other sector organisations (e.g. corporate forestry companies). The scale of operation is generally less than 50 hectares.

**"employee"** has the corresponding meaning as "forestry worker"

**"farming activities"** includes but not limiting its meaning, primary and secondary agriculture, mixed farming, horticulture, aqua farming and farming of animal products or field crops.

**"forestry sector"** refers to forestry operations related to the planting, growing, tending and harvesting of trees. Forestry operations end at the gate to the plantation.

**"forestry worker"** means a worker who is employed mainly or wholly in connection with forestry activities, and includes a domestic worker employed in a home on a plantation and a security guard employed on a plantation or other premises where forestry operations are conducted, excluding a security guard, employed in the Private Security Industry Sector;

**"incapacity"** means inability to work owing to sickness or injury; "Minister" means the Minister of Labour; "month" means a calendar month;

**"monthly wage"** means an employee's weekly wage multiplied by four and a third;

**"night work"** means work performed after 18:00 and before 06:00 the next day,

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 13](#)

**"overtime"** means the time that the forestry worker works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave or family responsibility leave that a forestry worker is entitled to in terms of [Part E](#) of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"stand by" means** when an employee is required to be at work during the night but sleeping and available for work between 20:00 and 04:00 the next day.

**"wage"** means the amount of money paid or payable to a forestry worker in respect of ordinary hours of work or, if they are shorter, the hours a forestry worker normally works in a day or week;

**"week"** in relation to a forestry worker, means the period of seven days within which the working week of that forestry worker falls;

**"work place"** means any place where a forestry worker works.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.219 of 17 March 2006: Sectoral Determination 12: Forestry Sector, South Africa/ Form**

## **Form**

### *WRITTEN PARTICULARS OF EMPLOYMENT (FORESTRY WORKER)*

**Given by:**

**(herein after referred to as "the employer")**

**Address of employer:**

**to**

**(herein after referred to as "the employee")**

**1. Commencement**

Employment started/will start on \_\_\_\_\_ and continue until terminated  
in terms of clauses 1 and 2 of the guidelines.

**2. Place of work**

**3. Job description**

Job Title Forestry Worker          Forestry Worker

Tractor driver/truck driver/general worker etc.

Duties:

#### 4. Hours of work

4.1 Normal working hours will be \_\_\_\_\_ hours per week, made up as follows:  
Monday / Tuesday / Wednesday / Thursday / Friday: \_\_\_\_\_ am to \_\_\_\_\_

pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

Other breaks:

Saturdays: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

Other breaks:

Sundays: \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to \_\_\_\_\_

4.2 Hours of work will be extended with by not more than five hours per week during \_\_\_\_\_ and reduced by the same hours during \_\_\_\_\_

4.3 Overtime will only be worked as agreed from time to time and will be paid at the rate of one and a half times of the total wage as set out in [clause 5.3](#) of the guidelines.

#### 5. Wage

5.1 The employees wage shall be paid in cash on the last working day of every \_\_\_\_\_

week/month and shall be: \_\_\_\_\_ R

5.2 The employee shall be entitled to the following allowances/other cash payments/payment in kind:

5.2.2 Accommodation per week/month to the value of: \_\_\_\_\_ R

5.2.3 Food per week/month to the value of: \_\_\_\_\_ R

5.3 The following deductions are agreed upon: \_\_\_\_\_ R

R

R

5.4 The total value of the above remuneration shall be \_\_\_\_\_

(The total of clauses 5.1 to 5.3.) \_\_\_\_\_ R

(Modify or delete clauses 5.2. to 5.3 as needed)

5.5 The employer shall review the employee's salary/wage on or before 1 April of every year.

#### 6. Termination of employment

Either party can terminate this agreement with one week's notice during the first six months of employment and with four week's notice there after. Notice must be given in writing except when it is given by an illiterate Forestry worker. In the case where the Forestry worker is illiterate notice must be explained orally by or on behalf of the employer.

On giving notice of termination of employment the employer is to provide the employee who resides in accommodation that belongs to the employer accommodation for a period of a month. A employer is also obliged to allow the Forestry worker who has standing crops on the land a reasonable time to harvest the crop or the employer may pay the worker an agreed amount for that crop.

#### 7. Sunday work

Any work on Sundays will be by agreement between the parties and will be paid according to [clause 7](#) of the guidelines.

#### 8. Public Holidays

Any work on public holidays will be by agreement and will be paid according to [clause 8](#) of the guidelines.

#### 9. Annual Leave

The employee is entitled to three weeks paid leave after every 12 months of

continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer.

**10. Sick leave**

- 10.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.
- 10.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.
- 10.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.
- 10.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.

**11. Maternity leave**

*(Tick the applicable clauses in the space provided).*

- 11.1 The employee will be entitled to \_\_\_\_\_ months maternity leave without pay;
- or
- 11.2 The employee will be entitled to \_\_\_\_\_ months maternity leave on \_\_\_\_\_ pay

**12. Family responsibility leave**

The employee will be entitled to three days family responsibility leave during each leave cycle if he or she works on at least four days a week.

**13. Accommodation**

*(Tick the applicable boxes).*

- 13.1 The employee will be provided with accommodation for as long as the ☐ employee is in the service of the employer, which shall form part of his/her remuneration package.
- 13.2 The accommodation may only be occupied by the worker and his/her immediate family, unless by prior arrangement with the employer. \_\_\_\_\_
- 13.3 Prior permission should be obtained for visitors who wish to stay the night. \_\_\_\_\_
- However where members of the employee's direct family are visiting, such permission will not be necessary. \_\_\_\_\_

**14. Clothing (*Delete this clause if not applicable*)**

\_\_\_\_\_ sets of uniforms/protective clothing will be supplied to the employee free of charge by the employer and will remain the property of the employer.

\_\_\_\_\_ sets of boots/gumboots will be supplied to the employee free of charge by the employer and will remain the property of the employer

**15. Other conditions of employment or benefits**

**16. General**

Any changes to the written particulars will only be valid if agreed to by both parties.

EMPLOYER

Acknowledgement of receipt by employee:

Date:

## **GUIDELINES**

### **1. Notice period and termination of employment**

In terms of the Sectoral Determination, any party to an employment contract must give written notice, except when an illiterate Forestry worker gives it, as follows:

- . One week, if employed for six months or less
- . Four weeks if employed for more than six months.
- ☐ Notice must be explained orally by or on behalf of the employer to a Forestry worker if he/she is not able to understand it.  
The employer is required to provide the Forestry worker who resides in accommodation that is situated on the premises of the employer or that is supplied by the employer, with accommodation for a period of one month, or if it is a longer period, until the contract of employment could lawfully have been terminated.
- ☐ The Forestry worker is entitled to keep livestock on the premises for a period of one month or until the contract of employment could lawfully have been terminated.
- ☐ The Forestry worker who has standing crops on the land is entitled to tend to those crops, harvest and remove them within a reasonable time after they become ready for harvesting unless the employer pays the Forestry worker an agreed amount for the crops.
- ☐ All monies due to the Forestry worker for any wages, allowance or other payments that have not been paid, paid time-off not taken and *pro-rata* leave must be paid.

### **2. Procedure for termination of employment**

Whilst the contract of employment makes provision for termination of employment, it must be understood that the services of an employee may not be terminated unless a valid and fair reason exists and fair procedure is followed. If an employee is dismissed without a valid reason or without a fair procedure, the employee may refer the matter to the CCMA for assistance.

*Pro-rata* leave and severance pay might be payable.

In the event of a Forestry worker being unable to return to work due to disability, the employer must investigate the nature of the disability and ascertain whether or not it is permanent or temporary. The employer must try to accommodate the employee as far as possible for example, amending or adapting their duties to suit the disability. However, in the event of it not being possible for the employer to adapt the Forestry worker's duties and/or to find alternatives, then such employer may terminate the services of the Forestry worker.

The Labour Relations Act, [66 of 1995](#) sets out the procedures to be followed at the termination of services in the Code of Good Practice, in Schedule 8.

### **3. Wage/Remuneration/Payment**

There is a prescribed minimum wage. Additional payments (such as for overtime or work on Sundays or Public Holidays) are calculated from the total remuneration as indicated in [clause 11](#) of the written particulars of employment. The total remuneration is the total of the money received by the employee and the payment in kind, which may not be more than 10% each of the wage for food and accommodation.

### **4. Transport allowances**

Sectoral Determination 12: Forestry workers Sector, South Africa does not regulate this and is therefore open to negotiation between the parties.

### **5. Hours of work**

#### **5.1 Normal hours (excluding overtime)**

A Forestry worker may not be made to:

- work more than 45 ordinary hours a week
- work more than nine ordinary hours per day for a five day work week; and
- work more than eight ordinary hours a day for a six day work week.

#### **5.2 Extension of ordinary hours of work**

By written agreement, ordinary hours of work may be extended by not more than five hours per week for a period of not more than four months and be reduced by the same number of hours during a period of the same duration in the same twelve-month period.

The employer must pay the Forestry worker the wage he/she would have received for his/her normal hours worked.

Extended hours not reduced must be paid as overtime on termination.

### 5.3 Overtime

A Forestry worker may not work more than 15 hours overtime per week but may not work more than 12 hours on any day, including overtime.

Overtime must be paid at 1.5 times the employee's normal wage or an employee may agree to receive paid time off.

### 5.4 Daily and weekly rest periods

5.4.1 A daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours, which must include Sunday, unless otherwise agreed, must be allowed.

5.4.2 The daily rest period may by agreement be reduced to 10 hours for an employee who live on the premises whose meal interval lasts for at least three hours.

5.4.3 The weekly rest period may by agreement be extended to 60 consecutive hours every two weeks or be reduced to eight hours in any week if the rest period in the following week is extended equivalently.

### 5.5 Night work

5.5.1 Night work means work performed after 20:00 and before 04:00

5.5.1 Only worked if agreed to in writing and must be compensated by an allowance of at least 10% the ordinary daily wage and if transport is available.

(Editorial Note: Numbering as per *Gazette*)

## 6. Meal intervals

A Forestry worker is entitled to a one-hour break for a meal after not more than five hours work. Such interval may be reduced to 30 minutes, by agreement between the parties. When a second meal interval is required because of overtime worked, it may be reduced to not less than 15 minutes. If required or permitted to work during this period, remuneration must be paid.

## 7. Work on Sundays

Must be paid as follows:

| <i>Time worked on a Sunday</i>                   | <i>Payment</i>                                                                                                           |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| One hour or less                                 | Double the wage for one hour                                                                                             |
| More than one hour but not more than two hours   | Double the ordinary wage for time worked                                                                                 |
| More than two hours but not more than five hours | The ordinary daily wage.                                                                                                 |
| More than five hours                             | The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage. |

A Forestry worker who does not reside on the plantation who works on a Sunday must be regarded as having worked at least two hours on that day.

## 8. Public Holidays

The days mentioned in the Public Holidays Act must be granted but the parties can agree to further public holidays. Work on a public holiday is entirely voluntary and a Forestry worker may not be forced to work on such public holiday.

The official public holidays are:

|                  |                       |
|------------------|-----------------------|
| New Years Day    | Youth Day             |
| Human Rights Day | National Woman's Day  |
| Good Friday      | Heritage Day          |
| Family Day       | Day of Reconciliation |
| Freedom Day      | Christmas Day         |
| Workers Day      | Day of Goodwill       |

Any other day declared an official public holiday from time to time must also be granted.

These days can be exchanged for any other day by agreement.

If the employee works on a public holiday he/she shall be paid double the normal day's wage.

## 9. Annual Leave

Annual leave may not be less than three weeks per year for full-time workers or by agreement, one day for every 17 days worked or one hour for every 17 hours worked.

The leave must be granted not later than six months after completion of the period of 12 consecutive months of employment. The leave may not be granted concurrent with any period of sick leave, nor with a period of notice of termination of the contract of employment.



#### **10. Sick leave**

During every sick leave cycle of 36 months an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

During the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked.

The employer is not required to pay an employee if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

#### **11. Maternity leave**

The employee is entitled to at least four consecutive months' maternity leave. The employer is not obliged to pay the Forestry worker for the period for which she is off work due to her pregnancy. However the parties may agree that the Forestry worker will receive part of or her entire salary/wage for the time that she is off due to pregnancy.

#### **12. Family responsibility leave**

Employees employed for longer than four months and for at least four days a week are entitled to take three days' paid family responsibility leave during each leave cycle when the employee's child is born, or when the employee's child is sick or in the event of the death of the employee's spouse or life partner or parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

#### **13. Deductions from the remuneration**

The Sectoral Determination prohibits an employer from deducting any monies from the Forestry worker's wages without his/her written permission.

A deduction of not more than 10% each of the wage may be deducted for food and accommodation provided on a consistent and regular basis and provided the house has a roof that is durable and waterproof, has a glass window that can be opened, electricity and water on tap is available inside the house and a flush toilet or pit latrine is available insider or in close proximity to the house.

#### **14. Other issues**

There are certain other issues which are not regulated by the Sectoral Determination such as probationary periods, right of entry to the employer's premises, afternoons off, weekends off and pension schemes, medical aid schemes, training/school fees, funeral benefits and savings account. However the aforementioned may be negotiated between the parties and included in the contract of employment.

#### **15. Prohibition of Employment**

The Sectoral Determination prohibits employment of any person under the age of 15 and it is therefore important for an employer to verify the age of the Forestry worker by requesting a copy of the identity document or birth certificate.

#### **16. Other conditions of employment**

There is no provision, which prevents any other conditions of employment being included in a contract of employment but any provision, which sets conditions, which are less favourable than those set by the Determination, would be invalid.

These guidelines are not meant to be a complete summary of the Sectoral Determination and/or legal advice. Should there be any doubt as to rights and/or obligations in terms of the Act or terms of any clause of the suggested Contract of Employment, such queries can be directed to the local offices of the Department of Labour, that will gladly assist.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa**

#### **GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa**

| as amended by |                    |                                 |
|---------------|--------------------|---------------------------------|
| Notice        | Government Gazette | Date                            |
| R.737         | 32397              | 17 July 2009                    |
| R.516         | 33291              | 11 June 2010 w.e.f. 1 July 2010 |
| 478           | 35460              | 22 June 2012 w.e.f. 1 July 2012 |
| 458           | 36624              | 1 July 2013                     |
| 715           | 40061              | 10 June 2016 w.e.f. 1 July 2016 |

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of [section 51 \(1\)](#) of the Basic Conditions of Employment Act, [No 75 of 1997](#), make a Sectoral Determination establishing conditions of employment and wages for

employers and employees in the Hospitality Sector, South Africa, in the schedule hereto and determine 1 July 2007 as the date from which the provisions of the said Sectoral Determination shall become binding.

**MMS MDLADLANA, MP**  
**MINISTER OF LABOUR**

## **SCHEDULE**

### ARRANGEMENT OF REGULATIONS

#### [PART A:](#) APPLICATION

- [1.](#) Scope of application

#### [PART B:](#) MINIMUM WAGES

- [2.](#) Minimum wage levels  
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#### [PART C:](#) PARTICULARS OF EMPLOYMENT

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#### [PART D:](#) HOURS OF WORK

- [9.](#) Ordinary hours of work  
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#### [PART E:](#) LEAVE

- [19.](#) Annual leave  
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#### [PART F:](#) PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

- [23.](#) Prohibition of child labour and forced labour

#### [PART G:](#) TERMINATION OF EMPLOYMENT

- [24.](#) Notice of termination of employment  
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[32.](#) What words mean in this determination.

#### PART A: APPLICATION

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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 1. Scope of application.-(1) The determination applies to employers and employees engaged in the Hospitality Sector activities in the Republic of South Africa.**

**1. Scope of application.**-(1) The determination applies to employers and employees engaged in the Hospitality Sector activities in the Republic of South Africa.

(2) Hospitality Sector means any commercial business or part of a commercial business in which employers and employees are associated for the purpose of carrying on or conducting one or more of the following activities for reward:

- (a) providing accommodation in a hotel, motel, inn, resort, game lodge, hostel, guest house, guest farm or bed and breakfast establishment, including short stay accommodation, self-catering, timeshares, camps, caravan parks;
- (b) restaurants, pubs, taverns, cafés, tearooms, coffee shops, fast food outlets, snack bars, industrial or commercial caterers, function caterers, contract caterers that prepare, serve or provide prepared food or liquid refreshments, other than drinks in sealed bottles or cans whether indoors or outdoors or in the open air, for consumption on or off the premises; and
- (c) includes all activities or operations incidental to or arising from any of the activities mentioned in [paragraphs \(a\) and \(b\)](#).

(3) This determination does not apply to employers and employees who are:

- (a) involved in the trade of letting of flats, rooms or houses;
- (b) covered by another sectoral determination in terms of the Basic Conditions of Employment Act, [75 of 1997](#); or
- (c) covered by a collective agreement of a bargaining council in terms of the Labour Relations Act; of 1995.

(4) The provisions of the Basic Conditions of Employment Act apply to all employees covered by this determination and their employers in respect of any matter that is not regulated by this sectoral determination.

(5) The provisions of the Ministerial Determination for Small Business apply to those employers employing less than 10 employees in respect of overtime, averaging of working hours, and family responsibility leave.

PART B:  
MINIMUM WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 2. Minimum wage levels.-(1) With effect from 1 July 2007, an employer must pay an employee at least the minimum wage, excluding any gratuity or tips, prescribed in this clause.**

**2. Minimum wage levels.**-(1) With effect from 1 July 2007, an employer must pay an employee at least the minimum wage, excluding any gratuity or tips, prescribed in this clause.

(2) An employer must pay an employee who works 45 ordinary hours of work per week-

- (a) at least the weekly or monthly wage set out in table 1 or 2; or
- (b) by written agreement between the employer and the employee, at least the hourly rate set out in Table 1 or 2 for every hour or part of an hour that the employee works

(3) An employee who works for less than four hours on any day must be paid at least for four hours work on that day.

**Table 1: Minimum wage for employers with 10 or less employees**

| Table 1:<br>Minimum wage for employers with 10 or less employees |         |        |                                                                                                                                                            |        |        |                                                                                                                                                            |        |        |
|------------------------------------------------------------------|---------|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|
| 1 July 2016 to 30 June 2017                                      |         |        | 1 July 2017 to 30 June 2018                                                                                                                                |        |        | 1 July 2018 to 30 June 2019                                                                                                                                |        |        |
| Monthly                                                          | Weekly  | Hourly | Monthly                                                                                                                                                    | Weekly | Hourly | Monthly                                                                                                                                                    | Weekly | Hourly |
| R2959.35                                                         | R682.97 | R15.17 | Previous Minimum Wage + CPI* + 1.5%                                                                                                                        |        |        | Previous Minimum Wage + CPI* + 1.5%                                                                                                                        |        |        |
|                                                                  |         |        | *The CPI to be utilised is the <b>CPI (excluding owner's equivalent rent)</b> as made available by Statistics South Africa six weeks prior to 1 July 2017. |        |        | *The CPI to be utilised is the <b>CPI (excluding owner's equivalent rent)</b> as made available by Statistics South Africa six weeks prior to 1 July 2018. |        |        |

[Table 1 amended by GNR.737 of 17 July 2009 and substituted by GNR.516 of 11 June 2010, by GN 478 of 22 June 2012, by GN 458 of 1 July 2013 and GN 715 of 10 June 2016.]

**Table 2: Minimum wage for employers with more than 10 employees**

| Table 2:<br>Minimum wage for employers with more than 10 employees |  |
|--------------------------------------------------------------------|--|
|--------------------------------------------------------------------|--|

| 1 July 2016 to 30 June 2017 |         |        | 1 July 2017 to 30 June 2018                                                                                                                                 |        |        | 1 July 2018 to 30 June 2019                                                                                                                                 |        |        |
|-----------------------------|---------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|
| Monthly                     | Weekly  | Hourly | Monthly                                                                                                                                                     | Weekly | Hourly | Monthly                                                                                                                                                     | Weekly | Hourly |
| R3298.52                    | R761.25 | R16.91 | Previous Minimum Wage + CPI* + 1.5%                                                                                                                         |        |        | Previous Minimum Wage + CPI* + 1.5%                                                                                                                         |        |        |
|                             |         |        | *The CPI to be utilised is the <b>CPI (excluding owner's equivalent rent)</b> as made available by Statistics South Africa six weeks prior to 30 July 2017. |        |        | *The CPI to be utilised is the <b>CPI (excluding owner's equivalent rent)</b> as made available by Statistics South Africa six weeks prior to 30 July 2017. |        |        |

[Table 2 amended by GNR.737 of 17 July 2009 and substituted by GNR.516 of 11 June 2010, by GN 478 of 22 June 2012, by GN 458 of 1 July 2013 and GN 715 of 10 June 2016.]

N.B The current wage increases have been determined by utilizing the CPI (excluding owners' equivalent rent) reported by Stats SA on 23 May 2012. The current level of CPI is 6,4%. The wage increase is therefore determined by adding 6,4% plus 1% as stated in the current Sectoral Determination. Therefore the total increase is 7,4%.

[Note added by GN 478 of 22 June 2012.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 3. Commission work.-(1) An employer and employee may agree in writing that the employee will perform commission work on a regular basis.**

**3. Commission work.**-(1) An employer and employee may agree in writing that the employee will perform commission work on a regular basis.

(2) An employer must pay an employee the rates applicable for commission work as agreed to, provided that irrespective of the commissioned earned; the employer shall pay such employee not less than the prescribed minimum wage for the period worked.

(3) An agreement to perform commission work in terms of this clause must be concluded before the work commences and must include-

- (a) the employee's wage and rate;
- (b) the basis for calculating commission;
- (c) the period over which the payment is calculated which may not be longer than one month;
- (d) when the employer must pay the commission to the employee which may not be longer than seven days after the end of the period in which the commission is earned; and
- (e) the type, description, number, quantity, margin, profit, or orders (individual, weekly, monthly or otherwise) for which the employee is entitled to earn commission.

(4) The employer must supply the employee with a copy of the agreement to perform commission work.

(5) If during any calculation period the employee does not earn an amount equivalent to at least the prescribed minimum wage, excluding any gratuity or gift received from a customer for service rendered, because of any act or omission by or on behalf of the employer or the employer has restricted the employee's ability to earn commission in terms of the agreement, the employer must pay the employee at least the applicable minimum wage as prescribed.

(6) An employer who intends to cancel or amend the agreement entered into relating to commission work which is in operation or the rates applicable thereunder, shall give the affected employee not less than four weeks notice of such intention.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 4. Calculation of wages or remuneration.-(1) The wage or remuneration of an employee is calculated by reference to the employee's ordinary hours of work.**

**4. Calculation of wages or remuneration.**-(1) The wage or remuneration of an employee is calculated by reference to the employee's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the hourly wage or remuneration of a worker is obtained by-
  - (i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;
- (b) the daily wage or remuneration of an employee is obtained by-
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly wage or remuneration by the number of days worked in a week.
- (c) the weekly wage or remuneration of an employee is obtained by-

- (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
  - (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or
  - (iii) dividing the monthly wage or remuneration by four and one-third.
- (d) the monthly wage or remuneration of an employee is obtained by multiplying the weekly wage or remuneration by four and a third.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 5. Payment of remuneration.-(1) An employer must pay an employee-**

- 5. Payment of remuneration.-(1)** An employer must pay an employee-
- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the employee.
- (2) Any payment in cash or by cheque must be given to each employee-
- (a) at the workplace;
  - (b) during the employee's working hours; and
  - (c) in a sealed envelope which becomes the property of the employee.
- (3) An employer must pay an employee on the normal pay day agreed to in writing by the employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 6. Information concerning pay.-(1) On every pay day, the employer must give the employee a statement showing-**

- 6. Information concerning pay.-(1)** On every pay day, the employer must give the employee a statement showing-
- (a) the employer's name and address;
  - (b) the employee's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the employee's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by a employee during that period;
  - ( f ) the number of overtime hours worked by the employee during that period;
  - (g) the number of hours worked by the employee on a paid holiday or on a Sunday;
  - (h) the employee's wage;
  - (i) details of any other pay arising out of the employee's employment;
  - (j) details of any deductions made;
  - (k) the employer's registration number with the Unemployment Insurance Fund and the employer's contribution to the Fund; and
  - (l) the actual amount paid to the employee.
- (2) An employer must retain a copy or record of each statement for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 7. Deductions and other acts concerning remuneration.-(1) An employer may not make any deduction from an employee's remuneration unless-**

- 7. Deductions and other acts concerning remuneration.-(1)** An employer may not make any deduction from an employee's remuneration unless-
- (a) subject to [subsection \(2\)](#), the employee in writing agrees to the deduction in respect of a debt specified in the agreement; or
  - (b) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.

- (2) A deduction in terms of [subsection \(1\) \(a\)](#) may be made to reimburse an employer for loss or damage only if-
- (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
  - (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
  - (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
  - (d) the total deductions from the employee's remuneration in terms of this subsection do not exceed one-quarter of the employee's remuneration in money.
- (3) A deduction in terms of [subsection \(1\) \(a\)](#) in respect of any goods purchased by the employee must specify the nature and quantity of the goods.
- (4) An employer who deducts an amount from an employee's remuneration in terms of [subsection \(1\)](#) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.
- (5) An employer may not require or permit an employee to-
- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
  - (b) acknowledge receipt of an amount greater than the remuneration actually received.
  - (c) pay the employer or any other person in respect of-
    - (i) the employment or training of that employee;
    - (ii) the supply of any work equipment or tools; or
    - (iii) the supply of any work clothing.<sup>[1]</sup>
- (6) An employer may not require an employee to purchase any goods from the employer or from any person, shop or other business nominated by the employer.
- (7) An employer may not levy a fine against an employee.

#### **Footnotes**

- [1] An employer may not make any deduction from remuneration or require or permit an employee to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of an employee ([section 23](#) of the Occupational Health and Safety Act, [85 of 1993](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 7A. Payment of contributions to benefit funds.-(1) For the purposes of this section, a benefit fund is a pension, provident, retirement, medical aid or similar fund.**

**7A. Payment of contributions to benefit funds.-(1)** For the purposes of this section, a benefit fund is a pension, provident, retirement, medical aid or similar fund.

(2) An employer that deducts from an employee's remuneration any amount for payment to a benefit fund must pay the amount to the fund within seven days of the deduction being made.

(3) Any contribution that an employer is required to make to a benefit fund on behalf of an employee, that is not deducted from the employee's remuneration, must be paid to the fund within seven days of the end of the period in respect of which the payment is made.

(4) This section does not affect any obligation on an employer in terms of the rules of a benefit fund to make any payment within a shorter period than that required by [subsections \(2\)](#) or [\(3\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 7B. Uniform.-(1) Should an employer provide an employee with a uniform, such employer shall not-**

**7B. Uniform.-(1)** Should an employer provide an employee with a uniform, such employer shall not-

- (a) require the employee to pay for the uniform;
- (b) require the employee to pay any form of deposit for the uniform;
- (c) deduct from the remuneration of the employee to pay for such uniform;
- (d) deduct from the remuneration of the employee any uniform deposit.

[[R. 7B](#) inserted by GN 458 of 1 July 2013.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 8. Written particulars of employment.-(1) An employer must supply an employee, when the employee commences work, with the following particulars in writing-**

**8. Written particulars of employment.-(1)** An employer must supply an employee, when the employee commences work, with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
- (c) the place of work, and where the employee is required or permitted to work at various places, an indication of this;
- (d) the date on which employment began;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's wage or the rate and method of payment;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the employee is entitled to;
- (i) any food or accommodation that the employee is entitled to and the value of the food or accommodation;
- (j) any other payment in kind received by the employee;
- (k) how frequently wages will be paid;
- (l) any deductions to be made from the employee's wages;
- (m) the leave to which the employee is entitled to;
- (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.

(2) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(3) The employer must revise the written particulars if there is any change in the employee's terms of employment.

(4) An employer must retain a copy of the written particulars of employment while the employee is employed and for three years thereafter.

#### PART D: HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 9. Ordinary hours of work.-(1) An employer may not require or permit a employee to work more than-**

**9. Ordinary hours of work.-(1)** An employer may not require or permit a employee to work more than-

- (a) 45 hours in any week; and
- (b) nine hours on any day if the employee works for five days or less in a week; or
- (c) eight hours in any day if the employee works for more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 10. Overtime.-(1) An employer may not require or permit an employee-**

**10. Overtime.-(1)** An employer may not require or permit an employee-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the employee;
- (b) to work more than 10 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

(2) An agreement concluded in terms of sub-clause (1) (a) with an employee when the employee commences employment, or during the first three months of employment, is only valid for one year.



**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 11. Payment of overtime.-(1) An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.**

**11. Payment of overtime.**-(1) An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.

(3) An employer must grant an employee paid time off in terms of sub-clause (2) within one month of the employee becoming entitled to it.

(4) An agreement in writing may increase the period contemplated by sub-clause (3) to twelve months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 12. Compressed working week.-(1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 16, without receiving overtime pay.**

**12. Compressed working week.**-(1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 16](#), without receiving overtime pay.

(2) An agreement in terms of sub-clause (1) may not require or permit an employee to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 13. Averaging of hours of work.-(1) Despite clause 9 (1) and (2) and 10 (1) (b), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.**

**13. Averaging of hours of work.**-(1) Despite [clause 9 \(1\)](#) and (2) and [10 \(1\) \(b\)](#), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.

(2) An employer may not permit an employee who is bound by a written agreement in terms of sub-clause (1) to work more than-

- (a) An average of 45 ordinary hours of work in a week over the agreed period;
  - (b) An average of 5 hours overtime in a week over the agreed period
- (3) An agreement in terms of sub clause (1) lapses after 12 months.
- (4) Sub clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 14. Work on Sundays.-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half t**

**14. Work on Sundays.**-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked.

(2) If the payment calculated in terms of sub clause (1) is less than the employee's daily wage, the employer must pay the employee, for the time worked on that Sunday, the employee's daily wage.

(3) Despite sub-clauses (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subclauses (1) and (2).

(4) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into



account in calculating the ordinary hours of work of the employee in terms of [clause 9](#).

(5) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

(6) (a) An employer must grant paid time off in terms of sub-clause (3) within one month of the employee becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 15. Night work.-(1) In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.**

**15. Night work.-(1)** In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.

(2) An employer may only require or permit an employee to perform night work if so agreed and if-

- (a) an employee is compensated by the payment of an allowance, which may be a shift allowance, or by a reduction of working hours; and
- (b) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (c) if the transport cost is more than the daily cost to the employee, an employer who requires such an employee to perform night work must subsidize such employee for transport expenses.

(3) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must-

- (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee reasonably understands-
- (iv) of any health and safety hazards associated with the work that the employee is required to perform; and
- (v) of the employee's right to undergo a medical examination in terms of [paragraph \(b\)](#);

(Editorial note: Numbering as per original *Government Gazette*.)

- (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the employee starts, or within a reasonable period of the employee starting, such work;
  - (ii) at appropriate intervals while the employee continues to perform such work; and
- (c) transfer the employee to suitable day work within a reasonable time if-
  - (i) the employee suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(4) Sub-clause (3) applies to an employee who works after 23:00 and before 06:00 at least five times per month or 50 times per year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 16. Meal intervals.-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.**

**16. Meal intervals.-(1)** An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval, an employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.

(3) An employee must be paid-

- (a) for a meal interval in which the employee is required to be available for work.
- (b) for any portion of a meal interval that is in excess of 75 minutes, unless the employee lives on the premises at which the workplace is situated.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval of at least 60 minutes.

(5) An agreement in writing may-

- (a) reduce the meal interval to not less than 30 minutes;
- (b) dispense with a meal interval for an employee who works fewer than six hours on a day.

**17. Daily and weekly rest period.-(1) An employer must grant an employee-**

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
  - (b) weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.
- (2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for an employee-
- (a) who lives where the workplace is situated; and
  - (b) whose meal interval lasts for at least three hours.
- (3) Despite sub-clause (1) (b), an agreement in writing may provide for a rest period of at least sixty consecutive hours every second week.

**18. Public Holidays.-(1) An employer may not require an employee to work on a public holiday, except in accordance with an agreement.**

- (2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-
- (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day,
  - (b) an employee who does work on the public holiday at least double the employee's daily wage.
- (3) If an employee works on a public holiday on which the employee would not normally work, the employer must pay the employee an amount equal to-
- (a) the employee's daily wage; plus
  - (b) the employee's hourly wage for each hour worked on the public holiday.
- (4) An employer must pay an employee for a public holiday on the employee's normal pay day.
- (5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.
- (6) In accordance with section 2 (2) of the Public Holidays Act, 1994 the parties may exchange a public holiday for any other day.

PART E:  
LEAVE

**19. Annual leave.-(1) An employer must grant an employee-**

- (a) at least three weeks (21 consecutive days) leave on full pay in respect of each twelve months of employment (the "annual leave cycle"); or
  - (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the employee worked or was entitled to be paid; or
  - (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the employee worked or was entitled to be paid.
- (2) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would otherwise have worked.
- (3) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave on full pay granted to the employee at the employee's request in that annual leave cycle.
- (4) An employer must grant-
- (a) the annual leave not later than six months after the end of the annual leave cycle in which leave was earned;

(b) the leave earned in one year over a continuous period, if requested by the employee.

(5) Annual leave must be taken-

(a) in accordance with an agreement between the employer and the employee; or

(b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this section.

(6) An employer may not require or permit an employee to take annual leave during-

(a) any other period of leave to which the employee is entitled in terms of this [Part E](#); or

(b) any period of notice of termination of employment.

(7) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(8) An employer may not pay an employee instead of granting paid leave in terms of this clause except on termination of employment in terms of [clause 26](#).

(9) An employer must pay an employee leave pay at least equivalent to the remuneration the employee would have received for working for a period equal to the period of leave, calculated at the employee's wage immediately before the beginning of the period of leave.

(10) An employer must pay an employee leave pay before the beginning of the period of leave or, by agreement, on the employee's usual pay day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 20. Sick leave.-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-**

**20. Sick leave.**-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

(a) when the employee commenced work; or

(b) the end of the employee's prior sick leave cycle.

(2) During every sick leave cycle, the employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite sub-clause (2), during the first six months of work, the employee is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the employee's first leave cycle, reduce the employee's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) Where an employer, at the request of the employee, pays fees for an employee's hospital or medical treatment, the fees paid may be set off against the employee's pay.

(6) An employer is not required to pay the employee in terms of this clause if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(7) The medical certificate in terms of sub-clause (6) must be issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

(8) If it is not reasonably practicable for an employee who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (6) unless the employer provides reasonable assistance to the employee to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 21. Family responsibility leave.-(1) This clause applies to an employee-**

**21. Family responsibility leave.**-(1) This clause applies to an employee-

(a) who has been employed by an employer for longer than four months; and

(b) who works on at least four days a week for that employer.

(2) An employer must grant an employee, during each 12 months of employment, at the request of the employee, three days' paid leave, which the employee is entitled to take-

(a) when the employee's child is born;

(b) when the employee's child is sick; or

(c) in the event of the death of-

- (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.
- (3) An employee may take family responsibility leave in respect of the whole or part of the day.
- (4) Subject to sub-clause (5), an employer must pay an employee for a day's family responsibility leave-
- (a) the wage the employee would normally have received for work on that day; and
  - (b) on the employee's usual pay day.
- (5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.
- (6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 22. Maternity leave[2].-(1) An employee is entitled to at least four consecutive month's maternity leave.**

## **22. Maternity leave<sup>[2]</sup>-(1) An employee is entitled to at least four consecutive month's maternity leave.**

- (2) An employee may commence maternity leave-
  - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (3) An employee may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify an employer in writing, unless she is unable to do so, of the date on which the employee intends to-
  - (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of sub-clause (5) must be given-
  - (a) at least four weeks before the employee intends to commence maternity leave;
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child, including operating dangerous machinery or handling and/or using spray chemicals.
- (8) During a employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-
  - (a) the employee is required to perform night work, as defined in [clause 15](#) or her work poses a danger to her health or safety or that of her child; and
  - (b) it is practicable for the employer to do so.

## PART F: PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

### **Footnotes**

- [2] In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of a employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract. An employee may claim maternity benefits in terms of the Unemployment Insurance Act, 2001.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 23. Prohibition of child labour and forced labour.-(1) No person may employ a child-**

## **23. Prohibition of child labour and forced labour.-(1) No person may employ a child-**

- (a) who is under 15 years of age; or
  - (b) who is under the minimum school leaving age in terms of any law, if this is 15 or older. <sup>[3]</sup>
- (2) No person may employ a child in employment-
- (a) that is inappropriate for a person of that age;
  - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) An employer must maintain for three years, a record of the name, date of birth and address of every employee under the age of 18 years employed by them.
- (4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (5) No person may, for his/her own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).
- (6) A person who employs a child in contravention of sub-clause (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.

## PART G: TERMINATION OF EMPLOYMENT

### Footnotes

- [3] [Section 31 \(1\)](#) of the South African Schools Act (Act [84 of 1996](#)) requires every parent to cause every learner for whom he or she is responsible to attend a school until the last day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 24. Notice of termination of employment.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

**24. Notice of termination of employment.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week if the employee has been employed for six months or less;
- (b) two weeks, if the employee has been employed for more than six months but not more than one year;
- (c) four weeks, if the employee has been employed for one year or more.

(2) The employer and employee may agree to a longer notice period, but the agreement may not require or permit an employee to give a period of notice longer than that required of the employer.

(3) Notice of termination of contract of employment must be given in writing except when it is given by an illiterate employee.

(4) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(5) Notice of termination of a contract of employment given by an employer must-

- (a) not be given during any period of leave to which the employee is entitled to in terms of this determination
- (b) not run concurrently with any period of leave to which the employee is entitled in terms of this determination, except sick leave.

(6) Nothing in this clause affects the right-

- (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) of an employer or an employee to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 25. Payment instead of notice.-(1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the wages the employee would have received, if the employee had worked during the notice period.**

**25. Payment instead of notice.-(1)** Instead of giving an employee notice in terms of this clause, an employer may pay the employee the wages the employee would have received, if the employee had worked during the notice period.

(2) If an employee gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the wages referred to in sub-clause (1), unless the employer and the employee agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 26. Payments on termination.-(1) On termination of employment, an employer must pay an employee all monies due to the employee including-**

**26. Payments on termination.**-(1) On termination of employment, an employer must pay an employee all monies due to the employee including-

- (a) any remuneration that has not been paid;
- (b) any paid time off that the employee is entitled to in terms of [clause 11 \(2\)](#) or [14 \(3\)](#) that the employee has not taken;
- (c) remuneration calculated in accordance with [clause 19 \(9\)](#) for any period of annual leave due in terms of [clause 19 \(1\)](#) that the employee has not taken; and
- (d) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle as defined in section 19 (1)-
  - (i) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the employee as that calculated in terms of [subparagraph \(i\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 27. Severance pay.-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**27. Severance pay.**-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements, severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer.

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 28. Certificate of service.-(1) On termination of employment, an employee is entitled to a certificate of service stating-**

**28. Certificate of service.**-(1) On termination of employment, an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the employee was employed at the date of termination;
- (e) any relevant training received by the employee;
- (f) the pay at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 29. Keeping of sectoral determination.-(1) Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available in the workplace in a place to which the employee has access.**



**29. Keeping of sectoral determination.**-(1) Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available in the workplace in a place to which the employee has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 30. Temporary employment services.**-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides employees to a client if that person remunerates the employees.

**30. Temporary employment services.**-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides employees to a client if that person remunerates the employees.

(2) For the purpose of this Determination, an employee whose services have been procured for, or provided to, a client by a temporary employment service is employed by that temporary employment service, and the temporary employment service is that person's employer.

(3) The temporary employment service and the client are jointly and severally liable to comply with this determination in respect of its employees.

(4) If the temporary employment service is in default of its obligation to make any payment in terms of this determination to an employee for a period of thirty days, the client concerned becomes liable to make payment.

(5) A client that in terms of this clause makes any payment that is owing to a employee is entitled to recover such amount from the employment service.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 31. Cancellation of wage determinations.**-(1) Wage determination 457: Hotel Trade, Certain Areas; Wage determination 461: Catering Trade, Certain Areas; and Wage determination 479: Accommodation Establishment Trade, Certain Areas, is cancelled with effect

**31. Cancellation of wage determinations.**-(1) Wage determination 457: Hotel Trade, Certain Areas; Wage determination 461: Catering Trade, Certain Areas; and Wage determination 479: Accommodation Establishment Trade, Certain Areas, is cancelled with effect from the date that this determination becomes binding.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.437 of 15 May 2007: Sectoral Determination 14: Hospitality Sector, South Africa/ 32. What words mean in this determination.**-(1) Any expression in this determination, which is defined in the Basic Conditions of Employment Act (the Act) and is not defined in this clause, has the same meaning as in the Act and-

**32. What words mean in this determination.**-(1) Any expression in this determination, which is defined in the Basic Conditions of Employment Act (the Act) and is not defined in this clause, has the same meaning as in the Act and-

"**agreement**" includes a collective agreement;

"**Basic Conditions of Employment Act**" means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#))

"**child**" means a person who is under 15 years of age;

"**day**" means, for the purposes of measuring hours of work, a period of 24 hours, measured from the time when a employee normally commences work;

"**dispute**" includes an alleged dispute;

"**employee**" means - (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and (b) any other person who in any manner assists in carrying on or conducting the business of an employer;

"**incapacity**" means inability to work owing to sickness or injury;

"**Minister**" means the Minister of Labour;

"**month**" means a calendar month;

"**monthly wage**" means an employee's weekly wage multiplied by four and a third;

"**night work**" means work performed after 18:00 and before 06:00 the next day,

"**ordinary hours of work**" means the hours of work permitted in terms of [clause 9](#)

"**overtime**" means the time that the employee works during a day or in a week in excess of ordinary hours of work;

"**paid leave**" means any annual leave, paid sick leave or family responsibility leave that a employee is entitled to in terms of [Part E](#) of this determination;



"public holiday" means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

"remuneration" means any payment in money or in kind, or both in money and in kind excluding any gratuity or gift received from a customer for service rendered, made or owing to any person in return for that person working for any other person, including the State;

"trade of letting of flats, rooms or houses" means the trade carried on by persons who carry on the business of letting flats, rooms or houses and includes the agents to who such persons entrust the letting of flats, rooms or houses and the employees of such agents who are employed exclusively in connection with such flats, rooms or houses.

"wage" means the amount of money paid or payable to a employee in respect of ordinary hours of work or, if they are shorter, the hours a employee normally works in a day or week, excluding any gratuity or gift received from a customer for service rendered;

"week" in relation to a employee, means the period of seven days within which the working week of that employee falls;

"workplace" means any place where a employee works.

"worker" has a corresponding meaning as "employee".

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GNR.541 of 16 May 2008: Sectoral Determination 14: Hospitality Sector, South Africa (Government Gazette No. 31070)**

**GNR.541 of 16 May 2008: Sectoral Determination 14: Hospitality Sector, South Africa  
(Government Gazette No. 31070)**

| as amended by |                    |              |
|---------------|--------------------|--------------|
| Notice        | Government Gazette | Date         |
| R.737         | 32397              | 17 July 2009 |

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby give notice in terms of [section 56 \(3\) \(b\)](#) of the Basic Conditions of Employment Act, [No 75 of 1997](#), to clarify the Consumer Price Index (CPI excluding Owners equivalent rent) as reflected in the Hospitality Sectoral Determination wage tables. The Consumer Price Index (CPI excluding Owners equivalent rent) to be used to determine the minimum wage increase will be the Consumer Price Index (CPI excluding Owners equivalent rent) as reported by Statistics South Africa six weeks before the increase becomes effective. Consumer Price Index (CPI excluding Owners equivalent rent) as defined by Statistics South Africa, means the Consumer Price Index excluding interest rates on mortgage bonds for the historical metropolitan and other urban areas.

(Signed)  
**M M S MDLADLANA, MP**  
**MINISTER OF LABOUR**

[Notice R.541 amended by GNR.737 of 17 July 2009.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)**

**GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa  
(Government Gazette No. 39156)**

| as corrected by       |                       |                               |
|-----------------------|-----------------------|-------------------------------|
| Notice                | Government Gazette    | Date                          |
| R.3                   | 39602                 | 18 January 2016               |
| <a href="#">R.317</a> | <a href="#">43102</a> | <a href="#">18 March 2020</a> |
| as amended by         |                       |                               |
| Notice                | Government Gazette    | Date                          |
| 1104                  | 41974                 | 12 October 2018               |
|                       |                       | w.e.f. 1 November 2018        |

DEPARTMENT OF LABOUR

I, Mildred Nelisiwe Oliphant, Minister of Labour, in terms of [section 56 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), hereby amend Sectoral Determination 6: Private Security Sector, South Africa, published under *Government Gazette* No. 35633 of 28 August 2012, in accordance with the schedule hereto and fix the 1<sup>st</sup> September 2015 as the date on which this amendment shall become binding.

## **SECTORAL DETERMINATION 6: PRIVATE SECURITY SECTOR**

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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 1. Area and scope of application.-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in sub clause (2), and to all employees in that sector, except those employers and employee**

**1. Area and scope of application.**-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in sub clause (2), and to all employees in that sector, except those employers and employees referred to in sub clause (4).

(2) The provisions of this determination shall apply to-

- (a) every employer and employee in the private security sector that guards or protects fixed property, premises, goods, persons or employees including monitoring and responding to alarms at premises which are guarded by persons or by electronic means, including car guards as defined in sub clause (2) (12).
- (b) disguised employment relationships such as self-employed security guards who are deemed be employees in

terms of [clause 18](#).

(3) The provisions of this determination shall not apply-

- (a) to a manager as defined in sub [clause 2 \(40\)](#); or
- (b) to any employer or employee who is subject an agreement of a bargaining council in terms the Labour Relations Act, 1995.

(4) For the purposes of determining the salary rate applicable to an employee, the area where the employee performs the employee's duties shall be the area contemplated in sub clause (1), irrespective of whether or not the employer has an establishment in that area or not.

(5) Subject to the provisions of the National Keypoint Act, 1980, this determination shall also apply to employers and employees in the private security sector who provide security services at National Key Points.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 2. Definitions.-For the purposes of this determination, unless the context otherwise indicates, any expression used therein which is defined in the Basic Conditions of Employment Act, No 75 of 1997, has the same meaning as in that Act and an employee sha**

**2. Definitions.**-For the purposes of this determination, unless the context otherwise indicates, any expression used therein which is defined in the Basic Conditions of Employment Act, [No 75 of 1997](#), has the same meaning as in that Act and an employee shall be deemed to be in that class in which the employee is wholly or mainly engaged.

(1) **"Act"** means the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#)), as amended;

(2) **"actuary"** means the actuary to the Fund appointed by the Board in terms of the rules;

(3) **"administrator"** means an approved administrator of the fund in terms of section 13 (b) of the Pension Fund Act, as amended from time to time and who has been appointed by the trustees of the fund in terms of the Pension Funds Act and the fund rules to administer the fund.

(4) **"area"** includes any number of areas, whether or not closest;

(5) **"armed response duty"** means the duty whereby a security officer, in the case of an emergency or alarm activation, may respond to a call from a client of a private security company, normally at the premises or property of the client.

(6) **"armed response officer"** means a security officer who is remunerated at a minimum rate as for a Grade C security officer to conduct armed response duties, which shall include the driving of a motor vehicle in the performance of armed response duties.

(7) **"armed security officer"** means a security officer who is remunerated at a minimum rate as for a Grade D security officer and who is required to utilise and is provided with a firearm in the course of his duties.

(8) **"artisan"** means an employee who has completed or is deemed to have completed a contract of apprenticeship in a trade designated or deemed to have been designated in terms of the Manpower Training Act, 1981, or who holds a certificate issued or deemed to have been issued to the employee by the Registrar of Manpower Training and conferring Artisan status on the employee in terms of that Act, and any other employee engaged in work normally performed by an Artisan except where specifically otherwise provided in this determination;

(9) **"basic condition of employment"** means a provision of the Basic Conditions of Employment Act, [No 75 of 1997](#);

(10) **"benefits"** shall mean the death, disability and funeral benefits provided to members of the fund in terms of the fund rules;

(11) **"board"** means the board of trustees of the fund elected in accordance with its rules and the Pension Fund Act;

(12) **"car guard"** means an employee who guards vehicles;

(13) **"casual employee"** means an employee without a fixed contract of employment who works not more than 24 hours in any week.

(14) **"child"** means a person who is under 18 years of age.

(15) **"clerical assistant"** means an employee who is engaged in any one or more of the following duties:

- (a) adding or subtracting, including making use of a machine;
- (b) checking attendance registers or entering particulars in connection with employees who are absent or present or the time spent by employees on different tasks at establishments or places of employment;
- (c) filing documents according to written instructions or a list, in any order;
- (d) interpreting or translating languages;
- (e) issuing passes or preparing certificates of service;
- (f) issuing time cards;
- (g) preparing time cards;
- (h) recording particulars of annual or sick leave;
- (i) recording particulars in registers otherwise than by means of a typewriter or computer;
- (j) recording the engagement, dismissal or resignation of employees, including any necessary entries in an

employee's file or documents;

- (k) transferring names and addresses from compiled documents to envelopes, labels or circulars otherwise than by means of a typewriter or computer;

(16) **"clerk"** means an employee who is engaged in writing, typing or filing or in any other form of clerical work and includes a cashier, store man and a telephone switch-board operator, and who may make up money into specified amounts and place such money in envelopes or other containers, but does not include any other class of employee elsewhere defined in this clause, notwithstanding the fact that clerical work may form part of such employee's work;

(17) **"contribution"** means the combined amount of the employer and employee contribution to the Private Security Sector Provident Fund, as per [clause 27 \(2\)](#), payable monthly to the fund by each employer in the sector in respect of each of his or her employees whose conditions of employment are governed by Sectoral Determination 6: Private Security Sector, South Africa and who are members of the fund;

(18) **"controller (stock)"** means an employee who controls or checks the issuing or receiving of uniforms, overalls, protective clothing, batons, handcuffs, flashlights, firearms, ammunition or other equipment and who may keep the necessary records;

(19) **"Control Centre Operator"** and **"Communication Centre Operator"** means a security officer who is utilised in an administrative capacity in a control centre or communication centre and who may be called upon to perform any or all of the duties of a clerk.

(20) **"day"** means a period of 24 consecutive hours reckoned from the time such employee usually commences work and daily has a corresponding meaning;

(21) **"driver"** means an employee, other than a Security officer, grade A, B or C, who drives a motor vehicle, and for the purposes of this definition the expression "drives a motor vehicle" includes all periods during which an employee drives, all time spent on work connected with the vehicle or the load, and all periods during which the employee is obliged to remain at the post in readiness to drive;

(22) **"emergency work"** means work that is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

(23) **"employee"** means any person who works for another person or who in any manner assists in carrying on or conducting the business of an employer; and who receives, or is entitled to receive, any remuneration; and **"employed"** and **"employment"** have a corresponding meaning, and which also includes those persons who qualify to be deemed as employees in terms of [clause 18](#) of this determination and who do not fall under the jurisdiction of any other sectoral determination or bargaining council agreement;

(24) **"employer"** means any person (including created entities, corporate or un-incorporated) other than a person who is exempted in terms of [clause 1 \(4\)](#) of the determination, who employs or provides work for any person in the Private Security Sector and remunerates him or permits any person in any manner whatsoever to assist him in the carrying on or conducting of his business and "employ" and "employment" shall have corresponding meanings.

(25) **"establishment"** means the premises from which an employer conducts his business;

(26) **"experience"** means, in relation to-

- (a) a clerk, the total period or periods of employment which an employee has had as a clerk in any trade or industry or in the service of a local authority or the State;
- (b) a clerical assistant, the total period or periods of employment which an employee has had as a clerical assistant in any trade or industry or in the service of a local authority or the State;

(27) **"fund"** means the Private Security Sector Provident Fund (PSSPF), established in terms of Government Notice 306 of 13 March 2001, which is governed by the fund rules and the Pension Fund Act;

(28) **"fund commencement date"** means 1 November 2002;

(29) **"fund rules"** means the rules of the fund as amended by the trustees of the fund from time to time and registered with the registrar of pension funds in terms of the Pension Fund Act;

(30) **"fund salary"** means the salary used for the calculation of employer and employee contributions to the fund and is calculated as follows:

**A X B X 4.333**

where

- A= employee's ordinary hourly equivalent rate of pay, calculated in terms of [clause 3 \(5\) \(b\)](#) and the maximum number of ordinary hours an employee is permitted to work at the ordinary rate of pay as per Sectoral Determination 6, or such lesser hours as may be agreed in writing between the employer and the employee
- B= or any reduced maximum ordinary hours an employee may work that may be legislated in terms of a sectoral determination or the Basic Conditions of Employment Act, whichever is applicable.

(31) **"general worker"** means an employee who is *inter alia* engaged in any one or more of the following duties:

- (a) affixing postage stamps to letters, parcels or other articles;
- (b) affixing rubber stamps or serial numbers where discretion is not required;
- (c) assisting an artisan by holding articles or tools or working with the artisan without making independent use of any tools;

- (d) assisting on vehicles, otherwise than driving, guarding or repairing such vehicles, carrying, lifting, storing, moving, loading, unloading, opening or closing goods or parcels;
- (e) cleaning or washing premises, doors, windows, equipment, tools, plant, machinery, furniture, vehicles, containers or other articles and including the polishing of floors, furniture or vehicles or the brushing of mats or the cleaning of mats by means of a machine;
- (f) cooking rations or making tea or similar beverages for employees, including serving them, or making tea or other refreshments for the employer or the employer's guests, including the serving thereof;
- (g) delivering or conveying messages, letters, goods or parcels on foot, or by any means excluding motor vehicles;
- (h) feeding or tending animals;
- (i) filling fuel tanks or filling or draining of oils sumps;
- (j) Gardening;
- (k) oiling or greasing vehicles, plant or machinery;
- (l) opening or closing doors or windows;
- (m) pushing or pulling vehicles otherwise than by means of mechanical equipment;
- (n) removing refuse or ashes;
- (o) removing, replacing, changing wheels, tyres or tubes, or repairing or pumping tyres or tubes;
- (p) removing, topping up or replacing batteries;
- (q) replacing towels, soap or toilet paper;
- (r) stamping or stencilling containers or parcels where discretion is not required;
- (s) washing or ironing overalls, uniforms or protective clothing;
- (t) whitewashing, cleaning or disinfecting kennels, stables, outbuildings or toilets;

(32) **"goods"** means any movable property, including but not limited to, money and other valuables belonging to or in the custody of the employer, that has to be guarded, protected or transported under guard;

(33) **"gross vehicle mass"**, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;

(34) **"handyman"** means an employee, other than an apprentice or a trainee, who is engaged in making minor repairs or adjustments to machinery or equipment, and who may also effect minor repairs or renovations to buildings, but who does not do any work normally performed by an Artisan;

(35) **"heavy motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 9,000 kg;

(36) **"hourly wage"** means an employee's hourly equivalent wage, as calculated in terms of the formula set out in [clause 3 \(5\) \(b\)](#);

(37) **"law"** includes the common law;

(38) **"light motor vehicle"** means a motor vehicle the gross vehicle mass of which does not exceed 3,500 kg;

(39) **"local authority"** means any borough council, city council, municipal council, village management board, divisional council or any similar institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961, or in any other parliamentary legislation;

(40) **"manager"** means an employee who is charged by an employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include any employee in the same establishment who relieves or acts for a manager during the manager's absence;

(41) **"medical practitioner"** means a person entitled to practice as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 50 of 1974](#));

(42) **"member"** means an employee who, having been admitted to membership of the fund in accordance with the rules of the fund, has not ceased to be a member of the fund in terms of the rules;

(43) **"midwife"** means a person registered or enrolled to practice as a midwife in terms of [section 16](#) of the Nursing Act, 1978 (Act [No. 50 of 1978](#)).

(44) **"medium motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 3,500 kg but not 9,000 kg;

(45) **"mobile supervisor"** means a security officer who is required to drive a motor vehicle between sites in the course of supervising, inspecting or controlling security officers.

(46) **"motor vehicle"** means a self-propelled vehicle used for the transportation of goods, persons or dogs, and includes a motorcycle and a motorised three-wheeler;

(47) **"night work"** means work which is performed between the hours of 18:00 on one day and 06:00 the next day.

(48) **"ordinary hours of work"** means the hours of work prescribed in [clause 5 \(1\)](#), but if by agreement between an employer and employee the latter works a lesser number of ordinary hours, it means such shorter hours, and excludes any hours paid at a premium for work performed on a Sunday, public holiday or in respect of overtime;

(49) **"ordinary salary"** means the employee's salary in respect of ordinary hours worked, excluding any premium

amount paid for work on a Sunday, public holiday or in respect of overtime payable to an employee, or any allowances; and **"monthly salary"** shall have the same meaning;

(50) **"overtime"** means that portion of any period worked by an employee in any week or on any day which is longer than the maximum permissible weekly or daily ordinary hours of work, as the case may be, or in the case of averaging, the maximum average permissible hours of work over the period of the averaging.

(51) **"Pension Fund Act"** means the Pension Fund Act [No. 24 of 1956](#), as amended;

(52) **"premises"** means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;

(53) **"Private Security Sector"** means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means;

(54) **"public holiday"** means any day that is a public holiday in terms of the Public Holidays Act, 1994 (Act number 36 of 1994).

(55) **"qualified"**, in relation to an employee referred to in sub clauses 2 (15) and 2 (16), means that the experience of an employee in the employee's class entitles the employee to the highest salary rate prescribed for that class of employee, and conversely, **"unqualified"** means that experience in the employee's class does not entitle the employee to such highest salary rate.

(56) **"remuneration"** means any payment in money or kind, or both in money and kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning.

(57) **"Retirement Fund Act"** means the Pension Fund Act, 1956 (Act [No. 24 of 1956](#)) and the regulations thereunder;

(58) **"rules"** means the rules of the fund agreed by the board in accordance with the Retirement Fund Act;

(59) **"salary"** means the amount of money paid or payable to an employee in respect of work performed; and have corresponding meaning "wages"

(60) **"security officer"** means a Security officer, grade A, B, C, D or E, including those performing Armed Response and National Key Point duties.

(61) **"security officer, grade A"** means an employee who performs any one or more of the following duties:

- (a) advising or reporting on any matter affecting guarding or protection services;
- (b) assisting in the screening of candidates for employment;
- (c) assuming responsibility for staff training;
- (d) drawing money or cheques or taking possession of negotiable documents;
- (e) drawing money at banks or similar institutions;
- (f) guarding or protecting goods;
- (g) supervising subordinate staff;
- (h) who may drive a motor vehicle in the performance of any or all of the employee's duties; and
- (i) who may be called upon to perform any or all of the duties of a security officer, grade B.

(62) **"security officer, grade B"** means an employee who performs any one or more of the following duties, namely, supervising, controlling, instructing or training security officers, grade C, D or E or general workers and reporting thereon to an employer or any other specified person, and who may-

- (a) drive a motor vehicle in the performance of any or all of the employee's duties; and
- (b) Be called upon to perform any or all of the duties of a security officer, grade C.

(63) **"security officer, grade C"** means an employee who performs any one or more of the following duties-

- (a) supervising or controlling Security officers, grade D or E;
- (b) driving a motor vehicle in the course of supervising or controlling Security officers grade D or E;
- (c) driving a motor vehicle for the purpose of transporting Security officers;
- (d) armed response; and
- (e) who may be called upon to perform any or all of the duties of a security officer, grade D.

(64) **"security officer, grade D"** means an employee who performs any one or more of the following duties-

- (a) controlling or reporting on the movement of persons or vehicles through checkpoints or gates;
- (b) searching persons and, if necessary, restraining them;
- (c) supervising or controlling Security officers, grade E;
- (d) searching goods or vehicles; and
- (e) who may be required to perform any or all of the duties of a security officer, grade E.

(65) **"security officer, grade E"** means an employee, other than a Security officer, grade D, who performs any one or more of the following duties-



(a) guarding, protecting or patrolling premises or goods;

(b) handling or controlling dogs in the performance of any or all of the duties referred to in (a).

(66) **"spare and reliever"** means an employee-

(a) Who reports for duty at a specified place and time; and

(b) Who must remain at the specified place for the duration of that shift, or who is required to replace any other employee who may be on scheduled time-off, annual leave or absent from duty, or who is required to perform duties at any place designated by the employer.

(67) **"short time"** means a temporary reduction in the number of ordinary hours of work owing to a slackness of business in the trade, a breakdown of plant, machinery or equipment, or a breakdown or threatened breakdown of buildings.

(68) **"storeperson"** means an employee, other than a controller (stock), who is in charge of incoming stock and who is responsible for receiving, storing, packing or unpacking stock in or for issuing stock from a store, warehouse or open stockyard.

(69) **"Sunday work"** means any work performed where the relevant shift commences on a Sunday and where at least half of that shift is ordinarily performed on that Sunday.

(70) **"trustee"** or **"trustees"** means a trustee or the trustees or their alternates elected or appointed in terms of the fund rules;

(71) **"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 3. Remuneration.-(1) Minimum salary:**

**3. Remuneration.-(1) Minimum salary:**

(a) The ordinary salary which an employer shall pay employees shall be as specified in sub clauses (1) (b), (1) (c) and (1) (d).

(i) The hourly equivalents reflected in the table hereunder shall be used solely for the calculation of time worked in excess of the ordinary hours or for the deduction of monies from the ordinary salary for short time as defined or for any unauthorised absenteeism or any reduced ordinary hours of work as may be agreed between the employer and the employee in terms of sub [clause 2 \(48\)](#).

[Clause 3 (1) (a) (i) amended by [GNR.3 of 18 January 2016](#).]

(b) Subject to sub clause (a) (i) above, an employer shall pay to each member of the undermentioned classes of employees, other than casual employees, the minimum monthly salaries specified hereunder-

**Table 1: Minimum wages for Private Security Sector**

| MONTHLY SALARY RATES                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                 |                                                                                                                                                          |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      | AREA 1 & AREA 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | AREA 3          |                                                                                                                                                          |
| In the Magisterial Districts of      | Alberton, Bellville, Benoni, Boksburg, Bloemfontein, Brakpan, Camperdown, Chatsworth, Durban, East London, Germiston, Goodwood, Inanda, Johannesburg, Kempton Park, Kimberley, Klerksdorp, Krugersdorp, Kuils River, Mitchell's Plain, Nigel, Oberholzer, Paarl, Pietermaritzburg, Pinetown, Port Elizabeth, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Simon's Town, Somerset West, Springs, Stellenbosch, Strand, The Cape, Uitenhage, Vanderbijlpark, Vereeniging, Westonaria, Wonderboom and Wynberg. | All other areas | Maximum permissible working hours per week for each respective category of employee, subject to clause 5 (2), with regard to averaging of working hours. |
|                                      | Monthly salary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Monthly salary  |                                                                                                                                                          |
| <b>Artisan</b>                       | R7 484                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | R6 534          | 45                                                                                                                                                       |
| <b>Clerical Assistant</b>            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                 | 45                                                                                                                                                       |
| During the first year of experience  | R3 730                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | R3 093          |                                                                                                                                                          |
| During the second year of experience | R3 792                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | R3 138          |                                                                                                                                                          |
| Thereafter                           | R3 850                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | R3 206          |                                                                                                                                                          |
| <b>Clerk</b>                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                 | 45                                                                                                                                                       |



|                                                            |                                          |        |    |
|------------------------------------------------------------|------------------------------------------|--------|----|
| During the first year of experience                        | R4 068                                   | R3 428 |    |
| During the second year of experience                       | R4 325                                   | R3 637 |    |
| During the third year of experience                        | R4 549                                   | R3 868 |    |
| Thereafter                                                 | R4 794                                   | R4 075 |    |
| <b>Control or Communication Centre Operator</b>            | As for relevant security officer grading |        | 48 |
| <b>Controller</b>                                          | As for a clerical assistant              |        | 45 |
| <b>Driver of a -</b>                                       |                                          |        | 45 |
| Light motor vehicle                                        | R3 925                                   | R3 292 |    |
| Medium motor vehicle                                       | R4 207                                   | R3 546 |    |
| Heavy motor vehicle                                        | R4 392                                   | R3 710 |    |
| <b>General Worker</b>                                      |                                          |        | 45 |
| During the first six months service with the same employer | R3 053                                   | R2 514 |    |
| Thereafter                                                 | R3 154                                   | R2 612 |    |
| <b>Handyman</b>                                            | R4 343                                   | R3 701 | 45 |
| <b>Security Officer</b>                                    |                                          |        | 48 |
| Grade A                                                    | R5 558                                   | R4 613 |    |
| Grade B                                                    | R4 981                                   | R4 198 |    |
| Grade C, D & E                                             | R4 377                                   | R3 643 |    |
| <b>Employees not elsewhere specified</b>                   | R3 771                                   | R3 130 | 45 |

[Table 1 substituted by GN 1104 of 12 October 2018.]

## Tables 2 and 3 . . . . .

[Tables 2 and 3 amended by [GNR.3 of 18 January 2016](#) and substituted by GN 1104 of 12 October 2018 (Editorial Note: GN 1104 of 2018 reads "substitute table 1, 2, 3 and notes to year 3 table as reflected in the *Government Gazette* No. 39156 of 1 September 2015 with the table below".).]

## Note to Year 3 tables, above . . . . .

[Note to Year 3 tables substituted by GN 1104 of 12 October 2018 (Editorial Note: GN 1104 of 2018 reads "substitute table 1, 2, 3 and notes to year 3 table as reflected in the *Government Gazette* No. 39156 of 1 September 2015 with the table below".).]

### (c) Casual employees

An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday not less than the hourly wage as calculated in terms of [clause 3 \(5\) \(b\)](#) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15 percent, or not less than the hourly wage or hourly equivalent of the salary actually being paid to the ordinary employee, whichever is the greater amount.

Provided that-

- (i) for the purposes of this paragraph the expression "the ordinary employee" means the employee who performs the particular class of work in the employer's full-time employ and who is being paid the lowest salary for that class of work;
- (ii) where the employer requires the casual employee-
  - (aa) to perform the work of a class of employee for whom salaries on a rising scale are prescribed, the expression "**hourly wage**" shall mean the hourly equivalent wage prescribed for a qualified employee of that class; and
  - (ab) to work for a period of less than four hours on any day, the employee shall be deemed to have worked four hours and remunerated accordingly.

(2) . . . . .

[Clause 3 (2) deleted by GN 1104 of 12 October 2018.]

### (3) Basis of contract:

For the purposes of this clause, the contract of employment of an employee, other than a casual employee, shall be on a weekly basis.

(4) **Differential salary:**

An employer who requires or permits a member of one class of employee to perform for longer than one hour on any day, either in addition to the employee's own work or in substitution therefore, work of another class for which-

- (a) Salary is higher than that of the employee's own class is prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily equivalent calculated at the higher rate; or
- (b) a rising scale of remuneration resulting in a salary higher than that of the employee's own class, as prescribed in sub clause (1), shall pay to such employee in respect of that day not less than the daily salary calculated on the notch in the rising scale immediately above the salary which the employee was receiving for the employee's ordinary work: provided that-
  - (aa) this sub clause shall not apply where the difference between the classes in terms of sub clause (1) is based on experience; and
  - (ab) unless expressly otherwise provided in a written contract between the employer and employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another class for which class the same or a lower salary is prescribed for such an employee.

(5) **Calculation of salary**

The ordinary salary, overtime and Sunday time of an employee, other than a casual employee, shall be calculated on a monthly basis and an employee shall be paid accordingly.

- (a) The monthly salary of an employee shall be as stipulated in the relevant column of the tables in sub [clause 3 \(1\) \(b\)](#).
- (b) Any hours in excess of the maximum daily or weekly ordinary hours or, if applicable, average weekly ordinary hours, as well as any hours in respect of work performed on a Sunday or public holiday, shall be calculated by using the formula below to determine the "hourly equivalent" figure and applying the relevant premium:

$$\frac{X}{Y} \times \frac{3}{13}$$

Where: x = monthly salary as per [clause 3 \(1\) \(b\)](#)

and y = ordinary hours per week as per [clause 5 \(1\)](#)

- (c) The "hourly equivalent" figure shall not be used to calculate the employee's remuneration in respect of ordinary hours worked, i.e., the employee's basic salary.

(6) **Night shift allowance:**

If at least half of the shift ordinarily falls between the hours of 18:00 on one day and 06:00 the next day that employee will be entitled to and shall receive an allowance in respect of each night shift worked, as follows-

R5.50 per shift as from 1 September 2015 till 31 August 2017, and

R6.00 per shift as from 1 September 2017

(7) **Special allowances**

The following allowances shall be paid, per shift, to each employee performing the following duties, on condition that no employee shall be entitled to accumulate more than any two of these special allowances in respect of any shift worked-

|                                 | Year 1 | Year 2 | Year 3 |
|---------------------------------|--------|--------|--------|
| (a) Mobile supervisors:         | R7.50  | R8.00  | R8.50  |
| (b) Armed security officer:     | R7.50  | R8.00  | R8.50  |
| (c) Armed response officer:     | R7.50  | R8.00  | R8.50  |
| (d) National key point officer: | R7.50  | R8.00  | R8.50  |
| (e) Control centre operator:    | R7.50  | R8.00  | R8.50  |

(8) **Area 2 Premium**

All security officers in Area 2 will receive an Area 2 Premium of R150.00 per month-

- (a) As from 1 September 2016 the Area 2 Premium will increase to R300.00 per month.
- (b) As from 1 September 2017 the Area 2 Premium will fall away, with Area 2 consolidating with Area 1.

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**4. Payment of remuneration.-(1)** For employees, other than casual employees, an employer must pay to an employee any remuneration-

- (a) in South African currency;
- (b) daily, weekly, fortnightly or monthly; and
- (c) in cash, by cheque or by direct deposit in an account designated by the employee.

(2) Any remuneration paid by cheque or by cash must be given to each employee-

- (a) during the ordinary hours of work;
- (b) within 15 minutes thereafter on the usual pay-day of the establishment for such employee, or
- (c) at such time as may have been agreed upon between such employee and the employer, which time shall fall during the ordinary hours of work of the establishment, but not later than 48 hours after the usual pay-day, or
- (d) within 48 hours of termination of employment, weekends and public holidays excluded.

(3) Such amount shall be contained in a sealed envelope.

(4) An employer must give an employee a salary advice on which the following information is included in writing on each day the employee is paid-

- (a) the employer's name and address;
- (b) the employee's name or his number on the payroll, the employee's job category and grade;
- (c) the period for which payment is made;
- (d) the amount and purpose of any deductions made from the remuneration;
- (e) the nett amount paid to the employee;
- (f) the employee's hourly rate of pay and overtime rate;
- (g) the number of ordinary hours worked by the employee;
- (h) the number of overtime hours worked by the employee;
- (i) the number of hours worked by the employee on a Sunday during that period;
- (j) the number of hours worked by an employee on a public holiday during that period; and
- (k) the details of any other remuneration arising out of the employee's employment contract or in terms of an agreement to average working time in terms of the BCEA No 75 of 1997.

(5) The written information required in terms of sub clause (4) must be given to each employee at the workplace or at a place agreed to by the employee and such salary advice on which these particulars are recorded or such statement shall become the property of the employee:

Provided that-

- (a) the particulars prescribed above may be recorded on a salary advice or such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
- (b) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, deliver to the employee the aforementioned statement, by hand or electronically.

**(6) Casual employees:**

An employer shall pay a casual employee the remuneration due to the employee in cash on completion of each day's work:

Provided that the employer may, at the request of such employee, pay the employee the remuneration at the end of that week or month, by mutual agreement.

**(7) Premiums:**

Subject to any other law, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee and no employer shall require an employee to-

- (a) repay any portion of the remuneration which was due to that employee; or
- (b) acknowledge receipt of an amount greater than the remuneration actually paid to the employee.

**(8) Purchase of goods:**

An employer shall not require an employee to purchase any goods from the employer or from any shop, place or person nominated by the employer.

**(9) Accommodation, meals and rations and payment *in kind*:**

An employer shall not, as a condition of employment, require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not, as a condition of employment, require an employee to receive any *in kind* form of payment in lieu of salaries or a part thereof.

**(10) Spares or relievers:**

If an employee works as a "spare" or "reliever", the employee will be employed on a full time basis, at the rate for the

relevant category of employment, and the employer must pay the employee the amount that the employee would ordinarily have earned even if that employee had not been placed at a post.

**(11) Deductions:**

An employer shall not levy any fines against an employee nor make any deductions from the employee's remuneration other than the following-

- (a) Other than [clause 4 \(11\) \(c\)](#), by agreement with the employee in writing, in respect of a debt specified in the agreement, or
- (b) A deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
- (c) To reimburse the employer for loss or damage only if-
  - (i) the loss or damage occurred in the course of employment and was due to the fault of the employee,
  - (ii) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made,
  - (iii) the total amount of the debt does not exceed the actual amount of the loss or damage, and
  - (iv) the total monthly deductions from the employee's remuneration in terms of this sub clause do not exceed one quarter of the employee's gross monthly remuneration in money.

Proviso (iv) shall not apply where the contract of employment is terminated.

- (d) With the written consent of the employee, a deduction for any medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union, other than compulsory statutory deductions and/or contributions;
- (e) Whenever the ordinary hours of work are reduced because of short time, a deduction not exceeding the amount of the employee's, other than a casual employee, hourly equivalent wage in respect of each hour of such reduction:

Provided that-

- (i) such deduction shall not exceed one third of the employee's salary, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - (ii) no deduction shall be made in the case of short time arising from slackness of business, unless the employer has given an employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given an employee notice on the previous day that no work will be available.
- (f) With the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to the employee by the employer.

Provided that-

- (i) any such deduction shall not exceed one third of the total remuneration due to the employee on the payday concerned;
- (ii) no such deduction shall be made in respect of any period during which the employee's salary is reduced in terms of sub clause 11 (e);

Sub clause 11 (f) (i) and (ii) shall not apply where the contract of employment is terminated.

- (g) A deduction in accordance with the provisions of [clause 9 \(9\)](#); and
- (h) any other deduction made at the written request of the employee and with the agreement of the employer: Provided that if the purpose of such deduction is the payment of any amount to any banking institution, building society, insurance business, registered financial institution, local authority, the State or any third party, the employer shall make such payment to such institution in accordance with the request of the employee within the timeframe indicated in such request, or where no timeframe is indicated, within one week.

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**5. Ordinary hours of work, overtime and payment for overtime.-(1)** An employer shall not require or permit an employee to work more ordinary hours of work than provided for from the date of implementation of this determination-

- (a) a security officer-
  - (i) 48 in any week; and

- (ii) Subject to [sub-paragraph \(i\)](#) 12 hours on any day.
- (b) Any other category of employee-
  - (i) 45 in any week; and
  - (ii) subject to [subparagraph \(i\)](#), in the case of an employee who normally works on-
    - (aa) not more than five days in a week, nine (9) on any day; and
    - (ab) more than five days in a week, eight (8) on any day.

**(2) Averaging of Working Hours:**

Despite sub clause (1), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months, in terms of a written agreement.

- (a) An employer may not require or permit an employee who is a security officer to work more than-
  - (i) an average of 48 ordinary hours of work in a week over the agreed period; and
  - (ii) an average of ten hours overtime in a week over the agreed period.
- (b) Any employee whose hours are averaged in terms hereof must be paid at the premium hourly rate in respect of all work performed on a Sunday or public holiday, as per clauses 7 and 8.
- (c) Any employee whose hours are averaged in terms hereof will still take, and the employer shall grant, a weekly free period of at least 36 hours or a fortnightly free period of at least 60 hours in terms of sub clause (10).

**(3) Compressed working week:**

An agreement in writing may require or permit an employee to work up to 12 hours in a day, without receiving overtime pay. No such agreement may require or permit an employee to work-

- (a) more than 48 ordinary hours in any week, with the exception of the arrangements in respect of security officers in terms of sub clauses (1) (a);
- (b) more than 10 hours overtime in any week; or
- (c) on more than five days in any week.

**(4) Meal intervals:**

- (a) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.
- (b) During a meal interval an employee may be required or permitted only duties that cannot be left unattended and cannot be performed by another employee.
- (c) An employee must be remunerated-
  - (i) for a meal interval in which the employee is required to work or is required to be available for work; and
  - (ii) For any portion of a meal interval that is in excess of 75 minutes, unless the employee lives on the premises at which the workplace is situated.
- (d) For the purposes of sub clause (a), work is continuous unless it is interrupted by an interval of at least 30 minutes.
- (e) An agreement in writing may-
  - (i) reduce the meal interval to not less than 30 minutes;
  - (ii) Dispense with a meal interval for an employee who works fewer than six hours.
- (f) No deduction in respect of a meal interval shall reduce the employee's monthly salary, as specified in this determination or any amendment thereto.

**(5) Rest intervals:**

An employer shall grant to each employee, other than a driver or a security officer, a rest period of not less than 15 minutes as practicable in the middle of the first and second work periods of the day, and during which intervals such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.

**(6) Hours of work to be consecutive:**

Save as provided in sub clause (4), all hours of work of an employee on any day shall be consecutive.

**(7) Night Work:**

- (a) An employer may only require or permit an employee to perform night work if-
  - (i) the employee is compensated by the payment of an allowance, as per [clause 3 \(6\)](#); and
  - (ii) public or other transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (b) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the

next day must inform the employee in writing, or orally, if the employee is not able to understand a written communication, in a language that the employee understands-

- (i) of any health and safety hazards associated with the work that the employee is required to perform; and
  - (ii) of the employee's right to undergo a medical examination in terms of sub clause (7) (c).
- (c) At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
- (i) before the employee starts, or within a reasonable period of the employee starting, such work; and
  - (ii) at appropriate intervals while the employee continues to perform such work; and
- (d) Transfer the employee to suitable day work within a reasonable time if-
- (i) the employee suffers from a health condition associated with the performance of night work; and
  - (ii) if it is practicable for the employer to do so.
- (e) For the purposes of sub clause (7) (b), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or fifty times per year.

**(8) Limitation of overtime:**

The need to work overtime shall be at the sole discretion of the employer and an employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed-

- (a) 3 hours on any day; or
- (b) 10 hours in any week.

Provided that the weekly limitation may be increased to 12 in terms of a written agreement between the employer and employee.

**(9) Payment for overtime:**

An employer shall pay an employee who works overtime, of any nature, at a rate of not less than one and a half times the employee's hourly equivalent wage in respect of the total overtime period so worked by such employee.

**(10) Rest periods:**

- (a) An employer must allow an employee-
  - (i) a daily rest period of at least 12 consecutive hours between the normal ending and recommencing work; and
  - (ii) a weekly rest period of at least 36 consecutive hours.
- (b) A daily rest period in terms of sub clause (10) (a) may, by written agreement, be reduced to 10 hours for an employee-
  - (i) who lives on the premises at which the workplace is situated; and
  - (ii) whose meal interval lasts for at least three hours.
- (c) Despite sub clause (10) (a) (ii), an agreement in writing may provide for-
  - (i) a rest period of at least 60 consecutive hours every two weeks; or
  - (ii) an employee's weekly rest period to be reduced by up to eight hours in any week; if the rest period in the following week is extended equivalently.

**(11) Exceptions:**

- (a) Sub clauses (4), (5), (6) and (8) shall not apply to an employee while an employee is engaged in emergency work.
- (b) Sub clause (4) shall not apply to an employee wholly or mainly engaged in the tending, feeding or cleaning of animals.

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**6. Annual Bonus.-(1)** An employer shall pay to every security officer, for each month that the employee was paid or entitled to be paid in respect of each completed 12 months of service with such employer, an annual bonus, subject to the conditions of sub clauses (2) and (3) below, calculated as follows-

$$\frac{(A \times 12) - (B \times C)}{12}$$

Where

A = Security officer's monthly salary at the date upon which the bonus is payable

B = Security officer's hourly equivalent rate of pay at the date upon which the bonus is payable

C = The number of hours worked short due to absenteeism and/or latecoming; i.e. unauthorised absenteeism

Provided that-

- (i) only unauthorised hours of absence shall be used in determining the figure "C" in the above formula,
- (ii) any period of approved absence, including but not limited to, annual leave, sick leave, maternity leave, study leave, family responsibility leave and protected industrial action shall not be used to reduce the bonus payable in terms of this clause, and
- (ii) any employee who is scheduled to perform duties as a spare and is not utilised for that shift shall suffer no detriment for the duration of the shift in the accumulation of his/her annual bonus.

[Clause 6 (1) amended by [GNR.3 of 18 January 2016](#).]

(Editorial Note: Numbering as per original *Government Gazette*.)

(2) The annual bonus shall be paid on the anniversary of the security officer's date of employment with the employer unless the employer and a representative trade union and/or the security officer mutually agree in writing upon another date.

(3) The annual bonus shall be calculated as per sub clause (1) at the ordinary salary rate as at the date that the annual bonus falls due and paid to the security officer as per sub clause (2).

(4) In the event that the employee's contract of employment ends before the end of any subsequent 12 month cycle with then same employer, for any reason other than resignation or dismissal for misconduct, poor performance not related to incapacity or ill health, the employee must receive a prorated share of the bonus for the period of the year that he/she has worked.

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**7. Compensation for Work on a Public Holidays.**-(1) An employer may not require an employee to work on a public holiday except in accordance with an agreement.

(2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-

- (a) an employee who does not work on the public holiday, at least the salary that the employee would ordinarily have received for work on that day, already included in the monthly salary;
- (b) an employee who does work on the public holiday-
  - (i) at least double the amount referred to in (a)
  - (ii) if it is greater the amount referred to in [paragraph \(a\)](#) plus the amount earned by the employee for the time worked on that day

(3) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to double the employee's ordinary salary for the period worked.

(4) An employer must pay an employee for a public holiday on the employee's usual payday.

(5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

(6) If the public holiday falls on a Sunday, the following Monday will be deemed to be the public holiday in lieu of the Sunday. The Sunday shall be remunerated at the relevant premium payment for that day.

(7) In terms of [Section 2 \(2\)](#) of the Public Holidays Act (Act [36 of 1994](#)), a public holiday is exchangeable for any other that is fixed by agreement or agreed to between the employer and the employee.

(8) Compensation to a casual employee for work on a public holiday-

- (a) Whenever a casual employee works on a public holiday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do.

Provided that where the employer requires a casual employee to-

- (i) perform the work of a class of employee for whom salaries on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in terms of [clause 3 \(5\) \(b\)](#);
- (ii) work for less than four hours on such a day, an employee shall be deemed to have worked for four hours



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**8. Compensation for Work on a Sunday.**-(1) An employer must pay an employee who works on a Sunday at double the employee's salary for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's salary for each hour worked.

[Clause 8 (1) amended by GNR.317 of 18 March 2020.]

(2) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of sub clause (1) is less than the employee's ordinary daily salary, the employer must pay the employee the employee's ordinary daily salary.

(3) Despite sub clauses (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of sub clauses (1) and (2).

(4) An employer must grant paid time off in terms of sub clause (3) within one month of the employee becoming entitled to it.

(5) An agreement in writing may increase the period contemplated by sub clause (4) to 12 months.

(6) Compensation to a casual employee for work on a Sunday-

(a) Whenever a casual employee works on a Sunday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do. Provided that where the employer requires a casual employee-

(i) to perform the work of a class of employee for whom salaries on a rising scale is prescribed, the expression 'hourly wage' shall mean the hourly equivalent for a qualified employee of that class as calculated in term of [clause 3 \(5\) \(b\)](#);

(ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.

(7) **Payment:**

The remuneration payable in terms of this clause to an employee, other than a casual employee, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable.

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**9. Annual Leave.**-(1) In this clause "annual leave cycle" means the period of 12 months employment with the same employer immediately following-

(a) an employee's commencement of employment; or

(b) the completion of that employee's prior leave cycle.

(2) The employer must grant an employee at least 21 consecutive days annual leave paid in accordance with sub clause (14) below, in respect of each annual leave cycle.

(3) The leave entitlement for any employee who has completed three years uninterrupted employment with the same employer, shall be increased to by three additional days paid annual leave.

(a) As from the third year of effectiveness of this determination, 1 September 2017, this entitlement will come into effect after two years uninterrupted employment with the same employer.

[Clause 9 (3) (a) amended by [GNR.3 of 18 January 2016](#).]

(4) An employee is entitled to take leave accumulated in an annual leave cycle, in terms of sub clause (2), on consecutive days.

(5) An employer must grant, and an employee must take, annual leave not later than six months after the end of the annual leave cycle.

(6) An employer may not require or permit an employee to take annual leave during-

(a) any other period of leave to which an employee is entitled in terms of this determination; or

(b) any period of notice of termination of employment.

(7) Despite sub clause (6), an employer must permit an employee, at the employee's written request, to take paid leave during a period of unpaid leave, subject to availability.

(8) An employer must pay an employee leave pay on the employee's usual payday.

(9) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave,

calculated at the employee's rate of remuneration, granted to the employee at the employee's request during that leave cycle.

(10) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.

(11) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(12) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and the employee; or
- (b) if there is no agreement in terms of sub clause (12) (a), at a time determined by the employer in accordance with this section.

(13) An employer may not pay an employee instead of granting paid leave in terms of this clause, except-

- (a) upon termination of employment; and
- (b) in accordance with [clause 23 \(9\)](#).

(14) An employer must pay an employee leave pay at least equivalent to the ordinary salary payable to the employee for the ordinary hours the employee would normally have worked during the period of annual leave, calculated at the employee's rate of remuneration immediately before the beginning of the period of annual leave, as per the following formula:

$$\text{"A"} \times \frac{21 \text{ Consecutive days}}{7 \text{ days per week}} = \text{"B"}$$

Where-

"A" equals the number of ordinary hours normally worked by the employee per week, and

"B" equals the number of paid leave hours entitlement

(15) An employee who has become entitled to a period of leave prescribed in sub clause (1), read with sub clause (9), and whose employment terminates before such leave has been granted and been taken, shall, upon such termination be paid the amount an employee would have received, in respect of the leave, had the leave been granted to the employee and taken by the employee as at the date of the termination, calculated in terms of sub clause (2).

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**10. Sick Leave.-(1)** In this clause "sick leave cycle" means the period of 36 months uninterrupted employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior sick leave cycle.

(2) During every sick leave cycle an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite sub clause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 ordinary days worked.

(4) During an employee's first sick leave cycle an employer may reduce the employee's sick leave entitlement to sick leave in terms of sub clause (2) by the number of days sick leave taken in terms of sub clause (3).

(5) Subject to [clause 10A](#), an employer must pay an employee for a day's sick leave-

- (a) the ordinary salary the employee would have received, excluding any allowances; and
- (b) on the employee's usual pay day.

(6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in terms of this section if-

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the employee's entitlement to pay-
  - (i) for any day's sick leave is at least 75 per cent of the salary payable to the employee for the ordinary hours the employee would have worked on that day; and
  - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of sub clause (2)

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**is not required to pay an employee in terms of clause 10 if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by**

**10A. Proof of Incapacity.**-(1) An employer is not required to pay an employee in terms of [clause 10](#) if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(2) A medical certificate in terms of sub clause (1) must be issued and signed by-

- (a) A medical practitioner; or
- (b) Any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

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**11. Family Responsibility Leave.**-(1) This section applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employer.

(2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, five days paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, parent in law, grandparent, child, adopted child, grandchild or sibling.

(3) An employer must pay an employee for a day's family responsibility leave-

- (a) the ordinary salary the employee would have received for a day worked; and
- (b) on the employee's usual payday.

(4) An employee may take family responsibility leave in respect of the whole or part of a day.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub clause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual cycle in which it accrues.

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**12. Maternity Leave.**-(1) An employee is entitled to at least four consecutive month's maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify her employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of sub clause (5) must be given-

- (a) at least four weeks before the employee intends to commence maternity leave; or
- (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act [No. 30 of 1966](#))

(8) During the period of maternity leave the employer shall continue to contribute the provident fund monthly premium in respect of both the employer and employee contributions, the latter not to be recovered upon the return of the employee to work.

(9) During the period of maternity leave the employer shall continue to contribute the employee's Private Security Industry Regulatory Authority monthly subscription fees, this not to be recovered upon the return of the employee to work.

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**12A. Maternity Benefits.-**A female security officer who remains in the permanent employ of the same employer for a period of at least three years shall be entitled to an amount equivalent to 34% (thirty four per cent) of her basic monthly salary for a period not exceeding four months during any period of maternity leave, as a supplement to her UIF benefits.

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**13. Study Leave.-**Every employee with a minimum of one year uninterrupted employment with the same employer shall be entitled to 6 (six) days paid study leave in any year, in respect of any study at a tertiary establishment, subject to acceptable proof of such studies being presented to the employer prior to the study leave being granted.

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**14. Service Benefit.-**Each security officer shall, upon completion of the following period of uninterrupted service with the same employer, calculated from 19 February 2007, receive a once-off service benefit payment of not less than-

- (a) R500.00 (five hundred rand) after 5 (five) years,
- (b) R1,000.00 (one thousand rand) after 10 (ten) years, and
- (c) R5,000.00 (five thousand rand) after 20 (twenty) years.

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**15. Transfer Allowance.-(1)** An employer shall pay a security officer a transfer allowance of not less than R100.00 (one hundred rand) per month under the following circumstances-

- (a) If the transfer is permanent, the employee shall be entitled to the transfer allowance for a period of not more than 12 (twelve) months after the date of transfer;
- (b) If the Employee is transferred for a period exceeding six months but not exceeding twelve months, he/she shall be entitled to receive the transfer allowance for the equivalent number of months as the transfer;
- (c) All transfer allowance payments are subject to the following conditions-
  - (i) The employer requires the security officer to transfer on a permanent basis of for a period exceeding six months and;
  - (ii) The security officer is transferred to a site or other such business which is in excess of 60 kilometres away from the deployment of the security officer at the time of the transfer
  - (iii) This clause does not apply in the event of-

- (aa) a transfer arising from an offer of alternate employment by the employer during a consultation process conducted in terms of [Section 189](#) of the Labour Relations Act (Act [66 of 1995](#)); or
- (ab) that the transfer of an employee as a result of a request for such transfer by the employee.

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**16. Written Particulars of Employment.**-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee or a brief description of the work for which the employee is employed;
- (c) the places of work and, where the employee is required or permitted to work at various places, an indication of this;
- (d) the date on which the employment began;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's salary or the rate and method of calculating salary;
- (g) the rate of pay for overtime work;
- (h) any other payments to which the employee is entitled;
- (i) how frequently remuneration will be paid;
- (j) any deductions to be made from the employee's remuneration;
- (k) the leave to which the employee is entitled;
- (l) the period of notice required to terminate employment, or if the employment is for a specified period, the date when employment is to terminate;
- (m) a description of any council or sectoral determination which covers the employer's business;
- (n) any period of employment with a previous employer that counts towards the employee's period of employment;
- (o) a list of any other documents that form part of the contract of employment, indicating a place that is readily accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in sub clause (1) changes, the written particulars must be revised to reflect the change and the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) Written particulars of this section must be kept by the employer for a period of three years after the termination of employment.

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**17. Keeping of Records.**-(1) Every employer must for all employees in his current employ keep a record containing at least the following information-

- (a) the employee's name and occupation;
- (b) the time worked by each employee;
- (c) remuneration paid to each employee;
- (d) the date of birth of any employee under 18 years of age; and
- (e) any other prescribed information.

(2) A record in terms of sub clause (1) (b) and (1) (c) must be kept by the employer for a period of three years from the date of the last entry in the record of which the most recent six months record must be hard copy and older may be kept electronically.

(3) No person may make a false entry in a record maintained in terms of sub clause (1).

(4) An employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.

(5) An employer must for all employees who have left his employ keep the above records for a period of three years of which the most recent six months records as per (1) (b) and (1) (c) must be hard copy.

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**18. Presumption as to who is an Employee.**-(1) Any person on contract performing the duties of a security officer, as defined in sub clauses 2 (60) to 2 (64), as well as any person on contract performing the duties of other categories, as defined herein, except for managers.

[Clause 18 (1) amended by [GNR.3 of 18 January 2016.](#)]

(2) Until the contrary is proved, a person who works for, or provides services to, any other person is presumed, regardless of the form of the contract, to be an employee, if any one or more of the following factors are present-

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) in the case of a person who works for an organisation, the person forms part of that organisation;
- (d) the person has worked for that person for an average of at least 40 hours per month over the last three months;
- (e) that person is economically dependent on the person for whom they work or provide services;
- (f) the person is provided with their tools of trade or work equipment by that person; or
- (g) the person only works for or supplies services to one person.

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**19. Weapons, Uniforms, Overalls and Protective Clothing.**-(1) An employer shall-

- (a) provide free of charge any weapon, ammunition, tool, whistle or other equipment which a security officer, in the performance of the employee's duties, needs or is required to use for self defence or apprehension;
- (b) Provide, free of charge, new footwear and two sets of daily washable uniform items, as well as any other protective clothing which an employee is required by any law to provide for an employee.

(2) Any article provided by an employer in terms of sub clause (1) shall remain the employer's property.

(3) An employer who provides an employee with any such apparel, may require the employee to clean it in the employee's own time, in which event the employer shall pay the employee not less than R30.00 per month, which shall however not be payable during periods of absence from work.

(4) No employer shall make any deduction from the salary of any employee in regard to any article provided to that employee in terms of sub clause (1): Provided that where an article is found by a fair procedure to have been lost or damaged by an employee, excluding damage arising from the performance of the employee's duties or normal wear and tear, an employer may, notwithstanding anything to the contrary in this determination, recover the replacement cost of such article from the employee by making a deduction over an appropriate period from that employee's salary. Further, provided that such monthly deduction shall not exceed one tenth of the employee's monthly remuneration, except upon termination of employment, when the full balance in respect of the replacement value of such missing or damaged items due to the employer shall be deducted.

(5) No employer shall collect or deduct any form of uniform deposit from any employee.

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**20. Temporary Employment Services, Labour Brokers and Independent Contractors.**-(1) Employers shall abide by the provisions of the Labour Relations Act, Act [66 of 1995](#), as amended, in respect of Temporary Employment Services, Labour Brokers and Independent Contractors.

(2) Notwithstanding the above, no employer may use the services of a Temporary Employment Services, Labour Brokers or Independent Contractors unless the Temporary Employment Service, Labour Broker or Independent Contractor



provides the employer with satisfactory proof that it is in compliance with-

- (a) Sectoral Determination 6;
- (b) the Unemployment Insurance Act;
- (c) the Compensation for Occupational Injuries and Diseases Act.
- (d) the South African Revenue Services, and is in possession of an IT30 tax certificate; and
- (e) the rules of the Private Security Sector Provident Fund.

(3) The provisions of sub [clause 20 \(2\)](#) shall not apply to Alarm Installers and Employment Agencies.

(4) Disguised employment relationships, including those involving self-employed security guards, may be tested according to the factors in [clause 18](#)

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**21. Prohibition of Employment of Children.**-(1) No person may employ a child-

- (a) who is under 15 years of age; or
  - (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.
- (2) No person may employ a child in employment-
- (a) that is inappropriate for a person at that age; or
  - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) A person who employs a child in contravention of sub clause (1) or (2) commits an offence.

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**22. Prohibition of Forced Labour.**-(1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(2) No person may, for the employee's own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of sub clause (1).

(3) A person who contravenes sub clauses (1) or (2) commits an offence.

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**23. Termination of Contract of Employment.**-(1) Subject to sub clause (6) (b), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week, if the employee has been employed for four weeks or less;
- (b) two weeks, if the employee has been employed for more than four weeks but less than one year; and
- (c) four weeks, if the employee has been employed for one year or more.

(2) A collective agreement may not permit a notice period shorter than required by sub clause (1).

(3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.

(4) (a) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.

(b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(5) Notice of termination of a contract of employment given by an employer or an employee must not-

- (a) be given during any period of leave to which the employee is entitled in terms of [clause 9](#); and



- (b) run concurrently with any period of leave to which the employee is entitled in terms of [clause 9 \(1\)](#) except sick leave.
- (6) Nothing in this clause affects the right-
  - (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law, and
  - (b) of an employer to terminate a contract of employment without notice for any cause recognised by law.
- (7) Instead of giving an employee or employer notice in terms of sub clause (1), an employer may pay the employee the remuneration the employee would have received, calculated in accordance with sub clause (1), as if the employee had worked during the notice period.
- (8) If an employee gives notice of termination of employment and the employer waives any part of the notice, the employer must pay the remuneration referred to in sub clause (7), unless the employer and employee agree otherwise.
- (9) On termination of employment, an employer must pay an employee-
  - (a) remuneration in respect of-
    - (i) ordinary time worked, calculated in terms of [clause 5](#);
    - (ii) overtime worked, calculated in terms of [clause 5 \(9\)](#);
    - (iii) time worked on a Sunday, calculated in terms of [clause 8](#); and
    - (iv) time worked on a public holiday or in respect of a public holiday on which the employee would normally have worked if it had not been a public holiday, in terms of [clause 7](#);
  - (b) remuneration calculated in accordance with [clause 9 \(15\)](#) for any period of annual leave due in terms of [clause 9 \(2\)](#) that the employee has not taken;
  - (c) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle, at a rate of one day's remuneration in respect of every 17 ordinary days on which the employee worked or was entitled to be paid.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 24. Severance Pay.-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**24. Severance Pay.-(1)** For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 3](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub clause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to-

- (a) a council, if the parties to the dispute fall within the registered scope of that council; or
- (b) the CCMA, if no council has jurisdiction.

(6) The employee who refers a dispute to the council or the CCMA must satisfy it that a copy of the referral has been served on all other parties to the dispute.

(7) If the dispute remains unresolved, the employee may refer it to arbitration.

(8) If the Labour Court is adjudicating a dispute about a dismissal based on the employer's operational requirements, the Court may inquire into and determine the amount of any severance pay to which the employee may be entitled and the Court may make an order directing the employer to pay that amount.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 25. Certificate of Service.-(1) On termination of employment an employee is entitled to a certificate of service stating-**

**25. Certificate of Service.-(1)** On termination of employment an employee is entitled to a certificate of service stating-

- (a) the employee's full name and identity number;
- (b) the name and address of the employer;

- (c) a description of any bargaining council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at the date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 26. Attendance Register.-(1) An employer shall maintain an attendance register, in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in**

**26. Attendance Register.**-(1) An employer shall maintain an attendance register, in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in respect of items (i) to (vi) of sub clause (3) (a).

(2) An employer may, instead of an attendance register, provide an automatic or semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in sub clause (1).

(3) Every employer shall, in respect of each day worked by an employee on that day-

- (a) record in ink, indelible pencil or electronically in such attendance register referred to in sub clause (1)-
  - (i) the day of the week;
  - (ii) the time an employee commenced work;
  - (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
  - (iv) the time of finishing work for the day;
  - (v) the time of commencement and termination of overtime worked for the day; and
  - (vi) the total amount of hours worked for the day.
- (b) in an establishment where an automatic or semi-automatic time recorder is provided, make an entry by means of such recorder to show the following-
  - (i) the time of commencement of work;
  - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
  - (iii) the time of finishing work for the day.

(4) An employer shall retain such attendance register referred to in sub clause (1) or the information recorded by a semi-automatic time recorder referred to in sub clause (2), as case may be, for a period of not less than three years after the date of the last entry therein or thereon. Such register may be kept in electronic form.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 27. Private Security Sector Provident Fund.-(1) Membership**

#### **27. Private Security Sector Provident Fund.-(1) Membership**

- (a) Each employee, subject to the exclusions in [clause 1 \(4\)](#), who falls within the definition of eligible employee as contained in the fund rules, shall, on or after coming into operation of this determination, become a member of the Private Security Sector Provident Fund (PSSPF).
- (b) If an employee who has become a member of the Fund ceases to fall within the scope of this determination owing to the employee ceasing to be employed in the Private Security Sector or as a result of the employee no longer being classified as an eligible member, as defined, the employee shall cease to be a member of the Fund and the payment of withdrawal benefit will be made to the member as provided for in the Fund Rules.

#### **(2) Contributions**

Contributions shall be made by employers and employees from the date of operation of this determination as specified hereunder-

- (a) The employer shall each month deduct from the earnings of each employee in respect of each month, or part thereof, an amount equal to 7.5% (seven and a half per cent) of the employees Fund Salary, being contributions to the Provident Fund, and employers shall make an equal contribution to the Provident Fund.

- (b) When an employee is on approved leave with full pay, or with less than full pay, the employee shall contribute to the Fund, in accordance with sub clause (2) (a), and the employer shall continue to contribute in respect of the employee, in accordance with sub clause (2) (a), and all benefits under the Fund in respect of the employee shall be maintained.
- (c) If an employee is on approved leave without pay, no contributions shall be made by the employee in terms of sub clause (2) (a), but the employer shall continue to contribute the employers portion of the contribution, in order that the death, disability and funeral benefits shall continue to be payable-
  - (i) throughout the period of leave, if the employee's leave is due to sickness; or
  - (ii) for not longer than six months, if the employee's leave is due to reasons other than sickness.
- (d) The amount payable in each month in terms of this clause shall be deposited by the employer directly into the Fund's bank account by no later than the 7<sup>th</sup> day of the month immediately following the month in which deductions and contributions were made and shall be as follows-
  - (i) in South African currency;
  - (ii) in cash, by cheque or by direct deposit into an account designated by the administrators; and
  - (iii) together with such particulars as are required in terms of the Retirement Funds Act and/or by the Board;
  - (iv) the contributions payable shall constitute an amount calculated at a rate of not less than the total contributions set out in sub clause (2) (a) of the employee's salary or as amended by the Board from time to time;
  - (v) such amount as referred to in sub clause (2) (b) shall constitute an equal contribution by an employer and employee.
- (e) If any amount which falls due in terms of this clause is not received in full by the administrator of the Fund by the 7<sup>th</sup> day of the month following the month for which the amount is payable, then the employer is liable to pay penalty interest in accordance with section 13A of the Pension Fund Act.
- (f) Any deductions in terms of this clause will not be in violation of [clause 4 \(11\) \(d\)](#) of this determination.

### **(3) Administration and provision of the Fund**

In order to realise the objects of the Fund the trustees shall-

- (a) directly control and oversee the operation of the Fund in accordance with the Fund Rules and the Pension Fund Act;
- (b) enter into an agreement with an administrator to administer the Fund; and
- (c) At their elections-
  - (i) enter into an agreement with a registered insurance company; or
  - (ii) establish a self-insurance arrangement or cell captive arrangement to provide Death, Disability and/or Funeral benefits.

### **(4) Fund Rules**

- (a) The Fund Rules constitute the rules that govern the Private Security Sector Provident Fund.
- (b) In the event of any discrepancy between this sectoral determination and the Fund Rules, the Fund Rules will apply.

### **(5) Exemption Criteria**

- (a) The following criteria for an exemption from the Private Security Sector Provident Fund will apply, provided that-
  - (i) If the employer, prior to the publication of Gazette Notice No. 306 of 30 March 2001, had an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination 6, as amended or replaced.
  - (ii) If the employer, prior to the publication of Gazette Notice No. 306 of 30 March 2001, did not have an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination 6, as amended or replaced, but before 30 March 2001, the employer and its employees have consulted in writing to commence negotiations for the establishment of a pension or provident fund for such employees.
- (b) The Board will consider all applications for exemption from the provisions of the Private Security Sector Provident Fund. In the event that there is a dispute, the matter will be referred to the Department of Labour to be dealt with in terms of [section 50](#) of the Basic Conditions of Employment Act, [75 of 1997](#).
- (c) Applications will be in writing and addressed to the Board of the Private Security Sector Provident Fund. Applications shall comply with the following-
  - (i) Be fully motivated;
  - (ii) Be accompanied by relevant supporting data and financial information;
  - (iii) Applications that affect employees' conditions of service will not be considered unless the employees or their representatives have been properly consulted and their views fully recorded in an accompanying document;

- (iv) Indicate the period for which the exemption is required.
- (d) In considering the application the Board shall take into consideration all relevant factors, which may include, but shall not be limited to, the following criteria-
  - (i) Any special circumstances that exist;
  - (ii) Any precedent that may be set;
  - (iii) The interest of the industry as regards-
    - (aa) Unfair competition,
    - (ab) Collective bargaining,
    - (ac) Potential for labour unrest,
    - (ad) Increased employment.
  - (iv) The interest of employees as regards-
    - (aa) Exploitation,
    - (ab) Job preservation,
    - (ac) Sound Conditions of Employment,
    - (ad) Possible financial benefits,
    - (ae) Health and Safety,
    - (ab) Infringement of basic rights.
  - (v) The interest of the employer as regards-
    - (aa) Financial stability,
    - (ab) Impact on productivity,
    - (ac) Future relationship with employees' trade union,
    - (ad) Operational requirements.
- (e) If the application is granted, the Board will issue an exemption certificate, signed by the chairperson, containing the following particulars-
  - (i) The full name of the applicant;
  - (ii) The trade name of the applicant;
  - (iii) The period for which the exemption shall operate;
  - (iv) The date of issue; and
  - (v) The conditions of the exemption granted.
- (f) If the exemption is refused the Board shall specify its reasons for not granting the application, and which will be communicated to the applicant.
- (g) The Board shall retain a copy of the certificate and number each certificate sequentially.
- (h) An employer to whom a certificate of exemption has been issued shall at all times have the certificate available for inspection at his establishment.
- (i) Any application by an employer for exemption shall in no way whatsoever affect the employer's obligations, nor his employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's retirement fund and/or his employees' conditions of employment during any period that the application is under consideration.

**(6) Waiting period**

- (a) An employee entering the private security sector for the first time and an employee who has been out of the sector for more than six months shall be required to wait for a period of four months before joining the fund.
- (b) An employee with at least four months uninterrupted service in the private security industry, not necessarily with the same employer, shall join the fund immediately upon joining a new employer.

**(7) Special provision during waiting period**

- (a) Every employee shall, during the waiting period set out in subclause (6), enjoy risk cover in respect of death and disability benefits, as well as the fund funeral scheme, which contribution, totalling 5% (five percent) of the Fund Salary, per month shall be borne equally between the employer and the employee.
- (b) This risk cover shall apply as from the first day of employment and shall be submitted to the fund administrators at the end of every month.

**28. Employers to Keep a Copy of this Determination.**-Every employer upon whom this Determination is binding must-

- (a) keep a copy of this Sectoral Determination available in the workplace at all times;
- (b) make a copy available for inspection by an employee; and
- (c) give a copy of this Sectoral Determination
  - (i) to an employee who has paid the prescribed fee; and
  - (ii) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 29. Variation by the Minister.**-The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of section 50 of the Basic Conditions of Employment Act, 1997, upon motivated application

**29. Variation by the Minister.**-The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of [section 50](#) of the Basic Conditions of Employment Act, 1997, upon motivated application by an employer and/or an employers' association.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 786 of 1 September 2015: Amendment of Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 39156)/ 30. Superseding of Previous Government Gazettes.**-All the provisions of Sectoral Determination 6: Private Security Sector, South Africa published under Government Notice No. 32524 dated 25 August 2009, Government Notice No. 35633 dated 28 August 2012 will

**30. Superseding of Previous Government Gazettes.**-All the provisions of Sectoral Determination 6: Private Security Sector, South Africa published under Government Notice No. 32524 dated 25 August 2009, Government Notice No. 35633 dated 28 August 2012 will and Government Notice No. 36110 dated 30 January 2013 be superseded by this determination with effect from 1 September 2015.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)**

**GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa  
(Government Gazette No. 39671)**

as corrected by

as amended by

| Notice                | Government Gazette | Date                                 |
|-----------------------|--------------------|--------------------------------------|
| <a href="#">R.175</a> | 43026              | 17 February 2020                     |
| R.1036                | 42615              | w.e.f. 1 March 2020<br>2 August 2019 |

as corrected by

| Notice | Government Gazette | Date             |
|--------|--------------------|------------------|
| 189    | 39714              | 18 February 2016 |
| 443    | 39926              | 14 April 2016    |
| R.1320 | 42766              | 14 October 2019  |

DEPARTMENT OF LABOUR

I, Mildred Nelisiwe Oliphant, Minister of Labour, hereby in terms of [section 56 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), hereby repeal Sectoral Determination 9: Wholesale and Retail Sector, South Africa as published in *Government Gazette* No. 24207, and the following amendments thereto: GG25812 R.1787; GG28424 R.68; GG 32871 R.8; GG36076 R.27 and make a new Sectoral Determination in accordance with the schedule attached hereto and fix 1<sup>st</sup> March 2016 as the date on which the provisions of this sectoral determination shall become binding.

(Signed)  
**M.N. OLIPHANT, MP, MP**  
**MINISTER OF LABOUR**

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**1. APPLICATION.**-(1) This determination applies to the employment of employees in the wholesale and retail sector in the Republic of South Africa.

(2) In this determination, the "wholesale and retail sector" means the sector in which employers and employees are mainly or wholly associated for the purpose of procuring products from any supplier or manufacturer for the purpose of sale to any person, whether on a wholesale or retail basis; and, in addition, includes-

- (a) any other activities engaged in by an employer in the wholesale and retail sector including, but not limited to, merchandising, warehousing or distribution operations that are incidental to, or supportive of, the employer's enterprise; and
- (b) any other activity conducted by an employer whose core business falls within the wholesale and retail sector on or at the premises where that business is conducted.

(3) This determination does not apply to employees-

- (a) employed in activities covered by another sectoral determination in terms of the Basic Conditions of Employment Act; or
- (b) covered by an agreement of a bargaining council in terms of the Labour Relations Act.

(4) Employees who work for an employer for 24 or less hours in a month-

- (a) must be paid at least the hourly rate set out in Tables 1 to 2 of this determination.
- (b) except as provided in [paragraph \(a\)](#), this determination does not apply to an employee who works for an employer for 24 hours or less in a month.

(5) The provisions of the Basic Conditions of Employment Act apply to all employees covered by this determination and their employers in respect of any matter not dealt with in this sectoral determination.

(6) The provisions of the Ministerial Determination for Small Business apply to those employers employing less than 10 employees in respect of overtime, averaging of working hours and family responsibility leave.

#### PART B: WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 2. WAGES.-(1) With effect from 1 March 2016, an employer must pay an employee at least the minimum wage prescribed in this part of the sectoral determination.**

**2. WAGES.**-(1) With effect from 1 March 2016, an employer must pay an employee at least the minimum wage prescribed in this part of the sectoral determination.

(2) An employer must pay an employee who works for the employer for more than 27 hours per week-

- (a) at least the weekly or monthly wage set out in Tables 1 to 2; or
- (b) by agreement between the employer and the employee, at least the hourly rate set out in Tables 1 to 2 for every hour or part of an hour that the employee works.

(3) An employer must pay an employee who works 27 hours or less per week-

- (a) if an agreement has been concluded in terms of [clause 10](#), at least the hourly rate as set out in Tables 1 to 2 for every hour or part of an hour that the employee works, plus 25%; or
- (b) if no agreement has been concluded in terms of [clause 10](#), at least the hourly rate as set out in Tables 1 to 2 for every hour or part of an hour that the employee works.

(4) An employer must pay an employee employed in a job category not listed in Tables 1 to 2 at least the minimum wage prescribed for a job category requiring an equivalent level of training, skill or experience.

(5) Tables 1 to 2 apply to employers in the wholesale and retail sector in Area A and, B respectively.

(6) An employee who works for less than four hours on any day must be paid for at least four hours work on that day.

(7) Unless otherwise agreed in writing, nothing in this determination precludes an employer from requiring an employee to perform work of another category of employee for which the same or a lower wage is prescribed.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and**



**Retail Sector, South Africa (Government Gazette No. 39671)/ 3. COMMISSION WORK.-(1) An employer and employee employed as a sales person may agree in writing that the employee will perform commission work on a regular basis.**

**3. COMMISSION WORK.-(1)** An employer and employee employed as a sales person may agree in writing that the employee will perform commission work on a regular basis.

(2) An employee who performs commission work must receive a wage that is at least two-thirds of the applicable minimum wage that the employee is entitled to in terms of [clause 2](#).

(3) An agreement to perform commission work in terms of this clause must be concluded before the work is commenced and must include-

- (a) the employee's wage;
  - (b) the basis for calculating commission payments;
  - (c) the period over which commission payments are calculated which may not be longer than one month;
  - (d) when the employer must pay commission payments to the employee which may not be longer than one month after the end of the period in which the commission is earned; and
  - (e) the type, description, number, quantity or value of sales, margin, profit, or orders (individual, weekly, monthly or otherwise) for which the employee is entitled to earn commission.
- (4) The employer must supply the employee with a copy of the agreement to perform commission work.

(5) If during any calculation period the employee does not earn an amount equivalent to at least the prescribed minimum wage because any act or omission by or on behalf of the employer has restricted the employee's ability to earn commission, the employer must pay the employee at least the applicable minimum wage as set out in Tables 1 to 2.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 4. CALCULATION OF REMUNERATION OR WAGES.-(1) The remuneration or wages of an employee must be calculated by reference to the employee's ordinary hours of work.**

**4. CALCULATION OF REMUNERATION OR WAGES.-(1)** The remuneration or wages of an employee must be calculated by reference to the employee's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the hourly remuneration or wages of an employee is obtained by-
  - (i) dividing the daily remuneration or wages by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly remuneration or wages by the number of ordinary hours worked in a week.
- (b) the daily remuneration or wages of an employee is obtained by-
  - (i) multiplying the hourly remuneration or wages by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly remuneration or wages by the number of days worked in a week.
- (c) the weekly remuneration or wages of an employee is obtained by-
  - (i) multiplying the hourly remuneration or wages by the number of ordinary hours worked in a week; or
  - (ii) multiplying the daily remuneration or wages by the number of days worked in a week; or
  - (iii) dividing the monthly remuneration or wages by four and one-third.
- (d) the monthly remuneration or wages of an employee is obtained by multiplying the weekly remuneration or wages by four and a third.
- (e) If an employee's remuneration or wages is calculated, either wholly or in part, on a basis other than time, or if an employee's remuneration or wages fluctuates significantly from period to period, any payment to that employee in terms of this clause must be calculated by reference to the employee's remuneration-
  - (i) during the preceding 13 weeks;
  - (ii) if the employee has been in employment for a shorter period, that period; or
  - (iii) by agreement, the average earned over a period of time of not more than the previous 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 5. PAYMENT OF REMUNERATION.-(1) An employer must pay an employee-**

**5. PAYMENT OF REMUNERATION.-(1)** An employer must pay an employee-

- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the employee.
- (2) Any remuneration paid in cash or by cheque must be given to each employee-
- (a) at the workplace or at a place agreed to by the employee;
  - (b) during the employee's working hours or within fifteen minutes of the commencement or conclusion of those hours; and
  - (c) in a sealed envelope which becomes the property of the employee.
- (3) An employer must pay an employee-
- (a) on the normal pay day as agreed; or
  - (b) on the termination of the contract of employment.
- (4) Sub-clause (3) does not apply to any pension or provident fund payment to an employee that is made in terms of the rules of the fund.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 6. INFORMATION CONCERNING REMUNERATION.-(1) On every pay day, the employer must give the employee a statement showing-**

**6. INFORMATION CONCERNING REMUNERATION.-(1)** On every pay day, the employer must give the employee a statement showing-

- (a) the employer's name and address;
  - (b) the employee's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the employee's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by the employee during that period;
  - (f) the number of overtime hours worked by the employee during that period;
  - (g) the number of hours worked by the employee on a public holiday or on a Sunday;
  - (h) the employee's wage;
  - (i) details of any other pay, including commission payments, arising out of the employee's employment;
  - (j) details of any deductions made; and
  - (k) the actual amount paid to the employee.
- (2) An employer must retain a copy or record of each statement for at least three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 7. DEDUCTIONS AND OTHER ACTS CONCERNING REMUNERATION.-(1) An employer may not make any deduction from an employee's remuneration unless-**

**7. DEDUCTIONS AND OTHER ACTS CONCERNING REMUNERATION.-(1)** An employer may not make any deduction from an employee's remuneration unless-

- (a) subject to sub-clause (2), the employee in writing agrees to the deduction in respect of a debt specified in the agreement; or
- (b) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.

(2) A deduction in terms of sub-clause (1) (a) may be made to reimburse an employer for loss or damage only if-

- (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
- (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
- (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
- (d) the total deductions from the employee's remuneration in terms of this sub-clause do not exceed one-quarter of the employee's remuneration in money.

(3) A deduction in terms of sub-clause (1) (a) in respect of any goods purchased by the employee must specify the nature and quantity of goods.

(4) An employer who deducts an amount from an employee's remuneration in terms of sub-clause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.

(5) An employer may not require or permit an employee to-

- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
- (b) acknowledge receipt of an amount greater than the remuneration actually received.

PART C:  
PARTICULARS OF EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 8. WRITTEN PARTICULARS OF EMPLOYMENT.- (1) An employer must supply an employee, when the employee starts work, with the following particulars in writing-**

**8. WRITTEN PARTICULARS OF EMPLOYMENT.-**(1) An employer must supply an employee, when the employee starts work, with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
- (c) the place of work, and where the employee is required or permitted to work at various places, an indication of this;
- (d) the date on which the employment began;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's wage or the rate and method of payment;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the employee is entitled to;
- (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
- (j) how frequently remuneration will be paid;
- (k) any deductions to be made from the employee's remuneration;
- (l) the leave to which the employee is entitled to; and
- (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate.

(2) When any matter listed in sub-clause (1) changes-

- (a) the written particulars must be revised to reflect the change; and
- (b) the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) The employer must sign the written particulars and any change in terms of sub-clause (2).

(5) The employer may require the employee to-

- (a) acknowledge receipt of the written particulars and any change in terms of sub-clause (2) in writing on a copy of the particulars; or
- (b) if the employee is unable to or refuses to acknowledge receipt, record that the employee has received a copy of the written particulars.

(6) An employer must retain a copy of the written particulars while the employee is employed and for three years thereafter.

PART D:  
HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 9. APPLICATION OF THIS PART.-**(1) This part does not apply to-

**9. APPLICATION OF THIS PART.**-(1) This part does not apply to-

- (a) senior managerial employees;
  - (b) employees engaged as sales staff who travel to the premises of customers and who regulate their own hours of work.
  - (c) to an employee earning in excess of-
    - (i) a wage of R205 433.30 per annum; or
    - (ii) the amount determined by the Minister in terms of section 6 (3) of the Basic Conditions of Employment Act.
- (2) Clauses 11, 12 (1), 16 (1), 17 (1) and 19 (2) and (20) do not apply while an employee is engaged in emergency work.
- (3) For the purposes of this clause-
- (a) 'senior managerial employee' means an employee who has the authority to hire, discipline and dismiss employees and to represent the employer internally and externally;
  - (b) 'emergency work' means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 10. APPLICATION OF PARTS D AND E TO EMPLOYEES WORKING 27 HOURS OR LESS PER WEEK.**-(1) A written agreement may provide that an employee who works 27 hours or less per week is employed on the following terms and conditions-

**10. APPLICATION OF PARTS D AND E TO EMPLOYEES WORKING 27 HOURS OR LESS PER WEEK.**-(1) A written agreement may provide that an employee who works 27 hours or less per week is employed on the following terms and conditions-

- (a) The employee is paid the relevant hourly wage rate in terms of Tables 1 to 2, plus in [Table 1](#): between 17.5% and 35.07% and [Table 2](#): between 9.76% and 46.84% for any ordinary hours of work worked by the employee, including ordinary hours of work performed on Sundays.  
[[Para. \(a\)](#) amended by GNR.1320 of 14 October 2019.]
- (b) the employee is granted at least two days off during every week;
- (c) the employer is not required to pay the employee an allowance for performing night work;
- (d) the right to paid sick-leave in terms of [clause 22](#) and family responsibility leave in terms of [clause 23](#) do not apply to the employee;
- (e) the employer must grant the employee at least two weeks' paid annual leave in accordance with the provisions of clauses 21 (2), (3), (5) - (10) and, on request by the employee, at least one week's unpaid leave each year; and
- (f) in all other respects, [Parts D](#) and [E](#) of this determination, apply to the employee.

(2) An employee who works for 27 hours or less per week who has not concluded an agreement in terms of sub-clause (1) is entitled to all basic conditions of employment established by this determination, where appropriate on a proportionate basis.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 11. ORDINARY HOURS OF WORK.**-(1) An employer may not require or permit an employee to work more than-

**11. ORDINARY HOURS OF WORK.**-(1) An employer may not require or permit an employee to work more than-

- (a) 45 ordinary hours in any week; or
  - (b) if an agreement has been concluded in terms of sub-clause (3), 40 ordinary hours in any week.
- (2) An employer may not require or permit an employee to work more than-
- (a) nine ordinary hours on any day if the employee works for five days or less in a week; or
  - (b) eight ordinary hours in any day if the employee works on more than five days in any week.
- (3) A written agreement may provide that an employee who works 40 or less ordinary hours of work per week including a Sunday is employed on the following terms and conditions-
- (a) the employer must grant the employee at least-

- (i) two full days off during every week; and
- (ii) one Sunday off during every four consecutive weeks;
- (b) the employer may only require or permit an employee to work on a day off granted in terms of [paragraph \(a\)](#) in terms of an agreement in respect of a particular day;
- (c) the employer must pay the employee for work on a day off granted in terms of [paragraph \(a\)](#) at least-
  - (i) double the employee's wage for each hour worked; or
  - (ii) if it is greater, the employee's daily wage;
- (d) [clause 17 \(1\) \(b\)](#) regulating the weekly rest period and [clause 18](#) regulating payment for work on Sunday do not apply to the employee.

(4) An employee's ordinary hours of work in terms of sub-clause (1) may by agreement be extended by up to 15 minutes in a day but no more than 60 minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 12. OVERTIME.-(1) An employer may not require or permit an employee-**

**12. OVERTIME.-(1)** An employer may not require or permit an employee-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the employee;
- (b) to work more than 10 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

(2) A written agreement-

- (a) may increase the maximum permitted overtime to 15 hours a week; and
- (b) an agreement contemplated in [paragraph \(a\)](#) may not apply for more than two months in any period of 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 13. PAYMENT OF OVERTIME.-(1) An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.**

**13. PAYMENT OF OVERTIME.-(1)** An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.

(3) An employer must grant paid time off in terms of sub-clause (2) within one month of the employee becoming entitled to it, alternatively-

- (a) a written agreement may increase the period contemplated by sub-clause (3) to twelve months; and
- (b) an agreement concluded in terms of [paragraph \(a\)](#) with an employee when the employee commences employment, or during the first three months of employment, is only valid for one year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 14. COMPRESSED WORKING WEEK.-(1) A written agreement may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 16, without receiving overtime pay.**

**14. COMPRESSED WORKING WEEK.-(1)** A written agreement may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 16](#), without receiving overtime pay.

(2) An agreement in terms of sub-clause (1) may not require or permit an employee to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 15. AVERAGING OF HOURS OF WORK.-(1) Despite clauses 11 (1) (a), 11 (2) and 12, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.**

**15. AVERAGING OF HOURS OF WORK.-(1)** Despite clauses 11 (1) (a), 11 (2) and 12, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.

(2) An employer may not require or permit an employee who is bound by an agreement in terms of sub-clause (1) to work more than-

- (a) an average of 45 ordinary hours of work in a week over the agreed period; or
- (b) an average of five hours' overtime in a week over the agreed period;
- (3) An agreement in terms of sub-clause (1) lapses after 12 months.
- (4) Sub-clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 16. MEAL INTERVALS.-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.**

**16. MEAL INTERVALS.-(1)** An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval, an employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.

(3) An employee must be paid-

- (a) for a meal interval in which the employee is required to be available for work;
- (b) for any portion of a meal interval that is in excess of 75 minutes.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.

(5) A written agreement may-

- (a) reduce the meal interval to not less than 30 minutes;
- (b) dispense with a meal interval for an employee who works fewer than six hours on a day.

(6) Whenever an employer is required to give an employee a second meal interval because of overtime worked, that interval may by agreement be reduced to not less than 15 minutes.

(7) An employer must grant to each of his or her employees a rest interval of not less than 15 minutes as nearly as practicable in the middle of each first work period and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee. A written agreement may extend the morning rest interval to not more than half an hour.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 17. REST PERIODS.-(1) An employer must grant an employee-**

**17. REST PERIODS.-(1)** An employer must grant an employee-

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
- (b) weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include a Sunday.

(2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for an employee -(a) whose meal interval lasts for at least three hours.

(3) Despite sub-clause (1) (b), a written agreement may provide for a rest period of at least 60 consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 18. PAYMENT FOR WORK ON SUNDAYS.-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one an**



**18. PAYMENT FOR WORK ON SUNDAYS.**-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half the employee's wage for each hour worked.

(2) If the payment calculated in terms of sub-clause (1) is less than the employee's daily wage, the employer must pay the employee, for the time worked on that Sunday, the employee's daily wage.

(3) Despite sub-clauses (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on a Sunday and the pay the employee is entitled to receive in terms of sub-clauses (1) and (2).

(4) An employee must grant paid time off in terms of sub-clause (3) within one month of the employee becoming entitled to it, alternatively-

(a) a written agreement may increase the period contemplated by sub-clause (4) for up to 12 months.

(5) Any time worked on a Sunday by employee who does not normally work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of [clause 11](#), but is taken into account in calculating the overtime worked by the employee in terms of [clause 12 \(1\) \(b\)](#).

(6) If a shift worked by an employee, who does not ordinarily work on a Sunday, falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 19. NIGHT WORK.**-(1) For the purposes of this clause, "night work" means work performed after 19:00 and before 07:00 the next day.

**19. NIGHT WORK.**-(1) For the purposes of this clause, "night work" means work performed after 19:00 and before 07:00 the next day.

(2) An employer may only require or permit an employee to perform night work, if so agreed and if-

(a) the employee is compensated by the payment of an allowance at a rate of at least 10% of the hourly wage for every hour or part of an hour that the employee works; and

(b) transport is available between the employee's place of residence and the workplace at the beginning and end of the employee's shift.

(3) An employer who requires an employee to perform work on a regular basis for a period of longer than one hour after 23:00 and before 06:00 the next day at least five times per month or 50 times per year must-

(a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands-

(i) of any health and safety hazards associated with the work that the employee is required to perform; and

(ii) of the employee's right to undergo a medical examination in terms of [paragraph \(b\)](#);

(b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-

(i) before the employee starts, or within a reasonable period of the employee starting, such work; and

(ii) at appropriate intervals while the employee continues to perform such work; and

(c) transfer the employee to suitable day work within a reasonable time if-

(i) the employee suffers from a health condition associated with the performance of night work; and

(ii) it is practicable for the employer to do so.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 20. PUBLIC HOLIDAYS.**-(1) An employer may not require an employee to work on a public holiday, except in accordance with an agreement.

**20. PUBLIC HOLIDAYS.**-(1) An employer may not require an employee to work on a public holiday, except in accordance with an agreement.

(2) If a public holiday falls on a day on which an employee would ordinarily have worked, an employer must pay an employee-

(a) who does not work on the public holiday the employee's daily wage;

(b) who does work on the public holiday at least double the daily wage.

(3) If an employee who works on a public holiday on which the employee would not ordinarily have worked, the employer must pay that employee an amount equal to-



(a) the employee's daily wage; plus

(b) the employee's hourly wage for each hour worked on the public holiday.

(4) An employer must pay an employee for a public holiday on the employee's normal payday.

(5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

PART E:  
LEAVE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 21. ANNUAL LEAVE.-(1) An employer must grant an employee-**

**21. ANNUAL LEAVE.-(1)** An employer must grant an employee-

(a) at least three calendar weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle');

(b) by agreement, at least one day of annual leave on full pay for every 17 days on which the employee worked or was entitled to be paid; or

(c) by agreement, at least one hour of annual leave on full pay for every 17 hours on which the employee worked or was entitled to be paid.

(2) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would otherwise have worked.

(3) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave on full pay granted to the employee at the employee's request in that annual leave cycle.

(4) An employer must grant at least three calendar weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle') not later than six months after the end of the annual leave cycle or the year in which the leave was earned.

(5) Annual leave must be taken-

(a) in accordance with an agreement between the employer and employee; or

(b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this clause.

(6) An employer may not require or permit an employee to take annual leave during-

(a) any other period of leave to which the employee is entitled in terms of this part of the sectoral determination; or

(b) any period of notice of termination of employment.

(7) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(8) An employer may not pay an employee instead of granting paid leave in terms of this clause except on termination of employment.

(9) An employer must pay an employee leave pay at least equivalent to the remuneration that the employee would have received for working for a period equal to the period of annual leave, calculated on the basis of the employee's rate of remuneration immediately before the period of leave.

(10) An employer must pay an employee leave pay-

(a) before the beginning of the period of leave; or

(b) by agreement, on the employee's normal payday.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 22. SICK LEAVE.-(1) For purposes of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-**

**22. SICK LEAVE.-(1)** For purposes of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

(a) the employee's commencement of work; or

(b) the end of the employee's previous sick leave cycle.

(2) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite sub-clause (2) during the first six months of work, an employee is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the employee's first leave cycle, reduce the employee's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) An employer may require an employee who has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period to produce a medical certificate before paying the employee in terms of this clause.

(6) The medical certificate in terms of sub-clause (5) must-

- (a) be issued and signed by a medical practitioner, or any other person who is certified to diagnose and treat patients and who is registered with a professional council, established by an Act of Parliament; and
- (b) state that the employee was unable to work for the duration of the employee's incapacity.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 23. FAMILY RESPONSIBILITY LEAVE.-(1) This clause applies to an employee-**

**23. FAMILY RESPONSIBILITY LEAVE.-(1)** This clause applies to an employee-

- (a) who has been employed by an employer for longer than four months; and
- (b) who works on at least four days a week for that employer.

(2) An employer must grant an employee, during each 12 months of employment, at the request of the employee, three days' leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.

(3) An employee may take family responsibility leave in respect of the whole or part of the day.

(4) Subject to sub-clause (5), an employer must pay an employee for a day's family responsibility leave-

- (a) the wage the employee would normally have received for work on that day; and
- (b) on the employee's usual payday.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

(7) A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this clause.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 24. MATERNITY LEAVE<sup>1</sup>-(1) An employee is entitled to at least four consecutive months' maternity leave.**

**24. MATERNITY LEAVE<sup>1</sup>-(1)** An employee is entitled to at least four consecutive months' maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) An employee may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and

(b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

(a) at least four weeks before the employee intends to commence maternity leave;

(b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

(i) the employee is required to perform night work, as defined in [clause 19](#) or her work poses a danger to her health or safety or that of her child; and

(ii) it is practicable for the employer to do so.

#### PART F:

#### PROHIBITION OF WORK BY CHILDREN AND FORCED LABOUR

#### Footnotes

- 1 In terms of [section 187 \(1\) \(e\)](#) of the Labour Relations Act, 1995, the dismissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in [section 186](#) of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 25. PROHIBITION OF WORK BY CHILDREN.-(1) No person may require or permit a child to work, if the child-**

**25. PROHIBITION OF WORK BY CHILDREN.-(1)** No person may require or permit a child to work, if the child-

(a) is under 15 years of age; or

(b) is under the minimum school leaving age in terms of any law.<sup>2</sup>

(2) A person must not require or permit a child to perform any work or provide any services-

(a) that is inappropriate for a person of that age;

(b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) A person who requires or permits a child to work in contravention of [clause 25 \(1\)](#) or [25 \(2\)](#) commits an offence.

(4) An employer must maintain for three years a record of the name, date of birth and address of every employee under the age of 18 years employed by them.

(5) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(6) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (5).

(7) A person who requires or permits a child to work, in contravention of sub-clauses (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (5) and (6) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.

#### PART G:

#### TERMINATION OF EMPLOYMENT

#### Footnotes

- 2 [Section 31 \(1\)](#) of the South African Schools Act, 1996 (Act [84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 26. TERMINATION OF EMPLOYMENT.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

**26. TERMINATION OF EMPLOYMENT.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

(a) one week, if the employee has been employed for six months or less;

(b) two weeks, if the employee has been employed for more than six months but not more than one year; and

- (c) four weeks, if the employee has been employed for more than one year.
- (2) A written agreement may-
  - (a) not permit a notice period shorter than that required by sub-clause (i);
  - (b) despite [paragraph \(a\)](#), an agreement may permit the notice period of four weeks required by sub-clause (1) (c) to be reduced to not less than two weeks.
- (3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.
- (4) Notice of termination of a contract of employment must-
  - (a) be given in writing except when it is given by an illiterate employee; or
  - (b) if an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.
- (5) Notice of termination of a contract of employment given by an employer must-
  - (a) not be given during any period of leave to which the employee is entitled in terms of [clause 21 \(1\)](#);
  - (b) not run concurrently with any period of leave to which the employee is entitled in terms of this determination, except sick leave.
- (6) Nothing in this clause affects the right of-
  - (a) a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
  - (b) an employer or an employee to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 27. PAYMENT INSTEAD OF NOTICE.-(1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the full pay the employee would have received if the employee had worked during the notice period.**

**27. PAYMENT INSTEAD OF NOTICE.-(1)** Instead of giving an employee notice in terms of this clause, an employer may pay the employee the full pay the employee would have received if the employee had worked during the notice period.

(2) If an employee gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the full pay referred to in sub-clause (1), unless the employer and employee agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 28. PAYMENT ON TERMINATION.-(1) On termination of employment, an employer must pay an employee all monies due to the employee for any-**

**28. PAYMENT ON TERMINATION.-(1)** On termination of employment, an employer must pay an employee all monies due to the employee for any-

- (a) wages, allowances or other payments that have not been paid;
- (b) paid time-off that the employee is entitled to in terms of [clause 13](#) or [18](#) that the employee has not taken;
- (c) leave in terms of [clause 21](#) that the employee has not taken, irrespective of whether the employee has completed an annual leave cycle or year of service, unless the employee has not been employed longer than four months.

(2) For the purposes of sub-clause (1) (c), an employee is entitled to be paid in respect of any period for which leave was not granted-

- (a) one week's remuneration for every four months worked; or
- (b) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 29. SEVERANCE PAY.-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**29. SEVERANCE PAY.-(1)** For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's wage for each completed year of continuous service with that employer.

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

(6) An employee who refers a dispute to the CCMA as provided in sub-clause (5) must satisfy the body that a copy of the referral has been served on all other parties to the dispute.

(7) The CCMA must attempt to resolve the dispute through conciliation.

(8) If the dispute remains unresolved the employee may refer the dispute to arbitration.

(9) If the Labour Court is adjudicating a dispute about a dismissal on the employer's operational requirements, the Court may enquire into and determine the amount of any severance pay to which a dismissed employee may be entitled and the Court may make an order directing the employer to pay such amount.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 30. CERTIFICATE OF SERVICE.-On termination of employment, an employee is entitled to a certificate of service stating-**

**30. CERTIFICATE OF SERVICE.-**On termination of employment, an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the employee was employed at the date of termination;
- (e) any relevant training received by the employee;
- (f) the pay at date of termination; and
- (g) if the employee requests, the reason for termination of employment.

PART H:  
GENERAL

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 31. OVERALLS AND PROTECTIVE CLOTHING.-**  
**(1) An employer must provide free of charge-**

**31. OVERALLS AND PROTECTIVE CLOTHING.-**(1) An employer must provide free of charge-

- (a) at least two overalls or washing coats per year to an employee who is directly engaged in the selling or handling of foodstuffs, confectionery or groceries not pre-packed in sealed containers;
- (b) rain gear to employees who in the performance of his or her duties is regularly exposed to wet weather;
- (c) kneepads to an employee who scrubs or washes floors by hand.

(2) Subject to sub-clause (3), an employer must maintain clothing supplied in terms of sub-clause (1) in a clean and serviceable condition at no cost to the employee.

(3) If an employer who requires an employee to wear clothing in terms of sub-clause (1) pays the employee an allowance of at least R2.60 per week per item, the employee is responsible for the maintaining, laundering and cleaning of the clothing.

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word "hi" is intended to be "in".)

(4) Any clothing provided to an employee in terms of sub-clause (1) remains the property of the employer.

(5) An employer may offer to supply an employee with one or more outfits of specified colour shade design or style on conditions not less favourable to the employee than the following-

- (a) the price paid by the employee may not exceed the cost to the employer, and
- (b) the employer may require the employee to wear the outfit at all times while on duty. If only one outfit has been supplied, this requirement does not apply while the outfit is being cleaned or repaired;

- (c) the employer may not prohibit the employee from wearing the outfit while off duty;
- (d) the employer must permit the employee to pay for each outfit supplied by means of at least four equal monthly deductions from the employee's remuneration. If the contract of employment is terminated before the full amount due by the employee for any outfit has been paid, the employer may deduct the balance due in one sum from any remuneration due to the employee on termination.

(6) The offer referred to in sub-clause (5) must be in writing and must set out the conditions of the offer. Unless the employee accepts the offer in writing within seven days after receiving it, the employee is deemed to have rejected the offer.

(7) An outfit referred to in sub-clause (6) becomes the property of the employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 32. ATTENDANCE REGISTER.-(1) This clause does not apply to-**

**32. ATTENDANCE REGISTER.-(1)** This clause does not apply to-

- (a) a driver or an employee employed to accompany a driver; or
- (b) an employee earning in excess of the amount determined by the Minister in terms of section 6 (3) of the Basic Conditions of Employment Act.

(2) An employer must-

- (a) provide in its establishment a manual or automated attendance register;
- (b) record the name of each employee in the register;
- (c) ensure that the employee records for each day worked-
  - (i) the day of the week;
  - (ii) the time the employee commenced work;
  - (iii) the time of the starting and finishing of all meal or other intervals which are not part of ordinary hours of work;
  - (iv) the time of finishing work on the day;
  - (v) the amount of overtime worked for the day;
  - (vi) the total number of hours worked for the day; and
  - (vii) the employee's signature.

(3) An employer must retain the records of attendance referred to in sub-clause (2), for a period of not less than three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 33. TEMPORARY EMPLOYMENT SERVICES.-(1) For the purposes of this sectoral determination, a person whose services have been procured for, or provided to, a client by a temporary employment service is the employee of that temporary employment service, and**

**33. TEMPORARY EMPLOYMENT SERVICES.-(1)** For the purposes of this sectoral determination, a person whose services have been procured for, or provided to, a client by a temporary employment service is the employee of that temporary employment service, and the temporary employment service is that person's employer.

(2) Despite sub-clause (1), a person who is an independent contractor is not an employee of a temporary employment service, nor is the temporary employment service the employer of that person.

(3) The temporary employment service and the client are jointly and severally liable if the temporary employment service, in respect of any employee who provides services to that client, does not comply with this sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 34. DURATION OF EMPLOYMENT.-(1) For the purposes of determining the length of an employee's employment with an employer for any provision of this sectoral determination, previous employment with the same employer must be taken into account if the break**

**34. DURATION OF EMPLOYMENT.-(1)** For the purposes of determining the length of an employee's employment with an employer for any provision of this sectoral determination, previous employment with the same employer must be taken into account if the break between the periods of employment is less than one year.

(2) Any payment made or any leave granted in terms of this sectoral determination to an employee contemplated in



sub-clause (1) during a previous period of employment must be taken into account in determining the employee's entitlement to leave or to a payment in terms of this sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 35. KEEPING OF SECTORAL DETERMINATION.-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the employee has access.**

**35. KEEPING OF SECTORAL DETERMINATION.-**Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the employee has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Sectoral Determinations/ GN 162 of 9 February 2016: Sectoral Determination 9: Wholesale and Retail Sector, South Africa (Government Gazette No. 39671)/ 36. DEFINITIONS.-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-**

**36. DEFINITIONS.-**Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-

"**agreement**" includes a collective agreement;

"**assistant manager**" means an employee who is required to support the Manager in managing the activities of the business and who is authorised by the employer, in the Manager's absence, to assume the responsibilities of the Manager;

"**Baker**" means an employee who prepares, proofs, bakes and finishes off products in accordance with specifications. Associated, but not core to the function may be maintenance of hygiene, monitoring production, stock rotation, training and specialty customer orders

"**Basic Conditions of Employment Act**" means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#));

"**Block man**" means an employee who manufactures cuts and prepares all meat species using butchery equipment according to specifications required. Associated, but not core to the function would be the preparation, pricing, wrapping, labeling, quality checking, rotating stock and preventing wastage.

"**cashier**" means an employee who receives payments on behalf of the employer for products or services, issues receipts for payments, deposits payments into the employer's elected bank account or performs any other activities relating to payments;

"**Checker**" means an employee who, under the supervision of a more senior employee, is primarily responsible for the checking, administration, verification and reconciliation of goods for dispatch or receipt at a dispatch or receipt points, and whose functions may include the consolidation and scanning of pallets or goods and the recordal and storage of conveyance information of pallets or goods.

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word "reconcilaion" is intended to be "reconciliation".)

"**child**" means a person under 18 years of age;

"**clerk**" means an employee employed in any form of administrative work, including, but not limited to, writing, filing, recording information, reconciling documents;

"**commission work**" means any system under which an employee receives additional pay calculated on the value or volume of sales, margin, profit, or on the value or number of orders submitted to and accepted by an employer;

"**day**" means, for the purposes of measuring hours of work, a period of 24 hours measured from the time when the employee normally commences work;

"**Deli Assistant**" means an employee that assists in the Deli by preparing it for service and ensuring that the food items are properly stocked and displayed. They serve ready prepared products, weigh, package and affix price labels to the product before dispatching it to the customer. They may also be tasked with slicing and packaging of cold meats, and incidental tasks include the preparation of basic meals such as sandwiches, salads and a limited number of stews. The preparation of these basic meals is according to a simple recipe and set production schedule.

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word "prepartion" is intended to be "preparation".)

"**displayer**" means an employee who prepares window, promotional or sale display material, whether internally or externally;

"**dispute**" includes an alleged dispute;

"**driver**" means an employee who drives a motor vehicle for purposes of deliveries or to perform other activities on behalf of an employer and who holds the requisite licence;

"**employee**" means-



- (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer;

**"fork-lift operator"** means an employee who operates a mobile power-driven hoist used in the loading, unloading, moving or stacking of products and who holds the requisite license;

**"general assistant"** means an employee who is engaged in any one or more of the following duties-

- (a) accompanying or assisting a driver or other employee who drives a vehicle, but not driving the vehicle;
- (b) accompanying any employee who uses tools, but not using tools independently;
- (c) affixing postage stamps or labels;
- (d) assembling boxes by hand;
- (e) breaking up scrap metal;
- ( f ) carrying or moving goods, by means other than a power-driven device;
- (g) changing wheels or repairing punctures;
- (h) cleaning machinery, premises, vehicles, furniture, implements, tools, utensils or goods on the employer's premises;
- (i) cleaning or plucking poultry;
- ( j ) cleaning, cutting, filleting, scaling or slicing raw fish;
- (k) cutting by hand, paper, samples, linoleum, mats, curtain rods, netting wire, wire or other articles or commodities;
- (l) cutting up scrap metal;
- (m) delivering or conveying letters, parcels, messages or goods by means other than by a motor vehicle with an engine capacity exceeding 100 cm<sup>2</sup>;
- (n) driving an animal-drawn vehicle;
- (o) feeding into or drawing off from vats, tanks or other containers;
- (p) feeding or taking off from automatic or semi-automatic machines, moving belts or platforms;
- (q) filling bins or dump baskets with goods;
- (r) filling, capping, corking or labelling bottles or other containers;
- (s) folding or enveloping mail;
- (t) grading eggs according to size;
- (u) ironing;
- (v) loading or unloading vehicles;
- (w) making or maintaining fires or removing refuse or ash;
- (x) making tea or similar beverages for, or serving tea or similar beverages to employees, the employer or guests;
- (y) marking, branding or stencilling goods by hand;
- (z) melting scrap lead
- (aa) mending bags or sacks by hand or machine;
- (bb) mending or altering second-hand clothing for sale;
- (cc) mixing by hand the ingredients of animal or poultry foods the mass of which has been measured beforehand or otherwise predetermined;
- (dd) nailing or repairing boxes or crates;
- (ee) oiling or greasing machinery of vehicles, other than motor vehicles;
- ( ff ) opening or closing doors, windows, bales boxes or other packages;
- (gg) operating an addressograph, Photostat, or a duplicating machine;
- (hh) operating any power-driven machine not specifically mentioned elsewhere in this clause;
- (ii) operating a portable pump;
- (jj) packers, placing or staking goods at point of sale, or in cabinets or on counters, gondolas, racks or shelves;
- (kk) repetitive marking of prices on goods by means of a rubber stamp or other marking device, under supervision;
- (ll) repetitive mass-measuring or repetitive measuring; or mass measuring for stock;

- (mm) setting up or dismantling corrugated or fibre board boxes or similar containers;
- (nn) strapping or wiring boxes;
- (oo) tending, cleaning or feeding animals;
- (pp) using rubber or other stamps, involving no discretion;
- (qq) washing uniforms, overalls or protective clothing;
- (rr) wrapping parcels;
- (ss) collecting trolleys for the wholesale and retail sector whether in-house or outsourced.

**"gross vehicle mass"** means the maximum mass of a vehicle and its load as specified by the manufacturer, or if there is no such specification, the relevant registering authority;

**"incapacity"** means inability to work owing to sickness or injury;

**"manager"** means an employee who is authorised by an employer to manage the activities of a business or part of a business or to manage the employees in a business or part of a business;

**"merchandiser"** means an employee who draws goods from a storage area, cleans shelving, unpacks and prices products and removes damaged or expired goods;

**"night work"** means work performed after 19h00 and before 07h00 the next day;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 11](#);

**"overtime"** means the time that the employee works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave or family responsibility leave that an employee is entitled to in terms of [Part E](#) of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"sales assistant"** means an employee who prepares products and services for sale, attends to customers' enquiries, assembles products for customers and, with the authority of an employer, accepts payment for products or services sold;

**"sales person"** means an employee employed to perform the tasks of a sales assistant and who receives, commission payments in terms of [clause 3](#);

**"security guard"** means an employee who guards, protects or patrols an employer's establishment, buildings, property and goods;

**"shop assistant"** means an employee who packs, replenishes, marks, assembles or assists in the dispatching of products on instruction from a more senior employee;

**"supervisor"** means an employee who is authorised by an employer or manager to discipline other employees, the responsibility to direct them, to adjust their grievances, and to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature;

**"temporary employment service"** means any person who, for reward, procures for, or provides to, a client, other persons-

- (a) who render services to, or perform work for, the client; and
- (b) who are remunerated by the temporary employment service;

**"trainee manager"** means an employee who receives training on an on-going basis in the duties and responsibilities of a manager;

**"trolley collector"** means an employee that is tasked with collecting, returning and or recovering shopping trolleys on behalf of employers in the Wholesale and Retail sector.

**"wage"** means the amount of money paid or payable to an employee in respect of ordinary hours of work or, if they are shorter, the hours an employee normally works in a day or week;

**"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;

**"workplace"** means any place where employees work.

# TABLES 1 AND 2

[Tables 1 and 2 replaced by GN 189 of 18 February 2016, by GN 443 of 14 April 2016, substituted by GNR.1036 of 2 August 2019 and by GNR.1320 of 14 October 2019 and by GNR.175 of 17 February 2020.]

| Table 1: Area A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                |              |          |         |         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------|----------|---------|---------|
| Metropolitan and Local Municipality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                |              |          |         |         |
| Bergrivier, Breede Valley, Buffalo City, Cape Agulhas, Cederberg, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane, Drakenstein, Ekurhuleni, Lmalahleni, Emfuleni, Ethekwini Metropolitan Municipality, George, Hibiscus Coast, Karoo Hoogland, Kgatelopele, //Khara Hais, Knysna, Kungwini, Kouga, Hessequa local authority, Lesedi, Makana, Mangaung, Matzikama, Metsimaholo, Middelburg (Mpumalanga), Midvaal, Mngeni, Mogale, Mosselbaai, Msunduzi, Mtubatuba, Nama Khoi, Nelson Mandela, Nokeng tsa Taemane, Oudtshoorn, Overstrand, Plettenbergbaai, Potchefstroom, Randfontein, Richtersveld, Saldanha Bay, Sol Plaatjie, Stellenbosch, Swartland, Swellendam, Theewaterskloof, Umdoni, uMhlathuze and Witzenberg. |                |              |          |         |         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 27 Hrs or less |              | CI 2 (2) |         |         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | CI 2 (3) (b)   | CI 2 (3) (a) |          |         |         |
| Job category                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | R.p.h          | R.p.h        | R.p.h.   | R.p.w   | R.p.m   |
| General Assistant/Trolley Collector                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 20.76          | 24.39        | 20.76    | 934.20  | 4047.89 |
| Security Guard                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 20.76          | 24.79        | 20.76    | 934.20  | 4047.89 |
| Forklift Operator                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 20.76          | 26.49        | 20.76    | 934.20  | 4047.89 |
| Driver < 3500kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 20.76          | 27.02        | 20.76    | 934.20  | 4047.89 |
| Merchandiser/Shop Assistant Checker/Deli Assistant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 22.42          | 28.04        | 20.76    | 934.20  | 4047.89 |
| Cashier                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 23.78          | 29.73        | 22.97    | 1033.65 | 4478.81 |
| Driver 3501 <9000kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 25.87          | 32.33        | 24.96    | 1123.20 | 4866.83 |
| Clerk/Sales Assistant/Sales person/Block man/Baker                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 27.99          | 34.99        | 27.03    | 1216.35 | 5270.44 |
| Driver 9001 <16000kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 28.17          | 35.20        | 27.17    | 1222.65 | 5297.74 |
| Displayer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 29.06          | 36.33        | 28.07    | 1263.15 | 5473.23 |
| Driver 16001kg >                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 30.92          | 38.67        | 29.86    | 1343.70 | 5822.25 |
| Supervisor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 34.44          | 43.05        | 33.24    | 1495.80 | 6481.30 |
| Trainee Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 37.19          | 46.49        | 35.91    | 1615.95 | 7001.91 |
| Assistant Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 40.51          | 50.65        | 39.09    | 1759.05 | 7621.96 |
| Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 44.40          | 55.50        | 42.87    | 1929.15 | 8359.01 |

| Table 2: Area B                                    |                |              |          |         |         |
|----------------------------------------------------|----------------|--------------|----------|---------|---------|
| Metropolitan and Local Municipality                |                |              |          |         |         |
| AREAS NOT MENTIONED IN AREA A                      |                |              |          |         |         |
|                                                    | 27 Hrs or less |              | CI 2 (2) |         |         |
|                                                    | CI 2 (3) (b)   | CI 2 (3) (a) |          |         |         |
| Job category                                       | R.p.h          | R.p.h        | R.p.h.   | R.p.w   | R.p.m   |
| General Assistant/Trolley Collector                | 20.76          | 22.78        | 20.76    | 934.20  | 4047.89 |
| Security Guard                                     | 20.76          | 24.79        | 20.76    | 934.20  | 4047.89 |
| Forklift Operator                                  | 20.76          | 22.95        | 20.76    | 934.20  | 4047.89 |
| Driver < 3500kg                                    | 20.76          | 23.54        | 20.76    | 934.20  | 4047.89 |
| Merchandiser/Shop Assistant/Checker/Deli Assistant | 20.76          | 24.78        | 20.76    | 934.20  | 4047.89 |
| Cashier                                            | 20.76          | 26.27        | 20.76    | 934.20  | 4047.89 |
| Driver 3501 <9000kg                                | 22.52          | 28.14        | 20.76    | 934.20  | 4047.89 |
| Clerk/Sales Assistant/Sales person/Block man/Baker | 27.99          | 34.99        | 23.82    | 1071.90 | 4644.54 |
| Driver 9001 <16000kg                               | 26.94          | 33.67        | 25.84    | 1162.80 | 5038.41 |
| Displayer                                          | 23.98          | 29.98        | 23.03    | 1036.35 | 4490.50 |
| Driver 16001kg >                                   | 29.61          | 37.00        | 28.40    | 1278.00 | 5537.57 |
| Supervisor                                         | 30.10          | 37.64        | 28.91    | 1300.95 | 5637.02 |
| Trainee Manager                                    | 32.22          | 40.27        | 30.90    | 1390.50 | 6025.04 |
| Assistant Manager                                  | 35.51          | 44.40        | 34.04    | 1531.80 | 6637.29 |

|         |       |       |       |         |         |
|---------|-------|-------|-------|---------|---------|
| Manager | 38.52 | 48.14 | 36.91 | 1660.95 | 7196.90 |
|---------|-------|-------|-------|---------|---------|

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GN 356 of 14 March 2003: Determination: Earnings Threshold**

**GN 356 of 14 March 2003: Determination: Earnings Threshold**

DEPARTMENT OF LABOUR

BASIC CONDITIONS OF EMPLOYMENT ACT [75 OF 1997](#)

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#) (the Act), determine that all employees earning in excess of R115 572,00 per annum be excluded from sections 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 (3) of the Act and fix the second Monday after the date of publication of this notice as the date from which the said determination shall be binding.

For the purposes of this notice:

"**Earnings**" means gross pay before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee.

MMS Mdladlana, MP  
MINISTER OF LABOUR

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GNR.100 of 1 February 2008: Determination: Earnings threshold (Government Gazette No. 30720)**

**GNR.100 of 1 February 2008: Determination: Earnings threshold  
(Government Gazette No. 30720)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [Section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R149 736 (one hundred and forty nine thousand seven hundred and thirty six rand) per annum be excluded from sections 9, 10, 11, 12, 15, 17 (2), 18 (3) of the Act with effect from 1 March 2008.

For the purposes of this notice:

"Earnings" means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowance received or achievement awards, intermittent payments for occasional overtime shall not be regarded as remuneration for the purpose of this notice.

(Signed)  
**M M S MDLADLANA, MP**  
**MINISTER OF LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GNR.300 of 14 March 2008: Determination: Earnings threshold: Correction notice (Government Gazette No. 30872)**

**GNR.300 of 14 March 2008: Determination: Earnings threshold: Correction notice  
(Government Gazette No. 30872)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [Section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R149 736 (one hundred and forty nine thousand seven hundred and thirty six rand) per annum be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17 (2), 18 (3) of the Act with effect from 1 March 2008.

For the purposes of this notice:

**"Earnings"** means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowance received or achievement awards, intermittent payments for occasional overtime shall not be regarded as remuneration for the purpose of this notice.

Government Notice No. R 356 published in *Government Gazette* 25012 shall be withdrawn with effect from 1 March 2008.

This determination replaces the determination published under Government Notice R 100 in *Government Gazette* No. 30720 on 1 February 2008.

(Signed)  
**M M S MDLADLANA, MP**  
**MINISTER OF LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GNR.422 of 13 May 2011: Determination: Earnings threshold (Government Gazette No. 34287)**

**GNR.422 of 13 May 2011: Determination: Earnings threshold**  
**(Government Gazette No. 34287)**

DEPARTMENT OF LABOUR

I, Mildred Nelisiwe Oliphant, Minister of Labour, in terms of [Section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R172 000 (one hundred and seventy two thousand rand) per annum be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17 (2), 18 (3) of the Act with effect from 1 July 2011.

For the purposes of this notice:

"Earnings" means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.

This determination replaces the determination published under Government Notice R. 300 in *Government Gazette* No. 30872 on 14 March 2008.

(Signed)  
**M N OLIPHANT, MP**  
**MINISTER OF LABOUR**  
**3/5/2011**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GNR.429 of 1 June 2012: Determination: Earnings threshold (Government Gazette No. 35404)**

**GNR.429 of 1 June 2012: Determination: Earnings threshold**  
**(Government Gazette No. 35404)**

DEPARTMENT OF LABOUR

I, Nelisiwe Mildred Oliphant, Minister of Labour, in terms of [Section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R183 008.00 (one hundred and eighty three thousand and eight rand) per annum be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17 (2), 18 (3) of the Act with effect from 1 July 2012.

For the purposes of this notice:

"Earnings" means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.

**N M OLIPHANT, MP**  
**MINISTER OF LABOUR**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Notices/ GN 456 of 1 July 2013: Determination: Earnings**

**GN 456 of 1 July 2013: Determination: Earnings threshold  
(Government Gazette No. 36620)**

DEPARTMENT OF LABOUR

I, Nelisiwe Mildred Oliphant, Minister of Labour, in terms of [section 6 \(3\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), (the Act), determine that all employees earning in excess of R193 805.00 (one hundred and ninety three thousand, eight hundred and five rand) per annum be excluded from sections 9, 10, 11, 12, 14, 15, 16, 17 (2), 18 (3) of the Act with effect from 1 July 2013.

For the purposes of this notice:

"Earnings" means the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration for the purpose of this notice.

(Signed)

**M N OLIPHANT, MP**  
**MINISTER OF LABOUR**  
**24/06/2013**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Codes/ GNR.64 of 25 January 2002: Code of Good Practice for employment and conditions of work for Special Public Works Programmes (Government Gazette No. 23045)**

**GNR.64 of 25 January 2002: Code of Good Practice for employment and conditions of work for Special Public Works Programmes  
(Government Gazette No. 23045)**

DEPARTMENT OF LABOUR

Notice is hereby given in terms of section 87 (2) of the Basic Conditions of Employment Act, 1997, that the Minister of Labour, after consulting NEDLAC, has issued under section 87 (1) (a) of that Act, a Code of Good Practice for Employment and Conditions of Work for Special Public Works Programmes as set out in [the Schedule](#).

**SCHEDULE**

**1. Preamble**

- 1.1 Reducing unemployment is one of the greatest challenges facing South Africa. Government has undertaken a number of initiatives to address unemployment and poverty, including the promotion of labour-intensive Special Public Works Programmes (SPWP). A SPWP is a short-term, non-permanent, labour intensive programme initiated by government and funded, either fully or partially, from public resources to create a public asset.
- 1.2 The Code provides guidelines for the protection of workers engaged in SPWP's, taking into account the need for workers to have basic rights, the objectives of the programmes and the resource implications for government.
- 1.3 In addition, the Code encourages:
  - . Optimal use of locally-based labour in SPWP.
  - . A focus on targeted groups, namely: women, female-headed households, youth, the disabled and households coping with HIV/AIDS.
  - . The empowerment of individuals and communities engaged in SPWP through the provision of training.

**2. Purpose**

The purpose of the Code is to:

- . Provide good practice guidelines to all stakeholders involved in SPWP in respect of working conditions, payment and rates of pay, disciplinary and grievance procedures.
- . Promote uniformity between different SPWP within South Africa.

**3. Application**

- 3.1 The Code applies to all employers and to all workers hired to perform in elementary occupations in SPWP.
- 3.2 Employers in SPWP's must comply with relevant legislation such as the-
  - . Basic Conditions of Employment Act [75 of 1997](#)
  - . Labour Relations Act [66 of 1995](#)
  - . Employment Equity Act [55 of 1998](#) (Chapters 1 and 2)
  - . Occupational Health and Safety Act [85 of 1993](#)

. Compensation for Occupational Injuries and Diseases Act [130 of 1993](#)

. Skills Development Act of 1998

- 3.3 The Code does not impose any legal obligation in addition to those in the Basic Conditions of Employment Act or any other Act referred to in the Code. Its purpose is to give guidance to employers on key legal provisions in those Acts.
- 3.4 The Code must be read in conjunction with a Ministerial Determination for special public works programmes issued by the Minister of Labour in terms of section 50 (1) of the Basic Conditions of Employment Act and the standard terms and conditions of employment which are annexed to this Code.
- 3.5 The Code is based on international best practice experience that wherever possible work should be task-based. In a task-based system the worker is paid a fixed rate in return for a fixed quantity of work. Tasks may be set for an individual or a group of people. Only work completed is paid for subject to point 12.1. Only where this is not possible can workers be paid a fixed daily rate.

#### **4. Beneficiaries of special public works programmes**

- 4.1 The beneficiaries of the programmes should preferably be non-working individuals from the most vulnerable sections of disadvantaged communities who do not receive any social security pension income.
- 4.2 In order to spread the benefits as broadly as possible in the community, a maximum of one person per household should be employed, taking local circumstances into account.
- 4.3 Skilled workers from other areas may be employed if they have skills that are required for a project and there are not enough persons in the local communities who have those skills or who could undergo appropriate skills training. However, this should not result in more than 20% of persons working on a programme not being from local communities. A proper skills audit should be conducted where possible, in an area where a SPWP is in operation.
- 4.4 Programmes should set participation targets for employment with respect to single and female-headed households, women, youth, people with disabilities, households coping with HIV/AIDS, people who have never worked, and those in long-term unemployment.
- 4.6 The proposed targets are:
  - 4.6.1 60% women;
  - 4.6.2 20% youth from 18 to 25 years of age; and
  - 4.6.3 2% disabled.
- 4.7 Special Public Works Programmes should seek to achieve these targets in all occupational categories.

(Editorial Note: Numbering as per original *Government Gazette*.)

#### **5. Recommended exclusions**

- 5.1 Persons receiving a state pension or assistance from a social security system may not be employed on a SPWP.
- 5.2 Persons under eighteen years of age may not be employed on SPWP.

#### **6. Selection of Workers**

- 6.1 The local community, through all structures available, must be informed of and consulted about the establishment of any SPWP.
- 6.2 Members of the community who are economically active and who form part of the targeted groups will be given an opportunity to apply for work.
- 6.3 Preference must be given to the targeted groups in selecting workers.
- 6.4 In addition the following criteria are suggested to help target the poorest of the poor:
  - 6.4.1 People who come from households where the head of the household has less than a primary school education;
  - 6.4.2 People who come from households that have less than one full time person earning an income;
  - 6.4.3 People who come from households where subsistence agriculture is the source of income.

#### **7. Duration of Participation**

- 7.1 Special Public Works Programmes seek to provide as many people as possible with the opportunity to participate in the programme.
- 7.2 Work should be distributed amongst the unemployed as practically and equitably as possible.
- 7.3 No person may be employed for more than 24-months within a 5-year cycle, except in circumstances where no other local labour is available.
- 7.4 However, a worker who has a baby and takes maternity leave is, provided the SPWP is still in operation, entitled to an additional 24-month cycle within the original 5-year cycle on her return to work from maternity leave.

#### **8. Forced labour is prohibited**

- 8.1 No forced labour is permitted on a SPWP.
- 8.2 Forced labour includes forms of coercion such as patronage or demanding sexual favours for work.
- 8.3 Programmes should monitor whether or not there is forced labour, particularly when intermediaries such as labour contractors or management agencies are involved.

#### **9. Unemployment Insurance**



9.1 Work on a SPWP is not classified as employment as a contributor in terms of the Unemployment Insurance Act 30 of 1966.

9.2 No Unemployment Insurance Fund (UIF) contributions will be paid on behalf of or by workers in SPWP.

## **10. Payment**

10.1 Employers must pay workers the rate of pay set for the SPWP.

10.2 Wherever possible, workers should be paid on the basis of the number of tasks completed. These workers are referred to as "task rated workers".

10.3 There are jobs where it is not possible to pay workers on the basis of tasks performed. These include security guards. These workers must be paid on the basis of the amount of time they worked. They are referred to as "time-rated workers".

10.4 The following guidelines should be considered when setting rates of pay for workers in SPWP:

10.4.1 The rate set should take into account wages paid for comparable unskilled work in the local area per sector, if necessary.

10.4.2 The rate should be an appropriate wage to offer an incentive for work, to reward effort provided and to ensure a reasonable quality of work. It should not be more than the average local rate to ensure people are not recruited away from other employment and jobs with longer-term prospects.

10.4.3 Men, women, disabled persons and the aged must receive the same pay for work of equal value.

10.5 On the task-based system, a worker is only paid for each task completed.

10.6 If pay is calculated on the basis of time worked, a worker will only be paid for the period that the worker worked.

10.7 If workers are informed a day before that work will not take place the next day, they should not be entitled to any payment.

10.8 Workers will be paid a training allowance when they are required to attend agreed training programmes. This should be equal to 75% of the daily task rate or 75% of the daily rate of pay for time-rated workers. There will be no payment for training prior to engagement. However all the costs of training will be covered, for example, travel, trainers, material.

10.9 Each worker must be given written particulars and verbal explanations in an appropriate language of their rate of pay and how this is to be calculated.

10.10 The following rules apply to payment of workers:

- . A pay slip must be issued with each payment for work completed.
- . Payment must be at regular intervals and in a manner specified by each programme.
- . Payment must be within 35 days of completing a task.
- . A record of tasks completed and payments (including training pay and sick-pay) must be kept for each worker.

## **11. Hours of work**

11.1 Tasks must be set based on a 40-hour week in which the workers work five 8-hour days, excluding time spent travelling to and from work. Once at work, time spent getting to the site that is to be worked on that day must be included in the 8-hour period. A worker may not spend more than 55 hours in any week completing tasks.

11.2 Starting and finishing times may be determined in the light of factors such as the nature of the project, the distance workers have to travel and other local factors such as climate, season and terrain.

11.3 Depending on local conditions work may be spread over more than 8 hours; for example in hot weather working from 05h00 to 09h00 and then again from 15h00 to 19h00. The finishing time must not be more than 12 hours after the start and workers may not work more than 55 hours per week.

## **12. Attendance**

12.1 A 'no work-no pay' rule must apply except in the following circumstances-

- . A worker is absent due to illness or injury and proof of illness as required by the section 23 of the Basic Conditions of Employment Act is provided. A maximum of 1 day's sick leave for every full month worked is payable for workers who work four or more days per week.
- . Workers who report for work and are unable to work due to the sole fault of the employer, shall be entitled to be paid:
  - (a) in the case of task-rated workers, the daily task rate;
  - (b) in the case of time-rated workers, the daily rate.

This shall not apply where the reason that workers are unable to work is that tasks have not been set.

12.2 If bad weather interrupts work for task-based workers, workers will only be paid on completion of the task.

12.3 Workers who arrive late for training and who are not required to work during training programmes should not be paid.

12.4 Workers who do not attend required training programmes without a valid reason may have their contracts cancelled after a fair procedure has been followed.

## **13. Health and safety**

13.1 Every worker has the right to work in a working environment that is safe and without risk to his or her health.

- 13.2 The management and every employer (contractor) engaged in a SPWP are required to do everything that is reasonably practicable to ensure the health and safety of persons working on a SPWP.
- 13.3 Workers are required to perform their duties in a manner that does not endanger their health or safety or that of other workers or persons.
- 13.4 Behaviour that endangers the health and safety of others is a serious disciplinary offence for which a worker can be dismissed.
- 13.5 The management of a Special Public Works Programme and each employer must:
- . Ensure that all workers are informed of any risks and dangers associated with their tasks.
  - . Inform and train workers about the precautions and steps that must be taken to avoid or minimise risks and dangers to them or others.
  - . Ensure all possible precautions and safety measures are in place to avoid risk and minimise dangers.
  - . Not permit workers to perform tasks for which they have not been trained.
  - . Provide workers with the necessary protective clothing such as hard hats, goggles, ear-plugs, boots and outer clothing required, as applicable, to complete their tasks in safety. These must be supplied free of charge and must be maintained, by the worker, in a clean state and in working order for use.
  - . Provide First Aid kits on site.
  - . Ensure that at least one person per site is trained to act as a First Aid Officer and that they are capable of providing First Aid to injured or ill workers.
  - . Provide sufficient clean drinking water to all workers for the duration of the project.
  - . Ensure that adequate sanitation is available to workers.
  - . Ensure all safety standards set are adhered to.
- 13.6 Workers must-
- . Perform their duties in a safe manner.
  - . Wear all protective clothing issued.
  - . Obey all safety rules and instructions.
  - . Report any accident or near-miss incident to their employer (supervisor).
  - . Report any dangerous conduct by another worker to their employer (supervisor).
- 13.7 Employers must take particular care to ensure pregnant workers or workers who are breast-feeding are not required to perform work that may endanger their health and safety or that of their child.

## **14. Compensation of occupational accident and diseases**

The Compensation for Occupational Injuries and Diseases Act [130 of 1993](#) (COIDA) applies to all Special Public Works Programmes.

### **14.1 Administrative Obligations**

Every employer must-

- . Register with the Compensation Commissioner and cover all workers in the SPWP (this is done by submitting a completed W AS 2 form).
- . Notify the Commissioner of any changes in particulars.
- . Keep a register of wages, time worked and payment (this is the same register described above).
- . Submit a return of wages paid each March.
- . Pay assessments (contributions) as required by the Commissioner.

### **14.2 Obligations in respect of accidents and occupational diseases**

Every employer must report to the Compensation Commissioner-

- . accidents within 7 days (W CI 3 form).
- . occupational diseases within 14 days (W CI 14 form).

- 14.3 An employer must pay a worker who is injured in an accident at work and who is unable to work 75% of their wages for a period of up to three months. The Compensation Fund will refund the employer this money.
- 14.4 The family of a worker who is killed in an accident at work (or who dies from an occupational disease) is entitled to receive compensation in terms of the provisions of COIDA. An employer should help them to lodge their claim and wherever possible provide employment for another member of the family.
- 14.5 A worker who is injured in an accident that is caused by the negligence of an employer is entitled to claim additional compensation in terms of section 56 of COIDA.

## **15. Training**

Training is regarded as a critical component of SPWP. Every SPWP must have a clear training programme in place that strives to:

- 15.1 Ensure programme managers are aware of their training responsibilities.
- 15.2 Ensure a minimum of 2 days training for every 22 days worked.
- 15.3 Ensure a minimum of the equivalent of 2% of the project budget is allocated to funding the training programme. This funding may be sourced from the project budget, the National Skills Fund or donors. It is recognised that training needs will be higher at the start of a project and tail off as projects become more established.
- 15.4 Ensure sustainable training through certification. It is proposed that a minimum of 30% of the training provided should be accredited.
- 15.5 Balance quality of life, functional and entrepreneurship training.
- 15.6 Balance formal training with structured work place learning.
- 15.7 Equip workers with skills that can be used to secure other employment opportunities.
- 15.8 Identify possible career paths available to workers exiting the SPWP.

## 16. Discipline, dismissal and termination

- 16.1 Every SPWP must have a disciplinary code and a grievance procedure. The purpose of these procedures is to-
  - (a) ensure that employers exercise discipline in a fair and consistent manner;
  - (b) protect workers from arbitrary action;
  - (c) provide a mechanism for managing grievances and complaints.
- 16.2 The disciplinary and grievance procedures apply to all persons employed in the SPWP.
- 16.3 Employers should make use of the Code of Good Practice: Dismissal ([Schedule 8](#) to the Labour Relations Act [66 of 1995](#)) as a guideline when exercising their powers of discipline and dismissal.
- 16.4 An employer may only dismiss a worker if-
  - (a) there is a good reason for the dismissal; and
  - (b) the employer has followed a fair procedure.

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that "an" is intended to be "a".)
- 16.5 The reason for a dismissal or termination may relate to-
  - (a) the worker's misconduct (for example late coming, drunkenness);
  - (b) the worker's capacity (the worker does not have the skills or ability to perform a job despite receiving training);
  - (c) people who do not attend required training programmes;
  - (d) people who regularly do not turn up for work.
- 16.6 A worker's contract may also be terminated due to operational requirements. This would be the case if employment is terminated because a SPWP is stopped.
- 16.7 A fair procedure means that the employer should-
  - (a) investigate the charge;
  - (b) notify the worker of any allegations against the worker in a form and language that the worker can understand; and
  - (c) give the worker an opportunity to respond to the allegations. A fellow worker may assist the worker, if the worker chooses.
- 16.8 There is no requirement that the employer hold a formal inquiry. However, the employer may decide to give a worker charged with a serious offence a formal hearing at which the worker can test the evidence on which the charge is based.
- 16.9 An employer must exercise discipline in a consistent and clear manner.
- 16.10 A worker may only be disciplined for contravening a workplace rule or standard that the worker was aware of or should reasonably have been aware of. Therefore, it is important that an employer informs workers of workplace rules and standards. A worker will be assumed to know that conduct such as late-coming, leaving early, drunkenness, fighting or disobeying instructions are disciplinary offences.
- 16.11 An employer should keep a written record of any disciplinary action taken.

## 17. Disciplinary Procedures

An employer may take the following steps when exercising discipline-

### 17.1 Verbal Warning

A verbal warning may be issued for minor disciplinary offences. The purpose of the warning is to explain to the worker what the rules are, encourage the worker to comply with them and advise that if the conduct is repeated the employer may take more serious action. Only one verbal warning is required before moving to written warnings.

Examples of minor offences:

- . Late-coming.

### 17.2 Written warning

- 17.2.1 A written warning may be issued for repeated minor offences or for more serious offences. The employer should investigate the charge before issuing a warning. The worker should be asked to respond and explain his or her conduct. The warning should state the offence and the period for which the warning is valid. Generally, this should be for six months although warnings for more serious offences could be issued for a year or for the remainder of the worker's employment on a SPWP. If the employer believes that the offence is serious, the warning should state that it is a final written warning and that a repeat of the offence could lead to the worker's dismissal. Otherwise, two written warnings are suggested prior to dismissal.
- 17.2.2 A written record of the charge, the explanation and the agreed change in behaviour or performance is dated, signed and handed to the worker as a written warning. A copy of the written warning is kept in the worker's file for the period of its validity.

Examples of offences in which a written warning may be appropriate:

- . Repeated minor offences.
- . Drunkenness (if it does not affect work performance).
- . Fighting, swearing.
- . Abusive behaviour.
- . Non-co-operation as a team member.
- . Negligent use of programme equipment (if it does not affect health and safety).
- . Failure to attend a training event.

### 17.3 Dismissal

- 17.3.1 Generally, an employer should not dismiss a worker for a first offence. However, a worker may be dismissed if it is a serious offence that would make continued employment intolerable even if the worker has a clean record. Before dismissing a worker, the employer must consider whether dismissal is the appropriate sanction.

- 17.3.2 Examples of serious offences which may warrant dismissal:

- . Wilful and/or negligent damage to equipment, machinery and vehicles.
- . Actions which could lead to criminal charges being laid-serious assault; theft; fraud.
- . Sexual harassment, including rape.
- . Actions which create a danger to the health and safety of co-workers.
- . Any offence for which the worker has received a final written warning.
- . Drunkenness if it affects the ability to work, for instance, a driver or a chain-saw operator being drunk.
- . Repeated less serious offences-drunkenness, fighting, swearing, failure to properly perform tasks, etc.
- . Misuse of programme equipment, for instance, a worker using it for their own benefit.

### 17.4 Poor work performance

- 17.4.1 An employer may take action against a worker for poor work performance. Workers must be explained the standard of work performance expected of them. If they do not meet this standard, the employer should consider ways of helping them meet the standard. This could include counselling or guidance, training or giving clearer instructions. The worker must be given a reasonable opportunity to improve their work performance. If their performance does not improve, the employer can take corrective action, including dismissal if considered appropriate.
- 17.4.2 If a worker is not performing adequately in a job requiring special skills, the employer should consider transferring the worker to another job.

## 18. Grievance Procedures

- 18.1 A grievance is a serious dissatisfaction on the part of a participant with the actions or behaviour of the employer or another participant.
- 18.2 A participant with a grievance should bring the grievance to the attention of the employer, either in writing or verbally. If the grievance concerns another worker, the worker should raise the issue with that worker before raising it with the employer
- 18.3 The employer must listen to the submissions made by the participant and attempt to settle the matter by discussion within 5 days.
- 18.4 Where the matter cannot be resolved to the satisfaction of the participant, the employer may conduct an investigation or, if the employer considers it appropriate, conduct an inquiry at which the affected parties can make submissions.
- 18.5 The employer must notify the grievant and any other person affected of the decisions within a reasonable time. If the employer decides to take disciplinary action, the employer must follow the disciplinary procedure described above.

## 19. Glossary

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|                     |                                                                                                                                                                                                                                                                                            |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contractor(s)       | A person or group of persons who is contracted to carry out the work on the Special Public Works Programme for the relevant department.                                                                                                                                                    |
| Daily rate          | A worker is paid a fixed sum each day in return for working a fixed number of hours during that day.                                                                                                                                                                                       |
| Worker              | A worker includes anyone working in an elementary occupation on a Special Public Works Programme whether they are employed directly by a government department, an implementing agent, a contractor or a sub-contractor                                                                    |
| Implementing agents | A business, institution or person who is contracted to implement the Special Public Works Programme on the relevant department's behalf. The Implementing Agent is bound by the same terms and conditions governing the implementation of Special Public Works Programmes as a department. |
| Task-based work     | A worker is paid a fixed wage in return for a fixed quantity of work, or a task. The task set may be a task for one worker in 8 hours or for several workers over several workdays, based on an 8 hour working day per person.                                                             |

**SPECIAL PUBLIC WORKS PROGRAMMES:  
CONTRACT OF EMPLOYMENT BETWEEN**

**CONTRACTOR**

Name:

Address:

ID:

AND

**WORKER**

Name:

Details:

ID:

1. I am pleased to confirm that you have been appointed to work on a task based employment contract within a Special Public Works Programme (SPWP) project. Within this contract you will undertake numerous groups of tasks.
2. This contract must be read in conjunction with the standard terms and conditions of employment on SPWP attached.
3. The project where will be employed is located at
4. The contract will start on
5. You must be aware that this contract is a limited term contract and not a permanent job. The contract may be terminated for one of the following reasons:
  - (a) If the contractor does not get additional contracts from the SPWP.
  - (b) Funding for the programme in your area comes to an end.
  - (c) You repeatedly do not perform in terms of the tasks set out in your work programme.
  - (d) You have worked a maximum of 24 months within a 60 month cycle.
6. You will be employed as a \_\_\_\_\_ within the team.
7. While you are working you will report to
8. Payment
  - (a) You will be paid a fixed amount of R \_\_\_\_\_ for completing a fixed amount of work.
  - (b) The amount of work required for the agreed rate of pay will vary from task to task. You will be informed at the beginning of each task or group of tasks how much work you are expected to complete per day.
  - (c) You will only be paid for work completed.
  - (d) You will be paid the amount for the number of days quoted in the contract even if you finish the work before the time or after the estimated date of completion.
  - (e) A contractor must pay you the production bonus (the extra days if the work is finished early) if you have completed your share of tasks.
  - (f) The contractor will be paid within 30 days after the work is completed. You will be paid within 5 days of the contractor being paid.
9. In addition to the conditions above all the terms and conditions of employment on SPWP apply to your employment. If you breach any of these terms your contract may be terminated.

10. Signatures:

Signed on this day \_\_\_\_\_ of \_\_\_\_\_ 2000

Contractor: \_\_\_\_\_ Date: \_\_\_\_\_

Worker: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**GNR.63 of 25 January 2002: Ministerial Determination No. 3: Special Public Works Programmes  
(Government Gazette No. 23045)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 50 of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employees in Special Public Works Programmes, South Africa, in [the Schedule](#) hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

**M.M.S. MDLADLANA**  
**Minister of Labour**

**SCHEDULE**

INDEX

1. Definitions
2. Application of this determination
3. Sections not applicable to public works programmes
4. Conditions

**1. Definitions**

1.1 In this determination-

**"special public works programme"** means a programme to provide public assets through a short-term, non-permanent, labour intensive programme initiated by government and funded from public resources.

1.2 Without limiting subsection (1), the following programmes constitute special public works programmes:

- (a) Working for Water
- (b) Community based public works
- (c) Coastal Care
- (d) Sustainable Rural Development (DPLG)
- (e) Landcare
- (f) Community Water & Sanitation
- (g) Arts & Culture poverty relief projects.

**2. Application**

This Determination applies to all employers and employees engaged in public works programmes.

**3. The following provisions of the Basic Conditions of Employment Act do not apply to public works programmes-**

- |      |                       |                                                                      |
|------|-----------------------|----------------------------------------------------------------------|
| 3.1  | Section 10 (2)        | [Overtime rate]                                                      |
| 3.2  | Section 11            | [Compressed working week]                                            |
| 3.3  | Section 14 (3)        | [Remuneration required for meal intervals of longer than 75 minutes] |
| 3.4  | Section 16            | [Pay for work on Sundays]                                            |
| 3.5  | Section 17 (1) & (2)  | [Payment of night shift allowance and supply of transportation]      |
| 3.6  | Section 20            | [Annual leave]                                                       |
| 3.7  | Section 21            | [Pay for annual leave]                                               |
| 3.8  | Section 22            | [Sick leave]                                                         |
| 3.9  | Section 25 (2) & (3)  | [Commencement of maternity leave and return to work]                 |
| 3.10 | Section 26 (2)        | [Alternative work for pregnant women]                                |
| 3.11 | Section 27            | [Family responsibility leave]                                        |
| 3.12 | Section 29 (h) to (p) | [Written particulars of employment]                                  |
| 3.13 | Section 30            | [Display of employee's rights]                                       |
| 3.14 | Section 33 (1) (g)    | [Information about remuneration]                                     |
| 3.15 | Section 34 (1) (a)    | [Deduction by individual agreement]                                  |
| 3.16 | Section 34 (2) & (3)  | [Deduction of damages caused by employee]                            |
| 3.17 | Section 37            | [Notice of termination]                                              |
| 3.18 | Section 38            | [Payment instead of notice]                                          |
| 3.19 | Section 39            | [Notice for employees in employer supplied accommodation]            |
| 3.20 | Section 40            | [Payments of outstanding amounts on termination]                     |

|      |                |                           |
|------|----------------|---------------------------|
| 3.21 | Section 41     | [Severance pay]           |
| 3.22 | Section 42 (c) | [Certificate of service]  |
| 3.23 | Sections 51-58 | [Sectoral Determinations] |
| 3.24 | Section 84     | [Duration of employment]  |

#### 4. Conditions

As set out in the [ANNEXURE](#):

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Ministerial Determinations/ GNR.63 of 25 January 2002: Ministerial Determination No. 3: Special Public Works Programmes (Government Gazette No. 23045)/ ANNEXURE CONDITIONS OF EMPLOYMENT FOR SPECIAL PUBLIC WORKS PROGRAMMES**

### ANNEXURE

#### CONDITIONS OF EMPLOYMENT FOR SPECIAL PUBLIC WORKS PROGRAMMES

##### 1. Introduction

- 1.1 This document contains the standard terms and conditions for workers employed in elementary occupations on a Special Public Works Programme (SPWP). These terms and conditions do NOT apply to persons employed in the supervision and management of a SPWP.
- 1.2 In this document-
  - (a) **"department"** means any department of the State, implementing agent or contractor;
  - (b) **"employer"** means any department, implementing agency or contractor that hires workers to work in elementary occupations on a SPWP;
  - (c) **"worker"** means any person working in an elementary occupation on a SPWP;
  - (d) **"elementary occupation"** means any occupation involving unskilled or semi-skilled work;
  - (e) **"management"** means any person employed by a department or implementing agency to administer or execute an SPWP;
  - (f) **"task"** means a fixed quantity of work;
  - (g) **"task-based work"** means work in which a worker is paid a fixed rate for performing a task;
  - (h) **"task-rated worker"** means a worker paid on the basis of the number of tasks completed;
  - (i) **"time-rated worker"** means a worker paid on the basis of the length of time worked.

##### 2. Terms of Work

- 2.1 Workers on a SPWP are employed on a temporary basis.
- 2.2 A worker may NOT be employed for longer than 24 months in any five-year cycle on a SPWP.
- 2.3 Employment on a SPWP does not qualify as employment as a contributor for the purposes of the Unemployment Insurance Act [30 of 1966](#).

##### 3. Normal Hours of Work

- 3.1 An employer may not set tasks or hours of work that require a worker to work-
  - (a) more than forty hours in any week;
  - (b) on more than five days in any week; and
  - (c) for more than eight hours on any day.
- 3.2 An employer and worker may agree that a worker will work four days per week. The worker may then work up to ten hours per day.
- 3.3 A task-rated worker may not work more than a total of 55 hours in any week to complete the tasks allocated (based on a 40-hour week) to that worker.

##### 4. Meal Breaks

- 4.1 A worker may not work for more than five hours without taking a meal break of at least thirty minutes duration.
- 4.2 An employer and worker may agree on longer meal breaks.
- 4.3 A worker may not work during a meal break. However, an employer may require a worker to perform duties during a meal break if those duties cannot be left unattended and cannot be performed by another worker. An employer must take reasonable steps to ensure that a worker is relieved of his or her duties during the meal break.
- 4.4 A worker is not entitled to payment for the period of a meal break. However, a worker who is paid on the basis of time worked must be paid if the worker is required to work or to be available for work during the meal break.

##### 5. Special Conditions for Security Guards

- 5.1 A security guard may work up to 55 hours per week and up to eleven hours per day.



- 5.2 A security guard who works more than ten hours per day must have a meal break of at least one hour or two breaks of at least 30 minutes each.

## **6. Daily Rest Period**

Every worker is entitled to a daily rest period of at least eight consecutive hours. The daily rest period is measured from the time the worker ends work on one day until the time the worker starts work on the next day.

## **7. Weekly Rest Period**

Every worker must have two days off every week. A worker may only work on their day off to perform work which must be done without delay and cannot be performed by workers during their ordinary hours of work ("emergency work").

## **8. Work on Sundays and Public Holidays**

- 8.1 A worker may only work on a Sunday or public holiday to perform emergency or security work.
- 8.2 Work on Sundays is paid at the ordinary rate of pay.
- 8.3 A task-rated worker who works on a public holiday must be paid-
- (a) the worker's daily task rate, if the worker works for less than four hours;
  - (b) double the worker's daily task rate, if the worker works for more than four hours.
- 8.4 A time-rated worker who works on a public holiday must be paid-
- (a) the worker's daily rate of pay, if the worker works for less than four hours on the public holiday;
  - (b) double the worker's daily rate of pay, if the worker works for more than four hours on the public holiday.

## **9. Sick Leave**

- 9.1 Only workers who work four or more days per week have the right to claim sick-pay in terms of this clause.
- 9.2 A worker who is unable to work on account of illness or injury is entitled to claim one day's paid sick leave for every full month that the worker has worked in terms of a contract.
- 9.3 A worker may accumulate a maximum of twelve days' sick leave in a year.
- 9.4 Accumulated sick-leave may not be transferred from one contract to another contract.
- 9.5 An employer must pay a task-rated worker the worker's daily task rate for a day's sick leave.
- 9.6 An employer must pay a time-rated worker the worker's daily rate of pay for a day's sick leave.
- 9.7 An employer must pay a worker sick pay on the worker's usual payday.
- 9.8 Before paying sick-pay, an employer may require a worker to produce a certificate stating that the worker was unable to work on account of sickness or injury if the worker is-
- (a) absent from work for more than two consecutive days; or
  - (b) absent from work on more than two occasions in any eight-week period.
- 9.9 A medical certificate must be issued and signed by a medical practitioner, a qualified nurse or a clinic staff member authorised to issue medical certificates indicating the duration and reason for incapacity.
- 9.10 A worker is not entitled to paid sick-leave for a work-related injury or occupational disease for which the worker can claim compensation under the Compensation for Occupational Injuries and Diseases Act.

## **10. Maternity Leave**

- 10.1 A worker may take up to four consecutive months' unpaid maternity leave.
- 10.2 A worker is not entitled to any payment or employment-related benefits during maternity leave.
- 10.3 A worker must give her employer reasonable notice of when she will start maternity leave and when she will return to work.
- 10.4 A worker is not required to take the full period of maternity leave. However, a worker may not work for four weeks before the expected date of birth of her child or for six weeks after the birth of her child, unless a medical practitioner, midwife or qualified nurse certifies that she is fit to do so.
- 10.5 A worker may begin maternity leave-
- (a) four weeks before the expected date of birth; or
  - (b) on an earlier date-
    - (i) if a medical practitioner, midwife or certified nurse certifies that it is necessary for the health of the worker or that of her unborn child; or
    - (ii) if agreed to between employer and worker; or
  - (c) on a later date, if a medical practitioner, midwife or certified nurse has certified that the worker is able to continue to work without endangering her health.
- 10.6 A worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child may take maternity leave for up to six weeks after the miscarriage or stillbirth.
- 10.7 A worker who returns to work after maternity leave, has the right to start a new cycle of twenty-four months employment, unless the SPWP on which she was employed has ended.

## **11. Family responsibility leave**

- 11.1 Workers, who work for at least four days per week, are entitled to three days paid family responsibility leave each year in the following circumstances-
- (a) when the employee's child is born;
  - (b) when the employee's child is sick;
  - (c) in the event of a death of-
    - (i) the employee's spouse or life partner;
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

## **12. Statement of Conditions**

- 12.1 An employer must give a worker a statement containing the following details at the start of employment-
- (a) the employer's name and address and the name of the SPWP;
  - (b) the tasks or job that the worker is to perform; and
  - (c) the period for which the worker is hired or, if this is not certain, the expected duration of the contract;
  - (d) the worker's rate of pay and how this is to be calculated;
  - (e) the training that the worker will receive during the SPWP.
- 12.2 An employer must ensure that these terms are explained in a suitable language to any employee who is unable to read the statement.
- 12.3 An employer must supply each worker with a copy of these conditions of employment.

## **13. Keeping Records**

- 13.1 Every employer must keep a written record of at least the following-
- (a) the worker's name and position;
  - (b) in the case of a task-rated worker, the number of tasks completed by the worker;
  - (c) in the case of a time-rated worker, the time worked by the worker;
  - (d) payments made to each worker.
- 13.2 The employer must keep this record for a period of at least three years after the completion of the SPWP.

## **14. Payment**

- 14.1 An employer must pay all wages at least monthly in cash or by cheque or into a bank account.
- 14.2 A task-rated worker will only be paid for tasks that have been completed.
- 14.3 An employer must pay a task-rated worker within five weeks of the work being completed and the work having been approved by the manager or the contractor having submitted an invoice to the employer.
- 14.4 A time-rated worker will be paid at the end of each month.
- 14.5 Payment must be made in cash, by cheque or by direct deposit into a bank account designated by the worker.
- 14.6 Payment in cash or by cheque must take place-
- (a) at the workplace or at a place agreed to by the worker;
  - (b) during the worker's working hours or within fifteen minutes of the start or finish of work;
  - (c) in a sealed envelope which becomes the property of the worker.
- 14.7 An employer must give a worker the following information in writing-
- (a) the period for which payment is made;
  - (b) the numbers of tasks completed or hours worked;
  - (c) the worker's earnings;
  - (d) any money deducted from the payment;
  - (e) the actual amount paid to the worker.
- 14.8 If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it.
- 14.9 If a worker's employment is terminated, the employer must pay all monies owing to that worker within one month of the termination of employment.

## **15. Deductions**

- 15.1 An employer may not deduct money from a worker's payment unless the deduction is required in terms of a law.
- 15.2 An employer must deduct and pay to the SA Revenue Services any income tax that the worker is required to pay.
- 15.3 An employer who deducts money from a worker's pay for payment to another person must pay the money to that person within the time period and other requirements specified in the agreement law, court order or arbitration award concerned.

- 15.4 An employer may not require or allow a worker to-
- (a) repay any payment except an overpayment previously made by the employer by mistake;
  - (b) state that the worker received a greater amount of money than the employer actually paid to the worker; or
  - (c) pay the employer or any other person for having been employed.

## **16. Health and Safety**

- 16.1 Employers must take all reasonable steps to ensure that the working environment is healthy and safe.
- 16.2 A worker must-
- (a) work in a way that does not endanger his/her health and safety or that of any other person;
  - (b) obey any health and safety instruction;
  - (c) obey all health and safety rules of the SPWP;
  - (d) use any personal protective equipment or clothing issued by the employer;
  - (e) report any accident, near-miss incident or dangerous behaviour by another person to their employer or manager.

## **17. Compensation for Injuries and Diseases**

- 17.1 It is the responsibility of the employers (other than a contractor) to arrange for all persons employed on a SPWP to be covered in terms of the Compensation for Occupational Injuries and Diseases Act, [130 of 1993](#).
- 17.2 A worker must report any work-related injury or occupational disease to their employer or manager.
- 17.3 The employer must report the accident or disease to the Compensation Commissioner.
- 17.4 An employer must pay a worker who is unable to work because of an injury caused by an accident at work 75% of their earnings for up to three months. The employer will be refunded this amount by the Compensation Commissioner. This does NOT apply to injuries caused by accidents outside the workplace such as road accidents or accidents at home.

## **18. Termination**

- 18.1 The employer may terminate the employment of a worker for good cause after following a fair procedure.
- 18.2 A worker will not receive severance pay on termination.
- 18.3 A worker is not required to give notice to terminate employment. However, a worker who wishes to resign should advise the employer in advance to allow the employer to find a replacement.
- 18.4 A worker who is absent for more than three consecutive days without informing the employer of an intention to return to work will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.
- 18.5 A worker who does not attend required training events, without good reason, will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.

## **19. Certificate of Service**

- 19.1 On termination of employment, a worker is entitled to a certificate stating-
- (a) the worker's full name;
  - (b) the name and address of the employer;
  - (c) the SPWP on which the worker worked;
  - (d) the work performed by the worker;
  - (e) any training received by the worker as part of the SPWP;
  - (f) the period for which the worker worked on the SPWP;
  - (g) any other information agreed on by the employer and worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Ministerial Determinations/ GN 949 of 22 October 2010: Ministerial Determination 4: Expanded Public Works Programmes (Government Gazette No. 33665)**

**GN 949 of 22 October 2010: Ministerial Determination 4: Expanded Public Works Programmes  
(Government Gazette No. 33665)**

DEPARTMENT OF LABOUR

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 50 of the Basic Conditions of Employment Act, 1997, make a Ministerial Determination establishing conditions of employment for employees in Expanded

Public Works Programmes, South Africa, in [the Schedule](#) hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Ministerial Determination shall become binding.

All the provisions of the Ministerial Determination: Special Public Works Programmes published under Government Notice R. 63 in *Government Gazette* 23045 of 25 January 2002 will be superseded by this ministerial determination with effect from the date of implementation.

(Signed)

**M.M.S. MDLADLANA**  
**Minister of Labour**

## **SCHEDULE**

### **MINISTERIAL DETERMINATION NO. 3: EXPANDED PUBLIC WORKS PROGRAMMES**

#### **INDEX**

1. Definitions
2. Application of this determination
3. Sections not applicable to public works programmes
4. Conditions

#### **1. Definitions**

- 1.1 In this determination-  
"expanded public works programme" means a programme to provide public or community assets or services through a labour intensive programme initiated by government and funded from public resources.
- 1.2 Without limiting subsection (1), the following programmes constitute Expanded Public Works Programmes-
  - (a) Environment and Culture Sector Programmes including: Working for Water, Working on Fire, Working for Wetlands, People and Parks, Working for Energy, Working for Woodlands, Working for the Coast, Landcare, Working on Waste, Working for Tourism, Investing in Culture Programmes.
  - (b) Infrastructure Sector Programmes and Projects declared part of EPWP which may include the construction, rehabilitation and maintenance of: rural and low-volume roads, storm-water drains, water reticulation, basic sanitation, footpaths, sidewalks, bicycle paths, schools and clinics.
  - (c) Social Sector Programmes including Early Childhood Development, Home, Community Based Care, Community Safety and other community based programmes.
  - (d) All projects and programmes accessing the EPWP wage incentive including those implemented by Non Governmental organisations (NGO) and Community Based Organisations (CBO) and the Community Works Programme.
  - (e) Any other programme deemed to be part of the EPWP as determined by the Department of Public Works.

#### **2. Application**

This Determination applies to all employers and employees engaged in expanded public works programmes.

#### **3. The following provisions of the Basic Conditions of Employment Act do not apply to public works programmes**

- 3.1 Section 10 (2) [Overtime rate]
- 3.2 Section 14 (3) [Remuneration required for meal intervals of longer than 75 minutes]
- 3.3 Section 29 (h) to (p) [Written particulars of employment]
- 3.4 Section 30 [Display of employee's rights]
- 3.5 Section 41 [Severance pay]
- 3.6 Section 37 [Notice of termination]
- 3.7 Sections 51 - 58 [Sectoral Determinations]

#### **4. Conditions**

As set out in the [ANNEXURE](#):

## **ANNEXURE**

### **CONDITIONS OF EMPLOYMENT FOR EXPANDED PUBLIC WORKS PROGRAMMES**

#### **1. Introduction**

- 1.1 This document contains the standard terms and conditions for workers employed in elementary occupations on an Expanded Public Works Programme (EPWP). These terms and conditions do NOT apply to persons employed in the supervision and management of a SPWP.
- 1.2 In this document-
  - (a) "department" means any department of the State, implementing agent or contractor;

- (b) "employer" means any department, implementing agency or contractor that hires workers to work in elementary occupations on a EPWP;
- (c) "worker" means any person working in an elementary occupation on a EPWP;
- (d) "elementary occupation" means any occupation involving unskilled or semi-skilled work;
- (e) "management" means any person employed by a department or implementing agency to administer or execute an EPWP;
- (f) "task" means a fixed quantity of work;
- (g) "task-based work" means work in which a worker is paid a fixed rate for performing a task;
- (h) "task-rated worker" means a worker paid on the basis of the number of tasks completed;
- (i) "time-rated worker" means a worker paid on the basis of the length of time worked.

## **2. Terms of Work**

- 2.1 Workers on an EPWP are employed on a temporary basis or contract basis.

## **3. Normal Hours of Work**

- 3.1 An employer may not set tasks or hours of work that require a worker to work-
  - (a) more than forty hours in any week;
  - (b) on more than five days in any week; and
  - (c) for more than eight hours on any day.
- 3.2 An employer and worker may agree that a worker will work four days per week. The worker may then work up to ten hours per day.
- 3.3 A task-rated worker may not work more than a total of 55 hours in any week to complete the tasks allocated (based on a 40-hour week) to that worker.

## **4. Meal Breaks**

- 4.1 A worker may not work for more than five hours without taking a meal break of at least thirty minutes duration.
- 4.2 An employer and worker may agree on longer meal breaks.
- 4.3 A worker may not work during a meal break. However, an employer may require a worker to perform duties during a meal break if those duties cannot be left unattended and cannot be performed by another worker. An employer must take reasonable steps to ensure that a worker is relieved of his or her duties during the meal break.
- 4.4 A worker is not entitled to payment for the period of a meal break. However, a worker who is paid on the basis of time worked must be paid if the worker is required to work or to be available for work during the meal break.

## **5. Special Conditions for Security Guards**

- 5.1 A security guard may work up to 55 hours per week and up to eleven hours per day.
- 5.2 A security guard who works more than ten hours per day must have a meal break of at least one hour or two breaks of at least 30 minutes each.

## **6. Daily Rest Period**

Every worker is entitled to a daily rest period of at least twelve consecutive hours. The daily rest period is measured from the time the worker ends work on one day until the time the worker starts work on the next day.

## **7. Weekly Rest Period**

Every worker must have two days off every week. A worker may only work on their day off to perform work which must be done without delay and cannot be performed by workers during their ordinary hours of work ("emergency work").

## **8. Work on Sundays and Public Holidays**

- 8.1 A worker may only work on a Sunday or public holiday to perform emergency or security work.
- 8.2 Work on Sundays is paid at the ordinary rate of pay.
- 8.3 A task-rated worker who works on a public holiday must be paid-
  - (a) the worker's daily task rate, if the worker works for less than four hours;
  - (b) double the worker's daily task rate, if the worker works for more than four hours.
- 8.4 A time-rated worker who works on a public holiday must be paid-
  - (a) the worker's daily rate of pay, if the worker works for less than four hours on the public holiday;
  - (b) double the worker's daily rate of pay, if the worker works for more than four hours on the public holiday.

## **9. Sick Leave**

- 9.1 Only workers who work more than 24 hours per month have the right to claim sick-pay in terms of this clause.
- 9.2 A worker who is unable to work on account of illness or injury is entitled to claim one day's paid sick leave for every full month that the worker has worked in terms of a contract.
- 9.3 A worker may accumulate a maximum of twelve days' sick leave in a year.

- 9.4 Accumulated sick-leave may not be transferred from one contract to another contract.
- 9.5 An employer must pay a task-rated worker the worker's daily task rate for a day's sick leave.
- 9.6 An employer must pay a time-rated worker the worker's daily rate of pay for a day's sick leave.
- 9.7 An employer must pay a worker sick pay on the worker's usual payday.
- 9.8 Before paying sick-pay, an employer may require a worker to produce a certificate stating that the worker was unable to work on account of sickness or injury if the worker is-
  - (a) absent from work for more than two consecutive days; or
  - (b) absent from work on more than two occasions in any eight-week period.
- 9.9 A medical certificate must be issued and signed by a medical practitioner, a qualified nurse or a clinic staff member authorised to issue medical certificates indicating the duration and reason for incapacity.
- 9.10 A worker is not entitled to paid sick-leave for a work-related injury or occupational disease for which the worker can claim compensation under the Compensation for Occupational Injuries and Diseases Act.

## **10. Maternity Leave**

- 10.1 A worker may take up to four consecutive months' unpaid maternity leave.
- 10.2 A worker is not entitled to any payment or employment-related benefits during maternity leave.
- 10.3 A worker must give her employer reasonable notice of when she will start maternity leave and when she will return to work.
- 10.4 A worker is not required to take the full period of maternity leave. However, a worker may not work for four weeks before the expected date of birth of her child or for six weeks after the birth of her child, unless a medical practitioner, midwife or qualified nurse certifies that she is fit to do so.
- 10.5 A worker may begin maternity leave-
  - (a) four weeks before the expected date of birth; or
  - (b) on an earlier date-
    - (i) if a medical practitioner, midwife or certified nurse certifies that it is necessary for the health of the worker or that of her unborn child; or
    - (ii) if agreed to between employer and worker; or
  - (c) on a later date, if a medical practitioner, midwife or certified nurse has certified that the worker is able to continue to work without endangering her health.
- 10.6 A worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child may take maternity leave for up to six weeks after the miscarriage or stillbirth.

## **11. Family responsibility leave**

- 11.1 Workers, who work for at least four days per week, are entitled to three days paid family responsibility leave each year in the following circumstances-
  - (a) when the employee's child is born;
  - (b) when the employee's child is sick;
  - (c) in the event of a death of-
    - (i) the employee's spouse or life partner;
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

## **12. Statement of Conditions**

- 12.1 An employer must give a worker a statement containing the following details at the start of employment-
  - (a) the employer's name and address and the name of the EPWP;
  - (b) the tasks or job that the worker is to perform; and
  - (c) the period for which the worker is hired or, if this is not certain, the expected duration of the contract;
  - (d) the worker's rate of pay and how this is to be calculated;
  - (e) the training that the worker will receive during the EPWP.
- 12.2 An employer must ensure that these terms are explained in a suitable language to any employee who is unable to read the statement.
- 12.3 An employer must supply each worker with a copy of these conditions of employment.

## **13. Keeping Records**

- 13.1 Every employer must keep a written record of at least the following-
  - (a) the worker's name and position;
  - (b) copy of an acceptable worker identification;
  - (c) in the case of a task-rated worker, the number of tasks completed by the worker;

(d) in the case of a time-rated worker, the time worked by the worker;

(e) payments made to each worker.

13.2 The employer must keep this record for a period of at least three years after the completion of the EPWP.

#### **14. Payment**

14.1 An employer must pay all wages at least monthly in cash or by cheque or into a bank account.

14.2 A worker may not be paid less than the minimum EPWP wage rate of R60.00 per day or per task. This will be annually adjusted in-line with inflation.

14.3 A task-rated worker will only be paid for tasks that have been completed.

14.4 An employer must pay a task-rated worker within five weeks of the work being completed and the work having been approved by the manager or the contractor having submitted an invoice to the employer.

14.5 A time-rated worker will be paid at the end of each month.

14.6 Payment must be made in cash, by cheque or by direct deposit into a bank account designated by the worker.

14.7 Payment in cash or by cheque must take place-

(a) at the workplace or at a place agreed to by the worker;

(b) during the worker's working hours or within fifteen minutes of the start or finish of work;

(c) in a sealed envelope which becomes the property of the worker.

14.8 An employer must give a worker the following information in writing-

(a) the period for which payment is made;

(b) the number of tasks completed or hours worked;

(c) the worker's earnings;

(d) any money deducted from the payment;

(e) the actual amount paid to the worker.

14.9 If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it.

14.10 If a worker's employment is terminated, the employer must pay all monies owing to that worker within one month of the termination of employment.

#### **15. Deductions**

15.1 An employer may not deduct money from a worker's payment unless the deduction is required in terms of a law.

15.2 An employer must deduct and pay to the SA Revenue Services any income tax that the worker is required to pay.

15.3 An employer who deducts money from a worker's pay for payment to another person must pay the money to that person within the time period and other requirements specified in the agreement law, court order or arbitration award concerned.

15.4 An employer may not require or allow a worker to-

(a) repay any payment except an overpayment previously made by the employer by mistake;

(b) state that the worker received a greater amount of money than the employer actually paid to the worker; or

(c) pay the employer or any other person for having been employed.

#### **16. Health and Safety**

16.1 Employers must take all reasonable steps to ensure that the working environment is healthy and safe.

16.2 A worker must-

(a) work in a way that does not endanger his/her health and safety or that of any other person;

(b) obey any health and safety instruction;

(c) obey all health and safety rules of the EPWP;

(d) use any personal protective equipment or clothing issued by the employer;

(e) report any accident, near-miss incident or dangerous behaviour by another person to their employer or manager.

#### **17. Compensation for Injuries and Diseases**

17.1 It is the responsibility of the employers (other than a contractor) to arrange for all persons employed on a EPWP to be covered in terms of the Compensation for Occupational Injuries and Diseases Act, [130 of 1993](#).

17.2 A worker must report any work-related injury or occupational disease to their employer or manager.

17.3 The employer must report the accident or disease to the Compensation Commissioner.

17.4 An employer must pay a worker who is unable to work because of an injury caused by an accident at work 75% of their earnings for up to three months. The employer will be refunded this amount by the Compensation



Commissioner. This does NOT apply to injuries caused by accidents outside the workplace such as road accidents or accidents at home.

## 18. Termination

- 18.1 The employer may terminate the employment of a worker for good cause after following a fair procedure.
- 18.2 A worker will not receive severance pay on termination.
- 18.3 A worker is not required to give notice to terminate employment. However, a worker who wishes to resign should advise the employer in advance to allow the employer to find a replacement.
- 18.4 A worker who is absent for more than three consecutive days without informing the employer of an intention to return to work will have terminated the contract. However, the worker may be re-engaged if a position becomes available.
- 18.5 A worker who does not attend required training events, without good reason, will have terminated the contract. However, the worker may be re-engaged if a position becomes available.

## 19. Certificate of Service

- 19.1 On termination of employment, a worker is entitled to a certificate stating-
  - (a) the worker's full name;
  - (b) the name and address of the employer;
  - (c) the EPWP on which the worker worked;
  - (d) the work performed by the worker;
  - (e) any training received by the worker as part of the EPWP;
  - (f) the period for which the worker worked on the EPWP;
  - (g) any other information agreed on by the employer and worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa**

### **GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa**

| as amended by   |                    |                  |
|-----------------|--------------------|------------------|
| Notice          | Government Gazette | Date             |
| GNR.1331        | 23983              | 25 October 2002  |
| GNR.804         | 25075              | 13 June 2003     |
| as corrected by |                    |                  |
| Notice          | Government Gazette | Date             |
| GNR.1109        | 26826              | 1 October 2004   |
| GNR.1430        | 27071              | 10 December 2004 |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of section 51 (1) of the Basic Conditions of Employment Act, [No. 75 of 1997](#) make a Sectoral Determination establishing conditions of employment for employees in the Private Security Sector, South Africa, which appears in the schedule hereto and fix the second Monday after the date of publication of this notice as the date from which the provisions of the said Sectoral Determination shall be binding.

MMS MDLADLANA, MP  
*Minister of Labour*

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**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 1. Areas and scope of application.-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in subclause (2), and to all employees in that sector, except those employers and employee**

**1. Areas and scope of application.**-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in subclause (2), and to all employees in that sector, except those employers and employees referred to in subclause (3).

(2) **"Private Security Sector"** means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means.

(3) The provisions of this determination shall not apply-

(a) to a manager as defined in clause 2 (28); or

(b) to any employer or employee who is subject to an agreement of a bargaining council in terms the Labour Relations Act, 1995.

(4) For the purposes of determining the wage rate applicable to an employee, the area where the employee performs the employer's duties shall be the area contemplated in [clause 3](#) subclause (1) irrespective of whether or not the employer has an establishment in that area.

(5) Subject to the provisions of the National Keypoint Act, 1980, this determination shall also apply to employers and employees who provide security services at National Key Points.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 2. Definitions.-For the purposes of this determination, unless the context otherwise indicates, any expression used herein which is defined in the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), has the same meaning as in that Act and an**

**2. Definitions.**-For the purposes of this determination, unless the context otherwise indicates, any expression used herein which is defined in the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#)), has the same meaning as in that Act and an employee shall be deemed to be in that class in which the employee is wholly or mainly engaged.

**"Act"** means the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#));  
[Definition of ["Act"](#) inserted by GNR.1331 of 2002.]

**"administrator"** means an approved administrator in terms of section 13B of the Pension Funds Act, as amended from time to time and who has been appointed by the trustees of the Fund in terms of the Pension Funds Act and the Fund Rules to administer the Fund;

[Definition of ["administrator"](#) inserted by GNR.1331 of 2002.]

**"area"** includes any number of areas, whether or not closest;

**"artisan"** means an employee who has completed or is deemed to have completed a contract of apprenticeship in a trade designated or deemed to have been designated in terms of the Manpower Training Act, 1981, or who holds a certificate issued or deemed to have been issued to the employee by the Registrar of Manpower Training and conferring Artisan status on the employee in terms of that Act, and any other employee engaged in work normally performed by an Artisan except where specifically otherwise provided in this determination;

**"basic condition of employment"** means a provision of the Basic Conditions of Employment Act, [No 75 of 1997](#);

**"benefits"** shall mean the death, disability and funeral benefits provided to members of the Fund in terms of the Fund Rules;

[Definition of ["benefits"](#) inserted by GNR.1331 of 2002.]

**"board"** means the board of trustees appointed or elected in accordance with its rules and the act;  
[Definition of "[board](#)" inserted by GNR.1331 of 2002.]

**"cargo security officer"** means an employee who guards cargo on a ship;

**"casual employee"** means an employee without a fixed contract of employment who works not more than 24 hours in any week;

**"category A"** in relation to a security officer, means an employee whose ordinary hours of work do not exceed 48 hours in a week;

**"category B"** in relation to a security officer, means an employee whose ordinary hours of work do not exceed 50 hours in a week;

**"child"** means a person who is under 18 years of age;

**"clerical assistant"** means an employee who is engaged in any one or more of the following duties-

- (a) adding or subtracting, including making use of a machine;
- (b) checking attendance registers or entering particulars in connection with employees who are absent or present or the time spent by employees on different tasks at establishments or places of employment;
- (c) filing documents according to written instructions or a list, in any order;
- (d) interpreting or translating languages;
- (e) issuing passes or preparing certificates of service;
- ( f ) issuing time cards;
- (g) preparing wage or time cards;
- (h) recording particulars of annual or sick leave;
- (i) recording particulars in registers otherwise than by means of a typewriter;
- (j) recording the engagement, dismissal or resignation of employees, including any necessary entries in an employee's file or documents; or
- (k) transferring names and addresses from compiled documents to envelopes, labels or circulars otherwise than by means of a typewriter;

**"clerk"** means an employee who is engaged in writing, typing or filing or in any other form of clerical work and includes a cashier, storeman, a telephone switch-board operator, and who may make up money into specified amounts and place such money in envelopes or other containers, but does not include any other class of employee elsewhere defined in this clause, notwithstanding the fact that clerical work may form part of such employee's work;

**"controller (stock)"** means an employee who controls or checks the issuing or receiving of uniforms, overalls, protective clothing, batons, handcuffs, flashlights, firearms, ammunition or other equipment and who may keep the necessary records;

**"Control Centre Operator"** and **"Communication Centre Operator"** means a security officer who is utilised in an administrative capacity in a control centre or communication centre and who may be called upon to perform any or all of the duties of a clerk;

**"day"** means a period of 24 consecutive hours reckoned from the time such employee commences work and **"daily"** has a corresponding meaning;

**"driver"** means an employee, other than a security officer, grade A, B or C, who drives a motor vehicle, and for the purposes of this definition the expression **"drives a motor vehicle"** includes all periods during which an employee drives, all time spent on work connected with the vehicle or the load, and all periods during which the employee is obliged to remain at the post in readiness to drive;

**"emergency work"** means work that is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work;

**"employee"** means any person who works for another person or who in any manner assists in carrying on or conducting the business of an employer, and who receives, or is entitled to receive any remuneration; and **"employed"** and **"employment"** have a corresponding meaning, and which also includes-

- (a) in-house security officers, performing the duties as defined in subclauses (41) to (46), who do not fall under the jurisdiction of any other wage determination, sectoral determination or bargaining council agreement;

**"employer"** means any person (including created entities, corporate or unincorporate) other than a person who is exempted in terms of [clause 1 \(2\)](#) of the determination, who employs or provides work for any person in the Private Security Sector and remunerates him or permits any person in any manner whatsoever to assist him in the carrying on or conducting of his business and **"employ"** and **"employment"** shall have corresponding meanings;

[Definition of "[employer](#)" inserted by GNR.1331 of 2002.]

[Editorial Note: In terms of Government Notice R.1331, *Government Gazette* 23983 of 25 October 2002, the definition of "[employee](#)" is inserted. It is suggested that it is meant to be the definition of "[employer](#)".]

**"establishment"** means the primary place from which an employer conducts business;  
[Definition of "establishment" substituted by GNR.1331 of 2002.]

**"experience"** means, in relation to-

- (a) a clerk, the total period or periods of employment that an employee has had as a clerk in any trade or industry or in the service of a local authority or the State;
- (b) a clerical assistant, the total period or periods of employment that an employee has had as a clerical assistant in any trade or industry or in the service of a local authority or the State;

**"Fund"** means the Private Security Sector Provident Fund, which is governed by the Fund Rules and the Pension Funds Act;

[Definition of "Fund" inserted by GNR.1331 of 2002.]

**"Fund commencement date"** means, notwithstanding the date of promulgation hereof, 1 November 2002;  
[Definition of "Fund commencement date" inserted by GNR.1331 of 2002.]

**"Fund Rules"** means the rules of the Fund, as amended by the trustees of the Fund from time to time and registered with the Registrar of Pension Funds in terms of the Pension Funds Act;  
[Definition of "Fund Rules" inserted by GNR.1331 of 2002.]

**"Fund Salary"** means the salary based on the employees monthly wage calculated as follows;

$A \times B \times 4.333$   
where

A = employee's ordinary hourly rate of pay

B = the maximum number of hours an employee is permitted to work at the ordinary rate of pay as per Sectoral Determination 6 of 2001 or such lesser number of hours as any be agreed in writing between the employer and the employee or any reduced maximum ordinary hours an employee may work that may be legislated in terms of a Sectoral Determination or the Basic Conditions of Employment Act, whichever is applicable;

[Definition of "Fund Salary" inserted by GNR.1331 of 2002.]

**"general worker"** means an employee who is engaged in any one or more of the following duties-

- (a) affixing postage stamps to letters, parcels or other articles;
- (b) affixing rubber stamps or serial numbers where discretion is not required;
- (c) assisting an Artisan by holding articles or tools or working with the Artisan without making independent use of any tools;
- (d) assisting on vehicles, otherwise than driving, guarding or repairing such vehicles, carrying, lifting, storing, moving, loading, unloading, opening or closing goods or parcels;
- (e) cleaning or washing premises, doors, windows, equipment, tools, plant, machinery, furniture, vehicles, containers or other articles, and includes the polishing of floors, furniture or vehicles or the brushing of mats or the cleaning of mats by means of a machine;
- (f) cooking rations or making tea or similar beverages for employees, including serving them, or making tea or other refreshments for the employer or the employer's guests, including the serving thereof;
- (g) delivering or conveying messages, letters, goods or parcels on foot, or by any means excluding motor vehicles;
- (h) feeding or tending animals;
- (i) filling fuel tanks or filling or draining oil sumps;
- (j) gardening;
- (k) oiling or greasing vehicles, plant or machinery,
- (l) opening or closing doors or windows;
- (m) pushing or pulling vehicles otherwise than by means of mechanical equipment;
- (n) removing refuse or ashes;
- (o) removing, replacing, changing wheels, tyres or tubes, or repairing or pumping tyres or tubes;
- (p) removing, topping up or replacing batteries;
- (q) replacing towels, soap or toilet paper;
- (r) stamping or stenciling containers or parcels where discretion is not required;
- (s) washing or ironing overalls, uniforms or protective clothing;
- (t) whitewashing, cleaning or disinfecting kennels, stables, outbuildings or toilets;

**"goods"** means any movable property, but not limited to, money and other valuables belonging to or in the custody of the employer, that has to be guarded, protected or transported under guard;

**"gross vehicle mass"**, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;

**"handyman"** means an employee, other than an apprentice or a trainee, who is engaged in making minor repairs or adjustments to machinery or equipment, and who may also effect minor repairs or renovations to buildings, but who does not do any work normally performed by an artisan;

**"heavy motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 9,000 kg;

**"hourly wage"** means an employee's hourly wage in respect of ordinary hours worked, as set out in [clause 3](#) subclause (1) (b), and in the case of a ship security officer and a cargo security officer it means the wage referred to in [clause 3](#) subclause (1) (d);

**"law"** includes the common law;

**"light motor vehicle"** means a motor vehicle the gross vehicle mass of which does not exceed 3,500 kg;

**"local authority"** means any borough council, city council, municipal council, village management board, divisional council or any similar institution or body contemplated in section 84 (1) ( f ) of the Provincial Government Act, 1961, or in any other parliamentary legislation;

**"manager"** means an employee who is charged by an employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include any employee in the same establishment who relieves or acts for a manager during the employer's absence;

[Definition of "[manager](#)" substituted by GNR.1331 of 2002.]

**"medical practitioner"** means

- (a) a person entitled to practice as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 50 of 1974](#)); or
- (b) a registered traditional healer;

**"member"** means an employee who, having been admitted to membership of the fund in accordance with the rules of the fund, has not ceased to be a member of the fund in terms of the rules;

[Definition of "[member](#)" inserted by GNR.1331 of 2002.]

**"midwife"** means a person registered or enrolled to practise as a midwife in terms of [section 16](#) of the Nursing Act, 1978 (Act [No. 50 of 1978](#));

**"medium motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 3,500 kg but not 9,000 kg;

**"motor vehicle"** means a self-propelled vehicle used for the transportation of goods, persons or dogs, and includes a motorcycle and a motorised three-wheeler;

**"night work"** means work that is performed between the hours of 18:00 on one day and 06:00 the next day;

**"ordinary hours of work"** means the hours of work prescribed in [clause 5](#) subclause (1), but if by agreement between an employer and employee the latter works a lesser number of ordinary hours, it means such shorter hours;

**"ordinary wage"** means the employee's ordinary remuneration excluding any premium for work on a Sunday or Public Holiday;

**"overtime"** means that portion of any period worked by an employee in any week or on any day which is longer than the maximum permissible weekly or daily ordinary hours of work, as the case may be;

**"Pension Funds Act"** means the Pension Funds Act [No. 24 of 1956](#), as amended;

[Definition of "[Pension Funds Act](#)" inserted by GNR.1331 of 2002.]

**"premises"** means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;

**"Private Security Sector"**, means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means;

[Definition of "[Private Security Sector](#)" inserted by GNR.1331 of 2002.]

**"public holiday"** means all public holidays declared as such in terms of the Public Holidays Act, 1994;

**"qualified"** in relation to an employee referred to in subclauses (9) and (10), means that the experience of an employee in the employee's class entitles the employee to the highest wage rate prescribed for that class of employee, and conversely, **"unqualified"** means that experience in the employee's class does not entitle the employee to such highest wage rate;

**"remuneration"** means any payment in money or kind, or both in money and kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning;

**"security officer"** means a security officer, grade A, B, C, D or E;

**"security officer grade A"** means an employee who performs any one or more of the following duties-

- (a) advising or reporting on any matter affecting guarding or protection services;
- (b) assisting in the screening of candidates for employment;
- (c) assuming responsibility for staff training;
- (d) drawing money or cheques or taking possession of negotiable documents;
- (e) drawing money at banks or similar institutions;
- ( f ) guarding or protecting goods;
- (g) supervising subordinate staff; and
- (h) who may drive a motor vehicle in the performance of any or all of the employee's duties;

**"security officer, grade B"** means an employee who performs any one or more of the following duties, namely, supervising, controlling, instructing or training security officers, grade C, D or E or general workers and reporting thereon to an employer or any other specified person, and who may-

- (a) drive a motor vehicle in the performance of any or all of the employee's duties;
- (b) be called upon to perform any or all of the duties of a security officer, grade C;

**"security officer, grade C"** means an employee who performs any one or more of the following duties-

- (a) supervising or controlling security officers, grade D or E;
- (b) driving a motor vehicle in the course of supervising or controlling security Officers grade D or E;
- (c) driving a motor vehicle for the purpose of transporting security officers; and
- (d) who may be called upon to perform any or all of the duties of a security officer, grade D;

**"security officer, grade D"** means an employee who performs any one or more of the following duties-

- (a) controlling or reporting on the movement of persons or vehicle through checkpoints or gates;
- (b) searching persons and if necessary, restraining them;
- (c) supervising or controlling security officers; grade E;
- (d) searching goods or vehicles; and
- (e) who may be required to perform any or all of the duties of a security officer, grade E;

**"security officer, grade E"** means an employee, other than a security officer, grade D, who performs any one or more of the following duties-

- (a) guarding, protecting or patrolling premises or goods;
- (b) handling or controlling dogs in the performance of any or all of the duties referred to in (a);

**"spare and reliever"** means an employee who reports for duty at a specified place and time, and who must remain at the specified place for the duration of that shift, or who is required to replace any other employee who may be on scheduled time-off, annual leave or absent from duty, or who is required to perform duties at any place designated by the employer;

**"ship security officer"** means an employee who guards the entrance to or exit from a ship;

**"short time"** means a temporary reduction in the number of ordinary hours of work owing to a slackness of business in the trade, a breakdown of plant, machinery or equipment, or a breakdown or threatened breakdown of buildings;

**"storeperson"** means an employee, other than a controller, who is in charge of incoming stock and who is responsible for receiving, storing, packing or unpacking stock in or for issuing stock from a store, warehouse or open stockyard;

**"Sunday work"** means any work performed where the relevant shift commences on a Sunday and where the major portion of that shift is performed on that Sunday;

**"trustee" or "trustees"** means a trustee or the trustees or their alternates elected or appointed in terms of the Fund Rules;

[Definition of ["trustee"](#) or ["trustees"](#) inserted by GNR.1331 of 2002.]

**"wage"** means that amount of money payable to an employee in terms of [clause 3](#) subclause (1) in respect of ordinary hours of work;

**"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 3. Remuneration.-(1) Minimum salary:**

### **3. Remuneration.-(1) Minimum salary:**

- (a) The minimum salary which an employer shall pay employees shall be as specified in subclauses (1) (b), (1) (c) and (1) (d).
- (i) The hourly equivalents reflected in the table hereunder shall be used solely for the calculation of payment for short time, as defined in *Government Gazette* No. 22873 or time worked in excess of the ordinary hours or deductions for any unauthorized absenteeism.
- [Sub-clause (1) (a) (i) substituted by GNR.1109 of 2004.]
- (b) An employer shall pay to each member of the under mentioned classes of employees, other than casual employees, cargo security officers or ship security officers, the minimum salary specified hereunder:

[Sub-clause (1) (a) (i) substituted by GNR.1109 of 2004.]

**MONTHLY SALARY RATES FOR THE FIRST YEAR OF OPERATION OF THIS DETERMINATION**

[illegible]



|                                      |        |        |        |        |        |        |        |       |        |       |    |
|--------------------------------------|--------|--------|--------|--------|--------|--------|--------|-------|--------|-------|----|
| the same employee                    | R1,102 | R5.20  | R932   | R4.78  | R837   | R4.29  | R794   | R4.07 | R710   | R3.64 | 45 |
| Thereafter                           | R1,104 | R5.65  | R1,104 | R5.20  | R913   | R4.68  | R866   | R4.44 | R774   | R3.97 |    |
| <b>Handyman</b>                      | R1,443 | R7.40  | R1,340 | R6.87  | R1,231 | R6.31  | R1,123 | R5.76 | R1,006 | R5.16 | 45 |
| <b>Security officer-</b>             |        |        |        |        |        |        |        |       |        |       |    |
| Grade A                              | R2,533 | R12.18 | R2,315 | R11.13 | R2,103 | R10.11 | R1,951 | R9.38 | R1,751 | R8.42 |    |
| Grade B                              | R2,086 | R10.03 | R1,901 | R9.14  | R1,714 | R8.24  | 1,587  | R7.63 | R1,425 | R6.84 | 48 |
| Grade C                              | R1,556 | R7.48  | R1,437 | R6.91  | R1,296 | R6.23  | R1,215 | R5.84 | R1,082 | R5.20 |    |
| Grade D                              | R1,387 | R6.67  | R1,269 | R6.10  | R1,154 | R5.55  | R1,075 | R5.17 | R969   | R4.66 |    |
| Grade E                              | R1,300 | R6.25  | R1,196 | R5.75  | R1,080 | R5.19  | R1,015 | R4.88 | R911   | R4.38 |    |
| Employees not elsewhere specified    | R1,254 | R6.43  | R1,154 | R5.92  | R1,041 | R5.34  | R987   | R5.06 | R881   | 4.52  | 45 |
| Refer also to subclauses (5) and (6) |        |        |        |        |        |        |        |       |        |       |    |

#### MONTHLY SALARY RATES FOR THE SECOND YEAR OF OPERATION OF THIS DETERMINATION

|                                                 | AREA 1                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   | AREA 2                                                                                                                                      |                   | AREA 3                                                                                   |                   | AREA 4                                                                                                                                                                                                                                                                                                      |                   | AREA 5                                   |                   |                                                                                                                                                                          |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------------------------------------------------------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------------------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | In the Magisterial Districts of Alberton, Belville, Benoni, Boksburg, Brakpan, Camperdown, Chatsworth, Durban, Germiston, Goodwood, Inanda, Johannesburg, Kempton Park, Krugersdorp, Kuils River, Mitchell's Plain, Nigel, Oberholzer, Paarl, Pinetown, Port Elizabeth, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Simon's Town, Springs, The Cape, Uitenhage, Vanderbijlpark, Vereeniging, Westonaria, Wonderboom and Wynberg |                   | In the Magisterial Districts of Bloemfontein, East London, Kimberley, Klerksdorp, Pietermaritzburg, Somerset West, Stellenbosch, and Strand |                   | In the Magisterial Districts of Odenaalsrus, Potchefstroom, Virginia, Welkom and Witbank |                   | In the Magisterial Districts of Bethlehem, George, Hennenman, Highveld Ridge, King William's Town, Klip River, Knysna, Lower Tugela, Lower Umfolozi, Middelburg, (Mpumalanga), Mossel Bay, Nelspruit, Newcastle, Oudtshoorn, Pietersburg, Port Shepstone, Potgietersrus, Rustenburg, Queenstown and Umzinto |                   | All other areas                          |                   | Maximum permissible working hours per week for each respective category of employee, subject to <a href="#">clause 5 (2)</a> , with regard to averaging of working hours |
|                                                 | Monthly Salary                                                                                                                                                                                                                                                                                                                                                                                                                              | Hourly equivalent | Monthly Salary                                                                                                                              | Hourly equivalent | Monthly Salary                                                                           | Hourly equivalent | Monthly Salary                                                                                                                                                                                                                                                                                              | Hourly equivalent | Monthly Salary                           | Hourly equivalent |                                                                                                                                                                          |
| <b>Artisan</b>                                  | R2,677                                                                                                                                                                                                                                                                                                                                                                                                                                      | R13.73            | R2,441                                                                                                                                      | R12.52            | R2,340                                                                                   | R12.00            | R2,057                                                                                                                                                                                                                                                                                                      | R10.55            | R1,843                                   | R9.45             | 45                                                                                                                                                                       |
| <b>Clerical Assistant-</b>                      |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                                                                                             |                   |                                                                                          |                   |                                                                                                                                                                                                                                                                                                             |                   |                                          |                   |                                                                                                                                                                          |
| During the first year of experience             | R1,334                                                                                                                                                                                                                                                                                                                                                                                                                                      | R6.84             | R1,267                                                                                                                                      | R6.29             | R1,106                                                                                   | R5.67             | R1,041                                                                                                                                                                                                                                                                                                      | R5.34             | R930                                     | R4.77             | 45                                                                                                                                                                       |
| During the second year of experience            | R1,383                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.09             | R1,264                                                                                                                                      | R6.483            | R1,143                                                                                   | R5.86             | R1,073                                                                                                                                                                                                                                                                                                      | R5.50             | R959                                     | R4.92             |                                                                                                                                                                          |
| Thereafter                                      | R1,427                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.32             | R1,316                                                                                                                                      | R6.750            | R1,195                                                                                   | R6.13             | R1,110                                                                                                                                                                                                                                                                                                      | R5.69             | R991                                     | R5.08             |                                                                                                                                                                          |
| <b>Clerk-</b>                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                                                                                             |                   |                                                                                          |                   |                                                                                                                                                                                                                                                                                                             |                   |                                          |                   |                                                                                                                                                                          |
| During the first year of experience             | R1,457                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.47             | R1,342                                                                                                                                      | R6.88             | R1,229                                                                                   | R6.30             | R1,133                                                                                                                                                                                                                                                                                                      | R5.81             | R1,012                                   | R5.19             | 45                                                                                                                                                                       |
| During the second year of experience            | R1,652                                                                                                                                                                                                                                                                                                                                                                                                                                      | R8.42             | R1,560                                                                                                                                      | R8.00             | R1,392                                                                                   | R7.14             | R1,275                                                                                                                                                                                                                                                                                                      | R6.54             | R1,141                                   | R5.85             |                                                                                                                                                                          |
| During the third year of experience             | R1,827                                                                                                                                                                                                                                                                                                                                                                                                                                      | R9.37             | R1,675                                                                                                                                      | R8.59             | R1,570                                                                                   | R8.05             | R1,412                                                                                                                                                                                                                                                                                                      | R7.24             | R1,264                                   | R6.48             |                                                                                                                                                                          |
| Thereafter                                      | R2,018                                                                                                                                                                                                                                                                                                                                                                                                                                      | R10.35            | R1,847                                                                                                                                      | R9.47             | R1,730                                                                                   | R8.87             | R1,548                                                                                                                                                                                                                                                                                                      | R7.94             | R1,386                                   | R7.11             |                                                                                                                                                                          |
| <b>Control or Communication Centre Operator</b> | As for relevant Security Officer grading                                                                                                                                                                                                                                                                                                                                                                                                    |                   | As for relevant Security Officer grading                                                                                                    |                   | As for relevant Security Officer grading                                                 |                   | As for relevant Security Officer grading                                                                                                                                                                                                                                                                    |                   | As for relevant Security Officer grading |                   | 48                                                                                                                                                                       |
| <b>Controller</b>                               | As for a Clerical Assistant                                                                                                                                                                                                                                                                                                                                                                                                                 |                   | As for a Clerical Assistant                                                                                                                 |                   | As for a Clerical Assistant                                                              |                   | As for a Clerical Assistant                                                                                                                                                                                                                                                                                 |                   | As for a Clerical Assistant              |                   | 45                                                                                                                                                                       |
| <b>Driver of a-</b>                             |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                                                                                             |                   |                                                                                          |                   |                                                                                                                                                                                                                                                                                                             |                   |                                          |                   |                                                                                                                                                                          |
| Light motor vehicle                             | R1,404                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.20             | R1,305                                                                                                                                      | R6.69             | R1,182                                                                                   | R6.06             | R1,090                                                                                                                                                                                                                                                                                                      | R5.59             | R977                                     | R5.01             | 45                                                                                                                                                                       |

|                                                            |        |        |        |        |        |        |        |       |        |       |    |
|------------------------------------------------------------|--------|--------|--------|--------|--------|--------|--------|-------|--------|-------|----|
| Medium motor vehicle                                       | R1,622 | R8.32  | R1,500 | R7.69  | R1,379 | R7.07  | R1,258 | R6.45 | R1,127 | R5.78 |    |
| Heavy motor vehicle                                        | R1,757 | R9.01  | R1,626 | R8.34  | R1,505 | R7.72  | R1,353 | R6.94 | R1,215 | R6.23 |    |
| <b>General Worker-</b>                                     |        |        |        |        |        |        |        |       |        |       |    |
| During the first six months service with the same employee | 1,090  | R5.60  | R1,004 | R5.15  | R901   | R4.62  | R854   | R4.38 | R763   | R3.91 | 45 |
| Thereafter                                                 | 1,170  | R6.00  | R1,086 | R5.57  | R977   | R5.01  | R926   | R4.75 | R827   | R4.24 |    |
| <b>Handyman</b>                                            | R1,554 | R7.97  | R1,443 | R7.40  | R1,326 | R6.80  | R1,209 | R6.20 | R1,082 | R5.55 | 45 |
| <b>Security officer-</b>                                   |        |        |        |        |        |        |        |       |        |       |    |
| Grade A                                                    | R2,633 | R12.66 | R2,407 | R11.57 | R2,186 | R10.51 | R2,028 | R9.75 | R1,820 | R8.75 |    |
| Grade B                                                    | R2,186 | R10.51 | R1,993 | R9.58  | R1,797 | R8.64  | R1,664 | R8.00 | R1,493 | R7.18 | 48 |
| Grade C                                                    | R1,656 | R7.96  | R1,529 | R7.35  | R1,379 | R6.63  | R1,292 | R6.21 | R1,150 | R5.53 |    |
| Grade D                                                    | R1,487 | R7.15  | R1,360 | R6.54  | R1,238 | R5.59  | R1,152 | R5.54 | R1,038 | R4.99 |    |
| Grade E                                                    | R1,400 | R6.73  | R1,288 | R6.19  | R1,163 | R5.59  | R1,092 | R5.25 | R980   | R4.71 |    |
| Employees not elsewhere specified                          | R1,349 | R6.92  | R1,242 | R6.37  | R1,121 | R5.75  | R1,053 | R5.40 | R948   | R4.86 | 45 |

Refer also to subclauses (5) and (6)

#### MONTHLY SALARY RATES FOR THE THIRD YEAR OF OPERATION OF THIS DETERMINATION

|                                      | AREA 1                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   | AREA 2                                                                                                                                      |                   | AREA 3                                                                                   |                   | AREA 4                                                                                                                                                                                                                                                                                                      |                   | AREA 5          |                   |                                                                                                                                                                          |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------------------------------------------------------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      | In the Magisterial Districts of Alberton, Belville, Benoni, Boksburg, Brakpan, Camperdown, Chatsworth, Durban, Germiston, Goodwood, Inanda, Johannesburg, Kempton Park, Krugersdorp, Kuils River, Mitchell's Plain, Nigel, Oberholzer, Paarl, Pinetown, Port Elizabeth, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Simon's Town, Springs, The Cape, Uitenhage, Vanderbijlpark, Vereeniging, Westonaria, Wonderboom and Wynberg |                   | In the Magisterial Districts of Bloemfontein, East London, Kimberley, Klerksdorp, Pietermaritzburg, Somerset West, Stellenbosch, and Strand |                   | In the Magisterial Districts of Odenaalsrus, Potchefstroom, Virginia, Welkom and Witbank |                   | In the Magisterial Districts of Bethlehem, George, Hennenman, Highveld Ridge, King William's Town, Klip River, Knysna, Lower Tugela, Lower Umfolozi, Middelburg, (Mpumalanga), Mossel Bay, Nelspruit, Newcastle, Oudtshoorn, Pietersburg, Port Shepstone, Potgietersrus, Rustenburg, Queenstown and Umzinto |                   | All other areas |                   | Maximum permissible working hours per week for each respective category of employee, subject to <a href="#">clause 5 (2)</a> , with regard to averaging of working hours |
|                                      | Monthly Salary                                                                                                                                                                                                                                                                                                                                                                                                                              | Hourly equivalent | Monthly Salary                                                                                                                              | Hourly equivalent | Monthly Salary                                                                           | Hourly equivalent | Monthly Salary                                                                                                                                                                                                                                                                                              | Hourly equivalent | Monthly Salary  | Hourly equivalent |                                                                                                                                                                          |
| <b>Artisan</b>                       | R2,773                                                                                                                                                                                                                                                                                                                                                                                                                                      | R14.22            | R2,609                                                                                                                                      | R13.38            | R2,504                                                                                   | R12.84            | R2,205                                                                                                                                                                                                                                                                                                      | R11.31            | R1,975          | R10.13            | 45                                                                                                                                                                       |
| <b>Clerical Assistant-</b>           |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                                                                                             |                   |                                                                                          |                   |                                                                                                                                                                                                                                                                                                             |                   |                 |                   |                                                                                                                                                                          |
| During the first year of experience  | R1,429                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.33             | R1,310                                                                                                                                      | R6.72             | R1,184                                                                                   | R6.07             | R1,115                                                                                                                                                                                                                                                                                                      | R5.72             | R996            | R5.11             | 45                                                                                                                                                                       |
| During the second year of experience | R1,478                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.58             | R1,347                                                                                                                                      | R6.91             | R1,221                                                                                   | R6.26             | R1,147                                                                                                                                                                                                                                                                                                      | R5.88             | R1,026          | R5.26             |                                                                                                                                                                          |
| Thereafter                           | R1,523                                                                                                                                                                                                                                                                                                                                                                                                                                      | R7.81             | R1,400                                                                                                                                      | R7.18             | R1,273                                                                                   | R6.53             | R1,184                                                                                                                                                                                                                                                                                                      | R6.07             | R1,057          | R5.42             |                                                                                                                                                                          |
| <b>Clerk-</b>                        |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                                                                                             |                   |                                                                                          |                   |                                                                                                                                                                                                                                                                                                             |                   |                 |                   |                                                                                                                                                                          |
| During the first year of experience  | R1,560                                                                                                                                                                                                                                                                                                                                                                                                                                      | R8.00             | R1,433                                                                                                                                      | R7.35             | R1,314                                                                                   | R6.74             | R1,215                                                                                                                                                                                                                                                                                                      | R6.23             | R1,084          | R5.56             | 45                                                                                                                                                                       |
| During the second year of experience | R1,745                                                                                                                                                                                                                                                                                                                                                                                                                                      | R8.95             | R1,652                                                                                                                                      | R8.47             | R1,478                                                                                   | R7.58             | R1,357                                                                                                                                                                                                                                                                                                      | R6.96             | R1,213          | R6.22             |                                                                                                                                                                          |
| During the third year of experience  | R1,931                                                                                                                                                                                                                                                                                                                                                                                                                                      | R9.90             | R1,767                                                                                                                                      | R9.06             | R1,656                                                                                   | R8.49             | R1,494                                                                                                                                                                                                                                                                                                      | R7.66             | R1,336          | R6.85             |                                                                                                                                                                          |
| Thereafter                           | R2,122                                                                                                                                                                                                                                                                                                                                                                                                                                      | R10.88            | R1,938                                                                                                                                      | R9.94             | R1,815                                                                                   | R9.31             | R1,630                                                                                                                                                                                                                                                                                                      | R8.36             | R1,458          | R7.48             |                                                                                                                                                                          |

|                                                            |                                          |        |                                          |        |                                          |        |                                          |        |                                          |       |    |
|------------------------------------------------------------|------------------------------------------|--------|------------------------------------------|--------|------------------------------------------|--------|------------------------------------------|--------|------------------------------------------|-------|----|
| <b>Control or Communication Centre Operator</b>            | As for relevant Security Officer grading |        | As for relevant Security Officer grading |        | As for relevant Security Officer grading |        | As for relevant Security Officer grading |        | As for relevant Security Officer grading |       | 48 |
| <b>Controller</b>                                          | As for a Clerical Assistant              |        | As for a Clerical Assistant              |        | As for a Clerical Assistant              |        | As for a Clerical Assistant              |        | As for a Clerical Assistant              |       | 45 |
| <b>Driver of a-</b>                                        |                                          |        |                                          |        |                                          |        |                                          |        |                                          |       |    |
| Light motor vehicle                                        | R1,503                                   | R7.71  | R1,394                                   | R7.15  | R1,264                                   | R6.48  | R1,168                                   | R5.99  | R1,047                                   | R5.37 | 45 |
| Medium motor vehicle                                       | R1,722                                   | R8.83  | R1,589                                   | R8.15  | R1,461                                   | R7.49  | R1,336                                   | R6.85  | R1,197                                   | R6.14 |    |
| Heavy motor vehicle                                        | R1,856                                   | R9.52  | R1,716                                   | R8.80  | R1,587                                   | R8.14  | R1,431                                   | R7.34  | R1,283                                   | R6.59 |    |
| <b>General Worker-</b>                                     |                                          |        |                                          |        |                                          |        |                                          |        |                                          |       |    |
| During the first six months service with the same employee | R1,170                                   | R6.00  | R1,074                                   | R5.51  | R963                                     | R4.94  | R917                                     | R4.70  | R817                                     | R4.19 | 45 |
| Thereafter                                                 | R1,248                                   | R6.40  | R1,156                                   | R5.93  | R1,039                                   | R5.33  | R989                                     | R5.07  | R881                                     | R4.52 |    |
| <b>Handyman</b>                                            | R1,665                                   | R8.54  | R1,542                                   | R7.91  | R1,420                                   | R7.28  | R1,297                                   | R6.65  | R1,164                                   | R5.97 | 45 |
| <b>Security officer-</b>                                   |                                          |        |                                          |        |                                          |        |                                          |        |                                          |       |    |
| Grade A                                                    | R2,733                                   | R13.14 | R2,515                                   | R12.00 | R2,267                                   | R10.90 | R2,107                                   | R10.03 | R1,891                                   | R9.09 |    |
| Grade B                                                    | R2,286                                   | R10.99 | R2,082                                   | R10.01 | R1,878                                   | R9.03  | R1,743                                   | R8.38  | R1,564                                   | R7.52 | 48 |
| Grade C                                                    | R1,756                                   | R8.44  | R1,618                                   | R7.78  | R1,460                                   | R7.02  | R1,371                                   | R6.59  | R1,221                                   | R5.87 |    |
| Grade D                                                    | R1,587                                   | R7.63  | R1,450                                   | R6.97  | R1,319                                   | R6.34  | R1,231                                   | R5.92  | R1,100                                   | R5.33 |    |
| Grade E                                                    | R1,500                                   | R7.21  | R1,377                                   | R6.62  | R1,244                                   | R5.98  | R1,171                                   | R5.63  | R1,050                                   | R5.05 |    |
| Employees not elsewhere specified                          | R1,445                                   | R7.41  | R1,328                                   | R6.81  | R1,199                                   | R6.15  | R1,129                                   | R5.79  | R1,016                                   | R5.21 | 45 |

Refer also to subclauses (5) and (6)

- (c) **Casual employees:** An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday not less than the hourly wage prescribed in subclause (1) (b) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15 percent, or not less than the hourly wage or hourly equivalent of the wage actually being paid to the ordinary employee, whichever is the greater amount:

Provided that-

- (i) for the purposes of this paragraph the expression "the ordinary employee" means the employee who performs the particular class of work *in the employer's full-time employ* and who is being paid the lowest wage for that class of work;
- (ii) where the employer requires the casual employee-
  - (aa) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage prescribed for a qualified employee of that class;
  - (ab) to work for a period of less than four hours on any day, the employee shall be deemed to have worked four hours and remunerated accordingly.

- (d) **Ship security officers and cargo security officers:** A ship security officer and a cargo security officer shall be paid at least R4.83 for each hour or part of an hour of employment.

[Sub-clause (1) amended by GNR.804 of 2003.]

(2) **Basis of contract:** For the purposes of this clause, the contract of employment of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be on a weekly basis.

(3) **Differential wage:** An employer who requires or permits a member of one class of employees to perform for longer than one hour on any day, either in addition to the employee's own work or in substitution therefore, work of another class for which-

- (a) a wage higher than that of the employee's own class is prescribed in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated at the higher rate; or
- (c) a rising scale of wages terminating in a wage higher than that of the employee's own class as prescribed in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for the employee's ordinary work: Provided that-
  - (i) this subclause shall not apply where the difference between the classes in terms of subclause (1) is based on experience;
  - (ii) unless expressly otherwise provided in a written contract between the employer and employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another class for which class the same or a lower wage is prescribed for such employee.

(4) Calculation of salary: The salary, overtime and Sunday time of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be calculated on a monthly basis and an employee shall be paid accordingly.

- (a) The monthly salary of an employee shall be as stipulated in the relevant column of the table in subclause 3 (1) (b).
- (b) Any hours in excess of the maximum daily or weekly or, if applicable, average weekly ordinary hours, as well as any hours in respect of work performed on a Sunday or public holiday, shall be calculated by using the "hourly equivalent" figure in the relevant column of the table in subclause 3 (1) (b).

[Sub-clause (4) substituted by GNR.804 of 2003.]

(5) Night shift allowance: If the major portion of the shift ordinarily falls between the hours of 18:00 on one day and 06:00 the next day that employee will be entitled to and shall receive an allowance in respect of each night shift worked:

- (a) The night shift allowance for the first year after promulgation of this agreement shall be R1.35;
- (b) The night shift allowance for the second year after promulgation of this determination shall be R2.00; and

[Sub-clause (5) (b) substituted by GNR.1109 of 2004.]

- (c) The night shift allowance for the third year after promulgation of this determination shall be R2.50.

[Sub-clause (5) substituted by GNR.804 of 2003. Sub-clause (5) (c) substituted by GNR.1109 of 2004 ]

(6) **Firearm allowance:** An employer shall pay an employee who is required to carry a firearm in the performance of an employee's duties at a rate of not less than that specified for a grade D security officer or at the rate which an employee normally receives, whichever is the highest.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 4. Payment of remuneration.-(1) For employees, other than casual employees, ship security officers and cargo security officers, an employer must pay to an employee any remuneration-**

**4. Payment of remuneration.-(1)** For employees, other than casual employees, ship security officers and cargo security officers, an employer must pay to an employee any remuneration-

- (a) in South African currency;
- (b) daily, weekly, fortnightly or monthly; and
- (c) in cash, by cheque or by direct deposit in an account designated by the employee.

(2) Any remuneration paid by cheque or by cash must be given to each employee-

- (a) during the ordinary hours of work; or
- (b) within 15 minutes thereafter on the usual payday of the establishment for such employee; or
- (c) at such time as may have been agreed upon between such employee and the employer, which time shall fall during the ordinary hours of work of the establishment, but not later than 48 hours after the usual payday; or
- (d) within 7 days of termination of employment.

(3) Such amount if paid manually, shall be contained in a sealed envelope.

(4) An employer must give an employee a pay slip on which the following information is included in writing on each day the employee is paid-

- (a) the employer's name and address;
- (b) the employee's name or number on the payroll, the employee's job category and grade;
- (c) the period for which payment is made;
- (d) the amount and purpose of any deductions made from the remuneration;
- (e) the net amount paid to the employee;
- (f) the employee's hourly rate of pay and overtime rate;
- (g) the number of ordinary hours worked by the employee;
- (h) the number of overtime hours worked by the employee;
- (i) the number of hours worked by the employee on a Sunday during that period;
- (j) the number of hours worked by an employee on a public holiday during that period; and
- (k) the details of any other remuneration arising out of the employee's employment contract or in terms of an agreement to average working time in terms of the Basic Conditions of Employment Act [No. 75 of 1997](#);

(5) The written information required in terms of subclause 4 must be given to each employee at the workplace or at a place agreed to by the employee and such pay slip on which these particulars are recorded or such statement shall become the property of the employee: Provided that-

- (a) the particulars prescribed above may be recorded on pay slip or in such statement in codes that shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
- (b) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.

(6) Casual employees, ship security officers and cargo security officers: An employer shall pay a casual employee, a ship security officer or a cargo security officer the remuneration due to the employee in cash on completion of each day's work: Provided that the employer may, at the request of such employee, pay the employee the remuneration at the end of that week or month, by mutual agreement.

(7) Premiums: Subject to any other law, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment, training or any form of uniform deposit of that employee and no employer shall require or permit an employee by any means to-

- (a) repay any portion of the remuneration which was due to that employee; or
- (b) acknowledge receipt of an amount greater than the remuneration actually paid to the employee.

(8) Purchase of goods: An employer shall not require the employee to purchase any goods from the employer or from any shop, place or person nominated by the employer.

(9) Accommodation, meals and rations and payment in kind: An employer shall not as a condition of employment require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not as a condition of employment require an employee to receive any payment in kind in lieu of wages or a part thereof.

(10) If an employee works as a "spare/relieve", the employee will be employed on a full time basis, at the rate for the relevant category of employment, and the employer must pay the employee the amount that the employee would ordinarily have earned even if that employee had not been placed at a post.

(11) Deductions: An employer shall not levy any fines against an employee nor make any deductions from the employee's remuneration other than-

- (a) subject to subclause (c), by agreement with the employee in writing in respect of a debt specified in the agreement, or
- (b) a deduction of any amount which an employer by law or order of any competent court is required or permitted to make;
- (c) to reimburse the employer for loss or damage only if-
  - (i) the loss or damage occurred in the course of employment and was due to the fault of the employee;
  - (ii) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made;
  - (iii) the total amount of the debt does not exceed the actual amount of the loss or damage; and
  - (iv) the total monthly deductions from the employee's remuneration in terms of this subclause do not exceed one quarter of the employee's monthly remuneration in money.
- (d) with the written consent of the employee, a deduction for any medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
- (e) whenever the ordinary hours of work are reduced because of short time, a deduction not exceeding the amount of the employee's (other than a casual employee, a ship security officer, or a cargo security officer's) hourly wage in respect of each hour of such reduction: Provided that-
  - (i) such deduction shall not exceed one third of the employee's wage irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - (ii) no deduction shall be made in the case of short time arising from slackness of business, unless the employer has given an employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given an employee notice on the previous day that no work will be available.
- ( f ) with the written consent of an employee, towards the repayment of any amount loaned or advanced to the employee by the employer: Provided that-
  - (i) any such deduction shall not exceed one third of the total remuneration due to the employee on the payday concerned;
  - (ii) no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of subclause (e);

Provisions (i) and (ii) shall not apply where the contract of employment is terminated.

- (g) a deduction in accordance with the provisions of [clause 9](#) subclause (7); and
- (h) any other deduction made at the written request of the employee and with the agreement of the employer: Provided that if the purpose of such deduction is the payment of any amount to any banking institution, building society, insurance business, registered financial institution, local authority, the State or any third

party, the employer shall make such payment to such institution in accordance with the request of the employee within the timeframe indicated in such request, or where no timeframe is indicated, within one week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 5. Ordinary hours of work, overtime and payment for overtime.-(1) An employer shall not require or permit an employee to work more ordinary hours of work than provided for, from the date of implementation of this Determination:**

**5. Ordinary hours of work, overtime and payment for overtime.**-(1) An employer shall not require or permit an employee to work more ordinary hours of work than provided for, from the date of implementation of this Determination:

- (a) a security officer-
  - (i) 48 in any week; and
  - (ii) subject to subparagraph (i), 12 on any day;
- (b) a ship security officer or cargo security officer, 12 on any day;
- (c) any other class of employee-
  - (i) 45 in any week; and
  - (ii) subject to subparagraph (i), in the case of an employee who normally works on-
    - (aa) not more than five days in a week, nine on any day; and
    - (ab) more than five days in a week, eight on any day.

[Sub-clause (1) substituted by GNR.804 of 2003.]

(2) Averaging of Working Hours: Despite subclause (1), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months, in terms of a written agreement.

- (a) An employer may not require or permit an employee who is a security officer to work more than-
  - (i) an average of 48 ordinary hours of work in a week over the agreed period as from the date of effectiveness of this determination; and
  - (ii) an average of ten hours overtime in a week over the agreed period;
- (b) Any employee whose hours are averaged in terms hereof must be paid at the premium hourly rate in respect of all work performed on a Sunday or public holiday, as per clauses 7 and 8.
- (c) Any employee whose hours are averaged in terms hereof will still take, and the employer shall grant, a weekly free period of at least 36 hours or a fortnightly free period of at least 60 hours in terms of subclause (10).

[Sub-clause (2) substituted by GNR.804 of 2003.]

(3) Compressed working week: An agreement in writing may require or permit an employee to work up to 12 hours in a day, without receiving overtime pay. No such agreement may require or permit an employee to work-

- (a) more than 48 ordinary hours in any week, with the exception of the arrangements in respect of security officers, in terms of subclause (1) (a);
- (b) more than 10 hours overtime in any week; or
- (c) on more than five days in any week.

[Sub-clause (3) (a) substituted by GNR.1109 of 2004.]

[Sub-clause (3) substituted by GNR.804 of 2003.]

(4) Meal intervals: An employer shall not require or permit an employee, other than a casual employee, a security officer, a ship security officer or a cargo security officer, to work for more than five hours continuously without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that-

- (a) such interval may be reduced to not less than half an hour by written mutual agreement between an employer and an employee;
- (b) periods of work interrupted by intervals of less than one hour, except where provision (a) or (e) applies, shall be deemed to be continuous;
- (c) if such interval is longer than one hour, any period exceeding one and a quarter hours shall be deemed to form part of the ordinary hours of work;
- (d) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;
- (e) when on any day by reasons of overtime worked, an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes;

(f) a driver who during such interval does not work other than being or remaining in charge of the vehicle or its load shall for the purposes of this subclause be deemed not to have worked during such interval;

(g) in case of an employee who is wholly or mainly engaged in cleaning premises, if such interval is longer than three hours, any period in excess of three hours shall be deemed to form part of the ordinary hours of work.

(5) Rest intervals: An employer shall grant to each employee, other than a driver, a security officer, a ship security officer or cargo security officer, a rest interval of not less than 15 minutes as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.

(6) Hours of work to be consecutive: Save as provided in subclauses (4) and (5), all hours of work of an employee, other than a ship security officer or a cargo security officer, on any day shall be consecutive.

(7) Night Work:

(a) An employer may only require or permit an employee to perform night work if-

(i) the employee is compensated by the payment of an allowance, as per [clause 3](#) subclause (6); and

(ii) public or other transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.

(b) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must inform the employee in writing or orally, if the employee is not able to understand a written communication, in a language that the employee understands-

(aa) of any health and safety hazards associated with the work that the employee is required to perform; and

(ab) of the employee's right to undergo a medical examination in terms of subclause (c).

(c) At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-

(aa) before the employee starts, or within a reasonable period of the employee starting such work; and

(ab) at appropriate intervals while the employee continues to perform such work; and

(d) Transfer the employee to suitable day work within a reasonable time if-

(aa) the employee suffers from a health condition associated with the performance of night work; and

(ab) if it is practicable for the employer to do so.

(e) For the purposes of subclause (b), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or fifty times per year.

(8) Limitation of overtime: An employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed-

(a) 3 hours on any day;

(b) 10 hours in any week.

(9) Payment for overtime: An employer shall pay an employee who works overtime, at a rate of not less than one and a half times the employee's hourly wage in respect of the total overtime period so worked by such employee.

(10) Rest periods:

(a) An employer must allow an employee-

(i) a daily rest period of at least 12 consecutive hours between the ending and recommencing work provided that the rest period must be completed within 24 hours of the employee commencing work; and

(ii) a weekly rest period of at least 36 consecutive hours.

(b) A daily rest period in terms of subclause (a) may, by written agreement, be reduced to 10 hours for an employee-

(i) who lives on the premises at which the work place is situated; and

(ii) whose meal interval lasts for at least three hours.

(c) Despite subclauses (a) (ii), an agreement in writing may provide for-

(i) a rest period of at least 60 consecutive hours every two weeks; or

(ii) an employee's weekly rest period to be reduced by up to eight hours in any week, if the rest period in the following week is extended equivalently.

(11) Exceptions:

(a) Subclauses (4), (5), (6) and (8) shall not apply to an employee while engaged in emergency work.

(b) Subclause (4) shall not apply to an employee wholly or mainly engaged in the tending, feeding or cleaning of animals.



**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 6. Annual bonus.-(1) An employer shall pay to every employee in respect of each completed year of service with such employer annual bonus equal to a full month's salary.**

**6. Annual bonus.**-(1) An employer shall pay to every employee in respect of each completed year of service with such employer annual bonus equal to a full month's salary.

[Sub-clause (1) substituted by GNR.1109 of 2004 and corrected by GNR.1430 of 2004.]

(2) The annual bonus shall be paid on the anniversary of the employee's date of employment with the employer unless the employer and a representative trade union and/or the employee mutually agree in writing upon another date.

(3) The annual bonus shall be calculated monthly at the rate in effect during each relevant month and paid to the employee as per subclause (2).

[Clause 6 substituted by GNR.804 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 7. Public holiday.-(1) All employees working on a Public Holiday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No. 75 of 1997, or any amendment thereof.**

**7. Public holiday.**-(1) All employees working on a Public Holiday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, [No. 75 of 1997](#), or any amendment thereof.

(2) The following compensation shall be payable to a casual employee, a ship security officer, or a cargo security officer, for work on a public holiday:

(a) Whenever a casual employee works on a public holiday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do: Provided that where the employer requires a casual employee-

(i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in terms of [clause 3](#) subclause (4);

(ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.

(b) Whenever a ship security officer or a cargo security officer works on a public holiday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.

(3) Payment: The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal payday immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in [clause 4](#) subclause (6).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 8. Compensation for work on a Sunday.-(1) All employees working on a Sunday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, No. 75 of 1997, any amendment thereto.**

**8. Compensation for work on a Sunday.**-(1) All employees working on a Sunday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, [No. 75 of 1997](#), any amendment thereto.

(2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a Sunday:

(a) Whenever a casual employee works on a Sunday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do: Provided that where the employer requires a casual employee-

(i) to perform the work of a class of employees for whom wages on a rising scale are prescribed, the expression "hourly wage" shall mean the hourly wage for a qualified employee of that class as calculated in terms of [clause 3](#) subclause (4);

(ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.

(b) Whenever a ship security officer or a cargo security officer works on a Sunday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.

(3) Payment: The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal payday immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in [clause 4](#) subclause (6).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 9. Annual leave.-(1) In this clause "annual leave cycle" means the period of 12 months' employment with the same employer immediately following-**

**9. Annual leave.**-(1) In this clause "annual leave cycle" means the period of 12 months' employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior leave cycle.

(2) The employer must grant an employee at least-

- (a) 21 consecutive days' annual leave on full remuneration, in respect of each annual leave cycle; or
- (b) by agreement, one day of annual leave on full remuneration, for every 17 days on which the employee worked or was entitled to be paid;
- (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.

(3) An employee is entitled to take leave accumulated in an annual leave cycle, in terms of subclause (2), on consecutive days.

(4) An employer must grant, and an employee must take, annual leave not later than six months after the end of the annual leave cycle.

(5) An employer may not require or permit an employee to take annual leave during-

- (a) any other period of leave to which the employee is entitled in terms of this determination; or
- (b) any period of notice of termination of employment.

(6) Despite subclause (5), an employer must permit an employee, at the employee's written request, to take paid leave during a period of unpaid leave.

(7) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave, calculated at the employee's rate of remuneration, granted to the employee at the employee's request in that leave cycle.

(8) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.

(9) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(10) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and employee; or
- (b) if there is no agreement in terms of subclause (a), at a time determined by the employer in accordance with this section.

(11) An employer may not pay an employee instead of granting paid leave in terms of this clause, except-

- (a) upon termination of employment; and
- (b) in accordance with [clause 20 \(2\)](#).

(12) An employer must pay an employee leave pay at least equivalent to the remuneration that the employee would have received for working for a period equal to the period of annual leave, calculated-

- (a) at the employee's rate of remuneration immediately before the beginning of the period of annual leave,
- (b) in accordance with [clause 3 \(4\)](#).

(13) An employer must pay an employee leave pay-

- (a) before the beginning of the period of leave; or
- (b) by agreement, on the employee's usual pay day.

(14) An employee who has become entitled to a period of leave prescribed in subclause (1), read with subclause (7), and whose employment terminates before such leave has been granted and been taken, shall, upon such termination, be paid the amount an employee would have received, in respect of the leave, had the leave been granted to the employee and taken by the employee as at the date of the termination, calculated in terms of subclause (2).

[Clause 9 substituted by GNR.804 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 10. Sick-leave.-(1) In this clause "sick**

**leave cycle" means the period of 36 months of employment with the same employer immediately following-**

**10. Sick-leave.**-(1) In this clause "sick leave cycle" means the period of 36 months of employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior sick leave cycle.

(2) During every sick leave cycle an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite subclause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 ordinary days worked.

(4) During an employee's first sick leave cycle an employer may reduce the employee's entitlement to sick leave in terms of subclause (2) by the number of days sick leave taken in terms of subclause (3).

(5) Subject to [section 23](#) of Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#)), an employer must pay an employee for a day's sick leave-

- (a) the wage the employee would ordinarily have received for work on that day; and
- (b) on the employee's usual payday.

(6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in terms of this section if-

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the employee's entitlement to pay-
  - (i) for any day's sick leave is at least 75 percent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
  - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of subclause (2).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 10A. Proof of incapacity.**-(1) An employer is not required to pay an employee in terms of [clause 10](#) if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by

**10A. Proof of incapacity.**-(1) An employer is not required to pay an employee in terms of [clause 10](#) if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(2) A medical certificate in terms of subclause (1) must be issued and signed by-

- (a) a medical practitioner;
- (b) a clinical nurse practitioner;
- (c) a traditional healer;
- (d) a community health worker;
- (e) a psychologist;
- (f) any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament; or
- (g) any other health professional authorized to diagnose medical conditions.

[Clause 10A inserted by GNR.1109 of 2004.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 11. Family responsibility leave.**-(1) This clause applies to an employee-

**11. Family responsibility leave.**-(1) This clause applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employer.

(2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) An employer must pay an employee for a day's family responsibility leave-
  - (a) the ordinary wage the employee would have received for a day worked; and
  - (b) on the employee's usual payday.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day-
- (5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.
- (6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 12. Maternity leave.-(1) An employee is entitled to at least four consecutive months' maternity leave.**

**12. Maternity leave.-(1)** An employee is entitled to at least four consecutive months' maternity leave.

- (2) An employee may commence maternity leave-
  - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify her employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-
  - (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of subclause 5 must be given-
  - (a) at least four weeks before the employee intends to commence maternity leave; or
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.
- (7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act [No. 30 of 1966](#))
- (8) During the period of maternity leave the employer shall continue to contribute to the provident fund the monthly premium in respect of both the employer and employee contributions, the latter not to be recovered upon the return of the employee to work.

[Sub-clause (8) added by GNR.804 of 2003.]

- (9) During the period of maternity leave the employer shall continue to contribute the employee's Private Security Industry Regulatory Authority monthly subscription fees, this not to be recovered upon the return of the employee to work.

[Sub-clause (9) added by GNR.804 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 13. Written particulars of employment.-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-**

- 13. Written particulars of employment.-(1)** An employer must supply an employee, when the employee commences employment, with the following particulars in writing-
- (a) the full name and address of the employer;
  - (b) the name and occupation of the employee or a brief description of the work for which the employee is

employed;

- (c) the places of work and, where the employee is required or permitted to work at various places, an indication of this;
- (d) the date on which the employment begins;
- (e) the employee's ordinary hours of work and days of work,
- (f) the employee's wage or the rate and method of calculating wages;
- (g) the rate of pay for overtime work;
- (h) any other payments to which the employee is entitled;
- (i) how frequently remuneration will be paid;
- (j) any deductions to be made from the employee's remuneration;
- (k) the leave to which the employee is entitled;
- (l) the period of notice required to terminate employment, or if the employment is for a specified period, the date when employment is to terminate;
- (m) a description of any council or sectoral determination which covers the employer's business;
- (n) any period of employment with a previous employer that counts towards the employee's period of employment;
- (o) a list of any other documents that form part of the contract of employment, indicating a place that is readily accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in subclause (1) changes, the written particulars must be revised to reflect the change, and the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) Written particulars of this clause must be kept by the employer for a period of three years after the termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 14. Keeping of records.-(1) Every employer must keep a record containing at least the following information-**

**14. Keeping of records.-(1) Every employer must keep a record containing at least the following information-**

- (a) the employee's name and occupation;
- (b) the time worked by each employee;
- (c) the remuneration paid to each employee;
- (d) the date of birth of any employee under 18 years of age; and
- (e) any other prescribed information.

(2) A record in terms of subclause (1) must be kept by the employer for a period of three years from the date of the last entry in the record.

(3) No person may make a false entry in a record maintained in terms of subclause (1).

(4) An employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 15. Presumption as to who is an employee.-(1) Until the contrary is proved, a person who works for, provides services to, any other person is presumed to be an employee, if any one or more of the following factors are present-**

**15. Presumption as to who is an employee.-(1) Until the contrary is proved, a person who works for, provides services to, any other person is presumed to be an employee, if any one or more of the following factors are present-**

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) in the case of a person who works for an organization, the person forms part of that organization;
- (d) the person has worked for that person for an average of at least 40 hours per month over the last three months;

- (e) that person is economically dependant on the person for whom he or she works or provides service;
- (f) the person is provided with his or her tools of trade or work equipment by another person; or
- (g) the person only works or supplies services to one person.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 16. Weapons, uniforms, overalls and protective clothing.-(1) An employer shall-**

**16. Weapons, uniforms, overalls and protective clothing.-(1) An employer shall-**

- (a) provide free of charge any weapon, ammunition, tool, whistle or other equipment which a security officer in the performance of the employee's duties, needs or is required to use for self-defence or apprehension;
- (b) in like manner provide the officer with, or ensure that an employee is provided with, a seat which has a proper back support;
- (c) supply, free of charge, a jersey, coat or other suitable outer garment for the employee's protection against cold or wet weather, as well as any footwear, uniform, overall, or other protective clothing which an employer requires an employee to wear or which an employer is required by any law to provide for an employee. An employer who provides an employee with any such apparel, may require the employee to clean it in the employee's own time, in which event the employer shall pay the employee not less than R2.00 for the second year and not less than R3.00 for the third year, which shall however not be payable during periods of absence from work.

[Sub-clause (1) (c) substituted by GNR.1109 of 2004.]

(2) Any article provided by an employer in terms of subclause (1) shall remain the employer's property.

(3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of subclause (1): Provided that where an article is found by a fair procedure to have been lost or damaged by an employee, excluding damage arising from the performance of the employee's duties or normal wear and tear, an employer may, notwithstanding anything to the contrary in this determination recover the cost of such article from the employee by making a deduction over an appropriate period from that employee's wage. Further provided that such monthly deduction shall not exceed one tenth of the employee's monthly remuneration.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 17. Prohibition of employment of children.-(1) No person may employ a child-**

**17. Prohibition of employment of children.-(1) No person may employ a child-**

- (a) who is under 15 years of age; or
- (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.

(2) No person may employ a child in employment-

- (a) that is inappropriate for a person of that age;
- (b) that places at risk the child's well-being, education, physical or mental health, spiritual, moral or social development.

(3) A person who employs a child in contravention of subclauses (1) or (2) commits an offence.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 18. Prohibition of forced labour.-(1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.**

**18. Prohibition of forced labour.-(1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.**

(2) No person may, for the employee's own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of subclause (1).

(3) A person who contravenes subclauses (1) or (2) commits an offence.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 19. Termination of contract of employment.-(1) Subject to subclause (6) (b), a contract of employment terminable at the instance of a party to the**

**19. Termination of contract of employment.**-(1) Subject to subclause (6) (b), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week, if the employee has been employed for four weeks or less;
- (b) two weeks, if the employee has been employed for more than four weeks but less than one year;
- (c) four weeks, if the employee has been employed for one year or more.

(2) A collective agreement may permit a notice period shorter than required by subclause (1).

(3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.

(4) (a) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.

(b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(5) Notice of termination of a contract of employment given by an employer or an employee must not-

- (a) be given during any period of leave to which the employee is entitled in terms of [clause 9 \(1\)](#); and
- (b) run concurrently with any period of leave to which the employee is entitled in terms of [clause 9 \(1\)](#), except sick leave.

(6) Nothing in this clause affects the right-

- (a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act 1995, or any other law; and
- (b) of an employer or an employee to terminate a contract of employment without notice for any cause recognised by law.

(7) Instead of giving an employee or employer notice in terms of subclause (1), an employer may pay the employee the remuneration the employee would have received, calculated in accordance with subclause (1), as if the employee had worked during the notice period.

(8) If an employee gives notice of termination of employment and the employer waives any part of the notice, the employer must pay the remuneration referred to in subclause (7), unless the employer and employee agree otherwise.

(9) On termination of employment, an employer must pay an employee-

- (a) remuneration in respect of-
  - (i) ordinary time worked, calculated in terms of [clause 3 \(4\)](#);
  - (ii) overtime worked, calculated in terms of [clause 5 \(9\)](#);
  - (iii) time worked on a Sunday, calculated in terms of [clause 8 \(3\)](#); and
  - (iv) time worked on a public holiday or in respect of a public holiday on which the employee would normally have worked if it had not been a public holiday, in terms of clauses 7 (2) and 7 (3);
- (b) remuneration calculated in accordance with [clause 9 \(1\)](#) for any period of annual leave due in terms of [clause 9 \(2\)](#) that the employee has not taken;
- (c) if the employee has been in employment for longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle, at a rate of one day's remuneration in respect of every 17 ordinary days on which the employee worked or was entitled to be paid.

[Clause 19 substituted by GNR.804 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 20. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

**20. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 3](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer



the dispute in writing to-

- (a) a council, if the parties to the dispute fall within the registered scope of that council; or
- (b) the CCMA, if no council has jurisdiction.

(6) The employee who refers the dispute to the council or the CCMA must satisfy it that a copy of the referral has been served on all other parties to the dispute.

(7) The council or the CCMA must attempt to resolve the dispute through conciliation.

(8) If the dispute remains unresolved, the employee may refer it to arbitration.

(9) If the Labour Court is adjudicating a dispute about a dismissal based on the employer's operational requirements, the Court may inquire into and determine the amount of any severance pay to which the employee may be entitled and the Court may make an order directing the employer to pay that amount.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 21. Certificate of service.-(1) On termination of employment an employee is entitled to a certificate of service substantially in the form of annexure "A" stating-**

**21. Certificate of service.**-(1) On termination of employment an employee is entitled to a certificate of service substantially in the form of [annexure "A"](#) stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) a description of any council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 22. Attendance register.-(1) An employer shall maintain an attendance register in any form of attendance documentation which is acceptable substantially in the form of annexure "B", in which the employer shall record in ink or indelible pencil the name**

**22. Attendance register.**-(1) An employer shall maintain an attendance register in any form of attendance documentation which is acceptable substantially in the form of [annexure "B"](#), in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in respect of items (i) to (vi) of subclause (3) (a).

(2) An employer may, instead of an attendance register, provide a semi- automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in subclause (1).

(3) Every employer shall, in respect of each day worked by an employee on that day-

- (a) record in ink or indelible pencil in such attendance register referred to in sub-clause (1)-
  - (i) the day of the week;
  - (ii) the time an employee commenced work;
  - (iii) the time of commencement and termination of all meal or other intervals, which are not reckonable as ordinary hours of work;
  - (iv) the time of finishing work for the day;
  - (v) the time of commencement and termination of overtime worked for the day; and
  - (vi) the total amount of hours worked for the day.
- (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following-
  - (i) the time of commencement of work;
  - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
  - (iii) the time of finishing work for the day.

(4) An employer shall retain such attendance register referred to in subclause (1) or the information recorded by a

semi-automatic time recorder referred to in subclause (2), as case may be, for a period of not less than three years after the date of the last entry therein or thereon.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 23. Variation by minister.-The Minister may, if it is consistent with the purpose of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), make a determination to replace or exclude any basic condition of employment provided for in this Det**

**23. Variation by minister.**-The Minister may, if it is consistent with the purpose of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), make a determination to replace or exclude any basic condition of employment provided for in this Determination in terms of section 50 of that Act, on the advice of the Commission.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 24. Study leave.-Every employee with a minimum of one year uninterrupted employment with the same employer shall be entitled to a paid study leave of a maximum of 3 (three) days in any year, in respect of any study at a tertiary establishment.**

**24. Study leave.**-Every employee with a minimum of one year uninterrupted employment with the same employer shall be entitled to a paid study leave of a maximum of 3 (three) days in any year, in respect of any study at a tertiary establishment.

[Clause 24 inserted by GNR.804 of 2003 and substituted by GNR.1109 of 2004.]

(EDITORIAL NOTE: Numbering as per original *Gazette*.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 24. Private Security Sector National Provident Fund**

#### **24. Private Security Sector National Provident Fund**

##### **1. Membership**

(1) Each employee, subject to the exclusions in [clause 1 \(2\)](#) and the Fund Rules, falling within the scope of this Determination must, on or after the coming into operation of this Determination, become a member of the Private Security Sector Provident Fund.

(2) If an employee who has become a member of the Fund ceases to fall within the scope of this Determination owing to the employee ceasing to be employed in the Security Services Sector the employee shall cease to be a member of the Fund and the payment of withdrawal benefit will be made to the member as provided for in the Fund Rules. The employee retains the right to withdraw his/her benefits from the fund in terms of the fund rules.

[Clause 24 added by GNR.1331 of 2002.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 25. Contributions.-(1) Contributions shall be made by employers and employees as from the date of coming into operation of this Determination as specified hereunder:**

**25. Contributions.**-(1) Contributions shall be made by employers and employees as from the date of coming into operation of this Determination as specified hereunder:

- (a) (i) The employer shall each month deduct from the earnings of each employee in respect of such month, or part thereof, an amount equal to 6.5% (six and a half per cent) of the employee's Fund Salary, as from the third year of validity of this determination, being the employee's contributions to the Provident Fund;  
[Sub-clause (1) (a) (i) inserted by GNR.1109 of 2004.]
- (ii) the employer shall each month contribute in respect of such month, or part thereof, an amount equal to 6.5% (six and a half per cent) of the employee's Fund Salary, as from the third year of validity of this determination, being the employer's contributions to the Provident Fund;  
[Sub-clause (1) (a) (ii) inserted by GNR.1109 of 2004.]
- (b) the employer shall each month contribute in respect of such month, or part thereof, an amount equal to 5% (five per cent) of the employees' Fund Salary being the employer's contributions to the Provident Fund;
- (c) when an employee is on approved leave with full pay, or with less than full pay, the employee shall contribute to the Fund in accordance with 2 (a) above and the employer shall continue to contribute in respect of the employee in accordance with 2 (b) above, and all benefits under the Fund in respect of the employee shall be

maintained;

- (d) if an employee is on approved leave without pay, no contributions shall be made by the employee in terms of 2 (a) above but the employer shall continue to contribute on behalf of the employee in terms of 2 (b) above in order that the death, disability and funeral benefits shall continue to be payable-
  - (i) throughout the period of leave, if the employee's leave is due to sickness; or
  - (ii) for not longer than six months, if the employee's leave is due to reasons other than sickness.

(2) The amount payable in each month in terms of this clause shall be deposited by the employer directly into the Fund's bank account no later than the 7th day of the month immediately following the month in which deductions and contributions were made.

(3) If any amount which falls due in terms of this clause is not received in full by the administrator of the Fund by the 7th day of the month following the month for which the amount is payable, then the employer shall be liable to pay penalty interest in accordance with section 13A of the Pension Funds Act.

(4) Any deductions in terms of this clause will not be in violation of [clause 4 \(11\) \(d\)](#) of the Private Security Sector Sectoral Determination No. 6, 2001.

[Clause 25 added by GNR.1331 of 2002.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 26. Administration and provision of benefits.-In order to realize the objects of the Fund the trustees shall-**

**26. Administration and provision of benefits.-**In order to realize the objects of the Fund the trustees shall-

- (1) direct, control and oversee the operation of the Fund in accordance with the Fund Rules and the Pension Funds Act;
- (2) enter into an agreement with an administrator to administer the Fund; and
- (3) at their election-
  - (a) enter into an agreement with a registered insurance company; or
  - (b) establish a self-insurance arrangement or cell captive arrangement to provide Death, Disability and/or Funeral benefits.

[Clause 26 added by GNR.1331 of 2002.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 27. Employers to keep a copy of this Determination.-Every employer upon whom this Determination is binding must:**

**27. Employers to keep a copy of this Determination.-**Every employer upon whom this Determination is binding must:

- (1) keep a copy of this Sectoral Determination available in the workplace at all times;
- (2) make a copy available for inspection by an employee; and
- (3) give a copy of this Sectoral Determination-
  - (a) to an employee who has paid the prescribed fee; and
  - (b) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

[Clause 27 added by GNR.1331 of 2002.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ 28. Fund rules.-(1) The Fund Rules constitute the rules that govern the Fund in the Private Security Sector.**

**28. Fund rules.-(1)** The Fund Rules constitute the rules that govern the Fund in the Private Security Sector.

(2) In the event of any discrepancy between this Sectoral Determination and the Fund Rules, the Fund Rules will apply.

[Clause 28 added by GNR.1331 of 2002.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules**

**29. Exemption criteria.**-(1) The following criteria for an exemption from the Security Sector Provident Fund will apply provided that-

- (a) if the employer prior to the publication of Government Notice No. 306 of 30 March 2001, had an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No. 3, as amended or replaced;
- (b) if the employer prior to the publication of Government Notice No. 306 of 30 March 2001, did not have an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No. 3, as amended or replaced, but before 30 March 2001, the employer and its employees have consulted in writing to commence negotiations for the establishment of a pension or provident fund for such employees.

(2) The Management Committee will consider all applications for exemption from the provisions of the Security Sector Provident Fund.

(3) Applications will be in writing and addressed to the Management Committee of the Security Sector Provident Fund. Applications shall comply with the following requirements:

- (a) Be fully motivated;
- (b) be accompanied by relevant supporting data and financial information;
- (c) applications that affect employees' conditions of service will not be considered unless the employees or their representatives have been properly consulted and their views fully recorded in an accompanying document;
- (d) indicate the period for which exemption is required.

(4) In considering the application the Management Committee shall take into consideration all relevant factors, which may include, but shall not be limited to the following criteria:

- (a) Any special circumstances that exist;
- (b) any precedent that may be set;
- (c) the interest of the industry as regards-
  - (i) unfair competition;
  - (ii) collective bargaining;
  - (iii) potential for labour unrest;
  - (iv) increased employment;
- (d) the interest of employees as regards-
  - (i) exploitation;
  - (ii) job preservation;
  - (iii) sound conditions of employment;
  - (iv) possible financial benefits;
  - (v) health and safety;
  - (vi) infringement of basic rights;
- (e) the interest of the employer as regards-
  - (i) financial stability;
  - (ii) impact of productivity;
  - (iii) future relationship with employees' trade union;
  - (iv) operational requirements.

(5) If the application is granted, the Management Committee shall issue an exemption certificate, signed by the chairperson, containing the following particulars:

- (a) The full name of the applicant;
- (b) the trade name of the applicant;
- (c) the period for which the exemption shall operate;
- (d) the date of issue;
- (e) the conditions of the exemption granted.

(6) If the exemption is refused the Management Committee shall specify its reasons for not granting the application, and which will be communicated to the applicant.

(7) The Management Committee shall retain a copy of the certificate and number each certificate sequentially.

(8) An employer to whom a certificate of exemption has been issued shall at all times have the certificate available for inspection at his establishment.

(9) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's retirement fund and/or his employees' conditions of employment.

[Clause 29 added by GNR.1331 of 2002.]

**All the provisions of Sectoral Determination 3: Private Security Sector, South Africa published under GN 196 of 25 February 2001 and clarification notice published under GN 45 of 19 January 2001, will be superseded by this determination with effect from the date of implementation.**

[Editorial Note: Please note that GNR196 was published on 25 February 2000 in *Government Gazette* 20933.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1250 of 30 November 2001: Sectoral Determination 6: Private Security Sector, South Africa/ Annexure "A" CERTIFICATE OF SERVICE**

**Annexure "A"**  
**CERTIFICATE OF SERVICE**

Private Security Sector,  
South Africa

**READ THIS  
FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of  
employment with an  
employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued  
upon termination of  
employment

**NOTE**

The reason for termination  
of employment must only  
be given if requested by  
the employee.

*This is only a model and not  
a prescribed form.*

Completing a document in  
another format containing  
the same information is  
sufficient compliance with  
the clause 21.

**ANNEXURE "A"**

**CERTIFICATE OF SERVICE**

I  
(Name and designation of person)  
of

(Full name of employer)  
Address

in the (Trade)

declare that

(Full name of employee)

(I.D. No.)

was in employment

from until

as

(Type of work/occupation)

any other information

On termination of service this employee was earning:

R (amount in words)

1 per hour 1 per day 1 per week

1 per fortnight 1 per month 1 per year

Employer's signature

Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa**

| <b>as corrected by</b> |                           |                 |
|------------------------|---------------------------|-----------------|
| <b>Notice</b>          | <b>Government Gazette</b> | <b>Date</b>     |
| R.1611                 | 25657                     | 31 October 2003 |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 51 (1) of the Basic Conditions of Employment Act, 1997 make a sectoral determination establishing conditions of employment and wages for employers and employees in the Farm Worker Sector, South Africa in the schedule hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Sectoral Determination shall become binding.

M M S MDLADLANA  
Minister of Labour

## **SCHEDULE**

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#### **PART A: APPLICATION**

**1. Scope of application.**-(1) The determination applies to the employment of farm workers in all farming activities in the Republic of South Africa.

(2) Without limiting its meaning, 'farming activities' includes primary and secondary agriculture, mixed farming, horticulture, aqua farming and the farming of animal products or field crops excluding the Forestry Sector.

[Sub-clause (2) corrected by GNR.1611 of 2003.]

(3) For the purposes of this determination, a farm worker includes-

- (a) a domestic worker employed in a home on a farm;
- (b) a security guard employed to guard a farm or other premises where farming activities are conducted, who is not employed in the private security industry.

(4) Subject to clause (3), this determination does not apply to any person employed in activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995.

(5) The provisions of the Basic Conditions of Employment Act apply to all farm workers covered by this determination and their employers in respect of any matter that is not regulated by this sectoral determination.

#### PART B: MINIMUM WAGES

**2. Minimum wage levels.**-(1) With effect from 1 March 2003 an employer must pay a farm worker at least the minimum wage prescribed in this clause.

(2) An employer must pay a farm worker-

- (a) who works more than 27 ordinary hours of work per week at least the monthly wage set out in Table 1;
- (b) who works 27 or less ordinary hours of work per week at least the hourly rate as set out in Table 1.

**3. Minimum wages for farm workers under 18 years of age.**-(1) An employer must pay a farm worker who is 15 years of age or older, but less than 18 and who works for 35 hours per week or less at least the hourly rate or remuneration, specified in Table 1.

[Sub-clause (1) corrected by GNR.1611 of 2003.]

#### Table 1 Minimum wages for farm workers

[Table 1 corrected by GNR.1611 of 2003.]

Bergrivier Local Municipality, Breede Valley Local Municipality, Buffalo City Local Municipality, Cape Agulhas Local Municipality, Cederberg Local Municipality, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane Metropolitan Municipality, Drakenstein Local Municipality, Ekurhuleni Metropolitan Municipality, Emalahleni (Mpumalanga) Local Municipality, Emfuleni Local Municipality, Ethekwini Metropolitan Municipality, Gamagara Local Municipality, George Local Municipality, Hibiscus Coast Local Municipality, Karoo Hoogland Local Municipality, Kgatelopele Local Municipality, Khara Hais Local Municipality, Knysna Local Municipality, Kungwini Local Municipality, Kouga Local Municipality, Langeberg Local Municipality, Lesedi Local Municipality, Makana Local Municipality, Mangaung Local Municipality, Matzikama Local Municipality, Metsimaholo Local Municipality, Middelburg Local Municipality, Midvaal Local Municipality, Mngeni Local Municipality, Mogale Local Municipality, Mosselbaai Local Municipality, Msunduzi Local Municipality, Nama Khoi Local Municipality, Nelson Mandela, Nokeng tsa Taemane Local Municipality, Qudtshoorn Local Municipality, Overstrand Local Municipality, Plettenbergbaai Local Municipality, Potchefstroom Local Municipality, Randfontein Local Municipality, Richtersveld Local Municipality, Saldanha Bay Local Municipality, Sol Plaatjie Local Municipality, Stellenbosch Local Municipality, Swartland Local Municipality, Swellendam Local Municipality, Theewaterskloof Local Municipality, Umdoni Local Municipality, uMhlathuze Local Municipality and Witzenberg Local Municipality.



|                          |                          |                          |
|--------------------------|--------------------------|--------------------------|
| 2003 to 29 February 2004 | 2004 to 28 February 2005 | 2005 to 28 February 2006 |
| Hourly rate R4.10        | Hourly rate 4.47         | Hourly rate 4.87         |
| Monthly rate R800        | Monthly rate 871.58      | Monthly rate 949.58      |

#### Area B

|                                                              |                                                              |                                                              |
|--------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------|
| Minimum rate for the period 1 March 2003 to 29 February 2004 | Minimum rate for the period 1 March 2004 to 28 February 2005 | Minimum rate for the period 1 March 2005 to 28 February 2006 |
| Hourly rate R3.33                                            | Hourly rate 3.66                                             | Hourly rate 4.03                                             |
| Monthly rate R650                                            | Monthly rate 713.65                                          | Monthly rate 785.79                                          |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 4. Calculation of wages or remuneration.-(1) The wage or remuneration of a farm worker is calculated by reference to the farm worker's ordinary hours of work.**

**4. Calculation of wages or remuneration.**-(1) The wage or remuneration of a farm worker is calculated by reference to the farm worker's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the hourly wage or remuneration of a farm worker is obtained by-
  - (i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;
- (b) the daily wage or remuneration of a farm worker is obtained by-
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly wage or remuneration by the number of days worked in a week;
- (c) the weekly wage or remuneration of a farm worker is obtained by-
  - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
  - (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or
  - (iii) dividing the monthly wage or remuneration by four and one-third (13/3)
- (d) the monthly wage or remuneration of a farm worker is obtained by multiplying the weekly wage or remuneration by four and a third (13/3).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 5. Payment of remuneration.-(1) An employer must pay a farm worker-**

**5. Payment of remuneration.**-(1) An employer must pay a farm worker-

- (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the farm worker.
- (2) Any payment in cash or by cheque must be given to each farm worker-
- (a) at the workplace;
  - (b) during the farm worker's working hours; and
  - (c) in a sealed envelope which becomes the property of the farm worker.
- (3) An employer must pay a farm worker on the normal payday agreed to in writing by the farm worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 6. Information concerning pay.-(1) On every pay day, the employer must give the farm worker a statement showing-**

**6. Information concerning pay.**-(1) On every pay day, the employer must give the farm worker a statement showing-

- (a) the employer's name and address;
- (b) the farm worker's name and occupation;

- (c) the period in respect of which payment is made;
  - (d) the farm worker's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by a farm worker during that period;
  - (f) the number of overtime hours worked by the farm worker during that period;
  - (g) the number of hours worked by the farm worker on a paid holiday or on a Sunday;
  - (h) the farm worker's wage;
  - (i) details of any other pay arising out of the farm worker's employment;
  - (j) details of any deductions made;
  - (k) the employer's registration number with the Unemployment Insurance Fund and the employer's contribution to the Fund; and
  - (l) the actual amount paid to the farm worker.
- (2) An employer must retain a copy or record of each statement for three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 7. Prohibited acts concerning pay.-(1) An employer may not withhold any payment from a farm worker or require a farm worker to pay the farmer or any other person in respect of-**

**7. Prohibited acts concerning pay.**-(1) An employer may not withhold any payment from a farm worker or require a farm worker to pay the farmer or any other person in respect of-

- (a) the employment or training of that farm worker;
- (b) the supply of any work equipment or tools; or
- (c) the supply of any work clothing.<sup>2</sup>

(2) An employer may not require a farm worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.

(3) An employer may not levy a fine against a farm worker.

(4) An employer may not require or permit a farm worker to-

- (a) repay any amount paid except for overpayments previously made by the employer resulting from an error in calculating the farm worker's pay; or
- (b) acknowledge receipt of an amount greater than the pay actually received.

#### **Footnotes**

<sup>2</sup> An employer may not make any deduction from remuneration or require or permit a farm worker to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of a farm worker ([section 23](#) of the Occupational Health and Safety Act, [85 of 1993](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 8. Deductions.-(1) An employer may not make any deduction from a farm worker's remuneration except-**

**8. Deductions.**-(1) An employer may not make any deduction from a farm worker's remuneration except-

- (a) a deduction not exceeding 10 percent of the farm worker's wage made in accordance with sub-clauses (2) and (3) for accommodation in which the farm worker ordinarily resides;
- (b) a deduction not exceeding 10 percent of the farm worker's wages made in accordance with sub-clause (2) for food supplied to the farm worker;
- (c) at the written request of a farm worker, a deduction of an amount which the employer has paid or undertaken to pay to a third party contemplated by sub-clause (7);
- (d) a deduction, not exceeding one-tenth of the wage due to the farm worker on the payday concerned, towards the repayment of any amount loaned or advanced to the farm worker by the employer;
- (e) a deduction of any amount which the employer is required to make by law or in terms of a court order or arbitration award.

[Sub-clause (1) corrected by GNR.1611 of 2003.]

(2) An employer may only make a deduction in respect of accommodation or food in terms of sub-clause 1 (a) or (b) respectively if-

- (a) the food or accommodation is provided free of charge by the employer to the farm worker at the employer's

cost;

- (b) the food or accommodation is provided on a consistent and regular basis as a condition of employment;
- (c) no additional deduction is made from the farm worker's remuneration for food or accommodation;
- (d) in the case of accommodation, no deduction is made by the employer for electricity, water or other services; and
- (e) the deduction does not exceed the cost to the employer of supplying food or accommodation, as the case may be.

(3) A deduction in terms of sub-clause 1 (a) may only be made for a house that meets the following requirements:

- (a) the house has a roof that is durable and waterproof;
- (b) the house has glass windows that can be opened;
- (c) electricity is available inside the house;
- (d) water is available on tap inside the house;
- (e) a flush toilet or pit latrine is available in, or in close proximity to, the house; and
- (f) the house is not less than 30 square metres in size.

(4) An employer may not make any deduction for accommodation in terms of sub-clause (1) (a) in respect of a farm worker who is under 18 years of age.

(5) An employer may only make a deduction in terms of sub-clause 1 (a) in respect of one farm worker residing in any house.

(6) (a) Subject to sub-clause (1) (a) where more than two farm workers reside in communal accommodation, the maximum deduction that the employer may make in total in respect of all the farm workers who reside in that accommodation is 25% of the applicable minimum wage payable to an individual farm worker.<sup>3</sup>

(b) An equal amount must be deducted in respect of each of the farm workers residing in accommodation contemplated by [paragraph \(a\)](#).

(7) A deduction may only be made in respect of [clause 8 \(1\) \(c\)](#) in respect of a payment made or to be made to-

- (a) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the farm worker is a member;
- (b) any registered trade union in respect of subscriptions;
- (c) any bank, building society, insurance business, registered financing institution, local authority in respect of a payment on a loan granted to the farm worker to acquire a dwelling;
- (d) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the farm worker.

#### PART C: PARTICULARS OF EMPLOYMENT

#### **Footnotes**

<sup>3</sup> If the applicable minimum wage is R600 per month, the maximum deduction that may be made in total from the workers living in communal accommodation as a whole is R150 per month. The deduction may be made from an individual farm worker may not exceed 10% of that workers wage.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 9. Written particulars of employment.-(1) An employer must supply a farm worker, when the farm worker starts work with the following particulars in writing-**

**9. Written particulars of employment.-(1)** An employer must supply a farm worker, when the farm worker starts work with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the farm worker, or a brief description of the work for which the farm worker is employed;
- (c) the place of work, and where the farm worker is required or permitted to work at various places, an indication of this;
- (d) the date on which employment began;
- (e) the farm worker's ordinary hours of work and days of work;
- (f) the farm worker's wage or the rate and method of payment;
- (g) the rate of pay for overtime work;
- (h) any other cash payments that the farm worker is entitled to;

- (i) any food or accommodation payment that the farm worker is entitled to and the value of the food or accommodation calculated in accordance with clause (8);
- (j) any other payment in kind received by the employee;  
[Para. (j) corrected by GNR.1611 of 2003.]
- (k) how frequently wages will be paid;
- (l) any deductions to be made from the farm worker's wages;
- (m) the leave to which the farm worker is entitled to;
- (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.

(2) If a farm worker is not able to understand the written particulars, the employer must ensure that they are explained to the farm worker in a language and in a manner that the farm worker understands.

(3) The employer must revise the written particulars if there is any change in the farm worker's terms of employment.

(4) An employer must retain a copy of the written particulars while the farm worker is employed and for three years thereafter.

#### PART D: HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 10. Emergency work.-(1) Clauses 11, 13, 16 (2), 17 (1), 18 (1) and 19 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which**

**10. Emergency work.**-(1) Clauses 11, 13, 16 (2), 17 (1), 18 (1) and 19 (1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by farm workers during their ordinary hours of work.<sup>4</sup>

[Sub-clause (1) corrected by GNR.1611 of 2003.]

(2) Sub-clause (1) does not affect the obligation of an employer to pay a farm worker for any work performed at the farm worker's ordinary rate of pay or overtime rate, as the case may be.

[Sub-clause (2) corrected by GNR.1611 of 2003.]

#### **Footnotes**

<sup>4</sup> Where an 'emergency' situation such as a veld-fire or the outbreak of a disease among livestock persists, it will be reasonable to expect the employer to rotate work or to obtain additional temporary workers to assist to deal with the emergency.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 11. Ordinary hours of work.-An employer may not require or permit a farm worker to work more than-**

**11. Ordinary hours of work.**-An employer may not require or permit a farm worker to work more than-

- (a) 45 hours in any week<sup>5</sup>; and
- (b) nine hours on any day if the farm worker works for five days or less in a week; or
- (c) eight hours in any day if the farm worker works for more than five days in any week.

#### **Footnotes**

<sup>5</sup> A farm worker who is under 18 years of age may not work more than 35 hours in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 12. Extension of ordinary hours of work for farm workers.-(1) A worker and an employer may conclude a written agreement in terms of which the farm worker's ordinary hours of work-**

**12. Extension of ordinary hours of work for farm workers.**-(1) A worker and an employer may conclude a written agreement in terms of which the farm worker's ordinary hours of work-

- (a) are extended by not more than five hours per week for a period of not more than four months in any continuous period of twelve months; and
- (b) are reduced by the same number of hours during a period of the same duration in the same twelve month

period.

(2) An agreement in terms of sub-clause (1) may not extend the farm worker's ordinary hours of work to more than ten hours on any day.

(3) During any period of extended or reduced ordinary hours of work in terms of sub-clause (1), the employer must pay the farm worker the wage the farm worker would have received for the farm worker's normal ordinary hours of work.

(4) If a farm worker's employment terminates for any reason at a time when the farm worker has worked a great number of extended ordinary hours than reduced ordinary hours, the employer must pay the worker for the extended ordinary hours worked at the overtime rate in terms of clause (13).

(5) An employer who concludes a contract in terms of this clause must-

- (a) supply the farm worker with a copy of the contract;
- (b) record any extended or reduced hours work in terms of the contract on the statement supplied to the worker in terms of [clause 6](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 13. Overtime.-An employer may not require or permit a farm worker-**

**13. Overtime.-**An employer may not require or permit a farm worker-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the farm worker;
- (b) to work more than 15 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 14. Payment of overtime.-(1) An employer must pay a farm worker at least one and one-half times the farm worker's wage for overtime worked.**

**14. Payment of overtime.-**(1) An employer must pay a farm worker at least one and one-half times the farm worker's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (i) pay a farm worker not less than the farm worker's ordinary wage for overtime worked and grant the farm worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (ii) grant a farm worker at least 90 minutes' paid time off for each hour of overtime worked.

(3) (a) An employer must grant paid time off in terms of sub-clause (2) within one month of the farm worker becoming entitled to it.

(b) An agreement in writing may increase the period contemplated by [paragraph \(a\)](#) to twelve months.

(c) An agreement concluded in terms of [paragraph \(b\)](#) with a farm worker when the farm worker commences employment, or during the first three months of employment, is only valid for one year.

(4) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 16 and 20.

[Sub-clause (4) corrected by GNR.1611 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 15. Compressed working week.-(1) An agreement in writing may require or permit a farm worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 14, without receiving overtime pay.**

**15. Compressed working week.-**(1) An agreement in writing may require or permit a farm worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 14](#), without receiving overtime pay.

(2) An agreement in terms of sub-clause (1) may not require or permit a farm worker to work-

- (a) more than 45 ordinary hours of work in any week;
- (b) more than ten hours' overtime in any week; or
- (c) on more than five days in any week.

**16. Work on Sundays.**-(1) An employer must pay a farm worker who works on a Sunday in accordance with the following table:

| <i>Time worked on a Sunday</i>                   | <i>Payment</i>                                                                                                          |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| One hour or less                                 | Double the wage for one hour                                                                                            |
| More than one hour but not more than two hours   | Double the ordinary wage for time worked                                                                                |
| More than two hours but not more than five hours | The ordinary daily wage                                                                                                 |
| More than five hours                             | The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage |

(2) For the purposes of sub-clause (1), a farm worker who does not reside on the employer's farm who works on a Sunday must be regarded as having worked at least two hours on that day.

(3) Any time worked on a Sunday by a farm worker is not taken into account in calculating a farm worker's ordinary hours of work in terms of [clause 10](#), but is taken into account in calculating the overtime worked by the farm worker in terms of [clause 12](#).

(4) If a shift worked by a farm worker falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**17. Night work.**-(1) In this section, "night work" means work performed after 20:00 and before 04:00 the next day.

(2) An employer may only require or permit a farm worker to perform night work, if so agreed, and if-

- (a) the employer pays the farm worker an allowance of at least 10% of the farm worker's ordinary daily wage; and
- (b) transportation is available between the farm worker's place of residence and the workplace at the commencement and conclusion of the farm worker's shift.

(3) An employer who requires a farm worker to perform work on a regular basis after 20:00 and before 04:00 the next day must-

- (a) inform the farm worker in writing, or orally if the farm worker is not able to understand a written communication, in a language that the farm worker understands-
  - (i) of any health and safety hazards associated with the work that the farm worker is required to perform; and
  - (ii) of the farm worker's rights to undergo a medical examination in terms of [paragraph \(b\)](#);
- (b) at the request of the farm worker, enable the farm worker to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the farm worker starts, or within a reasonable period of the farm worker starting, such work;
  - (ii) at appropriate interval while the farm worker continues to perform such work; and
- (c) transfer the farm worker to suitable day work within a reasonable time if-
  - (i) the farm worker suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

(4) Sub-clause (3) applies to farm workers who work after 20:00 and before 04:00 at least five times per month or 50 times per year.

**18. Meal intervals.**-(1) An employer must give a farm worker who works continuously for more than five hours, a meal interval of at least one continuous hour.

(2) During a meal interval, a farm worker may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another farm worker.

(3) A farm worker must be paid-

- (a) for a meal interval in which the farm worker is required to be available for work;
- (b) for any portion of a meal interval that is in excess of 75 minutes, unless the farm worker lives on the farm or at the workplace.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.

(5) An agreement in writing may-

- (a) reduce the meal interval to not less than 30 minutes;
- (b) dispense with a meal interval for a farm worker who works fewer than six hours on a day.

(6) Whenever an employer is required to give a farm worker a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 19. Rest period.-(1) An employer must grant a farm worker-**

**19. Rest period.**-(1) An employer must grant a farm worker-

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
- (b) weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.

(2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for a farm worker-

- (a) who lives where the workplace is situated; and
- (b) whose meal interval lasts for at least three hours.

(3) Despite sub-clause (1) (b), an agreement in writing may provide for a rest period of at least sixty consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 20. Public holidays.-(1) An employer may not require a farm worker to work on a public holiday, except in accordance with an agreement.**

**20. Public holidays.**-(1) An employer may not require a farm worker to work on a public holiday, except in accordance with an agreement.

(2) If a public holiday falls on a day on which a farm worker would otherwise have worked, an employer must pay-

- (a) a farm worker who does not work on the public holiday the farm worker's daily wage;
- (b) a farm worker who does work on the public holiday at least double the daily wage.

(3) If a farm worker who works on a public holiday on which the farm worker would not normally work, the employer must pay that farm worker an amount equal to-

- (a) the farm worker's daily wage; plus
- (b) the farm worker's hourly wage for each hour worked on the public holiday.

(4) An employer must pay a farm worker for a public holiday on the farm worker's normal payday.

(5) If a shift worked by a farm worker falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

#### PART E: LEAVE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 21. Annual leave.-(1) An employer must grant a farm worker-**



**21. Annual leave.**-(1) An employer must grant a farm worker-

- (a) at least three weeks leave on full pay in respect of each twelve months of employment (the 'annual leave cycle');
- (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the farm worker worked or was entitled to be paid; or
- (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the farm worker worked or was entitled to be paid.

(2) An employer must grant a farm worker an additional day of paid leave if a public holiday falls on a day during a farm worker's annual leave on which the farm worker would otherwise have worked.

(3) An employer may reduce a farm worker's entitlement to annual leave by the number of days of occasional on full pay granted to the farm worker at the farm worker's request in that annual leave cycle.

(4) An employer must grant-

- (a) at least three weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle') not later than six months after the end of the annual leave cycle or the year in which leave was earned;
- (b) the leave earned in one year over a continuous period, if requested by the farm worker.

(5) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and the farm worker; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this section.

(6) An employer may not require or permit a farm worker to take annual leave during-

- (a) any other period of leave to which the farm worker is entitled in terms of this chapter; or
- (b) any period of notice of termination of employment.

(7) An employer may not require or permit a farm worker to work for the employer during any period of annual leave.

(8) An employer may not pay a farm worker instead of granting paid leave in terms of the clause except on termination of employment in terms of [clause 26](#).

[Sub-clause (8) corrected by GNR.1611 of 2003.]

(9) An employer must pay a farm worker leave pay at least equivalent to the remuneration the farm worker would have received for working for a period equal to the period of leave, calculated at the farm worker's wage immediately before the beginning of the period of leave.

(10) An employer must pay a farm worker leave pay before the beginning of the period of leave.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 22. Sick leave.**-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

**22. Sick leave.**-(1) For the purpose of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

- (a) when the farm worker commenced work; or
- (b) the end of the farm worker's prior sick leave cycle.

(2) During every sick leave cycle, the farm worker is entitled to an amount of paid sick leave equal to the number of days the farm worker would normally work during a period of six weeks.

(3) Despite sub-clause (2) during the first six months of work, the farm worker is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the farm worker's first leave cycle, reduce the farm worker's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) Where an employer, at the request of the farm worker, pays fees for a farm worker's hospital or medical treatment, the fees paid may be set off against the worker's pay.

(6) An employer is not required to pay the farm worker in terms of this clause if the farm worker has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the farm worker was unable to work for the duration's absence on account of sickness or injury.

(7) Within the scope of their professional expertise, a medical certificate in terms of sub-clause (6) may be provided by-

- (a) a medical practitioner;
- (b) a clinic nurse practitioner;

- (c) a traditional healer;
- (d) a community health worker;
- (e) a psychologist;
- (f) any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament; or
- (g) any other health professional authorized to diagnose medical conditions.

(8) If it is not reasonably practicable for a farm worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (1) unless the employer provides reasonable assistance to the farm worker to obtain the certificate.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 23. Family responsibility.-(1) This clause applies to a farm worker-**

**23. Family responsibility.-(1)** This clause applies to a farm worker-

- (a) who has been employed by an employer for longer than four months; and
- (b) who works on at least four days a week for that employer.

(2) An employer must grant a farm worker, during each 12 months of employment, at the request of the farm worker, three days' paid leave, which the farm worker is entitled to take-

- (a) when the farm worker's child is born;
- (b) when the farm worker's child is sick; or
- (c) in the event of the death of-
  - (i) the farm worker's spouse or life partner; or
  - (ii) the farm worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.

(3) A farm worker may take family responsibility leave in respect of the whole or part of the day.

(4) Subject to sub-clause (5), an employer must pay a farm worker for a day's family responsibility leave-

- (a) the wage the farm worker would normally have received for work on that day; and
- (b) on the farm worker's usual payday.

(5) Before paying a farm worker for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.

(6) A farm worker's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 24. Maternity leave.6-(1) A farm worker is entitled to at least four consecutive month's maternity leave.**

**24. Maternity leave.6-(1)** A farm worker is entitled to at least four consecutive month's maternity leave.

(2) A farm worker may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the farm worker's health or that of her unborn child.

(3) A farm worker may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) A farm worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the farm worker had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) A farm worker must notify an employer in writing, unless the farm worker is unable to do so, of the date on which the farm worker intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

- (a) at least four weeks before the farm worker intends to commence maternity leave;

(b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) No employer may require or permit a pregnant farm worker or a farm worker who is nursing her child to perform work that is hazardous to her health or the health of her child.

(8) During a farm worker's pregnancy, and for a period of six months after birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

(a) the farm worker is required to perform night work, as defined in [clause 15](#) or her work poses a danger to her health or safety or that of her child; and

(b) it is practicable for the employer to do so.

#### PART F:

#### PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

##### Footnotes

6 In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of a farm worker on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow a farm worker to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract. *A farm worker may claim maternity benefits in terms of the Unemployment Insurance Act, 2001.*

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 25. Prohibition of child labour and forced labour.-(1) No person may employ in farming activities a child-**

**25. Prohibition of child labour and forced labour.-(1)** No person may employ in farming activities a child-

(a) who is under 15 years of age; or

(b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.[7](#)

(2) No person may employ a child in an employment-

(a) that is inappropriate for a person of that age;

(b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) An employer must maintain for three years, a record of the name, date of birth and address of every farm worker under the age of 18 years employed by them.

(4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(5) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).

(6) A person who employs a child in contravention of sub-clause (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.

(7) An employer may not require or permit a child who is 15 years of age or older but younger than 18-

(a) to work after 18h00 and before 6h00 the following day;

(b) to work more than 35 hours in any week;

(c) without limiting sub-clause (2), to work with agro-chemicals.

#### PART G:

#### TERMINATION OF EMPLOYMENT

##### Footnotes

7 [Section 31 \(1\)](#) of the South African Schools Act (Act [84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 26. Termination of employment.-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

**26. Termination of employment.-(1)** A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week if the farm worker has been employed for six months or less;
- (b) four weeks, if the farm worker has been employed for more than six months.

[Para. (b) corrected by GNR.1611 of 2003.]

(2) The employer and farm worker may agree to a longer notice period, but the agreement may not require or permit a farm worker to give a period of notice longer than that required of the employer.

(3) (a) Notice of termination of contract of employment must be given in writing except when it is given by an illiterate farm worker.

(b) If a farm worker who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the farm worker in an official language the farm worker reasonably understands.

(4) Notice of termination of a contract of employment given by an employer must-

- (a) not be given during any period of leave to which the farm worker is entitled in terms of [clause 21](#);

[Para. (a) corrected by GNR.1611 of 2003.]

- (b) not run concurrently with any period of leave to which the farm worker is entitled in terms of this determination, except sick leave.

(5) Nothing in this clause affects the right-

- (a) of a dismissed farm worker to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) of an employer or a farm worker to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 27. Payment instead of notice.-(1) Instead of giving a farm worker notice in terms of this clause, an employer may pay the farm worker the remuneration the farm worker would have received, if the farm worker had worked during the notice period.**

**27. Payment instead of notice.**-(1) Instead of giving a farm worker notice in terms of this clause, an employer may pay the farm worker the remuneration the farm worker would have received, if the farm worker had worked during the notice period.

[Sub-clause (1) corrected by GNR.1611 of 2003.]

(2) If a farm worker gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the remuneration referred to in sub-clause (1), unless the employer and the farm worker agree otherwise.

[Sub-clause (2) corrected by GNR.1611 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 28. Accommodation, livestock and crops on termination.-(1) This clause applies if the employer of a farm worker terminates the contract of employment of that farm worker-**

**28. Accommodation, livestock and crops on termination.**-(1) This clause applies if the employer of a farm worker terminates the contract of employment of that farm worker-

- (a) before the date on which the employer was entitled to do so in terms of [clause 26](#); or
- (b) in terms of [clause 27](#).

(2) If the farm worker resides in accommodation on the premises of the employer or that is supplied by the employer, the employer is required to provide the farm worker with accommodation for a period of one month, or if it is a longer period, until the contract of employment could lawfully have been terminated.

(3) A farm worker who keeps livestock on the land of the employer is entitled to keep that livestock for the period stipulated in the contract of employment or for one month from the date on which the contract of employment was terminated in terms of sub-clause (1).

(4) (a) A farm worker who has standing crops on the land of the employer is entitled to tend to those crops and harvest and remove them within a reasonable time after they become ready for harvesting, unless the employer pays the farm worker an agreed amount for the crops.

(b) Paragraph (a) applies in addition to a farm worker who terminates the contract of employment in accordance with [clause 26](#).

(5) If a farm worker elects to remain in accommodation in terms of sub-clause (2) after the employer has terminated the farm worker's contract of employment in terms of sub-clause (1), the employer may deduct an amount calculated in accordance with clause (8) from the amount that the employer is required to pay the farm worker in terms of [clause 29](#).

**29. Payments on termination.**-On termination of employment, an employer must pay a farm worker all monies due to the farm worker including-

- (a) any remuneration that has not been paid;
- (b) any payment owing in respect of extended ordinary hours of work in terms of [clause 12](#);
- (c) any paid time off that the farm worker is entitled to in terms of [clause 14](#) or [16](#) that the farm worker has not taken;
- (d) remuneration calculated in accordance with [clause 21 \(9\)](#) for any period of annual leave due in terms of [clause 21 \(1\)](#) that the farm worker has not taken; and
- (e) if the farm worker has been in employment longer than four months, in respect of the farm worker's annual leave entitlement during an incomplete annual leave cycle as defined in [clause 21 \(1\)](#)-
  - (i) one day's remuneration in respect of every 17 days on which the farm worker worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the farm worker as that calculated in terms of [subparagraph \(i\)](#).

[Para. (e) corrected by GNR.1611 of 2003.]

**30. Severance pay.**-(1) For the purpose of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay a farm worker who is dismissed for reasons based on the employer's operational requirements, severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer.

(3) A farm worker who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect a farm worker's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the farm worker may refer the dispute in writing to the CCMA.

**31. Certificate of service.**-On termination of employment, a farm worker is entitled to a certificate of service stating-

- (a) the farm worker's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the farm worker was employed at the date of termination;
- (e) any relevant training received by the farm worker;
- (f) the pay at date of termination; and
- (g) if the farm worker requests, the reason for termination of employment.

official summary, available in the workplace in a place to which the farm worker has access.

**32. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary, available in the workplace in a place to which the farm worker has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 33. Temporary employment services.**-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides farm workers to a client if that person remunerates the farm workers.

**33. Temporary employment services.**-(1) In this clause, "temporary employment service" means any person who, for reward, procures for or provides farm workers to a client if that person remunerates the farm workers.

(2) For the purpose of this Determination, a farm worker whose services have been procured for, or provided to, a client by a temporary employment service is employed by of that temporary employment service, and the temporary employment service is that person's employer.

(3) The employment service and the client are jointly and severally liable to comply with this determination in respect of its farm workers.

(4) If the employment service is in default of its obligation to make any payment in terms of this determination to a farm worker for a period of thirty days, the client concerned becomes liable to make payment.

(5) A client that in terms of this clause makes any payment that is owing to a farm worker is entitled to recover such amount from the employment service.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 34. Presumption as to who is a farm worker.**-A person who works for, or renders services to, any other person in farming activities is presumed, until the contrary is proved, to be a farm worker, regardless of the form of the contract, if any one or more

**34. Presumption as to who is a farm worker.**-A person who works for, or renders services to, any other person in farming activities is presumed, until the contrary is proved, to be a farm worker, regardless of the form of the contract, if any one or more of the following factors is present:

- (a) The manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) the person forms part of the employer's organisation;
- (d) the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- (e) the person is economically dependant on the other person for whom that person works or renders services;
- (f) the person is provided with tools of trade or work equipment by the other person; or
- (g) the person only works for or renders services to one person.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ 35. What words mean in this determination.**-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in the Act and-

**35. What words mean in this determination.**-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in the Act and-

"agreement" includes a collective agreement;

"Basic Conditions of Employment Act" means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#));

"child" means a person who is under 18 years of age;

"day" means, for the purposes of measuring hours of work, a period of 24 hours, measured from the time when a domestic worker normally commences work;

"dispute" includes an alleged dispute;

"employee" means-

- (a) any person, excluding an independant contractor, who works for another person or for the State and who

receives, or is entitled to receive, any remuneration; and

(b) any other person who in any manner assists in carrying on or conducting the business of an employer;

**"farm worker"** means an employee who is employed mainly or wholly in connection with farming activities, and includes a domestic worker employed in a home on a farm and a security guard employed on a farm or other agricultural premises, excluding a security guard, employed in the private security industry;

**"incapacity"** means inability to work owing to sickness or injury;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 11](#);

**"overtime"** means the time that the farm worker works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave or family responsibility leave that a farm worker is entitled to in terms of Part E of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"wage"** means the amount of money paid or payable to a farm worker in respect of ordinary hours of work or, if they are shorter, the hours a farm worker normally works in a day or week;

**"week"** in relation to a farm worker, means the period of seven days within which the working week of that farm worker falls;

**"work place"** means any place where farm worker works.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1499 of 2 December 2002: Sectoral Determination 8: Farm Worker Sector, South Africa/ Annexure WRITTEN PARTICULARS OF EMPLOYMENT**

**Annexure**

**WRITTEN PARTICULARS OF EMPLOYMENT**

[[Annexure](#) corrected by GNR.1611 of 2003.]

Sample of  
written  
particulars  
provided free  
of charge  
by the  
Department  
of Labour

**WRITTEN PARTICULARS OF EMPLOYMENT  
(FARM WORKER)**

Given by:

(hereinafter referred to as "the employer")

Address of employer:

(hereinafter referred to as "the employee")

**1. Commencement**

Employment started/will start on \_\_\_\_\_ and continue until  
terminated in terms of clauses 1 and 2 of the guidelines.

**2. Place of work**

**3. Job description**

Job Title

Farm Worker:

Tractor driver/truck driver/labourer etc

Duties:



#### 4. Hours of work

4.1 Normal working hours will be \_\_\_\_\_ hours per week, made up as follows:

Monday / Tuesday / ~~Wednesday~~ / Thursday / Friday:  
\_\_\_\_\_ pto

Meal intervals will be from:  
to

Other breaks:

Saturdays \_\_\_\_\_ am to \_\_\_\_\_ pm

Meal intervals will be from: \_\_\_\_\_ to

Other breaks:

Sundays: \_\_\_\_\_ am to \_\_\_\_\_ ..... pm

Meal intervals will be from: \_\_\_\_\_ to

Other breaks:

4.2 Hours of work will be extended with by not more than five hours per week during \_\_\_\_\_ and reduced by the same hours during \_\_\_\_\_.

4.3 Overtime will only be worked as agreed from time to time and will be paid at the rate of one and a half times of the total wage as set out in sub-clause 5.3 of the guidelines.

#### 5. Wage

5.1 The employees wage shall be paid in cash on the last working day of every week/month and shall be: \_\_\_\_\_ R

5.2 The employee shall be entitled to the following allowances/other cash payments/payment in kind:

5.2.1 Accommodation per week/month to the value of \_\_\_\_\_ R

5.2.2 Food per week/month to the value of \_\_\_\_\_ R

5.3 The following deductions are agreed upon: \_\_\_\_\_ R

\_\_\_\_\_ R

\_\_\_\_\_ R

\_\_\_\_\_ R

5.4 The total value of the above remuneration shall be  
(The total of sub-clauses 5.1 to 5.3)  
(Modify or delete sub-clauses 5.2 to 5.3 as needed) \_\_\_\_\_ R

5.5 The employer shall review the employee's salary/wage on or before 1 March of every year.

#### 6. Termination of employment

Either party can terminate this agreement with one week's notice during the first six months of employment and with four weeks' notice thereafter. Notice must be given in writing except when it is given by an illiterate farm worker. In the case where the farm worker is illiterate notice must be explained orally by or on behalf of the employer.

On giving notice the employer is to provide the employee who resides in accommodation that belongs to the farmer accommodation for a period of a month. A farmer is also obliged to allow the farm worker who has standing crops on the land a reasonable time to harvest the crop or the farmer may pay the worker an agreed amount for that crop.

#### 7. Sunday work

Any work on Sundays will be by agreement between the parties and will be paid according to [clause 7](#) of the guidelines.

#### **8. Public Holidays**

Any work on public holidays will be by agreement and will be paid according to [clause 8](#) of the guidelines.

#### **9. Annual Leave**

The employee is entitled to three weeks paid leave after every 12 months of continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer.

#### **10. Sick leave**

10.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

10.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.

10.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.

10.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.

#### **11. Maternity leave**

*(Tick the applicable sub-clauses in the space provided).*

11.1 The employee will be entitled to ..... months maternity leave without pay; or

11.2 The employee will be entitled to ..... months maternity leave on pay.

#### **12. Family responsibility leave**

The employee will be entitled to three days family responsibility leave during each leave cycle if he or she works on at least four days a week.

#### **13. Accommodation**

*(Tick the applicable boxes).*

13.1 The employee will be provided with accommodation for as long as the employee is in the service of the employer, which shall form part of his/her remuneration package.

13.2 The accommodation may only be occupied by the worker and his/her immediate family, unless by prior arrangement with the employer.

13.3 Prior permission should be obtained for visitors who wish to stay the night. However where members of the employee's direct family are visiting, such permission will not be necessary.

#### **14. Clothing**

*(Delete this clause if not applicable)*

sets of uniforms/protective clothing will be supplied to the employee free of charge by the employer and will remain the property of the employer.

sets of boots/gumboots will be supplied to the employee free of charge by the employer and will remain the property of the employer.

will

be supplied to the employee free of charge by the employer and will remain the property of the employer.

#### **15. Other conditions of employment or benefits**

#### **16. General**

Any changes to the written particulars will only be valid if agreed to by both parties.

EMPLOYER

Acknowledgement of receipt by employee:

Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa**

**GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa**

**BASIC CONDITIONS OF EMPLOYMENT ACT 1997  
(ACT NO. 75 OF 1997)**

| <b>Notice</b> | <b>as amended by<br/>Government Gazette</b> | <b>Date</b>               |
|---------------|---------------------------------------------|---------------------------|
| R.1787        | 25812                                       | 12 December 2003          |
|               |                                             | 25 January 2006           |
| R.68          | 28424                                       | w.e.f. 1 February<br>2006 |
| R.182         | 28559                                       | 24 February 2006          |
|               |                                             | 18 January 2010           |
| R.8           | 32871                                       | w.e.f. 1 February<br>2010 |
|               |                                             | 17 January 2013           |
| R.27          | 36076                                       | w.e.f. 1 February<br>2013 |
|               |                                             | 22 January 2013           |
| R.47          | 36094                                       | w.e.f. 1 February<br>2013 |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of [section 51 \(1\)](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), make a Sectoral Determination establishing conditions of employment and minimum wages for employees in the Wholesale and Retail Sector, South Africa, which appears in the schedule hereto and determine 1 February 2003 as the date from which the provisions of this Sectoral Determination shall be binding.

M M S MDLADLANA,  
MP Minister of Labor

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PART A:  
APPLICATION

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 1. Application.-(1) This determination applies to the employment of employees in the wholesale and retail sector in the Republic of South Africa.**

**1. Application.**-(1) This determination applies to the employment of employees in the wholesale and retail sector in the Republic of South Africa.

(2) In this determination, the "wholesale and retail sector" means the sector in which employers and employees are mainly or wholly associated for the purpose of procuring products from any supplier or manufacturer for the purpose of sale to any person, whether on a wholesale or retail basis; and, in addition, includes-

- (a) any other activities engaged in by an employer in the wholesale and retail sector including, but not limited to, merchandising, warehousing or distribution operations that are incidental to, or supportive of, the employer's enterprise; and
- (b) any other activity conducted by an employer whose core business falls within in the wholesale and retail sector on or at the premises where that business is conducted.

(3) This determination does not apply to employees-

- (a) employed in activities covered by another sectoral determination in terms of the Basic Conditions of Employment Act; or
- (b) covered by an agreement of a bargaining council in terms of the Labour Relations Act.

(4) Employees who work for an employer for 24 or less hours in a month-

- (a) must be paid at least the hourly rate set out in [Tables 1](#) to [3](#) of this determination.

[[Para. \(a\)](#) substituted by GNR.68 of 2006 w.e.f. 1 February 2006.]

- (b) except as provided in [paragraph \(a\)](#), this determination does not apply to an employee who works for an employer for 24 hours or less in a month.

(5) The provisions of the Basic Conditions of Employment Act apply to all employees covered by this determination and their employers in respect of any matter not dealt with in this sectoral determination.

(6) The provisions of the Ministerial Determination for Small Business apply to those employers employing less than 10 employees in respect of overtime, averaging of working hours and family responsibility leave.

[[Sub-r. \(6\)](#) inserted by r. 6 of GNR.27 of 17 January 2013.]

## PART B: WAGES

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 2. Wages.-(1) With effect from 1 February 2006, an employer must pay an employee at least the minimum wage prescribed in this part of the sectoral determination.**

**2. Wages.**-(1) With effect from 1 February 2006, an employer must pay an employee at least the minimum wage prescribed in this part of the sectoral determination.

(2) An employer must pay an employee who works for the employer for more than 27 hours per week-

- (a) at least the weekly or monthly wage set out in [Tables 1 to 3](#); or
- (b) by agreement between the employer and the employee, at least the hourly rate set out in [Tables 1 to 3](#) for every hour or part of an hour that the employee works.

(3) An employer must pay an employee who works 27 hours or less per week-

- (a) if an agreement has been concluded in terms of [clause 11](#), at least the hourly rate as set out in [Tables 1 to 3](#) for every hour or part of an hour that the employee works, plus 25%; or
- (b) if no agreement has been concluded in terms of [clause 11](#), at least the hourly rate as set out in [Tables 1 to 3](#) for every hour or part of an hour that the employee works.

(4) An employer must pay an employee employed in a job category not listed in [Tables 1 to 3](#) at least the minimum wage prescribed for a job category requiring an equivalent level of training, skill or experience.

(5) [Tables 1 to 3](#) apply to employers in the wholesale and retail sector in Area A, B and C respectively.

(6) With effect from 1 February 2013, an employee who works for less than four hours on any day must be paid for four hours work on that day.

[[Sub-r. \(6\)](#) substituted by r. 5 of GNR.27 of 17 January 2013 and by r. 1 of GNR.47 of 22 January 2013.]

(7) An employer who requires or permits an employee to perform work for longer than one hour on any day and that work is normally performed by a higher paid category of employee, must-

- (a) pay the employee in respect of that day not less than the daily wage calculated at the higher rate; and
- (b) [paragraph \(a\)](#) applies whether the work is performed in addition to, or in substitution for the employer's normal work.

(8) Unless otherwise agreed in writing, nothing in this determination precludes an employer from requiring an employee to perform work of another category of employee for which the same or a lower wage is prescribed.

[[R. 2](#) substituted by GNR.68 of 2006 w.e.f. 1 February 2006 and amended by GNR.27 of 17 January 2013 and by GNR.47 of 22 January 2013.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 3. Application of minimum wages to new employers.-(1) Despite clause 2, for two years after the commencement of this determination, a newly established employer must pay employees a minimum wage of at least 90% of the applicable minimum wage in [Tables](#)**

**3. Application of minimum wages to new employers.**-(1) Despite [clause 2](#), for two years after the commencement of this determination, a newly established employer must pay employees a minimum wage of at least 90% of the applicable minimum wage in [Tables 1 to 3](#).

(2) For the purposes of this clause, a "newly established employer"-

- (a) means any employer that-
- (i) commenced business after 1 February 2001, and
- (ii) has not been in operation for longer than two years; and

- (b) does not include any employer established as a result of-
  - (i) the division, sale or transfer of the whole or part of any existing employer;
  - (ii) the outsourcing or sub-contracting of the whole or part of any existing business or service.
- (3) This clause does not apply to employers covered by [clause 2 \(6\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 4. Commission of work.-(1) An employer and employee employed as a sales person may agree in writing that the employee will perform commission work on a regular basis.**

**4. Commission of work.**-(1) An employer and employee employed as a sales person may agree in writing that the employee will perform commission work on a regular basis.

(2) An employee who performs commission work must receive a wage that is at least two-thirds of the applicable minimum wage that the employee is entitled to in terms of [clause 2](#).

(3) An agreement to perform commission work in terms of this clause must be concluded before the work is commenced and must include-

- (a) the employee's wage;
- (b) the basis for calculating commission payments;
- (c) the period over which commission payments are calculated which may not be longer than one month;
- (d) when the employer must pay commission payments to the employee which may not be longer than one month after the end of the period in which the commission is earned; and
- (e) the type, description, number, quantity or value of sales, margin, profit, or orders (individual, weekly, monthly or otherwise) for which the employee is entitled to earn commission.

(4) The employer must supply the employee with a copy of the agreement to perform commission work.

(5) If during any calculation period the employee does not earn an amount equivalent to at least the prescribed minimum wage because any act or omission by or on behalf of the employer has restricted the employee's ability to earn commission, the employer must pay the employee at least the applicable minimum wage as set out in [Tables 1 to 3](#).

[Sub-r. (5) amended by GNR.68 of 2006 w.e.f. 1 February 2006.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 5. Calculation of remuneration or wages.-(1) The remuneration or wages of an employee must be calculated by reference to the employee's ordinary hours of work.**

**5. Calculation of remuneration or wages.**-(1) The remuneration or wages of an employee must be calculated by reference to the employee's ordinary hours of work.

(2) For the purposes of any calculation in terms of this determination-

- (a) the hourly remuneration or wages of a employee is obtained by-
  - (i) dividing the daily remuneration or wages by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly remuneration or wages by the number of ordinary hours worked in a week.
- (b) the daily remuneration or wages of a employee is obtained by-
  - (i) multiplying the hourly remuneration or wages by the number of ordinary hours worked in a day; or
  - (ii) dividing the weekly remuneration or wages by the number of days worked in a week.
- (c) the weekly remuneration or wages of a employee is obtained by-
  - (i) multiplying the hourly remuneration or wages by the number of ordinary hours worked in a week; or
  - (ii) multiplying the daily remuneration or wages by the number of days worked in a week; or
  - (iii) dividing the monthly remuneration or wages by four and one-third.
- (d) the monthly remuneration or wages of an employee is obtained by multiplying the weekly remuneration or wages by four and a third;
- (e) if an employee's remuneration or wages is calculated, either wholly or in part, on a basis other than time, or if an employee's remuneration or wages fluctuates significantly from period to period, any payment to that employee in terms of this clause must be calculated by reference to the employee's remuneration-
  - (i) during the preceding 13 weeks;

- (ii) if the employee has been in employment for a shorter period, that period; or
- (iii) by agreement, the average earned over a period of time of not more than the previous 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 6. Payment of remuneration.-(1) An employer must pay an employee-**

**6. Payment of remuneration.-(1)** An employer must pay an employee-

- (a) in South African currency;
- (b) daily, weekly, fortnightly or monthly; and
- (c) in cash, by cheque or by direct deposit into an account designated by the employee.

(2) Any remuneration paid in cash or by cheque must be given to each employee-

- (a) at the workplace or at a place agreed to by the employee;
- (b) during the employee's working hours or within fifteen minutes of the commencement or conclusion of those hours; and
- (c) in a sealed envelope which becomes the property of the employee.

(3) An employer must pay an employee-

- (a) on the normal pay day as agreed; or
- (b) on the termination of the contract of employment.

(4) Sub-clause (3) does not apply to any pension or provident fund payment to an employee that is made in terms of the rules of the fund.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 7. Information concerning remuneration.-(1) On every pay day, the employer must give the employee a statement showing-**

**7. Information concerning remuneration.-(1)** On every pay day, the employer must give the employee a statement showing-

- (a) the employer's name and address;
- (b) the employee's name and occupation;
- (c) the period in respect of which payment is made;
- (d) the employee's wage rate and overtime rate;
- (e) the number of ordinary hours worked by the employee during that period;
- (f) the number of overtime hours worked by the employee during that period;
- (g) the number of hours worked by the employee on a public holiday or on a Sunday;
- (h) the employee's wage;
- (i) details of any other pay, including commission payments, arising out of the employee's employment;
- (j) details of any deductions made; and
- (k) the actual amount paid to the employee.

(2) An employer must retain a copy or record of each statement for at least three years.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 8. Deductions and other acts concerning remuneration.-(1) An employer may not make any deduction from an employee's remuneration unless-**

**8. Deductions and other acts concerning remuneration.-(1)** An employer may not make any deduction from an employee's remuneration unless-

- (a) subject to sub-clause (2), the employee in writing agrees to the deduction in respect of a debt specified in the agreement; or
- (b) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.



- (2) A deduction in terms of sub-clause (1) (a) may be made to reimburse an employer for loss or damage only if-
  - (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
  - (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
  - (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
  - (d) the total deductions from the employee's remuneration in terms of this sub-clause do not exceed one-quarter of the employee's remuneration in money.
- (3) A deduction in terms of sub-clause (1) (a) in respect of any goods purchased by the employee must specify the nature and quantity of goods.
- (4) An employer who deducts an amount from an employee's remuneration in terms of sub-clause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.
- (5) An employer may not require or permit an employee to-
  - (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
  - (b) acknowledge receipt of an amount greater than the remuneration actually received.

PART C:  
PARTICULARS OF EMPLOYMENT

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 9. Written particulars of employment.- (1) An employer must supply an employee, when the employee starts work, with the following particulars in writing-**

- 9. Written particulars of employment.-**(1) An employer must supply an employee, when the employee starts work, with the following particulars in writing-
- (a) the full name and address of the employer;
  - (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
  - (c) the place of work, and where the employee is required or permitted to work at various places, an indication of this;
  - (d) the date on which the employment began;
  - (e) the employee's ordinary hours of work and days of work;
  - (f) the employee's wage or the rate and method of payment;
  - (g) the rate of pay for overtime work;
  - (h) any other cash payments that the employee is entitled to;
  - (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
  - (j) how frequently remuneration will be paid;
  - (k) any deductions to be made from the employee's remuneration;
  - (l) the leave to which the employee is entitled to; and
  - (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate.
- (2) When any matter listed in sub-clause (1) changes-
- (a) the written particulars must be revised to reflect the change; and
  - (b) the employee must be supplied with a copy of the document reflecting the change.
- (3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.
- (4) The employer must sign the written particulars and any change in terms of sub-clause (2).
- (5) The employer may require the employee to-
- (a) acknowledge receipt of the written particulars and any change in terms of sub-clause (2) in writing on a copy of the particulars; or
  - (b) if the employee is unable to or refuses to acknowledge receipt, record that the employee has received a copy of the written particulars.

(6) An employer must retain a copy of the written particulars while the employee is employed and for three years thereafter.

PART D:  
HOURS OF WORK

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 10. Application of this part.-(1) This part does not apply to-**

**10. Application of this part.-(1)** This part does not apply to-

- (a) senior managerial employees;
- (b) employees engaged as sales staff who travel to the premises of customers and who regulate their own hours of work;
- (c) to an employee earning in excess of-
  - (i) during the first nine months after the sectoral determination becomes effective, a wage of R56 000 per annum; and
  - (ii) thereafter, the amount determined by the Minister in terms of section 6 (3) 1 of the Basic Conditions of Employment Act.

(2) Clauses 12, 13 (1) 2, 17 (1) 3, 18 (1) 4, 20 (2) 5 and (21) 6 do not apply while an employee is engaged in emergency work.

(3) For the purposes of this clause-

- (a) "senior managerial employee" means an employee who has the authority to hire, discipline and dismiss employees and to represent the employer internally and externally;
- (b) "emergency work" means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

**Footnotes**

- 1 The minimum earning threshold determined by the Minister since December 1998 is R89 455,00.
- 2 Working of overtime.
- 3 Granting of meal intervals.
- 4 Granting of rest periods.
- 5 Night work.
- 6 Public holidays.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 11. Application of Parts D and E to employees working 27 hours or less per week.-(1) A written agreement may provide that an employee who works 27 hours or less per week is employed on the following terms and conditions-**

**11. Application of Parts D and E to employees working 27 hours or less per week.-(1)** A written agreement may provide that an employee who works 27 hours or less per week is employed on the following terms and conditions-

- (a) the employee is paid the relevant hourly wage rate in terms of Tables 1 to 3, plus 25% for any ordinary hours of work worked by the employee, including ordinary hours of work performed on Sundays;  
[Para. (a) amended by GNR.68 of 2006 w.e.f. 1 February 2006.]
- (b) the employee is granted at least two days off during every week;
- (c) the employer is not required to pay the employee an allowance for performing night work;
- (d) the right to paid sick-leave in terms of clause 23 and family responsibility leave in terms of clause 24 do not apply to the employee;
- (e) the employer must grant the employee at least two weeks paid annual leave in accordance with the provisions of clauses 22 (2), (3), (5)-(10) and, on request by the employee, at least one week's unpaid leave each year; and
- (f) in all other respects, Parts D and E of this determination, apply to the employee.

(2) An employee who works for 27 hours or less per week who has not concluded an agreement in terms of sub-clause (1) is entitled to all basic conditions of employment established by this determination, where appropriate on a proportionate basis.

**12. Ordinary hours of work.-(1)** An employer may not require or permit an employee to work more than-

- (a) 45 ordinary hours in any week; or
- (b) if an agreement has been concluded in terms of sub-clause (3), 40 ordinary hours in any week.

(2) An employer may not require or permit an employee to work more than-

- (a) nine ordinary hours on any day if the employee works for five days or less in a week; or
- (b) eight ordinary hours in any day if the employee works on more than five days in any week.

(3) A written agreement may provide that an employee who works 40 or less ordinary hours of work per week including a Sunday is employed on the following terms and conditions-

- (a) the employer must grant the employee at least-
  - (i) two full days off during every week; and
  - (ii) one Sunday off during every four consecutive weeks;
- (b) the employer may only require or permit an employee to work on a day off granted in terms of [paragraph \(a\)](#) in terms of an agreement in respect of a particular day;
- (c) the employer must pay the employee for work on a day off granted in terms of [paragraph \(a\)](#) at least-
  - (i) double the employee's wage for each hour worked; or
  - (ii) if it is greater, the employee's daily wage;
- (d) [clause 18 \(1\) \(b\)](#) regulating the weekly rest period and clause (19) regulating payment for work on Sunday do not apply to the employee.

(4) An employee's ordinary hours of work in terms of sub-clause (1) may by agreement be extended by up to 15 minutes in a day but no more than 60 minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

**13. Overtime.-(1)** An employer may not require or permit an employee-

- (a) to work overtime except in accordance with an agreement concluded by the employer and the employee;
- (b) to work more than 10 hours' overtime a week; or
- (c) to work more than 12 hours, including overtime, on any day.

(2) A written agreement-

- (a) may increase the maximum permitted overtime to 15 hours a week; and
- (b) an agreement contemplated in [paragraph \(a\)](#) may not apply for more than two months in any period of 12 months.

**14. Payment of overtime.-(1)** An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

(2) Despite sub-clause (1), an agreement may provide for an employer to-

- (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
- (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.

(3) An employer must grant paid time off in terms of sub-clause (2) within one month of the employee becoming entitled to it, alternatively-

- (a) a written agreement may increase the period contemplated by sub-clause (3) to twelve months; and

- (b) an agreement concluded in terms of [paragraph \(a\)](#) with an employee when the employee commences employment, or during the first three months of employment, is only valid for one year.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 15. Compressed working week.-(1) A written agreement may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 17, without receiving overtime pay.**

**15. Compressed working week.**-(1) A written agreement may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of [clause 17](#), without receiving overtime pay.

- (2) An agreement in terms of sub-clause (1) may not require or permit an employee to work-
- (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours overtime in any week; or
  - (c) on more than five days in any week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 16. Averaging hours of work.-(1) Despite clauses 12 (1) (a), 12 (2) and 13, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.**

**16. Averaging hours of work.**-(1) Despite clauses 12 (1) (a), 12 (2) and 13, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.

(2) An employer may not require or permit an employee who is bound by an agreement in terms of sub-clause (1) to work more than-

- (a) an average of 45 ordinary hours of work in a week over the agreed period; or
  - (b) an average of five hours' overtime in a week over the agreed period;
- (3) An agreement in terms of sub-clause (1) lapses after 12 months.
- (4) Sub-clause (3) only applies to the first two agreements concluded in terms of sub-clause (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 17. Meal intervals.-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.**

**17. Meal intervals.**-(1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.

(2) During a meal interval, an employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.

(3) An employee must be paid-

- (a) for a meal interval in which the employee is required to be available for work;
- (b) for any portion of a meal interval that is in excess of 75 minutes.

(4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.

(5) A written agreement may-

- (a) reduce the meal interval to not less than 30 minutes;
- (b) dispense with a meal interval for an employee who works fewer than six hours on a day.

(6) Whenever an employer is required to give an employee a second meal interval because of overtime worked, that interval may by agreement be reduced to not less than 15 minutes.

(7) An employer shall grant to each of his or her employees a rest interval of not less than 15 minutes as nearly as practicable in the middle of each first work period and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee. A written agreement may extend the morning rest interval to not more than half an hour.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules**

**18. Rest periods.-(1)** An employer must grant an employee-

- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
  - (b) weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include a Sunday.
- (2) A daily rest period in terms of sub-clause (1) (a) may, by written agreement, be reduced to 10 hours for an employee-
- (a) whose meal interval lasts for at least three hours.
- (3) Despite sub-clause (1) (b), a written agreement may provide for a rest period of at least 60 consecutive hours every second week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 19. Payment for work on Sundays.-(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one an**

**19. Payment for work on Sundays.-(1)** An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half the employee's wage for each hour worked.

(2) If the payment calculated in terms of sub-clause (1) is less than the employee's daily wage, the employer must pay the employee, for the time worked on that Sunday, the employee's daily wage.

(3) Despite sub-clauses (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on a Sunday and the pay the employee is entitled to receive in terms of sub-clauses (1) and (2).

(4) An employee must grant paid time off in terms of sub-clause (3) within one month of the employee becoming entitled to it, alternatively a written agreement may increase the period contemplated by sub-clause (4) for up to 12 months.

(5) Any time worked on a Sunday by an employee who does not normally work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of [clause 12](#), but is taken into account in calculating the overtime worked by the employee in terms of [clause 13 \(1\) \(b\)](#).

(6) If a shift worked by an employee, who does not ordinarily work on a Sunday, falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 20. Night work.-(1) For the purposes of this clause, "night work" means work performed after 19:00 and before 07:00 the next day.**

**20. Night work.-(1)** For the purposes of this clause, "night work" means work performed after 19:00 and before 07:00 the next day.

(2) An employer may only require or permit an employee to perform night work, if so agreed and if-

- (a) the employee is compensated by the payment of an allowance at a rate of at least 10% of the hourly wage for every hour or part of an hour that the employee works; and
- (b) transport is available between the employee's place of residence and the workplace at the beginning and end of the employee's shift.

(3) An employer who requires an employee to perform work on a regular basis for a period of longer than one hour after 23:00 and before 06:00 the next day at least five times per month or 50 times per year must-

- (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands-
  - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
  - (ii) of the employee's right to undergo a medical examination in terms of [paragraph \(b\)](#);
- (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (i) before the employee starts, or within a reasonable period of the employee starting, such work; and
  - (ii) at appropriate intervals while the employee continues to perform such work; and

- (c) transfer the employee to suitable day work within a reasonable time if-
  - (i) the employee suffers from a health condition associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 21. Public holidays.-(1) An employer may not require an employee to work on a public holiday, except in accordance with an agreement.**

**21. Public holidays.**-(1) An employer may not require an employee to work on a public holiday, except in accordance with an agreement.

(2) If a public holiday falls on a day on which an employee would ordinarily have worked, an employer must pay an employee-

- (a) who does not work on the public holiday the employee's daily wage;
- (b) who does work on the public holiday at least double the daily wage.

(3) If an employee who works on a public holiday on which the employee would not ordinarily have worked, the employer must pay that employee an amount equal to-

- (a) the employee's daily wage; plus
- (b) the employee's hourly wage for each hour worked on the public holiday.

(4) An employer must pay an employee for a public holiday on the employee's normal payday.

(5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

#### PART E: LEAVE

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 22. Annual leave.-(1) An employer must grant an employee-**

**22. Annual leave.**-(1) An employer must grant an employee-

- (a) at least three calendar weeks annual leave on full pay in respect of each 12 months of employment (the "annual leave cycle");
- (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the employee worked or was entitled to be paid; or
- (c) by agreement, at least one hour of annual leave on full pay for every 17 hours on which the employee worked or was entitled to be paid.

(2) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would otherwise have worked.

(3) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave on full pay granted to the employee at the employee's request in that annual leave cycle.

(4) An employer must grant at least three calendar weeks annual leave on full pay in respect of each 12 months of employment (the "annual leave cycle") not later than six months after the end of the annual leave cycle or the year in which the leave was earned.

(5) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and employee; or
- (b) if there is no agreement in terms of [paragraph \(a\)](#), at a time determined by the employer in accordance with this clause.

(6) An employer may not require or permit an employee to take annual leave during-

- (a) any other period of leave to which the employee is entitled in terms of this part of the sectoral determination; or
- (b) any period of notice of termination of employment.

(7) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(8) An employer may not pay an employee instead of granting paid leave in terms of this clause except on termination of employment.

(9) An employer must pay an employee leave pay at least equivalent to the remuneration that the employee would have received for working for a period equal to the period of annual leave, calculated on the basis of the employee's rate of remuneration immediately before the period of leave.

(10) An employer must pay an employee leave pay-

- (a) before the beginning of the period of leave; or
- (b) by agreement, on the employee's normal payday.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 23. Sick leave.-(1) For purposes of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-**

**23. Sick leave.**-(1) For purposes of this clause "sick leave cycle" means the period of 36 months employment with the same employer immediately following-

- (a) the employee's commencement of work; or
- (b) the end of the employee's previous sick leave cycle.

(2) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite sub-clause (2) during the first six months of work, an employee is entitled to one day's sick leave for every 26 days worked.

(4) An employer may, during the employee's first leave cycle, reduce the employee's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).

(5) An employer may require an employee who has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period to produce a medical certificate before paying the employee in terms of this clause.

(6) The medical certificate in terms of sub-clause (5) must-

- (a) be issued and signed by a medical practitioner, or any other person who is certified to diagnose and treat patients and who is registered with a professional council, established by an Act of Parliament; and
- (b) state that the employee was unable to work for the duration of the employee's incapacity.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 24. Family responsibility.-(1) This clause applies to an employee-**

**24. Family responsibility.**-(1) This clause applies to an employee-

- (a) who has been employed by an employer for longer than four months; and
- (b) who works on at least four days a week for that employer.

(2) An employer must grant an employee, during each 12 months of employment, at the request of the employee, three days' leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.

(3) An employee may take family responsibility leave in respect of the whole or part of the day.

(4) Subject to sub-clause (5), an employer must pay an employee for a day's family responsibility leave-

- (a) the wage the employee would normally have received for work on that day; and
- (b) on the employee's usual payday.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in sub-clause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual leave cycle in which it accrues.

(7) A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this clause.



**25. Maternity leave.**7-(1) An employee is entitled to at least four consecutive months' maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) An employee may not work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) A employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and
- (b) return to work after maternity leave.

(6) Notification in terms of sub-clause (5) must be given-

- (a) at least four weeks before the employee intends to commence maternity leave;
- (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

- (i) the employee is required to perform night work, as defined in [clause 20](#) or her work poses a danger to her health or safety or that of her child; and
- (ii) it is practicable for the employer to do so.

#### PART F:

#### PROHIBITION OF CHILD LABOUR AND FORCED LABOUR

#### **Footnotes**

<sup>7</sup> In terms of section 187 (1) (e) of the Labour Relations Act, 1995, the dismissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract.

**26. Prohibition of child labour and forced labour.**-(1) No person may employ a child-

- (a) who is under 15 years of age; or
- (b) who is under the minimum school leaving age in terms of any law, if this is 15 or older.8

(2) No person may employ a child9 in employment-

- (a) that is inappropriate for a person of that age;
- (b) that places at risk the child's well being, education, physical or mental health, or spiritual, moral or social development.

(3) An employer must maintain for three years a record of the name, date of birth and address of every employee under the age of 18 years employed by them.

(4) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(5) No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of sub-clause (4).

(6) A person who employs a child in contravention of sub-clauses (1) and (2) or engages in any form of forced labour in contravention of sub-clauses (4) and (5) commits an offence in terms of sections 46 and 48 of the Basic Conditions of Employment Act respectively, read with section 93 of that Act.

### Footnotes

- 8 [Section 31 \(1\)](#) of the South African Schools Act, 1996 (Act [84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.
- 9 This applies to children under 18 years of age.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 27. Termination of employment.- (1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-**

**27. Termination of employment.**-(1) A contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week, if the employee has been employed for six months or less;
- (b) two weeks, if the employee has been employed for more than six months but not more than one year; and
- (c) four weeks, if the employee has been employed for more than one year.

[Para. (1) (c) corrected by GNR.1787 of 2003.]

(2) A written agreement may-

- (a) not permit a notice period shorter than that required by sub-clause (i);
- (b) despite [paragraph \(a\)](#), an agreement may permit the notice period of four weeks required by sub-clause (1) (c) to be reduced to not less than two weeks.

(3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.

(4) Notice of termination of a contract of employment must-

- (a) be given in writing except when it is given by an illiterate employee; or
- (b) if an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(5) Notice of termination of a contract of employment given by an employer must-

- (a) not be given during any period of leave to which the employee is entitled in terms of [clause 22 \(1\)](#);
- (b) not run concurrently with any period of leave to which the employee is entitled in terms of this determination, except sick leave.

(6) Nothing in this clause affects the right of-

- (a) a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
- (b) an employer or an employee to terminate a contract of employment without notice for any cause recognized by law.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 28. Payment instead of notice.- (1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the full pay the employee would have received if the employee had worked during the notice period.**

**28. Payment instead of notice.**-(1) Instead of giving an employee notice in terms of this clause, an employer may pay the employee the full pay the employee would have received if the employee had worked during the notice period.

(2) If an employee gives notice of termination of employment, and the employer waives any part of the notice, the employer must pay the full pay referred to in sub-clause (1), unless the employer and employee agree otherwise.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 29. Payment on termination.**-(1) On termination of employment, an employer must pay an employee all monies due to the employee for any-

**29. Payment on termination.**-(1) On termination of employment, an employer must pay an employee all monies due to the employee for any-

- (a) wages, allowances or other payments that have not been paid;
- (b) paid time-off that the employee is entitled to in terms of [clause 14](#) or [19](#) that the employee has not taken;
- (c) leave in terms of [clause 22](#) that the employee has not taken, irrespective of whether the employee has completed an annual leave cycle or year of service, unless the employee has not been employed longer than four months.

(2) For the purposes of sub-clause (1) (c), an employee is entitled to be paid in respect of any period for which leave was not granted-

- (a) one week's remuneration for every four months worked; or  
[[Para. \(2\) \(a\)](#) corrected by GNR.1787 of 2003.]
- (b) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid.  
[[Para. \(2\) \(b\)](#) corrected by GNR.1787 of 2003.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 30. Severance pay.-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.**

**30. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's wage for each completed year of continuous service with that employer.

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of sub-clause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this clause, the employee may refer the dispute in writing to the CCMA.

(6) An employee who refers a dispute to the CCMA as provided in sub-clause (5) must satisfy the body that a copy of the referral has been served on all other parties to the dispute.

(7) The CCMA must attempt to resolve the dispute through conciliation.

(8) If the dispute remains unresolved the employee may refer the dispute to arbitration.

(9) If the Labour Court is adjudicating a dispute about a dismissal on the employer's operational requirements, the Court may enquire into and determine the amount of any severance pay to which a dismissed employee may be entitled and the Court may make an order directing the employer to pay such amount.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 31. Certificate of service.-On termination of employment, an employee is entitled to a certificate of service stating-**

**31. Certificate of service.**-On termination of employment, an employee is entitled to a certificate of service stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) the date of commencement and date of termination of employment;
- (d) the title of the job or brief description of the work for which the employee was employed at the date of termination;
- (e) any relevant training received by the employee;
- (f) the pay at date of termination; and
- (g) if the employee requests, the reason for termination of employment.

PART H:  
GENERAL

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules**

**32. Uniforms, overalls and protective clothing.-(1) An employer must provide free of charge-**

- (a) at least two overalls or washing coats per year to an employee who is directly engaged in the selling or handling of foodstuffs, confectionery or groceries not pre-packed in sealed containers;
- (b) rain gear to employees who in the performance of his or her duties is regularly exposed to wet weather;
- (c) kneepads to an employee who scrubs or washes floors by hand.

(2) Subject to sub-clause (3), an employer must maintain clothing supplied in terms of sub-clause (1) in a clean and serviceable condition at no cost to the employee.

(3) If an employer who requires an employee to wear clothing in terms of sub-clause (1) pays the employee an allowance of at least R2.60 per week per item, the employee is responsible for the maintaining, laundering and cleaning of the clothing.

(4) Any clothing provided to an employee in terms of sub-clause (1) remains the property of the employer.

(5) An employer may offer to supply an employee with one or more outfits of specified colour shade, design or style on conditions not less favourable to the employee than the following-

- (a) the price paid by the employee may not exceed the cost to the employer, and
- (b) the employer may require the employee to wear the outfit at all times while on duty. If only one outfit has been supplied, this requirement does not apply while the outfit is being cleaned or repaired;
- (c) the employer may not prohibit the employee from wearing the outfit while off duty;
- (d) the employer must permit the employee to pay for each outfit supplied by means of at least four equal monthly deductions from the employee's remuneration. If the contract of employment is terminated before the full amount due by the employee for any outfit has been paid, the employer may deduct the balance due in one sum from any remuneration due to the employee on termination.

(6) The offer referred to in sub-clause (5) must be in writing and must set out the conditions of the offer. Unless the employee accepts the offer in writing within seven days after receiving it, the employee is deemed to have rejected the offer.

(7) An outfit referred to in sub-clause (6) becomes the property of the employee.

**33. Attendance register.-(1) This clause does not apply to-**

- (a) a driver or an employee employed to accompany a driver; or
- (b) an employee earning in excess of the amount determined by the Minister in terms of section 6 (3) of the Basic Conditions of Employment Act.

(2) An employer must-

- (a) provide in its establishment a manual or automated attendance register;
- (b) record the name of each employee in the register;
- (c) ensure that the employee records for each day worked-
  - (i) the day of the week;
  - (ii) the time the employee commenced work;
  - (iii) the time of the starting and finishing of all meal or other intervals which are not part of ordinary hours of work;
  - (iv) the time of finishing work on the day;
  - (v) the amount of overtime worked for the day;
  - (vi) the total number of hours worked for the day; and
  - (vii) the employee's signature.

(3) An employer must retain the records of attendance referred to in sub-clause (2), for a period of not less than three years.

**2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 34. Temporary employment services.**-(1) For the purposes of this sectoral determination, a person whose services have been procured for, or provided to, a client by a temporary employment service is the employee of that temporary employment service, and

**34. Temporary employment services.**-(1) For the purposes of this sectoral determination, a person whose services have been procured for, or provided to, a client by a temporary employment service is the employee of that temporary employment service, and the temporary employment service is that person's employer.

(2) Despite sub-clause (1), a person who is an independent contractor is not an employee of a temporary employment service, nor is the temporary employment service the employer of that person.

(3) The temporary employment service and the client are jointly and severally liable if the temporary employment service, in respect of any employee who provides services to that client, does not comply with this sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 35. Duration of employment.**-(1) For the purposes of determining the length of an employee's employment with an employer for any provision of this sectoral determination, previous employment with the same employer must be taken into account if the break between the periods of employment is less than one year.

**35. Duration of employment.**-(1) For the purposes of determining the length of an employee's employment with an employer for any provision of this sectoral determination, previous employment with the same employer must be taken into account if the break between the periods of employment is less than one year.

(2) Any payment made or any leave granted in terms of this sectoral determination to an employee contemplated in sub-clause (1) during a previous period of employment must be taken into account in determining the employee's entitlement to leave or to a payment in terms of this sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 36. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the employee has access.

**36. Keeping of sectoral determination.**-Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the employee has access.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ 37. What words mean in this determination.**-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-

**37. What words mean in this determination.**-Any expression in this determination, which is defined in the Basic Conditions of Employment Act and is not defined in this clause, has the same meaning as in that Act and-

"**agreement**" includes a collective agreement;

"**assistant manager**" means an employee who is required to support the Manager in managing the activities of the business and who is authorised by the employer, in the Manager's absence, to assume the responsibilities of the Manager;

"**Basic Conditions of Employment Act**" means the Basic Conditions of Employment Act, 1997 (Act [75 of 1997](#));

"**cashier**" means an employee who receives payments on behalf of the employer for products or services, issues receipts for payments, deposits payments into the employer's elected bank account or performs any other activities relating to payments;

"**child**" means a person under 18 years of age;

"**clerk**" means an employee employed in any form of administrative work, including, but not limited to, writing, filing, recording information, reconciling documents;

"**commission work**" means any system under which an employee receives additional pay calculated on the value or volume of sales, margin, profit, or on the value or number of orders submitted to and accepted by an employer;

"**day**" means, for the purposes of measuring hours of work, a period of 24 hours measured from the time when the employee normally commences work;

"**displayer**" means an employee who prepares window, promotional or sale display material, whether internally or externally;

"**dispute**" includes an alleged dispute;

**"driver"** means an employee who drives a motor vehicle for purposes of deliveries or to perform other activities on behalf of an employer and who holds the requisite licence;

**"employee"** means-

- (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer;

**"fork-lift operator"** means an employee who operates a mobile power-driven hoist used in the loading, unloading, moving or stacking of products and who holds the requisite license;

**"general assistant"** means an employee who is engaged in any one or more of the following duties-

- (a) accompanying or assisting a driver or other employee who drives a vehicle, but not driving the vehicle;
- (b) accompanying any employee who uses tools, but not using tools independently;
- (c) affixing postage stamps or labels;
- (d) assembling boxes by hand;
- (e) breaking up scrap metal;
- (f) carrying or moving goods, by means other than a power-driven device;
- (g) changing wheels or repairing punctures;
- (h) cleaning machinery, premises, vehicles, furniture, implements, tools, utensils or goods on the employer's premises;
- (i) cleaning or plucking poultry;
- (j) cleaning, cutting, filleting, scaling or slicing raw fish;
- (k) cutting by hand, paper, samples, linoleum, mats, curtain rods, netting wire, wire or other articles or commodities;
- (l) cutting up scrap metal;
- (m) delivering or conveying letters, parcels, messages or goods by means other than by a motor vehicle with an engine capacity exceeding 100 cm<sup>2</sup>;
- (n) driving an animal-drawn vehicle;
- (o) feeding into or drawing off from vats, tanks or other containers;
- (p) feeding or taking off from automatic or semi-automatic machines, moving belts or platforms;
- (q) filling bins or dump baskets with goods;
- (r) filling, capping, corking or labeling bottles or other containers;
- (s) folding or enveloping mail;
- (t) grading eggs according to size;
- (u) ironing;
- (v) loading or unloading vehicles;
- (w) making or maintaining fires or removing refuse or ash;
- (x) making tea or similar beverages for, or serving tea or similar beverages to employees, the employer or guests;
- (y) marking, branding or stenciling goods by hand;
- (z) melting scrap lead
- (aa) mending bags or sacks by hand or machine;
- (bb) mending or altering second-hand clothing for sale;
- (cc) mixing by hand the ingredients of animal or poultry foods the mass of which has been measured beforehand or otherwise predetermined;
- (dd) nailing or repairing boxes or crates;
- (ee) oiling or greasing machinery of vehicles, other than motor vehicles;
- (ff) opening or closing doors, windows, bales boxes or other packages;
- (gg) operating an addressograph, photostat, or a duplicating machine;
- (hh) operating any power-driven machine not specifically mentioned elsewhere in this clause;
- (ii) operating a portable pump;

(*jj*) packers, placing or staking goods at point of sale, or in cabinets or on counters, gondolas, racks or shelves;  
(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase "packers, placing or staking" is intended to be "packing, placing or stacking".)

[[Para. \(\*jj\*\)](#) substituted by r. 3 of GNR.27 of 17 January 2013.]

- (*kk*) repetitive marking of prices on goods by means of a rubber stamp or other marking device, under supervision;
- (*ll*) repetitive mass-measuring or repetitive measuring; or mass measuring for stock;
- (*mm*) setting up or dismantling corrugated or fibre board boxes or similar containers;
- (*nn*) strapping or wiring boxes;
- (*oo*) tending, cleaning or feeding animals;
- (*pp*) using rubber or other stamps, involving no discretion;
- (*qq*) washing uniforms, overalls or protective clothing;
- (*rr*) wrapping parcels;
- (*ss*) collecting trolleys for the wholesale and retail sector whether in-house or outsourced;

[[Para. \(\*ss\*\)](#) inserted by r. 4 of GNR.27 of 17 January 2013.]

[Definition of "[general assistant](#)" substituted by GNR.68 of 2006 w.e.f. 1 February 2006 and amended by GNR.27 of 17 January 2013.]

**"gross vehicle mass"** means the maximum mass of a vehicle and its load as specified by the manufacturer, or if there is no such specification, the relevant registering authority;

**"incapacity"** means inability to work owing to sickness or injury;

**"manager"** means an employee who is authorised by an employer to manage the activities of a business or part of a business or to manage the employees in a business or part of a business;

**"merchandiser"** means an employee who draws goods from a storage area, cleans shelving, unpacks and prices products and removes damaged or expired goods;

**"night work"** means work performed after 19h00 and before 07h00 the next day;

**"ordinary hours of work"** means the hours of work permitted in terms of [clause 12](#);

**"overtime"** means the time that the employee works during a day or in a week in excess of ordinary hours of work;

**"paid leave"** means any annual leave, paid sick leave or family responsibility leave that a employee is entitled to in terms of Part E of this determination;

**"public holiday"** means any day that is a public holiday in terms of the Public Holiday Act, 1994 (Act [No. 36 of 1994](#));

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"sales assistant"** means an employee who prepares products and services for sale, attends to customers' enquiries, assembles products for customers and, with the authority of an employer, accepts payment for products or services sold;

**"sales person"** means an employee employed to perform the tasks of a sales assistant and who receives, in addition to the minimum wage mentioned in [clause 3](#), commission payments in terms of [clause 4](#);

**"security guard"** means an employee who guards, protects or patrols an employer's establishment, buildings, property and goods;

**"shop assistant"** means an employee who packs, replenishes, marks, assembles or assists in the dispatching of products on instruction from a more senior employee;

**"supervisor"** means an employee who is authorised by an employer or manager to discipline other employees, the responsibility to direct them, to adjust their grievances, and to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature;

[Definition of "[supervisor](#)" substituted by r. 2 of GNR.27 of 17 January 2013.]

**"temporary employment service"** means any person who, for reward, procures for, or provides to, a client, other persons-

- (a) who render services to, or perform work for, the client; and
- (b) who are remunerated by the temporary employment service;

**"trainee manager"** means an employee who receives training on an ongoing basis in the duties and responsibilities of a manager;

**"wage"** means the amount of money paid or payable to an employee in respect of ordinary hours of work or, if they are shorter, the hours an employee normally works in a day or week;

**"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;



"workplace" means any place where employees work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 1 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR**

**Table 1**  
MINIMUM WAGES FOR EMPLOYEES  
IN THE WHOLESALE AND RETAIL SECTOR

[Table 1 substituted by GNR.68 of 2006 w.e.f. 1 February 2006, by GNR.182 of 2006, by r. 1 of GNR.8 of 18 January 2010 and by r. 1 of GNR.27 of 17 January 2013.]

| MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |       |          |          |                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|----------|----------|----------------|
| Table 1: Area A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |       |          |          |                |
| Metropolitan and Local Municipality of:<br>Bergrivier, Breederivier, Buffalo City, Cape Agulhas, Cederberg, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane, Drakenstein, Ekurhuleni, Emalahleni, Emfuleni, Ethekwini Metropolitan Uicity, Gamagara, George, Hibiscus Coast, Karoo Hoogland, Kgatelopele, Khara Hais, Knysna, Kungwini, Kouga, Langeberg, Lesedi, Makana, Mangaung, Matzikama, Metsimaholo, Middelburg, Midvaal, Mngeni, Mogale, Mosselbaai, Msunduzi, Mtubatuba, Nama Khoi, Nelson Mandela, Nokeng tsa Taemane, Oudtshoorn, Overstrand, Plettenbergbaai, Potchefstroom, Randfontein, Richtersveld, Saldanha Bay, Sol Plaatjie, Stellenbosch, Swartland, Swellendam, Theewaterskloof, Umdoni, uMhlathuze and Witzenberg. |       |          |          |                |
| 01/02/2013 to 31/01/2014                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |       |          |          |                |
| Job Categories                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | R.p.h | R.p.w.   | R.p.m    | 27 Hours R.p.h |
| Assistant Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 27.37 | 1 231.65 | 5 336.74 | 28.37          |
| Cashier                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 15.96 | 718.20   | 3 111.96 | 16.53          |
| Clerk                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 18.92 | 851.40   | 3 689.12 | 19.60          |
| Displayer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 19.65 | 884.25   | 3 831.46 | 20.35          |
| Gross Vehicle mass: < 3 500 kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 14.41 | 648.45   | 2 809.73 | 14.93          |
| Gross Vehicle mass: 3 501 < 9 000kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 17.43 | 784.35   | 3 398.59 | 18.06          |
| Gross Vehicle mass: 9 0001 < 16 000kg                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 19.03 | 856.35   | 3 710.56 | 19.71          |
| Gross Vehicle mass: 16 001kg >                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 20.91 | 940.95   | 4 077.14 | 21.66          |
| Forklift operator                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 13.85 | 623.25   | 2 700.54 | 14.35          |
| General Assistant/Trolley Collectors                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 12.69 | 571.05   | 2 474.36 | 13.14          |
| Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 30.01 | 1 350.45 | 5 851.50 | 31.08          |
| Merchandiser                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 14.99 | 674.55   | 2 922.83 | 15.53          |
| Security Guard                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 12.90 | 580.50   | 2 515.31 | 13.37          |
| Sales Assistant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 18.92 | 851.40   | 3 689.12 | 19.60          |
| Sales Person                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 18.92 | 851.40   | 3 689.12 | 19.60          |
| Shop Assistant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 14.99 | 674.55   | 2 922.83 | 15.53          |
| Supervisor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 23.27 | 1 047.15 | 4 537.30 | 24.11          |
| Trainee Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 25.14 | 1 131.30 | 4 901.92 | 26.04          |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 2 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR**

**Table 2**  
MINIMUM WAGES FOR EMPLOYEES  
IN THE WHOLESALE AND RETAIL SECTOR

[Table 2 substituted by GNR.68 of 2006 w.e.f. 1 February 2006, by GNR.182 of 2006, by r. 1 of GNR.8 of 18 January 2010 and by r. 1 of GNR.27 of 17 January 2013.]

| MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR |  |
|----------------------------------------------------------------|--|
| Table 2: Area B                                                |  |
| Metropolitan and local municipalities not mentioned in Area A. |  |
| 01/02/2013 to 31/01/2014                                       |  |

| <b>Job Categories</b>                 | <b>R.p.h</b> | <b>R.p.w.</b> | <b>R.p.m</b> | <b>27 Hours<br/>R.p.h.</b> |
|---------------------------------------|--------------|---------------|--------------|----------------------------|
| Assistant Manager                     | 22.74        | 1 023.30      | 4 433.96     | 23.72                      |
| Cashier                               | 13.22        | 594.90        | 2 577.70     | 13.79                      |
| Clerk                                 | 15.81        | 711.45        | 3 082.71     | 16.50                      |
| Displayer                             | 15.25        | 686.25        | 2 973.52     | 15.89                      |
| Gross Vehicle mass: < 3 500 kg        | 11.78        | 530.10        | 2 296.92     | 12.27                      |
| Gross Vehicle mass: 3 501 < 9 000kg   | 14.25        | 641.25        | 2 778.54     | 14.85                      |
| Gross Vehicle mass: 9 0001 < 16 000kg | 17.22        | 774.90        | 3 357.64     | 17.96                      |
| Gross Vehicle mass: 16 001kg >        | 18.97        | 853.65        | 3 698.87     | 19.77                      |
| Forklift operator                     | 11.22        | 504.90        | 2 187.73     | 11.71                      |
| General Assistant/Trolley Collectors  | 11.17        | 502.65        | 2 177.98     | 11.62                      |
| Manager                               | 24.66        | 1 109.70      | 4 808.33     | 25.73                      |
| Merchandiser                          | 12.44        | 559.80        | 2 425.61     | 12.96                      |
| Security Guard                        | 12.61        | 567.45        | 2 458.76     | 13.15                      |
| Sales Assistant                       | 15.81        | 711.45        | 3 082.71     | 16.50                      |
| Sales Person                          | 15.81        | 711.45        | 3 082.71     | 16.50                      |
| Shop Assistant                        | 12.44        | 559.80        | 2 425.61     | 12.96                      |
| Supervisor                            | 19.31        | 868.95        | 3 765.16     | 20.11                      |
| Trainee Manager                       | 20.64        | 928.80        | 4 024.49     | 21.52                      |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 3 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR**

**Table 3**  
MINIMUM WAGES FOR EMPLOYEES  
IN THE WHOLESALE AND RETAIL SECTOR

[Table 3 substituted by GNR.68 of 2006 w.e.f. 1 February 2006 and by GNR.182 of 2006, deleted by r. 1 of GNR.8 of 18 January 2010 and inserted by r. 1 of GNR.27 of 17 January 2013.]

| <b>Table 3: Minimum Wages for year 2 and year 3</b>                                                        |                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Minimum Wages for Years 2 and 3 (with effect from 1 February 2014 and 1 February 2015 respectively)</b> |                                                                                                                                                                                                                                                                                                                                                                 |
| (1)                                                                                                        | The increase for Forklift Operators, General Assistant and Security Officers in area A will be calculated by adding, the available Consumer Price Index for Quintile 3 as published by Statistics South Africa six weeks prior to the wage increase becoming effective, plus 1 % (one per cent) to the previous minimum wage for these categories respectively. |
| (2)                                                                                                        | The increase for all other categories in area A will be calculated by adding the Consumer Price Index for Quintile 3 to the previous minimum wage for these other categories respectively.                                                                                                                                                                      |
| (3)                                                                                                        | The increase for Forklift Operators, General Assistant and Security Officers in area B will be calculated by adding, the available Consumer Price Index for Quintile 3 as published by Statistics South Africa six weeks prior to the wage increase becoming effective, plus 2% (two per cent) to the previous minimum wage for these categories respectively.  |
| (4)                                                                                                        | The increase for all other categories in area B will be calculated by adding the Consumer Price Index for Quintile 3 plus 1% (one per cent) to the previous minimum wage for these other categories respectively.                                                                                                                                               |
| (5)                                                                                                        | If the increases contemplated in paragraphs (1) and (3), result in area B's lowest minimum wage exceeding the lowest minimum wage for Area A, the minimum wages for Area B's lowest categories will be aligned to area A's lowest category minimum wages.                                                                                                       |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 4 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS**

**Table 4**

MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS

[Table 4 deleted by GNR.68 of 2006 w.e.f. 1 February 2006.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 5 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS**

**Table 5**

MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS

[Table 5 deleted by GNR.68 of 2006 w.e.f. 1 February 2006.]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Table 6 MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS**

**Table 6**

MINIMUM WAGES FOR EMPLOYEES IN THE WHOLESALE AND RETAIL SECTOR PREVIOUSLY EXCLUDED FROM THE SCOPE OF THE WAGE DETERMINATION 478, COMMERCIAL DISTRIBUTIVE TRADE, CERTAIN AREAS

[Table 6 deleted by GNR.68 of 2006 w.e.f. 1 February 2006.]

#### **DEMARCATON AREAS FOR TABLES CLASSIFICATION**

"AREA A" means the metropolitan and local municipalities as contained in the table below and it applies to the minimum wage [Tables 1](#) and [4](#).

##### **AREA A**

###### **Metropolitan and Local Municipality**

Bergervier, Breede Valley, Buffalo City, Cape Agulhas, Cederberg, City of Cape Town, City of Johannesburg, City of Tshwane, Drakenstein, Ekurhuleni, Emalahleni, Emfuleni, Ethekwini, Gamagara, George, Hibiscus Coast, Karoo Hoogland, Kgatelopele, Khara Hais, Knysna, Kungwini, Kouga, Langeberg, Lesedi, Makana, Mangaung, Matzikama, Metsimaholo, Middelburg, Midvaal, Mngeni, Mogale, Mosselbaai, Msunduzi, Mtubatuba, Nama Khoi, Nelson Mandela, Nokeng tsa Taemane, Oudtshoorn, Overstrand, Plettenbergbaai, Potchefstroom, Randfontein, Richtersveld, Saldanha Bay, Sol Plaatjie, Stellenbosch, Swartland, Swellendam, Theewaterskloof, Umdoni, uMhlathuze and Witzenberg.

["Area A" corrected by GNR.1787 of 2003.]

"AREA B" means the metropolitan and local municipalities as contained in the table below and it applies to the minimum wage [Tables 2](#) and [5](#).

##### **AREA B**

###### **Metropolitan and Local Municipality**

Abaqulusi, Beaufort West, Bela Bela, Blue Crane Route, Boland District Management Area, Breede River/Winelands, Camdeboo, Central Karoo, Dannhauser, DC43 District, Delmas, Dihlabeng, Dikgatlong, Dipaleseng, District Highlands, Ennambithi, Endumeni, Enthenjeni, Frances Baard, Garden route/Klein Karoo, Garib, Ga-Segonyana, Great Kei, Greater Kokstad, Greater Tzaneen, Hantam, Highlands, Highveld East, Ikwezi, Impendle, Inkwanca, Inxuba, Yethemba, Kamiesberg, Kannaland, Kareeberg, Karoo, Khai-Ma, Kheis, King Sabata dalindyebo, Kopanong, Kou-Kamma, Kwa Sani, Ladysmith, Laingsburg, Lepele Nkupi, Lephalale, Lukhanji, Mafikeng, Mafube, Magareng, Makhado, Malaamulele, Malethswai, Malutia Mandeni, Mantsopa, Maquassi Hills, Masilonyana, Matatiela, Matjhabeng, Merafeng City, Messina, Mier, Mkhambathini, Modimolle, Mofutsanyane, Mogalakwena, Mohokare, Molopo, Mooi Mpofana, Mookgopong, Moghaka, Moretele, Moses Kotane, Nala, Naledi, Namakwa district, Ndlambe, Newcastle, Ngwathe, Nketoana, Phalaborwa, Maluti a Phofung, Phokwane, Phumelela, Polokwane, Prince Albert, Renosterberg, Richmond, Rustenburg, Schweizer-Reneke, Setsolo, Siyancuma, Siyanda District, Siyathemba, Sunday's River Valley, Thabazimbi, Thabo The KwaDukuza, Thembekihle, Thohoyandou, Tokologo, Tsantsabane, Tsolwana, Tswelopele, Ubuntu, Umlazi, Umsobomvu, Umtshezi, uPhongolo, Utrecht, West Rand District, Western District, Westonaria, Xhariep, Zeerust.

["Area B" corrected by GNR.1787 of 2003.]

"AREA C" means the metropolitan and local municipalities as contained in the table below and it applies to the minimum wage [Tables 3](#) and [6](#).

**ANNEXURES**

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.1600 of 19 December 2002: Sectoral Determination 9: Wholesale and Retail Sector, South Africa/ Annexure "A" CERTIFICATE OF SERVICE**

**Annexure "A"**  
**CERTIFICATE OF SERVICE**

**WHOLESALE AND RETAIL  
SECTOR**

**READ THIS FIRST**



**WHAT IS THE  
PURPOSE  
OF THIS FORM?**

This form is proof of employment with an employer.

**WHO FILLS IN  
THIS FORM?**

The employer.

**WHERE DOES THIS  
FORM GO?**

To the employee.

**INSTRUCTIONS**

This form may be issued upon termination of employment.

**NOTE**

In terms of [clause 31 \(g\)](#) the reason for termination of employment must only be given if requested by the employee.

*This is only a model and not a prescribed form.*

Completing a document in another format containing the same information is sufficient compliance with the regulation.

**CERTIFICATE OF SERVICE**

I \_\_\_\_\_  
(name and designation of person)  
of \_\_\_\_\_  
(full name of employer)  
address: \_\_\_\_\_  
in the \_\_\_\_\_ (trade)  
\_\_\_\_\_ declare that \_\_\_\_\_  
(full name of employee)  
(I.D. no.)  
was in employment \_\_\_\_\_  
from \_\_\_\_\_ until \_\_\_\_\_  
as \_\_\_\_\_  
(type of work/occupation)

any other information \_\_\_\_\_

On termination of service this employee was earning: R \_\_\_\_\_  
(amount in words)

|               |           |          |
|---------------|-----------|----------|
| PER HOUR      | PER DAY   | PER WEEK |
| PER FORTNIGHT | PER MONTH | PER YEAR |

Employer's signature \_\_\_\_\_ Date \_\_\_\_\_

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)**

**GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa  
(Government Gazette No. 27992)**

| as amended by |                    |                   |
|---------------|--------------------|-------------------|
| Notice        | Government Gazette | Date              |
| R.844         | 29142              | 18 August 2006    |
| R.874         | 29188              | 1 September 2006  |
| R.899         | 29206              | 15 September 2006 |
| R.96          | 29587              | 9 February 2007   |

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of Section 56 (3) (b) of the Basic Conditions of Employment Act, 1997, effect corrections to the Sectoral Determination 6: Private Security Sector in South Africa, which appears in the schedule hereto and fix the 2<sup>nd</sup> Monday after publication as the date from which the provisions of the said Sectoral Determination shall be binding.

(Signed)

**M M S MDLADLANA, MP**  
**MINISTER OF LABOUR**

## **SECTORAL DETERMINATION: PRIVATE SECURITY SECTOR**

### ARRANGEMENT OF SECTIONS

|                     |                                                           |
|---------------------|-----------------------------------------------------------|
| <u>1.</u>           | Area and scope of application                             |
| <u>2.</u>           | Definitions                                               |
| <u>3.</u>           | Remuneration                                              |
| <u>4.</u>           | Payment of remuneration                                   |
| <u>5.</u>           | Ordinary hours of work, overtime and payment for overtime |
| <u>6.</u>           | Annual bonus                                              |
| <u>7.</u>           | Public holiday                                            |
| <u>8.</u>           | Compensation for work on a Sunday                         |
| <u>9.</u>           | Annual leave                                              |
| <u>10.</u>          | Sick-leave                                                |
| <u>10A.</u>         | Proof of incapacity                                       |
| <u>11.</u>          | Family responsibility leave                               |
| <u>12.</u>          | Maternity leave                                           |
| <u>12A.</u>         | Maternity benefits                                        |
| <u>13.</u>          | Study leave                                               |
| <u>14.</u>          | Written particulars of employment                         |
| <u>15.</u>          | Keeping of records                                        |
| <u>16.</u>          | Presumption as to who is an employee                      |
| <u>17.</u>          | Weapons, uniforms, overalls and protective clothing       |
| <u>18.</u>          | Prohibition of employment of children                     |
| <u>19.</u>          | Prohibition of forced labour                              |
| <u>20.</u>          | Termination of contract of employment                     |
| <u>21.</u>          | Severance pay                                             |
| <u>22.</u>          | Certificate of service                                    |
| <u>23.</u>          | Attendance register                                       |
| <u>24.</u>          | Private Security Sector Provident Fund                    |
| <u>25.</u>          | Employers to keep a copy of this determination            |
| <u>26.</u>          | Variation by Minister                                     |
| <u>27.</u>          | Service benefits                                          |
| <u>Annexure "A"</u> | Certificate of Service                                    |
| <u>Annexure "B"</u> | Attendance Register                                       |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ 1. Area and scope of application.-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in subclause (2), and to all employees in that sector, except those employers and employees**

**1. Area and scope of application.**-(1) This determination shall apply in the Republic of South Africa to every employer in the Private Security Sector as defined in subclause (2), and to all employees in that sector, except those employers and employees referred to in subclause (3).

(2) **"Private Security Sector"** means the sector in which employers and employees are associated for the purpose of guarding or protecting fixed property, premises, goods, persons or employees, including monitoring and responding to alarms at premises which are guarded by persons or by electronic means.

(3) The provisions of this determination shall not apply-

- (a) to a manager as defined in subclause 2 (36); or
- (b) to any employer or employee who is subject an agreement of a bargaining council in terms the Labour Relations Act, 1995.

(4) For the purposes of determining the wage rate applicable to an employee, the area where the employee performs the employee's duties shall be the area contemplated in subclause (1), irrespective of whether or not the employer has an establishment in that area or not.

(5) Subject to the provisions of the National Keypoint Act, 1980, this determination shall also apply to employers and employees who provide security services at National Key Points.

**2. Definitions.**-For the purposes of this determination, unless the context otherwise indicates, any expression used therein which is defined in the Basic Conditions of Employment Act, No. 75 of 1997, has the same meaning as in that Act and an employee shall be deemed to be in that class in which the employee is wholly or mainly engaged.

- (1) **"Act"** means the Basic Conditions of Employment Act, 1997 (Act [No. 75 of 1997](#));
- (2) **"actuary"** means the actuary to the fund appointed by the board in terms of the rules;
- (3) **"administrator"** means an approved administrator of the fund in terms of section 13B of the Pension Funds Act, as amended from time to time and who has been appointed by the trustees of the Fund in terms of the Pension Funds Act and the Fund Rules to administer the Fund;
- (4) **"area"** includes any number of areas, whether or not closest;
- (5) **"artisan"** means an employee who has completed or is deemed to have completed a contract of apprenticeship in a trade designated or deemed to have been designated in terms of the Manpower Training Act, 1981, or who holds a certificate issued or deemed to have been issued to the employee by the Registrar of Manpower Training and conferring Artisan status on the employee in terms of that Act, and any other employee engaged in work normally performed by an Artisan except where specifically otherwise provided in this determination;
- (6) **"basic condition of employment"** means a provision of the Basic Conditions of Employment Act, [No. 75 of 1997](#).
- (7) **"benefits"** shall mean the death, disability and funeral benefits provided to members of the Fund in terms of the Fund Rules;
- (8) **"board"** means the board of trustees of the fund appointed or elected in accordance with its rules and the Pension Funds Act;
- (9) **"cargo security officer"** means an employee who guards cargo on a ship;
- (10) **"casual employee"** means an employee without a fixed contract of employment who works not more than 24 hours in any week.
- (11) **"child"** means a person who is under 18 years of age.
- (12) **"clerical assistant"** means an employee who is engaged in any one or more of the following duties:
  - (a) Adding or subtracting, including making use of a machine;
  - (b) checking attendance registers or entering particulars in connection with employees who are absent or present or the time spent by employees on different tasks at establishments or places of employment;
  - (c) filing documents according to written instructions or a list, in any order;
  - (d) interpreting or translating languages;
  - (e) issuing passes or preparing certificates of service;
  - (f) issuing time cards;
  - (g) preparing wage or time cards;
  - (h) recording particulars of annual or sick leave;
  - (i) recording particulars in registers otherwise than by means of a typewriter or computer;
  - (j) recording the engagement, dismissal or resignation of employees, including any necessary entries in an employee's file or documents;
  - (k) transferring names and addresses from compiled documents to envelopes, labels or circulars otherwise than by means of a typewriter or computer;
- (12) **"clerk"** means an employee who is engaged in writing, typing or filing or in any other form of clerical work and includes a cashier, Storeman and a telephone switch-board operator, and who may make up money into specified amounts and place such money in envelopes or other containers, but does not include any other class of employee elsewhere defined in this clause, notwithstanding the fact that clerical work may form part of such employee's work;

(Editorial Note: Numbering as per original *Government Gazette*.)

(13) **"contribution"** means the combined amount of the employer and employee contribution as per 24.2 (1) payable monthly to the fund by each employer in the sector in respect of each of his/her employees whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund;

**"employee contribution"** means the amount of the employee's contribution as per 24.2 (1) payable monthly to the fund by each employee whose conditions of employment are governed by the Sectoral Determination 6: Private Security Sector, South Africa who are members of the fund;

(14) **"controller (stock)"** means an employee who controls or checks the issuing or receiving of uniforms, overalls, protective clothing, batons, handcuffs, flashlights, firearms, ammunition or other equipment and who may keep the necessary records;

(15) **"Control Centre Operator"** and **"Communication Centre Operator"** means a security officer who is utilised in an administrative capacity in a control centre or communication centre and who may be called upon to perform any or all of the duties of a clerk;

(16) **"day"** means a period of 24 consecutive hours reckoned from the time such employee usually commences work and daily has a corresponding meaning;

(17) **"driver"** means an employee, other than a Security officer, grade A, B or C, who drives a motor vehicle, and for the purposes of this definition the expression **"drives a motor vehicle"** includes all periods during which an employee drives, all time spent on work connected with the vehicle or the load, and all periods during which the employee is obliged to remain at the post in readiness to drive;

(18) **"emergency work"** means work that is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

(19) **"employee"** means any person who works for another person or who in any manner assists in carrying on or conducting the business of an employer; and who receives, or is entitled to receive, any remuneration; and **"employed"** and **"employment"** have a corresponding meaning, and which also includes-

- (a) in-house security officers, performing the duties as defined in subclauses 2 (41) to 2 (46), who do not fall under the jurisdiction of any other wage determination, sectoral determination or bargaining council agreement; and
- (b) those persons who qualify to be deemed as employees in terms of [clause 16](#) of this determination;

(20) **"employer"** means any person (including created entities, corporate or un-incorporated) other than a person who is exempted in terms of [clause 1 \(2\)](#) of the determination, who employs or provides work for any person in the Private Security Sector and remunerates him or permits any person in any manner whatsoever to assist him in the carrying on or conducting of his business and **"employ"** and **"employment"** shall have corresponding meanings;

(21) **"establishment"** means the premises from which an employer conducts his business;

(22) **"experience"** means, in relation to-

- (a) a clerk, the total period or periods of employment which an employee has had as a clerk in any trade or industry or in the service of a local authority or the State;
- (b) a clerical assistant, the total period or periods of employment which an employee has had as a clerical assistant in any trade or industry or in the service of a local authority or the State;

(23) **"Fund"** means the Private Security Sector Provident Fund established in terms of Government Notice 306 of 30 March 2001, which is governed by the Fund Rules and the Pension Funds Act;

(24) **"Fund commencement date"** means 1 November 2002;

(25) **"Fund Rules"** means the rules of the Fund, as amended by the trustees of the Fund from time to time and registered with the Registrar of Pension Funds in terms of the Pension Funds Act;

(26) **"Fund Salary"** means the salary used for the calculation of employer and employee contributions to the fund and is calculated as follows:

$$A \times B \times 4.333$$

Where

A = employee's ordinary hourly equivalent rate of pay

B = the maximum number of ordinary hours an employee is permitted to work at the ordinary rate of pay as per Sectoral Determination 6 of 2001 or such lesser number of ordinary hours the employee works as may be agreed in writing between the employee and the employer or any reduced maximum ordinary hours an employee may work that may be legislated in terms of a Sectoral Determination or the Basic Conditions of Employment Act whichever is applicable;

(27) **"general worker"** means an employee who is engaged in any one or more of the following duties:

- (a) Affixing postage stamps to letters, parcels or other articles;
- (b) affixing rubber stamps or serial numbers where discretion is not required;
- (c) assisting an Artisan by holding articles or tools or working with the artisan without making independent use of any tools;
- (d) assisting on vehicles, otherwise than driving, guarding or repairing such vehicles, carrying, lifting, storing, moving, loading, unloading, opening or closing goods or parcels;
- (e) cleaning or washing premises, doors, windows, equipment, tools, plant, machinery, furniture, vehicles, containers or other articles, and includes the polishing of floors, furniture or vehicles or the brushing of mats or the cleaning of mats by means of a machine;
- (f) cooking rations or making tea or similar beverages for employees, including serving them, or making tea or other refreshments for the employer or the employer's guests, including the serving thereof;
- (g) delivering or conveying messages, letters, goods or parcels on foot, or by any means excluding motor vehicles;
- (h) feeding or tending animals;
- (i) filling fuel tanks or filling or draining oil sumps;
- (j) gardening;
- (k) oiling or greasing vehicles, plant or machinery;



- (l) opening or closing doors or windows;
  - (m) pushing or pulling vehicles otherwise than by means of mechanical equipment;
  - (n) removing refuse or ashes;
  - (o) removing, replacing, changing wheels, tyres or tubes, or repairing or pumping tyres or tubes;
  - (p) removing, topping up or replacing batteries;
  - (q) replacing towels, soap or toilet paper;
  - (r) stamping or stencilling containers or parcels where discretion is not required;
  - (s) washing or ironing overalls, uniforms or protective clothing;
  - (t) whitewashing, cleaning or disinfecting kennels, stables, outbuildings or toilets;
- (28) **"goods"** means any movable property, but not limited to, money and other valuables belonging to or in the custody of the employer, that has to be guarded, protected or transported under guard;
- (29) **"gross vehicle mass"**, in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer or, in the absence of such specification, as determined by the registering authority;
- (30) **"handyman"** means an employee, other than an apprentice or a trainee, who is engaged in making minor repairs or adjustments to machinery or equipment, and who may also effect minor repairs or renovations to buildings, but who does not do any work normally performed by an Artisan;
- (31) **"heavy motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 9,000 kg;
- (32) **"hourly wage"** means an employee's hourly equivalent wage in respect of ordinary hours worked, as set out in [clause 3 \(1\) \(b\)](#), and in the case of a ship Security officer and a cargo Security officer it means the wage referred to in [clause 3 \(1\) \(d\)](#);
- (33) **"law"** includes the common law;
- (34) **"light motor vehicle"** means a motor vehicle the gross vehicle mass of which does not exceed 3,500 kg;
- (35) **"local authority"** means any borough council, city council, municipal council, village management board, divisional council or any similar institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961, or in any other parliamentary legislation;
- (36) **"manager"** means an employee who is charged by an employer with the overall supervision over, responsibility for and direction of the activities of an establishment or part of an establishment and the employees engaged therein, but does not include any employee in the same establishment who relieves or acts for a manager during the manager's absence;
- (37) **"medical practitioner"** means a person entitled to practice as a medical practitioner in terms of [section 17](#) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act [No. 50 of 1974](#));
- (38) **"member"** means an employee who, having been admitted to membership of the fund in accordance with the rules of the fund, has not ceased to be a member of the fund in terms of the rules;
- (39) **"midwife"** means a person registered or enrolled to practice as a midwife in terms of [section 16](#) of the Nursing Act, 1978 (Act [No. 50 of 1978](#));
- (40) **"medium motor vehicle"** means a motor vehicle the gross vehicle mass of which exceeds 3,500 kg but not 9,000 kg;
- (41) **"motor vehicle"** means a self-propelled vehicle used for the transportation of goods, persons or dogs, and includes a motor cycle and a motorised three-wheeler;
- (42) **"night work"** means work which is performed between the hours of 18:00 on one day and 06:00 the next day;
- (43) **"ordinary hours of work"** means the hours of work prescribed in [clause 5 \(1\)](#), but if by agreement between an employer and employee the latter works a lesser number of ordinary hours, it means such shorter hours and excludes any hours paid at a premium for work performed on a Sunday or Public Holiday or in respect of overtime;
- (44) **"ordinary salary"** means the employee's salary excluding any premium for work on a Sunday or public holiday or in respect of overtime payable to an employee in terms of [clause 3 \(1\)](#) in respect of ordinary hours worked;
- (45) **"overtime"** means that portion of any period worked by an employee in any week or on any day which is longer than the maximum permissible weekly or daily ordinary hours of work, as the case may be.
- (46) **"Pension Funds Act"** means the Pension Funds Act [No. 24 of 1956](#), as amended;
- (47) **"premises"** means any land and any building or structure above or below the surface of any land and includes any vehicle, aircraft or vessel;
- (48) **"public holiday"** means any day that is a public holidays in terms of the Public Holidays Act, 1994 (Act [No. 36 of 1994](#));
- (49) **"qualified"**, in relation to an employee referred to in subclauses (9) and (10), means that the experience of an employee in the employee's class entitles the employee to the highest wage rate prescribed for that class of employee, and conversely, **"unqualified"** means that experience in the employee's class does not entitle the employee to such highest wage rate;
- (50) **"remuneration"** means any payment in money or kind, or both in money and kind, made or owing to any person in return for that person working for any other person, including the State, and **"remunerate"** has a corresponding meaning;
- (51) **"retirement fund act"** means the Pension Fund Act, 1956 (Act [No. 24 of 1956](#)), and the regulations thereunder;

- (52) **"rules"** means the rules of the fund agreed by the board in accordance with the Retirement Fund Act;
- (53) **"security officer"** means a Security officer, grade A, B, C, D or E;
- (54) **"security officer, grade A"** means an employee who performs any one or more of the following duties:
- (a) Advising or reporting on any matter affecting guarding or protection services;
  - (b) assisting in the screening of candidates for employment;
  - (c) assuming responsibility for staff training;
  - (d) drawing money or cheques or taking possession of negotiable documents;
  - (e) drawing money at banks or similar institutions;
  - (f) guarding or protecting goods;
  - (g) supervising subordinate staff;
  - (h) who may drive a motor vehicle in the performance of any or all of the employee's duties; and
  - (i) who may be called upon to perform any or all of the duties of a security officer, grade B.
- (55) **"security officer, grade B"** means an employee who performs any one or more of the following duties, namely, supervising, controlling, instructing or training security officers, grade C, D or E or general workers and reporting thereon to an employer or any other specified person, and who may-
- (a) drive a motor vehicle in the performance of any or all of the employee's duties;
  - (b) be called upon to perform any or all of the duties of a security officer, grade C;
- (56) **"security officer, grade C"** means an employee who performs any one or more of the following duties:
- (a) supervising or controlling Security officers, grade D or E;
  - (b) driving a motor vehicle in the course of supervising or controlling Security officers grade D or E;
  - (c) driving a motor vehicle for the purpose of transporting Security officers; and
  - (d) who may be called upon to perform any or all of the duties of a security officer, grade D.
- (57) **"security officer, grade D"** means an employee who performs any one or more of the following duties:
- (a) controlling or reporting on the movement of persons or vehicles through checkpoints or gates;
  - (b) searching persons and, if necessary, restraining them,
  - (c) supervising or controlling Security officers, grade E;
  - (d) searching goods or vehicles; and
  - (e) who may be required to perform any or all of the duties of a security officer, grade E.
- (58) **"security officer, grade E"** means an employee, other than a Security officer, grade D, who performs any one or more of the following duties:
- (a) Guarding, protecting or patrolling premises or goods;
  - (b) Handling or controlling dogs in the performance of any or all of the duties referred to in (a);
- (59) **"spare and reliever"** means an employee:
- (a) who reports for duty at a specified place and time, and;
  - (b) who must remain at the specified place for the duration of that shift, or who is required to replace any other employee who may be on scheduled time-off, annual leave or absent from duty, or who is required to perform duties at any place designated by the employer;
- (60) **"ship security officer"** means an employee who guards the entrance to or exit from a ship;
- (61) **"short time"** means a temporary reduction in the number of ordinary hours of work owing to a slackness of business in the trade, a breakdown of plant, machinery or equipment, or a breakdown or threatened breakdown of buildings;
- (62) **"store person"** means an employee, other than a controller (stock), who is in charge of incoming stock and who is responsible for receiving, storing, packing or unpacking stock in or for issuing stock from a store, warehouse or open stockyard;
- (63) **"Sunday work"** means any work performed where the relevant shift commences on a Sunday and where at least half of that shift is performed on that Sunday;
- (64) **"trustee"** or **"trustees"** means a trustee or the trustees or their alternates elected or appointed in terms of the Fund Rules;
- (65) **"week"** in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls.
- (66) **"Armed response officer"** means a security officer who in case of an emergency or alarm activation may respond to a call from a client of a private security company normally at the premises or property of the client.

[Clause 2 (66) inserted by GNR.96 of 2007.]

### 3. Remuneration

#### (1) *Minimum wages:*

- (a) The ordinary salary which an employer shall pay employees shall be as specified in subclauses (1) (b), (1) (c) and (1) (d).
- (i) The hourly equivalents reflected in the table hereunder shall be used solely for the calculation of time worked in excess of the ordinary hours or for the deduction of monies from the ordinary salary for short time as defined or for any unauthorised absenteeism or any reduced ordinary hours of work as may be agreed between the employer and the employee in terms of [clause 2 \(43\)](#).
- (b) Subject to (a) (1) above, an employer shall pay to each member of the under mentioned classes of employees, other than casual employees, cargo security officers or ship security officers, the minimum wages specified hereunder:

| MONTHLY SALARY RATES: YEAR 1         |                |                   |                |                   |                |                   |                |                   |                |                   |                                                                                                                   |
|--------------------------------------|----------------|-------------------|----------------|-------------------|----------------|-------------------|----------------|-------------------|----------------|-------------------|-------------------------------------------------------------------------------------------------------------------|
| In the Magisterial Districts of      | AREA 1         |                   | AREA 2         |                   | AREA 3         |                   | AREA 4         |                   | AREA 5         |                   | Maximum permissible working hours per week for each respective category of subject to averaging of working hours. |
|                                      | Monthly salary | Hourly equivalent | Monthly salary | Hourly equivalent | Monthly salary | Hourly equivalent | Monthly salary | Hourly equivalent | Monthly salary | Hourly equivalent |                                                                                                                   |
|                                      | R3,132         | R16,06            | R2,850         | R14,62            | R2,736         | R14,03            | R2,409         | R12,35            | R2,168         | R11,12            | 45                                                                                                                |
| Artisan                              |                |                   |                |                   |                |                   |                |                   |                |                   |                                                                                                                   |
| Clerical Assistant                   |                |                   |                |                   |                |                   |                |                   |                |                   |                                                                                                                   |
| During the first year of experience  | R1,561         | R8,01             | R1,431         | R7,34             | R1,294         | R6,63             | R1,218         | R6,25             | R1,095         | R5,62             | 45                                                                                                                |
| During the second year of experience | R1,610         | R8,26             | R1,468         | R7,53             | R1,331         | R6,82             | R1,250         | R6,41             | R1,125         | R5,77             |                                                                                                                   |
| Thereafter                           | R1,655         | R8,49             | R1,521         | R7,80             | R1,383         | R7,09             | R1,287         | R6,60             | R1,158         | R5,94             |                                                                                                                   |
| Clerk                                |                |                   |                |                   |                |                   |                |                   |                |                   |                                                                                                                   |
| During the first year of experience  | R1,704         | R8,74             | R1,566         | R8,03             | R1,436         | R7,36             | R1,327         | R6,81             | R1,195         | R6,13             | 45                                                                                                                |
| During the second year of experience | R1,899         | R9,74             | R1,785         | R9,15             | R1,600         | R8,20             | R1,469         | R7,54             | R1,322         | R6,78             |                                                                                                                   |
| During the third year of experience  | R2,075         | R10,64            | R1,900         | R9,74             | R1,778         | R9,12             | R1,606         | R8,24             | R1,445         | R7,41             |                                                                                                                   |



|                                           |        |        |        |                                          |        |        |        |        |        |        |    |
|-------------------------------------------|--------|--------|--------|------------------------------------------|--------|--------|--------|--------|--------|--------|----|
| During the first year of experience       | R1,674 | R8,59  | R1,535 | R7,87                                    | R1,388 | R7,12  | R1,306 | R6,70  | R1,241 | R6,36  | 45 |
| During the second year of experience      | R1,723 | R8,84  | R1,572 | R8,06                                    | R1,425 | R7,31  | R1,338 | R6,86  | R1,271 | R6,52  |    |
| Thereafter                                | R1,768 | R9,07  | R1,625 | R8,33                                    | R1,477 | R7,57  | R1,375 | R7,05  | R1,307 | R6,70  |    |
| Clerk                                     |        |        |        |                                          |        |        |        |        |        |        | 45 |
| During the first year of experience       | R1,828 | R9,37  | R1,565 | R8,03                                    | R1,540 | R7,90  | R1,423 | R7,30  | R1,352 | R6,93  |    |
| During the second year of experience      | R2,023 | R10,37 | R1,784 | R9,15                                    | R1,704 | R8,74  | R1,565 | R8,03  | R1,487 | R7,63  |    |
| During the third year of experience       | R2,199 | R11,27 | R1,899 | R9,74                                    | R1,882 | R9,65  | R1,702 | R8,73  | R1,617 | R8,29  |    |
| Thereafter                                | R2,390 | R12,25 | R2,070 | R10,62                                   | R2,041 | R10,47 | R1,838 | R9,43  | R1,746 | R8,96  |    |
| Control or Communication Centre Operator  |        |        |        | As for relevant Security Officer grading |        |        |        |        |        |        | 48 |
| Controller                                |        |        |        | As for a Clerical Assistant              |        |        |        |        |        |        | 45 |
| Driver of a-                              |        |        |        |                                          |        |        |        |        |        |        | 45 |
| Light motor vehicle                       | R1,761 | R9,03  | R1,633 | R8,38                                    | R1,481 | R7,60  | R1,369 | R7,02  | R1,300 | R6,67  |    |
| Medium motor vehicle                      | R1,980 | R10,15 | R1,828 | R9,38                                    | R1,678 | R8,61  | R1,537 | R7,88  | R1,460 | R7,49  |    |
| Heavy motor vehicle                       | R2,114 | R10,34 | R1,955 | R10,03                                   | R1,804 | R9,25  | R1,532 | R8,37  | R1,550 | R7,95  |    |
| General Worker                            |        |        |        |                                          |        |        |        |        |        |        | 45 |
| During the first six months of experience |        |        |        |                                          |        |        |        |        | R0     |        |    |
| With the same employer                    | R1,371 | R7,03  | R1,258 | R6,45                                    | R1,128 | R5,79  | R1,073 | R5,50  | R1,019 | R5,23  |    |
| Thereafter                                | R1,449 | R7,43  | R1,340 | R6,87                                    | R1,204 | R6,18  | R1,145 | R5,37  | R1,087 | R5,58  |    |
| Handyman                                  | R1,951 | R10,00 | R1,807 | R9,27                                    | R1,663 | R8,53  | R1,520 | R7,79  | R1,444 | R7,40  | 45 |
| Security Officer                          |        |        |        |                                          |        |        |        |        |        |        | 48 |
| Grade A                                   | R2,991 | R14,38 | R2,732 | R13,13                                   | R2,481 | R11,93 | R2,308 | R11,10 | R2,198 | R10,54 |    |
| Grade B                                   | R2,544 | R12,23 | R2,318 | R11,14                                   | R2,092 | R10,06 | R1,944 | R9,35  | R1,847 | R8,88  |    |
| Grade C                                   | R2,020 | R9,71  | R1,361 | R8,95                                    | R1,680 | R8,08  | R1,578 | R7,59  | R1,499 | R7,21  |    |
| Grade D                                   | R1,851 | R8,90  | R1,692 | R8,13                                    | R1,539 | R7,40  | R1,436 | R6,90  | R1,364 | R6,56  |    |
| Grade E                                   | R1,758 | R8,45  | R1,613 | R7,76                                    | R1,458 | R7,01  | R1,372 | R6,59  | R1,308 | R6,27  |    |
| Employees not elsewhere specified         | R1,693 | R8,68  | R1,556 | R7,98                                    | R1,409 | R7,21  | R1,335 | R6,85  | R1,268 | R6,51  | 45 |

[illegible]

|                                                                  |                                          |        |        |        |        |        |        |        |    |
|------------------------------------------------------------------|------------------------------------------|--------|--------|--------|--------|--------|--------|--------|----|
| During the first year of experience                              | R1,795                                   | R9,21  | R1,646 | R8,44  | R1,489 | R7,63  | R1,407 | R7,18  | 45 |
| During the second year of experience                             | R1,844                                   | R9,45  | R1,683 | R8,63  | R1,526 | R7,82  | R1,433 | R7,35  |    |
| Thereafter                                                       | R1,889                                   | R9,69  | R1,736 | R8,90  | R1,578 | R8,09  | R1,470 | R7,54  |    |
| Clerk                                                            |                                          |        |        |        |        |        |        |        | 45 |
| During the first year of experience                              | R1,961                                   | R10,05 | R1,564 | R8,02  | R1,652 | R8,47  | R1,526 | R7,83  |    |
| During the second year of experience                             | R2,156                                   | R11,05 | R1,783 | R9,14  | R1,816 | R9,31  | R1,688 | R8,55  |    |
| During the third year of experience                              | R2,332                                   | R11,96 | R1,898 | R9,73  | R1,994 | R10,22 | R1,805 | R9,26  |    |
| Thereafter                                                       | R2,523                                   | R12,94 | R2,069 | R10,61 | R2,153 | R11,04 | R1,941 | R9,95  |    |
| Control or Communication Centre Operator                         | As for relevant Security Officer grading |        |        |        |        |        |        |        | 48 |
| Controller                                                       | As for a Clerical Assistant              |        |        |        |        |        |        |        | 45 |
| Driver of a-                                                     |                                          |        |        |        |        |        |        |        | 45 |
| Light motor vehicle                                              | R1,889                                   | R9,59  | R1,751 | R8,98  | R1,588 | R8,15  | R1,468 | R7,53  |    |
| Medium motor vehicle                                             | R2,108                                   | R10,81 | R1,946 | R9,98  | R1,785 | R9,16  | R1,636 | R8,39  |    |
| Heavy motor vehicle                                              | R2,242                                   | R11,50 | R2,073 | R10,63 | R1,911 | R9,80  | R1,731 | R8,88  |    |
| General Worker                                                   |                                          |        |        |        |        |        |        |        | 45 |
| During the first six months of experience with the same employer | R1,470                                   | R7,54  | R1,349 | R6,92  | R1,210 | R6,20  | R1,155 | R5,90  |    |
| Thereafter                                                       | R1,548                                   | R7,94  | R1,431 | R7,34  | R1,286 | R6,59  | R1,223 | R6,27  |    |
| Handyman                                                         | R2,092                                   | R10,73 | R1,938 | R9,94  | R1,784 | R9,15  | R1,630 | R6,36  | 45 |
| Security Officer                                                 |                                          |        |        |        |        |        |        |        | 48 |
| Grade A                                                          | R3,118                                   | R14,99 | R2,849 | R13,70 | R2,587 | R12,44 | R2,408 | R11,57 |    |
| Grade B                                                          | R2,671                                   | R12,84 | R2,435 | R11,71 | R2,198 | R10,57 | R2,044 | R9,83  |    |
| Grade C                                                          | R2,151                                   | R10,34 | R1,982 | R9,53  | R1,789 | R8,60  | R1,680 | R8,08  |    |
| Grade D                                                          | R1,379                                   | R9,51  | R1,809 | R8,70  | R1,645 | R7,91  | R1,535 | R7,38  |    |
| Grade E                                                          | R1,885                                   | R9,06  | R1,730 | R8,32  | R1,564 | R7,52  | R1,471 | R7,08  |    |
| Employees not elsewhere specified                                | R1,816                                   | R9,31  | R1,669 | R8,56  | R1,507 | R7,73  | R1,432 | R7,34  | 45 |

[Wage Tables amended by GNR.844 of 18 August 2006, GNR.874 of 2006 and by GNR.899 of 2006.]

- (c) **Casual employees:** An employer shall pay a casual employee in respect of each hour or part of an hour (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday not less than the hourly wage prescribed in subclause (1) (b) for an ordinary employee who in the same area performs the same class of work as the casual employee is required to do, plus 15 percent, or not less than the hourly wage or hourly equivalent of the wage actually being paid to the ordinary employee, whichever is the greater amount:

Provided that-

- (i) for the purposes of this paragraph the expression "**the ordinary employee**" means the employee who performs the particular class of work in the employer's full-time employ and who is being paid the lowest wage for that class of work;
- (ii) where the employer requires the casual employee-
  - (aa) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "**hourly wage**" shall mean the hourly wage prescribed for a qualified employee of that class;
  - (ab) to work for a period of less than four hours on any day, the employee shall be deemed to have worked four hours and remunerated accordingly.
- (d) **Ship security officers and cargo security officers:** A ship security officer and a cargo security officer shall be paid at least R4.83 for each hour or part of an hour of employment.
- (e) **Armed response officers:** A security officer who is employed to conduct duties as an armed response officer shall be remunerated at not less than the level of a Grade C security officer.

[Sub-clause (e) inserted by GNR.96 of 2007.]

(2) **Basis of contract:** For the purposes of this clause, the contract of employment of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be on a weekly basis.

(3) **Differential wage:** An employer who requires or permits a member of one class of employee to perform for longer than one hour on any day, either in addition to the employee's own work or in substitution therefore, work of another class for which-

- (a) a wage higher than that of the employee's own class is prescribed in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated at the higher rate; or
- (b) a rising scale of wages terminating in a wage higher than that of the employee's own class, as prescribed in subclause (1), shall pay to such employee in respect of that day not less than the daily wage calculated on the notch in the rising scale immediately above the wage which the employee was receiving for the employee's ordinary work: Provided that-
  - (i) this subclause shall not apply where the difference between the classes in terms of subclause (1) is based on experience;
  - (ii) unless expressly otherwise provided in a written contract between the employer and employee, nothing in this determination shall be so construed as to preclude an employer from requiring an employee to perform work of another class for which class the same or a lower wage is prescribed for such an employee.

(4) **Calculation of salary:** The ordinary salary, overtime and Sunday time of an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be calculated on a monthly basis and an employee shall be paid accordingly.

- (a) The monthly salary of an employee shall be as stipulated in the relevant column of the table in subclause 3 (1) (b).
- (b) Any hours in excess of the maximum daily or weekly ordinary hours or, if applicable, average weekly ordinary hours, as well as any hours in respect of work performed on a Sunday or public holiday, shall be calculated by using the "hourly equivalent" figure in the relevant column of the table in subclause 3 (1) (b), applying the relevant premium percentage.

(5) **Night shift allowance:** If at least half of the shift ordinarily falls between the hours of 18:00 on one day and 06:00 the next day that employee will be entitled to and shall receive an allowance in respect of each night shift worked:

- (a) the night shift allowance payable in terms of this sub-clause shall be R2.50 per shift; and
- (b) the night shift allowance payable in terms of this sub-clause as from 1 September 2007 shall be R3.00 per shift.

[Sub-clause 3 (5) replaced by GNR.96 of 2007.]

(6) **Firearm Use:** An employer shall pay an employee who is required to carry a firearm issued by the employer for the performance of an employee's duties at a rate of not less than that specified for a grade D security officer for the time the employee was required to carry the firearm or at the rate which an employee normally receives, whichever is the highest.

**(7) Transfer allowance-**

- (a) An employer shall pay a security officer a transfer allowance of not less than R100.00 (one hundred rand) per month under the following circumstances-
  - (i) if the transfer is permanent, the employee shall be entitled to the transfer allowance for a period of not more than 12 (twelve) months after the date of transfer; and
  - (ii) if the transfer is for more than 6 (six) months but less than 12 (twelve) months, the security officer shall be entitled to receive the transfer allowance for the equivalent number of months of the transfer.
- (b) All transfer allowance payments are subject to the following conditions:
  - (i) the employer requires the security officer to transfer on a permanent basis or for a period exceeding six months; and
  - (ii) the security officer is transferred to a site or other such workplace, which is in excess of 250 kilometers away from the deployment of the security officer at the time of the transfer:
- (c) This sub-clause does not apply in the event of-
  - (i) a transfer arising from an offer of alternative employment by the employer during a consultation process conducted in terms of [Section 189](#) of the Labour Relations Act ([Act 66 of 1995](#)); or
  - (ii) that the transfer of an employee is as a result of a request for such transfer by the employee.

[Sub-clause 3 (7) inserted by GNR.96 of 2007.]

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**4. Payment of remuneration.-(1)** For employees, other than casual employees, ship security officers and cargo security officers, an employer must pay to an employee any remuneration-



- (a) in South African currency;
- (b) daily, weekly, fortnightly or monthly; and
- (c) in cash, by cheque or by direct deposit in an account designated by the employee.

(2) Any remuneration paid by cheque or by cash must be given to each employee-

- (a) during the ordinary hours of work, or
- (b) within 15 minutes thereafter on the usual pay-day of the establishment for such employee, or
- (c) at such time as may have been agreed upon between such employee and the employer, which time shall fall during the ordinary hours of work of the establishment, but not later than 48 hours after the usual pay-day, or
- (d) within 7 days of termination of employment.

(3) Such amount shall be contained in a sealed envelope.

(4) An employer must give an employee a payslip on which the following information is included in writing on each day the employee is paid:

- (a) the employer's name and address;
- (b) the employee's name or his number on the payroll, the employee's job category and grade;
- (c) the period for which payment is made;
- (d) the amount and purpose of any deductions made from the remuneration;
- (e) the nett amount paid to the employee;
- (f) the employee's hourly rate of pay and overtime rate;
- (g) the number of ordinary hours worked by the employee;
- (h) the number of overtime hours worked by the employee;
- (i) the number of hours worked by the employee on a Sunday during that period;
- (j) the number of hours worked by an employee on a public holiday during that period; and
- (k) the details of any other remuneration arising out of the employee's employment contract or in terms of an agreement to average working time in terms of the BCEA No. 75 of 1997;

(5) The written information required in terms of subclause (4) must be given to each employee at the workplace or at a place agreed to by the employee and such payslip on which these particulars are recorded or such statement shall become the property of the employee: Provided that-

- (a) the particulars prescribed above may be recorded on a payslip or such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
- (b) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.

(6) **Casual employees, ship security officers and cargo security officers:** An employer shall pay a casual employee, a ship security officer or a cargo security officer the remuneration due to the employee in cash on completion of each day's work: Provided that the employer may, at the request of such employee, pay the employee the remuneration at the end of that week or month, by mutual agreement.

(7) **Premiums:** Subject to any other law, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee and no employer shall require an employee to-

- (a) repay any portion of the remuneration which was due to that employee; or
- (b) acknowledge receipt of an amount greater than the remuneration actually paid to the employee.

(8) **Purchase of goods:** An employer shall not require an employee to purchase any goods from the employer or from any shop, place or person nominated by the employer.

(9) **Accommodation, meals and rations and payment in natura:** An employer shall not as a condition of employment require an employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employer. An employer shall not as a condition of employment require an employee to receive any in natura form of payment in lieu of wages or a part thereof.

(10) If an employee works as a "**spare**" or "**reliever**", the employee will be employed on a full time basis, at the rate for the relevant category of employment, and the employer must pay the employee the amount that the employee would ordinarily have earned even if that employee had not been placed at a post.

(11) **Deductions:** An employer shall not levy any fines against an employee nor make any deductions from the employee's remuneration other than the following-

- (a) subject to [clause 4 \(11\) \(c\)](#), by agreement with the employee in writing in respect of a debt specified in the agreement, or
- (b) a deduction of any amount which an employer by law or order of any competent court is required or permitted

to make;

- (c) to reimburse the employer for loss or damage only if-
  - (i) the loss or damage occurred in the course of employment and was due to the fault of the employee,
  - (ii) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deduction should not be made,
  - (iii) the total amount of the debt does not exceed the actual amount of the loss or damage, and
  - (iv) the total monthly deductions from the employee's remuneration in terms of this subclause do not exceed one quarter of the employee's monthly remuneration in money.
- (d) With the written consent of the employee, a deduction for any medical, insurance, savings, provident or pension fund, or in respect of subscriptions to a trade union;
- (e) Whenever the ordinary hours of work are reduced because of short time, a deduction not exceeding the amount of the employee's (other than a casual employee, a ship security officer or a cargo security officer's) hourly wage in respect of each hour of such reduction: Provided that-
  - (i) such deduction shall not exceed one third of the employee's wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;
  - (ii) no deduction shall be made in the case of short time arising from slackness of business, unless the employer has given an employee notice on the previous working day of the employer's intention to reduce the ordinary hours of work;
  - (iii) no deduction shall be made in the case of short time owing to a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings, in respect of the first hour not worked, unless the employer has given an employee notice on the previous day that no work will be available.
- (f) with the written consent of an employee, a deduction towards the repayment of any amount loaned or advanced to the employee by the employer: Provided that-
  - (i) any such deduction shall not exceed one third of the total remuneration due to the employee on the pay-day concerned;
  - (ii) no such deduction shall be made in respect of any period during which the employee's wage is reduced in terms of subclause (e);

Provisos (i) and (ii) shall not apply where the contract of employment is terminated.

- (g) A deduction in accordance with the provisions of [clause 9 \(7\)](#); and
- (h) any other deduction made at the written request of the employee and with the agreement of the employer: Provided that if the purpose of such deduction is the payment of any amount to any banking institution, building society, insurance business, registered financial institution, local authority, the State or any third party, the employer shall make such payment to such institution in accordance with the request of the employee within the timeframe indicated in such request, or where no timeframe is indicated, within one week.

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**5. Ordinary hours of work, overtime and payment for overtime.-(1)** An employer shall not require or permit an employee to work more ordinary hours of work than provided for from the date of implementation of this determination-

- (a) a security officer-
  - (i) 48 in any week; and
  - (ii) subject to [subparagraph \(i\)](#), 12 on any day;
- (b) a ship security officer or cargo security officer; 12 on any day;
- (c) any other class of employee-
  - (i) 45 in any week; and
  - (ii) subject to [subparagraph \(i\)](#), in the case of an employee who normally works on-
    - (aa) not more than five days in a week, nine on any day; and
    - (ab) more than five days in a week, eight on any day.

(2) **Averaging of Working Hours :** Despite subclause (1), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months, in terms of a written agreement.

- (a) An employer may not require or permit an employee who is a security officer to work more than-

- (i) an average of 48 ordinary hours of work in a week over the agreed period; and
- (ii) an average of ten hours overtime in a week over the agreed period.
- (b) Any employee whose hours are averaged in terms hereof must be paid at the premium hourly rate in respect of all work performed on a Sunday or public holiday, as per clauses 7 and 8.
- (c) Any employee whose hours are averaged in terms hereof will still take, and the employer shall grant, a weekly free period of at least 36 hours or a fortnightly free period of at least 60 hours in terms of subclause (10).

(3) **Compressed working week:** An agreement in writing may require or permit an employee to work up to 12 hours in a day, without receiving overtime pay. No such agreement may require or permit an employee to work-

- (a) more than 48 ordinary hours in any week, with the exception of the arrangements in respect of security officers in terms of subclauses (1) (a);
- (b) more than 10 hours overtime in any week; or
- (c) on more than five days in any week.

(4) **Meal interval-**

- (a) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour.
- (b) During a meal interval, an employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.
- (c) An employee must be remunerated-
  - (i) for a meal interval in which the employee is required to work or is required to be available for work; and
  - (ii) for any portion of a meal interval that is in excess of 75 minutes, unless the employee lives on the premises at which the workplace is situated.
- (d) For the purpose of sub-clause (a), work is continuous unless it is interrupted by an interval of at least 60 minutes.
- (e) An agreement in writing may-
  - (i) reduce the meal interval to not less than 30 minutes;
  - (ii) dispense with a meal interval for an employee who works fewer than six hours on a day.

[Sub-clause 5 (4) replaced by GNR.96 of 2007.]

(5) **Rest intervals:** An employer shall grant to each employee, other than a driver, a security officer, a ship security officer or cargo security officer, a rest interval of not less than 15 minutes as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.

(6) **Hours of work to be consecutive:** Save as provided in subclauses (4) and (5), all hours of work of an employee, other than a ship security officer or a cargo security officer, on any day shall be consecutive.

(7) **Night Work:**

- (a) An employer may only require or permit an employee to perform night work if-
  - (i) the employee is compensated by the payment of an allowance, as per [clause 3 \(5\)](#); and
  - (ii) public or other transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (b) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must inform the employee in writing, or orally, if the employee is not able to understand a written communication, in a language that the employee understands-
  - (aa) of any health and safety hazards associated with the work that the employee is required to perform; and
  - (ab) of the employee's right to undergo a medical examination in terms of subclause (7) (c).
- (c) At the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards-
  - (aa) before the employee starts, or within a reasonable period of the employee starting, such work; and
  - (ab) at appropriate intervals while the employee continues to perform such work; and
- (d) Transfer the employee to suitable day work within a reasonable time if-
  - (aa) the employee suffers from a health condition associated with the performance of night work; and
  - (ab) if it is practicable for the employer to do so.
- (e) For the purposes of subclause (7) (b), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or fifty times per year.

(8) **Limitation of overtime:** The need to work overtime shall be at the sole discretion of the employer and an employer shall not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed-

- (a) three hours on any day or
- (b) 10 hours in any week.

(9) **Payment for overtime:** An employer shall pay an employee who works overtime, at a rate of not less than one and a half times the employee's hourly equivalent wage in respect of the total overtime period so worked by such employee.

(10) **Rest periods:**

- (a) An employee must allow an employee-
  - (i) a daily rest period of at least 12 consecutive hours between the normal ending and recommencing work; and
  - (ii) a weekly rest period of at least 36 consecutive hours.
- (b) A daily rest period in terms of subclause (10) (a) may, by written agreement, be reduced to 10 hours for an employee-
  - (i) who lives on the premises at which the workplace is situated; and
  - (ii) whose meal interval lasts for at least three hours.
- (c) Despite subclause (10) (a) (ii), an agreement in writing may provide for-
  - (i) a rest period of at least 60 consecutive hours every two weeks; or
  - (ii) an employee's weekly rest period to be reduced by up to eight hours in any week; if the rest period in the following week is extended equivalently.

(11) **Exceptions:**

- (a) Subclauses (4), (5), (6), (8) shall not apply to an employee while an employee is engaged in emergency work.
- (b) Subclause (4) shall not apply to an employee wholly or mainly engaged in the tending, feeding or cleaning of animals.

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**6. Annual bonus.-(1)** An employer shall pay to every employee, for each month that the employee was paid or entitled to be paid in respect of each completed 12 months of service with such employer, an annual bonus, subject to the conditions of subclauses (2) and (3), below calculated as follows:

$$\frac{A \times B}{12}$$

Where

A = Employee's hourly equivalent rate of pay

B = The actual ordinary hours worked by or the employee was entitled to be paid for the month

(2) The annual bonus shall be paid on the anniversary of the employee's date of employment with the employer unless the employer and a representative trade union and/or the employee mutually agree in writing upon another date.

(3) The annual bonus shall be calculated monthly as per (1) above at the ordinary salary rate earned during each relevant month and accumulated and paid to the employee as per subclause (2).

(4) In the event that the employee's contract of employment ends before the end of 12 months of employment with the same employer for any reason other than dismissal for misconduct, poor performance not related to incapacity for ill health, or resignation, the employee must receive a prorated share of the bonus for the period of the year that he or she has worked.

[Sub-clause 6 (4) inserted by GNR.96 of 2007.]

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**7. Public holiday.-(1)** All employees working on a Public Holiday will be remunerated in terms of the provisions of the

Basic Conditions of Employment Act, [No. 75 of 1997](#), or any amendment thereto.

**(2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a public holiday:**

- (a) Whenever a casual employee works on a public holiday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do. Provided that where the employer requires a casual employee-
  - (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "**hourly wage**" shall mean the hourly wage for a qualified employee of that class as calculated in term of [clause 3 \(4\)](#);
  - (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
- (b) Whenever a ship security officer or a cargo security officer works on a public holiday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.

(3) **Payment:** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in [clause 4 \(6\)](#).

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**8. Compensation for work on a Sunday.-(1)** All employees working on a Sunday will be remunerated in terms of the provisions of the Basic Conditions of Employment Act, [No. 75 of 1997](#), or any amendment thereto.

**(2) Compensation to a casual employee, a ship security officer or a cargo security officer for work on a Sunday:**

- (a) Whenever a casual employee works on a Sunday, the employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage prescribed for a full-time employee in the same area who performs the same class of work as the casual employee is required to do.

Provided that where the employer requires a casual employee-

- (i) to perform the work of a class of employee for whom wages on a rising scale are prescribed, the expression "**hourly wage**" shall mean the hourly wage for a qualified employee of that class as calculated in term of [clause 3 \(4\)](#);
- (ii) to work for less than four hours on such a day, an employee shall be deemed to have worked for four hours.
- (b) Whenever a ship security officer or a cargo security officer works on a Sunday, an employer shall pay the employee in respect of the total period worked by the employee on such day an amount calculated at a rate of not less than double the hourly wage.

(3) **Payment:** The remuneration payable in terms of this clause to an employee, other than a casual employee, a ship security officer or a cargo security officer, shall be paid to the employee not later than the normal pay-day immediately after the day in respect of which such remuneration is payable. A casual employee, a ship security officer or a cargo security officer shall be remunerated as set out in [clause 4 \(6\)](#).

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**9. Annual leave.-(1)** In this clause "**annual leave cycle**" means the period of 12 months employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior leave cycle.

**(2) The employer must grant an employee at least-**

- (a) 21 consecutive days annual leave paid in accordance with subclause (12) below, in respect of each annual leave cycle; or
- (b) by agreement, one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid; or

- (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.

(3) An employee is entitled to take leave accumulated in an annual leave cycle, in terms of subclause (2), on consecutive days.

(4) An employer must grant, and an employee must take, annual leave not later than six months after the end of the annual leave cycle.

(5) An employer may not require or permit an employee to take annual leave during-

- (a) any other period of leave to which an employee is entitled in terms of this determination; or
- (b) any period of notice of termination of employment.

(6) Despite subclause (5), an employer must permit an employee, at the employee's written request, to take paid leave during a period of unpaid leave.

(7) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave, calculated at the employee's rate of remuneration, granted to the employee at the employee's request during that leave cycle

(8) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.

(9) An employer may not require or permit an employee to work for the employer during any period of annual leave.

(10) Annual leave must be taken-

- (a) in accordance with an agreement between the employer and the employee; or
- (b) if there is no agreement in terms of subclause (9) (a), at a time determined by the employer in accordance with this section.

(11) An employer may not pay an employee instead of granting paid leave in terms of this clause, except-

- (a) upon termination of employment; and
- (b) in accordance with [clause 20 \(9\) \(b\)](#).

(12) An employer must pay an employee leave pay at least equivalent to the ordinary salary payable to the employee for the ordinary hours the employee would normally have worked during the period of annual leave, calculated-

- (a) at the employee's rate of remuneration immediately before the beginning of the period of annual leave; and

(Editorial Note: Wording as per original *Government Gazette*.)

(13) An employer must pay an employee leave pay-

- (a) before the beginning of the period of leave; or
- (b) by agreement, on the employee's usual pay day.

(14) An employee who has become entitled to a period of leave prescribed in subclause (1), read with subclause (7), and whose employment terminates before such leave has been granted and been taken, shall, upon such termination be paid the amount an employee would have received, in respect of the leave, had the leave been granted to the employee and taken by the employee as at the date of the termination, calculated in terms of subclause (2).

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**10. Sick-leave.-(1)** In this clause "**sick leave cycle**" means the period of 36 months employment with the same employer immediately following-

- (a) an employee's commencement of employment; or
- (b) the completion of that employee's prior sick leave cycle.

(2) During every sick leave cycle an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

(3) Despite subclause (2), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 ordinary worked.

(4) During an employee's first sick leave cycle an employer may reduce the employee's entitlement to sick leave in terms of subclause (2) by the number of days sick leave taken in terms of subclause (3).

(5) Subject to [section 23](#) of the Basic Conditions of Employment Act, [No. 75 of 1997](#), an employer must pay an employee for a day's sick leave-

- (a) the ordinary wage the employee would have received, excluding any allowances; and
- (b) on the employee's usual pay day.

(6) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in terms of this section if-

- (a) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
- (b) the employee's entitlement to pay-
  - (i) for any day's sick leave is at least 75 percent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
  - (ii) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of subclause (2)

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**10A. Proof of incapacity.**-(1) An employer is not required to pay an employee in terms of [clause 10](#) if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

(2) A medical certificate in terms of subclause (1) must be issued and signed by-

- (a) A medical practitioner
- (b) Any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

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**11. Family responsibility leave.**-(1) This section applies to an employee-

- (a) who has been in employment with an employer for longer than four months; and
- (b) who works for at least four days a week for that employer.

(2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three day's paid leave, which the employee is entitled to take-

- (a) when the employee's child is born;
- (b) when the employee's child is sick; or
- (c) in the event of the death of-
  - (i) the employee's spouse or life partner; or
  - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

(3) An employer must pay an employee for a day's family responsibility leave-

- (a) the ordinary wage the employee would have received for a day worked; and
- (b) on the employee's usual pay day.

(4) An employee may take family responsibility leave in respect of the whole or a part of a day.

(5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.

(6) An employee's unused entitlement to leave in terms of this clause lapses at the end of the annual cycle in which it accrues.

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**12. Maternity leave.**-(1) An employee is entitled to at least four consecutive month's maternity leave.

(2) An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or



- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

(3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

(4) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.

(5) An employee must notify her employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-

- (a) commence maternity leave; and  
(b) return to work after maternity leave.

(6) Notification in terms of subclause (5) must be given-

- (a) at least four weeks before the employee intends to commence maternity leave; or  
(b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

(7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act [No. 30 of 1966](#)).

(8) During the period of maternity leave the employer shall continue to contribute the provident fund monthly premium in respect of both the employer and employee contributions, the latter not to be recovered upon the return of the employee to work.

(9) During the period of maternity leave the employer shall continue to contribute the employee's Private Security Industry Regulatory Authority monthly subscription fees, this not to be recovered upon the return of the employee to work.

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**12A. Maternity benefits.-(1)** An employee who remains in continuous employment with the same employer for a period of at least three years from the date on which this amendment becomes binding, shall be entitled to the following benefits:

- (a) from the first year of eligibility, a payment equivalent to 50% (fifty percent) of the difference between the employee's basic salary and the amount due to the employee from the Unemployment Insurance Fund (UIF), for one month;
- (b) from the second year of eligibility, a payment equivalent to 50% (fifty percent) of the difference between the employee's basic salary and the amount due to the employee from the Unemployment Insurance Fund (UIF), for two months; and
- (c) from the third year of eligibility, a payment equivalent to 50% (fifty percent) of the difference between the employee's basic salary and the amount due to the employee from the Unemployment Insurance Fund (UIF), for three months.

(2) If the employee's unemployment insurance fund (UIF) benefits are reduced as a result of this payment, the employer's contribution shall be reduced to enable the employee to obtain full Unemployment Insurance Fund (UIF) benefits.

[Clause 12A inserted by GNR.96 of 2007.]

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**13. Study leave.-(1)** All employees with a minimum of one year uninterrupted employment with the same employer shall be entitled to study leave on full pay of a maximum of:

- (a) 4 days study leave per year in the first year of operation of this amendment;
- (b) 5 days of study leave per year in the second year of operation of this amendment; and
- (c) 6 days of study leave per year in the third year of operation of this amendment, and thereafter.

(2) Study leave shall not be limited to tertiary education only, but shall be extended to include education at all accredited education and training providers.

[Clause 13 replaced by GNR.96 of 2007.]

**14. Written particulars of employment.**-(1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-

- (a) the full name and address of the employer;
- (b) the name and occupation of the employee or a brief description of the work for which the employee is employed;
- (c) the places of work and, where the employee is required or permitted to work at various places, an indication of this;
- (d) the date on which the employment began;
- (e) the employee's ordinary hours of work and days of work;
- (f) the employee's salary or the rate and method of calculating salary;
- (g) the rate of pay for overtime work;
- (h) any other payments to which the employee is entitled;
- (i) how frequently remuneration will be paid;
- (j) any deductions to be made from the employee's remuneration;
- (k) the leave to which the employee is entitled;
- (l) the period of notice required to terminate employment, or if the employment is for a specified period, the date when employment is to terminate;
- (m) a description of any council or sectoral determination which covers the employer's business;
- (n) any period of employment with a previous employer that counts towards the employee's period of employment;
- (o) a list of any other documents that form part of the contract of employment, indicating a place that is readily accessible to the employee where a copy of each may be obtained.

(2) When any matter listed in subclause (1) changes, the written particulars must be revised to reflect the change and the employee must be supplied with a copy of the document reflecting the change.

(3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

(4) Written particulars of this section must be kept by the employer for a period of three years after the termination of employment.

**15. Keeping of records.**-(1) Every employer must for all employees in his current employ keep a record containing at least the following information-

- (a) the employee's name and occupation;
- (b) the time worked by each employee;
- (c) the remuneration paid to each employee;
- (d) the date of birth of any employee under 18 years of age; and
- (e) any other prescribed information.

(2) A record in terms of subclause (1) (b) and (1) (c) must be kept by the employer for a period of three years from the date of the last entry in the record of which the most recent six months record must be hard copy and older may be kept electronically

(3) No person may make a false entry in a record maintained in terms of subclause (1).

(4) An employer who keeps a record in terms of this clause is not required to keep any other record of time worked and remuneration paid as required by any other employment law.

(5) An employer must for all employees who have left his employ keep the above records for a period of three years of which the most recent six months records as per (1) (b) and (1) (c) must be hard copy.

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**16. Presumption as to who is an employee.-(1)** Any person on contract performing the duties of a security officer, as defined in subclauses 2 (54) to 2 (61), as well as any person on contract performing the duties of other categories, as defined herein, except for managers.

(2) Until the contrary is proved, a person who works for, or provides services to, any other person is presumed, regardless of the form of the contract, to be an employee, if any one or more of the following factors are present:

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) in the case of a person who works for an organisation, the person forms part of that organisation;
- (d) the person has worked for that person for an average of at least 40 hours per month over the last three months;
- (e) that person is economically dependant on the person for whom they work or provide services;
- (f) the person is provided with their tools of trade or work equipment by that person; or
- (g) the person only works for or supplies services to one person.

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**17. Weapons, uniforms, overalls and protective clothing.-(1)** An employer shall-

- (a) provide free of charge any weapon, ammunition, tool, whistle or other equipment which a security officer, in the performance of the employee's duties, needs or is required to use for self-defence or apprehension;
- (b) in a like manner provide the officer with, or ensure that an officer is provided with, a seat which has a proper back support;
- (c) supply, free of charge, a jersey, coat or other suitable outer garment for the employee's protection against cold or wet weather, as well as any footwear, uniform, overall, or other protective clothing which an employer requires an employee to wear or which an employee is required by any law to provide for an employee. An employer who provides an employee with any such apparel, may require the employee to clean it in the employee's own time, in which event the employer shall pay the employee not less than R1-85 per week, which shall however not be payable during periods of absence from work.

(2) Any article provided by an employer in terms of subclause (1) shall remain the employer's property.

(3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of subclause (1): Provided that where an article is found by a fair procedure to have been lost or damaged by an employee, excluding damage arising from the performance of the employee's duties or normal wear and tear, an employer may, notwithstanding anything to the contrary in this determination, recover the cost of such article from the employee by making a deduction over an appropriate period from that employee's wage. Further, provided that such monthly deduction shall not exceed one tenth of the employee's monthly remuneration.

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**18. Prohibition of employment of children.-(1)** No person may employ a child-

- (a) who is under 15 years of age; or
- (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.

(2) No person may employ a child in employment-

- (a) that is inappropriate for a person at that age;
- (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) A person who employs a child in contravention of subclause (1) or (2) commits an offence

**19. Prohibition of forced labour.**-(1) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.

(2) No person may, for the employee's own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of subclause (1).

(3) A person who contravenes subclauses (1) or (2) commits an offence.

**20. Termination of contract of employment.**-(1) Subject to subclause (6) (b), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

(a) one week, if the employee has been employed for four weeks or less;

(b) two weeks, if the employee has been employed for more than four weeks but less than one year; and

(c) four weeks, if the employee has been employed for one year or more.

(2) A collective agreement may not permit a notice period shorter than required by subclause (1).

(3) No agreement may require or permit an employee to give a period of notice longer than that required of the employer.

(4) (a) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.

(b) If an employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.

(5) Notice of termination of a contract of employment given by an employer or an employee must not-

(a) be given during any period of leave to which the employee is entitled in terms of [clause 9 \(1\)](#), and

(b) run concurrently with any period of leave to which the employee is entitled in terms of [clause 9 \(1\)](#), except sick leave.

(6) Nothing in this clause affects the right-

(a) of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law, and

(b) of an employer or an employee to terminate a contract of employment without notice for any cause recognised by law.

(7) Instead of giving an employee or employer notice in terms of subclause (1), an employer may pay the employee the remuneration the employee would have received, calculated in accordance with subclause (1), as if the employee had worked during the notice period.

(8) If an employee gives notice of termination of employment and the employer waives any part of the notice, the employer must pay the remuneration referred to in subclause (7), unless the employer and employee agree otherwise.

(9) On termination of employment, an employer must pay an employee-

(a) remuneration in respect of-

(i) ordinary time worked, calculated in terms of [clause 3 \(4\)](#);

(ii) overtime worked, calculated in terms of [clause 5 \(9\)](#);

(iii) time worked on a Sunday, calculated in terms of [clause 8 \(3\)](#); and

(iv) time worked on a public holiday or in respect of a public holiday on which the employee would normally have worked if it had not been a public holiday, in terms of clauses 7 (1) and 7 (2);

(b) remuneration calculated in accordance with [clause 9 \(12\)](#) for any period of annual leave due in terms of [clause 9 \(2\)](#) that the employee has not taken;

(c) if the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle, at a rate of one day's remuneration in respect of every 17 ordinary days on which the employee worked or was entitled to be paid.

**21. Severance pay.**-(1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employer.

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [clause 3](#).

(3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2).

(4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.

(5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to-

- (a) a council, if the parties to the dispute fall within the registered scope of that council; or
- (b) the CCMA, if no council has jurisdiction.

(6) The employee who refers a dispute to the council or the CCMA must satisfy it that a copy of the referral has been served on all other parties to the dispute.

(7) If the dispute remains unresolved, the employee may refer it to arbitration.

(8) If the Labour Court is adjudicating a dispute about a dismissal based on the employer's operational requirements, the Court may inquire into and determine the amount of any severance pay to which the employee may be entitled and the Court may make an order directing the employer to pay that amount.

**22. Certificate of service.**-(1) On termination of employment an employee is entitled to a certificate of service in the form of [annexure "A"](#) stating-

- (a) the employee's full name;
- (b) the name and address of the employer;
- (c) a description of any bargaining council or sectoral employment standard by which the employer's business is covered;
- (d) the date of commencement and date of termination of employment;
- (e) the title of the job or a brief description of the work for which the employee was employed at the date of termination;
- (f) the remuneration at date of termination; and
- (g) if the employee so requests, the reason for termination of employment.

**23. Attendance register.**-(1) An employer shall maintain an attendance register in any form of attendance documentation which is acceptable substantially in the form of [annexure "B"](#), in which the employer shall record in ink or indelible pencil the name and class of each of the employees for each day worked and on that day make the necessary entries in respect of items (i) to (vi) of subclause (3) (a).

(2) An employer may, instead of an attendance register, provide a semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in subclause (1).

(3) Every employer shall, in respect of each day worked by an employee on that day-

- (a) record in ink or indelible pencil in such attendance register referred to in subclause (1)-
  - (i) the day of the week;

- (ii) the time an employee commenced work;
  - (iii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work;
  - (iv) the time of finishing work for the day;
  - (v) the time of commencement and termination of overtime worked for the day; and
  - (vi) the total amount of hours worked for the day.
- (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following:
- (i) the time of commencement of work;
  - (ii) the time of commencement and termination of all meal or other intervals which are not reckonable as ordinary hours of work; and
  - (iii) the time of finishing work for the day.

(4) An employer shall retain such attendance register referred to in subclause (1) or the information recorded by a semi-automatic time recorder referred to in subclause (2), as case may be, for a period of not less than three years after the date of the last entry therein or thereon. Such register may be kept in electronic form.

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## **24. Private Security Sector Provident Fund**

### **1. Membership**

(1) Each employee, subject to the exclusions in [clause 1 \(2\)](#) that falls within the definition of eligible employee as contained in the Fund Rules, shall, on or after the coming into operation of this Determination, become a member of the Private Security Sector Provident Fund.

(2) If an employee who has become a member of the Fund ceases to fall within the scope of this Determination owing to the employee ceasing to be employed in the Private Security Services Sector or as a result of the employee no longer being classified as an eligible member as defined the employee shall cease to be a member of the Fund and the payment of withdrawal benefit will be made to the member as provided for in the Fund Rules.

### **2. Contributions**

(1) Contributions shall be made by employers and employees as from the date of coming into operation of this Determination as specified hereunder.

- (a) The employer shall each month deduct from the earnings of each employee in respect of such month, or part thereof, an amount equal to 6,5 % (five percent) of the employee's Fund Salary, being contributions to the Provident Fund.
- (b) The employer shall each month contribute in respect of such month or part thereof an amount equal to 6,5% (five percent) of the employees' Fund Salary being the employer's contributions to the Provident Fund.

(Editorial Note: Wording as per original *Government Gazette*.)

- (c) When an employee is on approved leave with full pay, or with less than full pay, the employee shall contribute to the Fund, in accordance with subclause (1) (a), and the employer shall continue to contribute in respect of the employee, in accordance with subclause (1) (b), and all benefits under the Fund in respect of the employee shall be maintained.
- (d) If an employee is on approved leave without pay, no contributions shall be made by the employee in terms of subclause (1) (a), but the employer shall continue to contribute on behalf of the employee in terms subclause (1) (b), in order that the death, disability and funeral benefits shall continue to be payable-
  - (i) throughout the period of leave, if the employee's leave is due to sickness; or
  - (ii) for not longer than six months, if the employee's leave is due to reasons other than sickness.

(2) The amount payable in each month in terms of this clause shall be deposited by the employer directly into the Fund's bank account no later than the 7<sup>th</sup> day of the month immediately following the month in which deductions and contributions were made-

- (a) in South African currency
- (b) in cash, by cheque or by direct deposit in an account designated by the administrators, and
- (c) together with such particulars as are required in terms of the Retirement Funds Act and/or by the board;
- (d) the contribution payable shall constitute an amount calculated at a rate of not less than 13% of the employee's wage or as amended by the Board of Management from time to time; and
- (e) such amount as referred to in [paragraph \(d\)](#) shall constitute an equal contribution by an employer and employee.

(3) If any amount which falls due in terms of this clause is not received in full by the administrator of the Fund by the 7<sup>th</sup> day of the month following the month for which the amount is payable, then the employer shall be liable to pay penalty interest in accordance with section 13A of the Pension Funds Act.

(4) Any deductions in terms of this clause will not be in violation of [clause 4 \(11\) \(d\)](#) of the Private Security Sector Sectoral Determinations No. 6, 2001.

### **3. Administration and provision of the fund**

In order to realise the objects of the Fund the trustees shall-

(1) direct control and oversee the operation of the Fund in accordance with the Fund Rules and the Pension Funds Act.

(2) enter into an agreement with an administrator to administer the Fund; and

(3) at their elections-

(a) enter into an agreement with a registered insurance company; or

(b) establish a self-insurance arrangement or cell captive arrangement to provide Death, Disability and/or Funeral benefits.

### **4. Fund rules**

(1) The Fund Rules constitute the rules that govern the Fund in the Private Security Sector.

(2) In the event of any discrepancy between this Sectoral Determination and the Fund Rules, the Fund Rules will apply.

### **5. Exemption Criteria**

(1) The following criteria for an exemption from the Private Security Sector Provident Fund will apply, provided that-

(a) If the employer, prior to the publication of Government Notice No. 306 of 30 March 2001, had an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No. 3, as amended or replaced.

(b) If the employer, prior to the publication of Government Notice No. 306 of 30 March 2001, did not have an existing pension or provident fund registered with the Registrar of Pension Funds covering employees for whom minimum wages are prescribed in Sectoral Determination No. 3, as amended or replaced, but before 30 March 2001, the employer and its employees have consulted in writing to commence negotiations for the establishment of a pension or provident fund for such employees.

(2) The Board will consider all applications for exemption from the provisions of the Private Security Sector Provident Fund.

(3) Applications will be in writing and addressed to the Board of the Private Security Sector Provident Fund. Applications shall comply with the following:

(a) Be fully motivated.

(b) Be accompanied by relevant supporting data and financial information.

(c) Applications that affect employees' conditions of service will not be considered unless the employees or their representatives have been properly consulted and their views fully recorded in an accompanying document.

(d) Indicate the period for which exemption is required.

(4) In considering the application the Board shall take into consideration all relevant factors, which may include, but shall not be limited to, the following criteria:

(a) Any special circumstances that exist

(b) Any precedent that may be set

(c) The interest of the industry as regards-

(i) Unfair competition

(ii) Collective bargaining

(iii) Potential for labour unrest

(iv) Increased employment

(d) The interest of employees as regards-

(i) Exploitation

(ii) Job preservation

(iii) Sound conditions of employment

(iv) Possible financial benefits

(v) Health and safety

(vi) Infringement of basic rights

(e) The interest of the employer as regards:



- (i) Financial stability
- (ii) Impact of productivity
- (iii) Future relationship with employees trade union
- (iv) Operational requirements

(5) If the application is granted, the Board shall issue an exemption certificate, signed by the chairperson, containing the following particulars:

- (a) The full name of the applicant
- (b) The trade name of the applicant
- (c) The period for which the exemption shall operate
- (d) The date of issue
- (e) The conditions of the exemption granted

(6) If the exemption is refused the Board shall specify its reasons for not granting the application, and which will be communicated to the applicant.

(7) The Board shall retain a copy of the certificate and number each certificate sequentially.

(8) An employer to whom a certificate of exemption has been issued shall at all times have the certificate available for inspection at his establishment.

(9) Any application by an Employer for exemption shall in no way whatsoever affect the Employer's obligations, nor his employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's retirement fund and/or his employees' conditions of employment during any period that the application is under consideration.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ 25. Employers to keep a copy of this determination.-Every employer upon whom this Determination is binding must:**

**25. Employers to keep a copy of this determination.-**Every employer upon whom this Determination is binding must:

- (1) keep a copy of this Sectoral Determination available in the workplace at all times;
- (2) make a copy available for inspection by an employee; and
- (3) give a copy of this Sectoral Determination-
  - (a) to an employee who has paid the prescribed fee; and
  - (b) free of charge, on request, to an employee who is a trade union representative or a member of a workplace forum.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ 26. Variation by minister.-The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of section 50 of the Basic Conditions of Employment Act, 1997, upon motivated applicatio**

**26. Variation by minister.-**The Minister may make a determination to replace or exclude any basic condition of employment provided for in this determination in terms of section 50 of the Basic Conditions of Employment Act, 1997, upon motivated application by an employer and/or an employers' association.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ 27. Service benefits.-(1) Each security officer shall, upon completion of the following period of uninterrupted service with the same employer, receive a once-off service benefit payment of not less than-**

**27. Service benefits.-(1)** Each security officer shall, upon completion of the following period of uninterrupted service with the same employer, receive a once-off service benefit payment of not less than-

- (a) R500.00 (five hundred rand) after 5 (five) years;
- (b) R1 000.00 (one thousand rand) after 10 (ten) years; and
- (c) R5 000.00 (five thousand rand) after 20 (twenty) years of service.

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ (2) The accumulation of service will come into effect on the date this amendment comes into effect.

(2) The accumulation of service will come into effect on the date this amendment comes into effect.

[Clause 27 inserted by GNR.96 of 2007.]

All the provisions of sectoral determination 6: private security sector, South Africa published under Government notice Nr 1250 of 30 November 2001, clarification notice published under Government notice Nr 45 of 19 January 2001, amendments published under Government gazette notice Nr 306 of 30 March 2001, Government gazette notice Nr 804 of 13 June 2003, correction notice of Nr 1109 of 1<sup>st</sup> October 2004, correction notice of Nr 1430 of 10 December 2004 and all other amendments thereto will be superseded by this sectoral determination with effect from the date of implementation.

#### EDITORIAL NOTE:

This sectoral determination makes reference to Annexures A and B published under Government notice Nr 1250 of 30 November 2001. We propose that the intention was for it to be included with this sectoral determination and have subsequently published the Annexures below.

National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Rules and Regulations/ Repealed Rules and Regulations/ Sectoral Determinations/ GNR.879 of 9 September 2005: Correction Notice: Sectoral Determination 6: Private Security Sector, South Africa (Government Gazette No. 27992)/ ANNEXURE "A" Certificate of service

#### ANNEXURE "A" Certificate of service

Private Security Sector,  
South Africa

#### READ THIS FIRST



#### WHAT IS THE PURPOSE OF THIS FORM?

This form is proof of  
employment with an  
employer.

#### WHO FILLS IN THIS FORM?

The employer.

#### WHERE DOES THIS FORM GO?

To the employee.

#### INSTRUCTIONS

This form may be issued  
upon termination of  
employment

#### NOTE

The reason for termination  
of employment must only  
be given if requested by  
the employee.

*This is only a model and not  
a prescribed form.*

Completing a document in

#### ANNEXURE "A"

#### CERTIFICATE OF SERVICE

I  
(Name and designation of person)  
of

(Full name of employer)

Address

in the

(Trade)

declare that

(Full name of employee)

(I.D. No.)

was in employment

from

until

as

(Type of work/occupation)

any other information

On termination of service this employee was earning:

R (amount in words)

|                 |             |            |
|-----------------|-------------|------------|
| 1 per hour      | 1 per day   | 1 per week |
| 1 per fortnight | 1 per month | 1 per year |

Employer's signature

Date

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/  
Wording of Sections**

**BASIC CONDITIONS OF EMPLOYMENT ACT,  
NO. 75 OF 1997**

**(Prior to amendment by [Act No. 10 of 2018](#))**

**Section 1, Definition-"employment law"**

"**employment law**" includes this Act, any other Act the administration of which has been assigned to the Minister, and any of the following Acts-

- (a) the Unemployment Insurance Act, 2001 ([Act No. 63 of 2001](#));
- (b) the Employment Services Act, 2014 ([Act No. 14 of 2014](#));
- (c) the Employment Equity Act, 1998 ([Act No. 55 of 1998](#));
- (d) the Occupational Health and Safety Act, 1993 ([Act No. 85 of 1993](#));
- (e) the Compensation for Occupational Injuries and Diseases Act, 1993 ([Act No. 130 of 1993](#)); and
- (f) the National Minimum Wage Act, 2018;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/  
Wording of Sections/ (Prior to amendment by Act No. 10 of 2018)/ Section 25 (7)**

**Section 25 (7)**

(7) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#)).<sup>1</sup>

**Footnotes**

- 1 [Sections 34](#) and [37](#) of the Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#)), provide for the payment of maternity leave. Legislative amendments will be proposed to Cabinet to improve these benefits and to provide that the payment to an employee of maternity benefits does not adversely affect her right to unemployment benefits.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/  
Wording of Sections/ (Prior to amendment by Act No. 10 of 2018)/ Section 27 (2) (a)**

**Section 27 (2) (a)**

- (a) when the employee's child is born;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/  
Wording of Sections/ (Prior to amendment by Act No. 10 of 2018)/ Section 83 (1)**

**Section 83 (1)**

(1) The Minister may, on the advice of the Commission and by notice in the *Gazette*, deem any category of persons specified in the notice to be-

- (a) employees for purposes of the whole or any part of this Act, any other employment law other than the Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#)), or any sectoral determination;
- (b) contributors for purposes of the whole or any part of the Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/  
Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)**

(Prior to amendment by [Act No. 7 of 2018](#))

**[Section 1](#), definition-"basic condition of employment"**

"**basic condition of employment**" means a provision of this Act or sectoral determination that stipulates a minimum term or condition of employment;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 1, definition-"Commission"**

**[Section 1](#), definition-"[Commission](#)"**

"**Commission**" means the Employment Conditions Commission established by section 59 (1);

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 1, definition-"employment law"**

**[Section 1](#), definition-"[employment law](#)"**

"**employment law**" includes this Act, any other Act the administration of which has been assigned to the Minister, and any of the following Acts:

- (a) The Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#));
- (b) the Skills Development Act, 1998 ([Act No. 97 of 1998](#));
- (c) the Employment Equity Act, 1998 ([Act No. 55 of 1998](#));
- (d) the Occupational Health and Safety Act, 1993 ([Act No. 85 of 1993](#));
- (e) the Compensation for Occupational Injuries and Diseases Act, 1993 ([Act No. 130 of 1993](#));

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 3 (3)**

**[Section 3 \(3\)](#)**

(3) This Act, except [section 41](#), does not apply to persons employed on vessels at sea in respect of which the Merchant Shipping Act, 1951 ([Act No. 57 of 1951](#)), applies except to the extent provided for in a sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 52 (1)**

**[Section 52 \(1\)](#)**

(1) Before making a sectoral determination, the Minister must direct the Director-General to investigate conditions of employment in the sector and area concerned.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 52 (2), the words preceding paragraph (a)**

**[Section 52 \(2\)](#), the words preceding [paragraph \(a\)](#)**

- (2) The Minister must determine terms of reference for the investigation, which must include-

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 52 (3)**

**[Section 52 \(3\)](#)**

(3) The Minister must publish a notice in the *Gazette* setting out the terms of reference of the investigation and inviting written representations by members of the public.

**Section 52 (4) (a)**

- (a) direct the Director-General to conduct an investigation; or

**Section 53 (1), the words preceding paragraph (a)**

- (1) For the purposes of conducting an investigation in terms of [section 52 \(1\)](#), the Director-General may-

**Section 53 (2)**

- (2) A person may not refuse to answer any relevant question by the Director-General that he or she is legally obliged to answer.<sup>2</sup>

**Footnotes**

- 2 An answer by a person to a question put to him or her by a person conducting an investigation may not be used in any criminal proceedings except proceedings in respect of a charge of perjury or making a false statement ([s. 91](#)).

**Section 54 (1)**

- (1) On completion of an investigation, and after considering any representations made by members of the public, the Director-General must prepare a report.

**Section 54 (2)**

- (2) A copy of the report must be submitted to the Commission for its consideration.

**Chapter Nine**

**CHAPTER NINE**  
**EMPLOYMENT CONDITIONS COMMISSION**

**Section 59**

**59. Establishment and functions of Employment Conditions Commission.**-(1) The Employment Conditions Commission is hereby established.

- (2) The functions of the Commission are to advise the Minister-

- (a) on sectoral determinations in terms of Chapter Eight;

- (b) on any matter concerning basic conditions of employment;
  - (c) on any matter arising out of the application of this Act;
  - (d) on the effect of the policies of the government on employment;
  - (e) on trends in collective bargaining and whether any of those trends undermine the purpose of this Act;
  - (f) and the Minister for Welfare and Population Development, on any matter concerning the employment of children, including the review of [section 43](#);
  - (g) and the Minister for the Public Service and Administration, on any matter concerning basic conditions of employment in the public service.
- (3) The Commission may draw up rules for the conduct of its meetings and public hearings.
- (4) Subject to the laws governing the public service, the Minister must provide the Commission with the staff that the Minister considers necessary for the performance of its functions.
- (5) The Minister must direct the Director-General to undertake research that is required to enable the Commission to perform its functions.
- (6) The expenses of the Commission are to be met by money appropriated by Parliament for that purpose and which is subject to audit by the Auditor-General, referred to in section 188 of the Constitution.

(Date of commencement of [s. 59](#): 21 March, 1998.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 60**

**[Section 60](#)**

- 60. Composition of Commission.**-(1) The Minister must, after consultation with NEDLAC, appoint as members of the Commission three persons who are knowledgeable about the labour market and conditions of employment, including the conditions of employment of vulnerable and unorganised workers, and designate one of them as the chairperson.
- (2) The Minister must, in addition, appoint to the Commission-
- (a) one member and one alternate member nominated by the voting members of NEDLAC representing organised labour;
  - (b) one member and one alternate member nominated by the voting members of NEDLAC representing organised business.
- (3) The chairperson and members of the Commission-
- (a) must be citizens or permanent residents of the Republic;
  - (b) must act impartially when performing any function of the Commission;
  - (c) may not engage in any activity that may undermine the integrity of the Commission; and
  - (d) must recuse themselves from advising the Minister on any matter in respect of which they have a direct financial interest or any other conflict of interest.
- (4) The Minister must determine-
- (a) the term of office of the chairperson and members of the Commission, which may not be more than three years;
  - (b) with the concurrence of the Minister of Finance, the remuneration and allowances to be paid to members of the Commission; and
  - (c) any other conditions of appointment not provided for in this section.
- (5) The Minister must appoint a member to act as chairperson whenever-
- (a) the chairperson is absent from the Republic or from duty, or for any reason is temporarily unable to function as chairperson; or
  - (b) the office of chairperson is vacant.
- (6) A person whose period of office as the chairperson or a member of the Commission has expired is eligible for re-appointment.
- (7) The chairperson or a member of the Commission may resign in writing.
- (8) The Minister may remove the chairperson or a member of the Commission from office for-
- (a) serious misconduct;
  - (b) permanent incapacity; or
  - (c) engaging in any activity that may undermine the integrity of the Commission.

(Date of commencement of [s. 60](#): 21 March, 1998.)

**Section 61**

**61. Public hearings.**—The Commission may hold public hearings at which it may permit members of the public to make oral representations on any matter that the Commission is considering in terms of section 59 (2).

(Date of commencement of [s. 61](#): 21 March, 1998.)

**Section 62**

**62. Report by Commission.**—(1) The Commission's advice to the Minister must be in the form of a written report.

(2) The Commission must, when performing any function in terms of section 59 (2) (b) to (e), take into account the considerations set out in [section 54 \(3\)](#) to the extent that they are appropriate.

(3) The members of the Commission must endeavour to prepare a unanimous report to the Minister. If the members are not able to prepare a unanimous report, each member is entitled to have his or her views reflected in the report.

(Date of commencement of [s. 62](#): 21 March, 1998.)

**Section 64 (1) (d)**  
**["and" at the end]**

- (d) endeavouring to secure compliance with an employment law by securing undertakings or issuing compliance orders; and

**Section 65 (1) (b)**

- (b) any premises used for skills development in terms of the Skills Development Act, 1998 ([Act No. 97 of 1998](#)); or

**Section 65 (1) (c)**

- (c) any place at which any person provides or purports to provide any employment services as defined in terms of the Skills Development Act, 1998 ([Act No. 97 of 1998](#)).

**Section 68 (1)**

(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act may endeavour to secure a written undertaking by the employer to comply with the provision.

**Section 68 (2) (a)**



- (a) may seek to obtain agreement between the employer and employee as to any amount owed to the employee in terms of this Act;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 68 (3)**

**Section 68 (3)**

(3) If an employer fails to comply with a written undertaking given by the employer in terms of this section, the Director-General may apply to the Labour Court for an order in terms of [section 73](#) directing the employer to comply with the undertaking.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 69 (1)**

**Section 69 (1)**

(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with a provision of this Act may issue a compliance order.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 69 (2) (b)**

**Section 69 (2) (b)**

- (b) any provision of this Act that the employer has not complied with, and details of the conduct constituting non-compliance;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 69 (2) (c)**

**Section 69 (2) (c)**

- (c) any amount that the employer is required to pay to an employee;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 69 (2A)**

**Section 69 (2A)**

(2A) A compliance order may also set out the date-

- (a) by which the employer should serve any representations it may wish to make with the Department and the Labour Court; and
- (b) on which, if the employer does not comply with the order, application may be made without further notice to the employer to have the compliance order made an order of the Labour Court in terms of [section 73](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 69 (5)**

**Section 69 (5)**

(5) An employer must comply with the compliance order within the time period stated in the order.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 70**

**Section 70**

**70. Limitations.**-A labour inspector may not issue a compliance order in respect of any amount payable to an employee as a result of a failure to comply with a provision of this Act if-

- (a) the employee is covered by a collective agreement that provides for resolution by arbitration of disputes concerning amounts owing in terms of this Act;
- (b) the employee is employed in a category of employees mentioned in [section 6 \(1\) \(a\)](#) or in respect of which a notice has been issued in terms of [section 6 \(3\)](#);
- (c) any proceedings have been instituted for the recovery of that amount, unless those proceedings have been withdrawn; or
- (d) that amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to a labour inspector by or on behalf of the employee or, if no complaint was made, the date on which a labour inspector first endeavoured to secure a written undertaking by the employer in terms of [section 68](#) or issued a compliance order in terms of [section 69](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 73**

**[Section 73](#)**

**73. Order may be made order of Labour Court.**-(1) The Director-General may apply to the Labour Court on the date specified in the compliance order in terms of section 69 (2A) (b) or, with further notice to the employer, on a subsequent date for a compliance order to be made an order of the Labour Court if the employer has not complied with the order.

(2) After considering any representations made to it, the Labour Court may issue an order in terms of [subsection \(1\)](#) requiring-

- (a) the employer to comply with the provisions of this Act;
- (b) subject to [section 70 \(d\)](#), the payment of any amount owing to an employee; or
- (c) the payment of a fine calculated in terms of [Schedule 2](#) to this Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 74 (1)**

**[Section 74 \(1\)](#)**

(1) A dispute concerning a contravention of this Act may be instituted jointly with proceedings instituted by an employee under Part C of this Chapter.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 74 (2)**

**[Section 74 \(2\)](#)**

(2) If an employee institutes proceedings for unfair dismissal, the Labour Court or the arbitrator hearing the matter may also determine any claim for an amount that is owing to that employee in terms of this Act if the claim has not prescribed.

- (a) . . . . .
- (b) . . . . .
- (c) . . . . .

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 74 (3)**

**[Section 74 \(3\)](#)**

(3) A dispute concerning any amount that is owing to an employee as a result of a contravention of this Act may be initiated jointly with a dispute instituted by that employee over the entitlement to severance pay in terms of [section 41 \(6\)](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 75**

**[Section 75](#)**

**75. Payment of interest.**-An employer must pay interest on any amount due and payable in terms of this Act at the

rate of interest prescribed in terms of [section 1](#) of the Prescribed Rate of Interest Act, 1975 ([Act No. 55 of 1975](#)), to any person to whom a payment should have been made.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 76**

**[Section 76](#)**

**76. Proof of compliance.**-(1) In any proceedings concerning a contravention of this Act or any sectoral determination it is for an employer-

- (a) to prove that a record maintained by or for that employer is valid and accurate;
- (b) who has failed to keep any record required by this Act that is relevant to those proceedings, to prove compliance with any provision of this Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 77A (a)**

**[Section 77A \(a\)](#)**

- (a) making a compliance order issued in terms of this Act, an order of the Labour Court, on application by the Director-General in terms of [section 73 \(1\)](#) or [73 \(2\)](#);

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 77A (c)**

**[Section 77A \(c\)](#)**

- (c) confirming, varying or setting aside all or part of an order made by the Director-General in terms of section 71 (3), on appeal by the employer in terms of [section 72](#);

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 78**

**[Section 78](#)**

**78. Rights of employees.**-(1) Every employee has the right to-

- (a) make a complaint to a trade union representative, a trade union official or a labour inspector concerning any alleged failure or refusal by an employer to comply with this Act;
- (b) discuss his or her conditions of employment with his or her fellow employees, his or her employer or any other person;
- (c) refuse to comply with an instruction that is contrary to this Act or any sectoral determination;
- (d) refuse to agree to any term or condition of employment that is contrary to this Act or any sectoral determination;
- (e) inspect any record kept in terms of this Act that relates to the employment of that employee;
- (f) participate in proceedings in terms of this Act;
- (g) request a trade union representative or a labour inspector to inspect any record kept in terms of this Act and that relates to the employment of that employee.

(2) Every trade union representative has the right, at the request of an employee, to inspect any record kept in terms of this Act that relates to the employment of that employee.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 7 of 2018)/ Section 80**

**[Section 80](#)**

**80. Procedure for disputes.**-(1) If there is a dispute about the interpretation or application of this Part, any party to the dispute may refer the dispute in writing to-

- (a) a council, if the parties to the dispute fall within the registered scope of that council; or

- (b) the CCMA, if no council has jurisdiction.
- (2) The party who refers a dispute must satisfy the council or the CCMA that a copy of the referral has been served on all the other parties to the dispute.
- (3) The council or the CCMA must attempt to resolve a dispute through conciliation.
- (4) If a dispute remains unresolved, any party to the dispute may refer it to the Labour Court for adjudication.
- (5) In respect of a dispute in terms of this Part, the relevant provisions of Part C of Chapter VII of the Labour Relations Act, 1995, apply with the changes required by the context.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)**

(Prior to amendment by [Act No. 20 of 2013](#))

**[Section 1](#), definition-"sector"**

"sector" means an industry or a service or a part of an industry or a service;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ [Section 1](#), definition-"serve"**

**[Section 1](#), definition-"serve"**

"serve" means to send by registered post, telegram, telex, telefax or deliver by hand;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ [Section 43](#)**

**[Section 43](#)**

**43. Prohibition of employment of children.**-(1) No person may employ a child-

- (a) who is under 15 years of age; or
- (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.<sup>3</sup>
- (2) No person may employ a child in employment-
- (a) that is inappropriate for a person of that age;
- (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) A person who employs a child in contravention of [subsection \(1\)](#) or [\(2\)](#) commits an offence.

(Date of commencement of [s. 43](#): 21 March, 1998.)

**Footnotes**

- 3 [Section 31 \(1\)](#)\* of the South African Schools Act, 1996 ([Act No. 84 of 1996](#)), requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first. (Editorial Note: Footnote published as per original *Government Gazette*. We suggest that [section 31 \(1\)](#) of the South African Schools Act, 1996 should in fact be [section 3 \(1\)](#).)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ [Section 44](#)**

**[Section 44](#)**

**44. Employment of children of 15 years or older.**-(1) Subject to [section 43 \(2\)](#), the Minister may, on the advice of the Commission, make regulations to prohibit or place conditions on the employment of children who are at least 15 years of age and no longer subject to compulsory schooling in terms of any law.

- (2) A person who employs a child in contravention of [subsection \(1\)](#) commits an offence.

(Date of commencement of [s. 44](#): 21 March, 1998.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/**

**Section 45**

**45. Medical examinations.**-The Minister may, after consulting the Commission, make regulations relating to the conduct of medical examinations of children in employment.

(Date of commencement of [s. 45](#): 21 March, 1998.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 46 (a)**

**Section 46 (a)**

- (a) assist an employer to employ a child in contravention of this Act; or

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 46 (b)**

**Section 46 (b)**

- (b) discriminate against a person who refuses to permit a child to be employed in contravention of this Act.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 47**

**Section 47**

**47. Evidence of age.**-In any proceedings in terms of this Act, if the age of an employee is a relevant factor for which insufficient evidence is available, it is for the party who alleges that the employment complied with the provisions of this Chapter to prove that it was reasonable for that party to believe, after investigation, that the person was not below the permitted age in terms of [section 43](#) or [44](#).

(Date of commencement of [s. 47](#): 21 March, 1998.)

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 55 (1)**

**Section 55 (1)**

(1) After considering the report and recommendations of the Commission contemplated in [section 54 \(4\)](#), the Minister may make a sectoral determination for one or more sector and area.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 55 (4) (b)**

**Section 55 (4) (b)**

- (b) provide for the adjustment of minimum rates of remuneration;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 55 (4) (g)**

**Section 55 (4) (g)**

- (g) prohibit or regulate task-based work, piecework, home work and contract work;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 55 (4) (m)**

#### [Section 55 \(4\) \(m\)](#)

- (m) regulate pension, provident, medical aid, sick pay, holiday and unemployment schemes or funds; and

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 55 (7) (b)**

#### [Section 55 \(7\) \(b\)](#)

- (b) regulating any matter in a sector and area in which a statutory council is established and in respect of which that statutory council has concluded a collective agreement;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 68 (1)**

#### [Section 68 \(1\)](#)

(1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act must endeavour to secure a written undertaking by the employer to comply with the provision.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 69 (2) (d)**

#### [Section 69 \(2\) \(d\)](#)

- (d) any written undertaking by the employer in terms of [section 68 \(1\)](#) and any failure by the employer to comply with a written undertaking;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 69 (3) (a)**

#### [Section 69 \(3\) \(a\)](#)

(a) A labour inspector must serve a copy of the compliance order on the employer named in it, and on each employee affected by it unless this is impractical, and on a representative of the employees.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 69 (5)**

#### [Section 69 \(5\)](#)

(5) An employer must comply with the compliance order within the time period stated in the order unless the employer objects in terms of [section 71](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 70 (c)**

#### [Section 70 \(c\)](#)

- (c) any proceedings have been instituted for the recovery of that amount or, if proceedings have been instituted, those proceedings have been withdrawn; or

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 20 of 2013)/ Section 70 (d)**

#### [Section 70 \(d\)](#)

- (d) that amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to a labour inspector by or on behalf of the employee or, if no complaint was made, the date on which a labour inspector first endeavoured to secure a written undertaking by the employer in terms of [section 68](#).

**Section 71**

**71. Objections to compliance order.**-(1) An employer may object to a compliance order by making representations in writing to the Director-General within 21 days of receipt of that order.

(2) If the employer shows good cause at any time, the Director-General may permit the employer to object after the period of 21 days has expired.

(3) After considering any representations by the employer and any other relevant information, the Director-General-

- (a) may confirm, modify or cancel an order or any part of an order; and
- (b) must specify the period within which the employer must comply with any part of an order that is confirmed or modified.

(4) The information that the Director-General must consider includes-

- (a) any evidence concerning the employer's compliance record;
- (b) the likelihood that the employer was aware of the relevant provisions; and
- (c) the steps taken by the employer to ensure compliance with the relevant provision.

(5) The Director-General must serve a copy of the order made in terms of subsection (3) on the employer and on each employee affected by it or, if this is impractical, on a representative of the employees.

(6) If the Director-General confirms or modifies the order or any part of the order, the employer must comply with that order within the time period specified in that order.

**Section 72**

**72. Appeals from order of Director-General.**-(1) An employer may appeal to the Labour Court against an order of the Director-General within 21 days of receipt of that order.

(2) The order is suspended pending the final determination of the appeal by the Labour Court or any appeal from the Labour Court.

(3) If the employer shows good cause at any time, the Labour Court may permit the employer to appeal after the period of 21 days has expired.

**Section 73**

**73. Order may be made order of Labour Court.**-(1) The Director-General may apply to the Labour Court for a compliance order to be made an order of the Labour Court in terms of section 158 (1) (c) of the Labour Relations Act, 1995, if the employer has not complied with the order and has not lodged an objection against the order in terms of section 71 (1).

(2) The Director-General may apply to the Labour Court for an order of the Director-General in terms of section 71 (3) to be made an order of the Labour Court in terms of section 158 (1) (c) of the Labour Relations Act, 1995, if the employer has not complied with the order and has not appealed against the order in terms of section 72 (1).

(3) . . . . .

**Section 74 (2), the words preceding paragraph (a)**

If an employee institutes proceedings for unfair dismissal, the Labour Court or the arbitrator hearing the matter may also determine any claim for an amount that is owing to that employee in terms of this Act if-



**Section 74 (2) (a)**

- (a) the claim is referred in compliance with section 191 of the Labour Relations Act, 1995;

**Section 74 (2) (b)**

- (b) the amount had not been owing by the employer to the employee for longer than one year prior to the dismissal; and

**Section 74 (2) (c)**

- (c) no compliance order has been made and no other legal proceedings have been instituted to recover the amount.

**Section 77 (1)**

(1) Subject to the Constitution and the jurisdiction of the Labour Appeal Court, and except where this Act provides otherwise, the Labour Court has exclusive jurisdiction in respect of all matters in terms of this Act, except in respect of an offence specified in [sections 43, 44, 46, 48, 90 and 92](#).

**Section 93, Table**

OFFENCES AND PENALTIES

| <i>Section under which convicted</i>                   | <i>Maximum term of imprisonment</i> |
|--------------------------------------------------------|-------------------------------------|
| <a href="#">Section 43</a>                             | 3 years                             |
| <a href="#">Section 44</a>                             | 3 years                             |
| <a href="#">Section 46</a>                             | 3 years                             |
| <a href="#">Section 48</a>                             | 3 years                             |
| <a href="#">Section 90 (1)</a> and <a href="#">(3)</a> | 1 year                              |
| <a href="#">Section 92</a>                             | 1 year                              |

**Schedule 2, Table One**

**TABLE ONE:  
MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT**

|                                                                            |                                                                   |
|----------------------------------------------------------------------------|-------------------------------------------------------------------|
| No previous failure to comply                                              | R100 per employee in respect of whom the failure to comply occurs |
| A previous failure to comply in respect of the same provision              | R200 per employee in respect of whom the failure to comply occurs |
| A previous failure to comply within the previous 12 months or two previous | R300 per employee in respect of whom the                          |

|                                                                                       |                                                                   |
|---------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| failures to comply in respect of the same provision within three years                | failure to comply occurs                                          |
| Three previous failures to comply in respect of the same provision within three years | R400 per employee in respect of whom the failure to comply occurs |
| Four previous failures to comply in respect of the same provision within three years  | R500 per employee in respect of whom the failure to comply occurs |

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)**

(Prior to amendment by [Act No. 11 of 2013](#))

[Section 1](#), definition-"[Public Service](#)", [paragraph \(b\)](#)

- (b) the National Intelligence Agency;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)/ Section 1, definition-"Public Service", paragraph (c)**

[Section 1](#), definition-"[Public Service](#)", [paragraph \(c\)](#)

- (c) the South African Secret Service;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)/ Section 1, definition-"Public Service", paragraph (d)**

[Section 1](#), definition-"[Public Service](#)", [paragraph \(d\)](#)

- (d) the South African National Academy of Intelligence;  
[[Para. \(d\)](#) added by [s. 40 \(1\)](#) of [Act No. 65 of 2002](#) and substituted by s. 26 of Act No. 68 of 2002 (Editorial note: [s. 26](#) repealed by [s. 23](#) of [Act No. 52 of 2003](#)).]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)/ Section 1, definition-"Public Service", paragraph (e)**

[Section 1](#), definition-"[Public Service](#)", [paragraph \(e\)](#)

- (e) Comsec.  
[[Para. \(e\)](#) added by [s. 25 \(2\)](#) of [Act No. 52 of 2003](#).]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)/ Section 3 (1) (a)**

[Section 3 \(1\) \(a\)](#)

- (a) members of the National Intelligence Agency, the South African Secret Service and the South African National Academy of Intelligence;  
[[Para. \(a\)](#) substituted by [s. 40 \(1\)](#) of [Act No. 65 of 2002](#).]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2013)/ Section 3 (1) (c)**

[Section 3 \(1\) \(c\)](#)

- (c) the directors and staff of Comsec.  
[[Para. \(c\)](#) added by s. 26 of Act No. 68 of 2002 (Editorial note: [s. 26](#) repealed by [s. 23](#) of [Act No. 52 of 2003](#)) and by [s. 25 \(2\)](#) of [Act No. 52 of 2003](#).]

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 37 of 2008)**

**(Prior to amendment by [Act No. 37 of 2008](#))**

**[Section 65 \(1\)](#)**

(1) In order to monitor and enforce compliance with an employment law, a labour inspector may, without warrant or notice, at any reasonable time, enter-

- (a) any workplace or any other place where an employer carries on business or keeps employment records, that is not a home;
- (b) any premises used for training in terms of the Manpower Training Act, 1981 ([Act No. 56 of 1981](#)); or
- (c) any private employment office registered under [section 15](#) of the Guidance and Placement Act, 1981 ([Act No. 62 of 1981](#)).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 52 of 2003)**

**(Prior to amendment by [Act No. 52 of 2003](#))**

**[Section 1](#)-the definition of "[public service](#)", paragraph (d)**

- (d) Comsec;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 52 of 2003)/ Section 3 (1) (c)**

**[Section 3 \(1\) \(c\)](#)**

- (c) the directors and staff of Comsec.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 68 of 2002)**

**(Prior to amendment by Act No. 68 of 2002)**

**[Section 1](#), definition-"[public service](#)", [paragraph \(d\)](#)**

- ~~the~~ South African National Academy of Intelligence;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 65 of 2002)**

**(Prior to amendment by [Act No. 65 of 2002](#))**

**[Section 3 \(1\) \(a\)](#)**

- (a) members of the National Defence Force, the National Intelligence Agency and the South African Secret Service;

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)**

**(Prior to amendment by [Act No. 11 of 2002](#))**

**[Section 1](#), definition-"[employment law](#)"**

"**employment law**" includes this Act, any other Act the administration of which has been assigned to the Minister, and any of the following Acts:

- (a) The Unemployment Insurance Act, 1966 ([Act No. 30 of 1966](#));
- (b) the Manpower Training Act, 1981 ([Act No. 56 of 1981](#));
- (c) the Guidance and Placement Act, 1981 ([Act No. 62 of 1981](#));
- (d) the Occupational Health and Safety Act, 1993 ([Act No. 85 of 1993](#));
- (e) the Compensation for Occupational Injuries and Diseases Act, 1993 ([Act No. 130 of 1993](#));

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 8**

**Section 8**

**8. Interpretation of day.**-For the purposes of [sections 9, 10](#) and [11](#), "day" means a period of 24 hours measured from the time when the employee normally commences work.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 10 (1)**

**Section 10 (1)**

- (1) Subject to this Chapter, an employer may not require or permit an employee-
  - (a) to work overtime except in accordance with an agreement;
  - (b) to work more than-
    - (i) three hours' overtime a day; or
    - (ii) ten hours' overtime a week.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 27 (5)**

**Section 27 (5)**

(5) Before paying an employee for leave in terms of this section, an employer may require reasonable proof of an event contemplated in [subsection \(1\)](#) for which the leave was required.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 28 (2) (b)**

**Section 28 (2) (b)**

- (b) the employment of a domestic worker.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 35 (5)**

**Section 35 (5)**

(5) For the purposes of calculating an employee's annual leave pay in terms of [section 21](#), notice pay in terms of [section 38](#) or severance pay in terms of [section 41](#), an employee's remuneration-

- (a) includes the cash value of any payment in kind that forms part of the employee's remuneration unless the employee receives that payment in kind; but
- (b) excludes-
  - (i) gratuities;
  - (ii) allowances paid to an employee for the purposes of enabling an employee to work; and
  - (iii) any discretionary payments not related to the employee's hours of work or work performance.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 37 (1) and (2)**

### **Section 37 (1) and (2)**

(1) Subject to [section 38](#), a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than-

- (a) one week, if the employee has been employed for four weeks or less;
- (b) two weeks, if the employee has been employed for more than four weeks but not more than one year;
- (c) four weeks, if the employee-
  - (i) has been employed for one year or more; or
  - (ii) is a farm worker or domestic worker who has been employed for more than four weeks.

(2) A collective agreement may permit a notice period shorter than that required by subsection (1).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 41 (2)**

### **Section 41 (2)**

(2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with [section 35](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 50 (2)**

### **Section 50 (2)**

(2) A determination in terms of section (1)-

- (a) may not be made in respect of [sections 7, 9, 17 \(3\)](#) and [\(4\), 43 \(2\), 44](#) or [48](#) or a regulation made in terms of [section 13](#); and
- (b) may only be made in respect of [section 43 \(1\)](#) to allow the employment of children in the performance of advertising, sports, artistic or cultural activities.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 55 (6)**

### **Section 55 (6)**

(6) A sectoral determination in terms of [subsection \(1\)](#)-

- (a) may not be made in respect of [sections 7, 43 \(2\)](#) or [44](#);
- (b) may only be made in respect of [section 43 \(1\)](#) to allow the employment of children in the performance of advertising, sports, artistic or cultural activities;
- (c) may not reduce the protection afforded to employees by [sections 9](#) and [17 \(3\)](#) and [\(4\)](#) or a regulation made in terms of [section 13](#).

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 60 (2)**

### **Section 60 (2)**

(2) The Minister must, in addition, appoint two more members to the Commission-

- (a) one of whom must be nominated by the voting members of NEDLAC representing organised labour;
- (b) one of whom must be nominated by the voting members of NEDLAC representing organised business.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 69 (3)**

### **Section 69 (3)**

(3) A labour inspector must deliver a copy of the compliance order to the employer named in it, and to each employee affected by it or, if this is impractical, a representative of the employees.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 70 (d)**

**Section 70 (d)**

(d) that amount has been payable for longer than 12 months.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 73 (3)**

**Section 73 (3)**

(3) For the purposes of section 158 (1) (c) of the Labour Relations Act, 1995, a compliance order or an order in terms of section 71 (3) is deemed to be an arbitration award.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 74 (2)**

**Section 74 (2)**

(2) If an employee institutes proceedings for unfair dismissal, the Labour Court or the arbitrator hearing the matter may also determine any claim for an amount that is owing to that employee in terms of this Act if-

- (a) the claim is referred in compliance with section 191 of the Labour Relations Act, 1995;
- (b) the amount has not been owing to the employee for longer than one year; and
- (c) no compliance order has been made and no other legal proceedings have been instituted to recover the amount.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 75**

**Section 75**

**75. Payment of interest.**-An employer must pay interest on any amount due and payable in terms of the Prescribed Rate of Interest Act, 1975 ([Act No. 55 of 1975](#)), to any person to whom a payment should have been made.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Section 83 (1)**

**Section 83 (1)**

(1) The Minister may, on the advice of the Commission and by notice in the *Gazette*, deem any category of persons specified in the notice to be employees for purposes of this Act or any sectoral determination.

**National Legislation/ Principal Acts and Regulations/ B/ Basic Conditions of Employment Act, No. 75 of 1997/ Wording of Sections/ (Prior to amendment by Act No. 11 of 2002)/ Schedule 3, items 9 and 10**

**Schedule 3, items 9 and 10**

**9. Wage determinations.**-Any wage determination and any amendment to a wage determination made in terms of [section 15](#) of the Wage Act, 1957, in force immediately before the commencement of this Act remains in force for the period of its operation in terms of [section 18](#) of that Act, and may be extended or amended as if that Act had not been repealed.

**10. Exemptions to wage determination.**-Any licence of exemption granted to a wage determination in terms of [section 19](#) of the Wage Act, 1957, in force immediately before the commencement of this Act remains in force for the period of operation of the determination, or until withdrawn in terms of section 19 (5) of that Act, as if that Act had not been repealed.

