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Kaapstad,

THE PRESIDENCY

No. 1674 14 November 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 32 of 2003: Unemployment Insurance Amendment Act, 2003.

VHUPRESIDENDE

Nom. 1674 14 November 2003

Zwi khou divhadziwa henefha uri mupresidende o tendelana na uyu mulayo une wa khou andadziwa hu u itela ndivhadzo kha tshitshavha:—

Nom. 32 ya 2003: Mulayo wa Khwiniso wa Zibviswa zwa Ndindakhombo ya u Shaya Mushumo, 2003.



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Act No. 32, 2003 UNEMPLOYMENT INSURANCE AMENDMENT ACT, 2003

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 11 November 2003.)

ACT

To amend the Unemployment Insurance Act, 2001, so as to define certain expressions and to amend or delete certain definitions; to exclude persons who receive a State pension from the application of the Act; to provide anew for the compilation and filing of a business plan; to extend the right to benefits to domestic workers who are employed by more than one employer; to extend the right to unemployment benefits to a domestic worker whose contract of employment is terminated by the death of his or her employer; to adjust the benefits payable to contributors in respect of illness, maternity and adoption; to provide for the establishment of regional appeals committees; and to provide anew for the settling of disputes relating to payment or non-payment of benefits; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 63 of 2001

1. Section 1 of the Unemployment Insurance Act, 2001 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definition of “CCMA”;
- (b) by the insertion after the definition of “month” of the following definition:
 “**National Appeals Committee**’ means the appeals committee contemplated in section 50(2)(a)(i);”;
- (c) by the insertion after the definition of “public service” of the following definition:
 “**regional appeals committee**’ means a regional appeals committee established in terms of section 36A;”;
- (d) by the deletion of the definition of “seasonal worker”;
- (e) by the substitution for the definition of “this Act” of the following definition:
 “**this Act**’ includes any regulation **made in terms of this Act**”; and
- (f) by the substitution for the definition of “Unemployment Insurance Contribution Act” of the following definition:
 “**Unemployment Insurance Contribution Act**’ means the Unemployment Insurance Contribution Act, 2002 (Act No. 4 of 2002);”.

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THANDAVHUDZO NGA U ANGAREDZA:

[] Maipfi o swifhadziwaho a re nga ngomu kha zwidanga a sumbedza zwo bvisiwaho kha mbetshelwa iyi.

Maipfi o taleliwaho nga mutalo wo khwathaho a sumbedza zwo dzhenisiwaho kha iyi mbetshelwa.

*(English text signed by the President.)
(Assented to 11 November 2003.)*

MULAYO

U khwinisa Mulayo wa Ndindakhombo ya Vhushaya Mushumo, 2001, u itela u tlatshedza dziñwe tlatshedzo na u khwinisa kana u bvisa dziñwe thandavhudzo; u sia nda vhathu vhane vha tangedza midende ya Muvhuso kha kushumele kwa Mulayo; u disela nga hu swa u itela u kuvhanganya na u faela mbekanya mushumo ya tsumba bindu; u engedzedza pfanelo dza malamba kha vhabvisi vha zwibviswa vho tholiwaho nga vhatholi vhandzhi; u ungedza pfanelo dza malamba a vhushaya mushumo kha mubvisi wa zwibviswa ane avha na kontiraka ya mushumo yo tumiwaho nga mulandu wa lufu lwa mutholi wawe; u dzudzanya malamba ane a badelwa vhabvisi vha zwibviswa zwi tshi ya nga vhulwadze, vhudzadze na u adophutha; u itela u thomiwa ha dzikomiti dza dzingu dza dzimbilaelo; na u disedza maitele maswa u itela u dzudzanya dziphambano dzi elanaho na mbadelo kana u sa badelwa ha malamba; na u katela vho mañwe mafhungo ane a tshelana na anea.

Hu vhwela Mulayo nga Phalamennde ya Riphabuliki ya Afurika-Tshipembe sa zwi tevhelaho—

Khwiniso ya khethekanyo 1 ya Mulayo 63 wa 2001

1. Khethekanyo 1 ya Mulayo wa Ndindakhombo ya u Shaya Mushumo, 2001 (wone mulayo u dzhiwaho sa mulayo muhulwane), u khwinisiwa nga ndila i tevhelaho— 5
 - (a) u thuthiwa ha thandavhudzo ya “CCMA”;
 - (b) nga u dzhenisiwa murahu ha tlatshedzo ya “nwedzi” ya tlatshedzo i tevhelaho:

“Komiti ya Lushaka ya Dzimbilaelo’ zwi amba komiti ya dzimbilaelo yo buliwaho kha khethekanyo 50(2)(a)(i);” 10
 - (c) nga u dzhenisiwa murahu ha tlatshedzo ya “vhushumela vhapo” tlatshedzo i tevhelaho:

“komiti ya dzingu ya dzimbilaelo’ zwi amba komiti ya dzingu ya dzimbilaelo yo thomiwaho u ya nga khethekanyo 36A;” 15
 - (d) nga u thuthiwa ha tlatshedzo ya “mushumi wa tshifhinga nyana”;
 - (e) nga u dzhenisiwa vhudzuloni ha “hoyu Mulayo” tlatshedzo i tevhelaho:

“hoyu Mulayo’ u katela mulayo muñwe na muñwe [wo itiwaho u ya nga hoyu Mulayo];” na
 - (f) nga u dzhenisiwa vhudzuloni ha tlatshedzo ya “Mulayo wa Zwibviswa zwa Ndindakhombo” tlatshedzo i tevhelaho: 20

“Mulayo wa zwibviswa zwa Ndindakhombo ya u shaya Mushumo’ zwi amba Mulayo wa zwibviswa zwa Ndindakhombo ya u shaya Mushumo, 2002 (Mulayo wa 4 wa 2002):”

Act No. 32, 2003 UNEMPLOYMENT INSURANCE AMENDMENT ACT, 2003

Amendment of section 3 of Act 63 of 2001

2. Section 3 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

“(b) employees [**who receive remuneration under a learnership agreement registered in terms**] under a contract of employment contemplated in section 18(2) of the Skills Development Act, 1998 (Act No. 97 of 1998), and their employers; 5

(c) [**employers and**] employees in the national and provincial spheres of government who are officers or employees as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and their employers;” 10

(b) by the insertion in subsection (1) of the word “and” at the end of paragraph (d) and the addition to the said subsection of the following paragraph:

“(e) persons who receive a monthly pension as contemplated in section 14(a)(i) and their employers.”; and 15

(c) by the deletion of subsections (2) and (3).

Amendment of section 11 of Act 63 of 2001

3. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 20

“(2) (a) At the beginning of each financial year, the [**Commissioner**] Director-General must file a business plan, approved by the Minister, with the National Treasury.

(b) The Commissioner [**Minister**] must compile the business plan, with the [**concurrence of the Director-General and the Commissioner, and they are to be assisted by**] assistance of the actuary and the Board.” 25

Amendment of section 12 of Act 63 of 2001

4. Section 12 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection: 30

“(1A) A contributor who is employed as a domestic worker by more than one employer and whose employment is terminated by one or more employers is, despite still being employed, entitled to benefits in terms of this Act if the contributor’s total income falls below the benefit level that the contributor would have received if he or she had become wholly unemployed.” 30

Amendment of section 13 of Act 63 of 2001

5. Section 13 of the principal Act is hereby amended by the addition of the following subsection: 35

“(6) For the purposes of calculating the benefits of a contributor contemplated in section 12(1A), the total income derived from continued employment plus the amount of benefits calculated may not exceed the benefits that would have been paid if the contributor had become wholly unemployed.” 40

Amendment of section 16 of Act 63 of 2001

6. Section 16 of the principal Act is hereby amended by the deletion in subsection (1)(a) of the word “or” at the end of subparagraph (ii), the addition of the word “or” at the end of subparagraph (iii) and the addition of the following subparagraph: 45

“(iv) in the case of a domestic worker, the termination of the contributor’s contract of employment by the death of the employer of that contributor.”

Amendment of section 21 of Act 63 of 2001

7. Section 21 of the principal Act is hereby amended by the deletion of subsection (1).

Khwiniso ya khethekanyo 3 ya Mulayo 63 wa 2001

2. Khethekanyo 3 ya Mulayo muhulwane i khwinisa—

- (a) nga u dzhenisa vhudzuloni ha khethekanyo thukhu (1) kha ndima (b) na (c) na kha dzindima dzi tevhelaho:

“(b) vthholiwa [**vhane vha tangedza malamba nga fhasi ha thendelano ya vbugudisi yo nwaliswaho kha** fhasi ha thendelano ya mushumo yo ambiwaho kha khethekanyo 18(2) ya Mulayo wa u Bveledzisa Vhukoni, 1998 (Mulayo wa 97 wa 1998), na vthholi vhavho;

(c) [**vthholi na**] vthholiwa kha mihasho ya lushaka na mashango [haya ya] a muvhuso [; na] vho tholiwaho sa vhaofisiri kana vthholiwa sa zwo talutshedziwaho kha khethekanyo 1(1) ya Mulayo wa Tshumelo dza Vhathu, 1994 (Proklameisheni Nom. 103 ya 1994), na vthholi vhavho;”;

- (b) nga u dzhenisiwa ha khethekanyo thukhu (1) ha ipfi “na” mafheleloni a ndima (d) na u engedza kha khethekanyo thukhu ya ndima i tevhelaho:

“(e) vthathu vthane vha wana mindende ya Muvhuso sa zwo ambiwaho kha khethekanyo thukhu 14(a)(i) na vthholi vhavho.”;

- (c) nga u thutha khethekanyo thukhu (2) na (3).

Khwiniso ya khethekanyo 11 ya Mulayo 63 wa 2001

3. Khethekanyo 11 ya Mulayo muhulwane i khwinisiwa nga u dzhenisa zwi tevhelaho vhudzuloni ha ndimana thukhu (2):

“(2)(a) Mathomoni a n'waha wa muvhalelano, [**Khomishinari**] Dairekitha-Dzhenerala u fanela u bvisa tsumba mushumo ya bindu na Muhasho wa zwa Gwama musu zwo no phasisiwa nga Minisita.”;

(b) Mukhomishinari [**Minisita**] u fanela u kuvhanganya mbekanya mushumo ya tsumba bindu, [**thendelano ya Dairekitha-Dzhenerali na Khomishinari, nahone vha tea u do thusiwa nga**] o thusiwa nga Radzimbalo na Bodo.”

Khwiniso ya khethekanyo 12 ya Mulayo 63 wa 2001

4. Khethekanyo 12 ya Mulayo muhulwane i khakhululiwa nga u dzhenisa phanda ha khethekanyo thukhu (1) zwi tevhelaho:

“(1A) Mubvisi wa zwibviswa o tholiwaho sa mushumi wa hayani nga vthholi vha fhiraho muthihi nahone a xeletshelwa nga mushumo muthihi kana minzhi, a qi vha a tshi khou isa phanda na mushumo kha muñwe mutholi kana vthholi, udo tewa nga ndugelo dza mbadelo dza hoyu Mulayo, arali fhedzi malamba awe a vha nga fhasi ha mbadelo dze a vha a tshi do vha o dzi wana arali o vha o xeletshelwa nga mishumo yothe.”.

Khwiniso ya khethekanyo 13 ya Mulayo 63 wa 2001

5. Khethekanyo 13 ya Mulayo muhulwane i khwinisiwa nga u dzhenisa khethekanyo:

“(6) U itela u tanganyisela dzimbadelo dza malamba a mubvisi wa zwibviswa o ambiwaho kha khethekanyo 12(A), miholo yothe yo wanalaho kha mishumo ine ya kha qi shuma yo tangana na malamba o tanganyiselwaho a zwi tei u fhira malamba e a vha a tshi do vha o badeliwa arali mubvisi wa zwibviswa o vah o xeletshelwa nga mishumo yothe.”.

Khwiniso ya khethekanyo 16 ya Mulayo 63 wa 2001

6. Khethekanyo 16 ya Mulayo muhulwane i khwinisiwa nga u thutha kha khethekanyo thukhu (1)(a) ipfi “kana” mafheleloni a ndimana (ii), u engedza ipfi “kana” mafheleloni a ndimana (iii) na u dzhenisa ndimana i tevhelaho:

“(iv) U fhelisiwa ha mushumo wa mubvisi wa zwibviswa zwa ndindakhombo ya u shaya mushumo nga mulandu wa u lovha ha mutholi.”.

Khwiniso ya khethekanyo 21 ya Mulayo 63 wa 2001

7. Khethekanyo 21 ya mulayo muhulwane i khwinisiwa nga u thuthiwa ha khethekanyo thukhu (1).

Act No. 32, 2003 UNEMPLOYMENT INSURANCE AMENDMENT ACT, 2003

Amendment of section 24 of Act 63 of 2001

8. Section 24 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 27 of Act 63 of 2001

9. Section 27 of the principal Act is hereby amended by the deletion of subsection (3).

Insertion of section 36A in Act 63 of 2001

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10. The following section is hereby inserted in the principal Act after section 36:

“Establishment of regional appeals committees

36A. (1) The Minister must, after consultation with the Board, appoint a regional appeals committee for each region determined by the Minister.

(2) A regional appeals committee must be composed of at least—

- (a) one member and an alternate member to represent organised labour;
- (b) one member and an alternate member to represent organised business;
- (c) one member and an alternate member to represent organisations of community and development interests; and
- (d) one officer.

(3) Any person appointed to a regional appeals committee who is not in the full-time employment of the State must be paid remuneration and allowances determined by the Minister in terms of the Treasury Instructions issued by the National Treasury.”

Substitution of section 37 of Act 63 of 2001

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11. The following section is hereby substituted for section 37 of the principal Act:

“Disputes relating to payment or non-payment of benefits

37. (1) A person who is entitled to benefits in terms of this Act may appeal to [the] a regional appeals committee [of the Board] if that person is aggrieved by a decision of—

- (a) the Commissioner to suspend such person’s right to benefits; or
- (b) a claims officer relating to the payment or non-payment of benefits.

(2) A person who is dissatisfied with the decision of [the] a regional appeals committee may refer the matter [for arbitration to the CCMA] to the National Appeals Committee for a decision.

(3) A decision by the National Appeals Committee is final, subject to judicial review.

(4) For the purposes of an appeal in terms of this section—

- (a) the decisions of a regional appeals committee and those of the National Appeals Committee are determined by majority vote; and
- (b) a regional appeals committee or the National Appeals Committee, as the case may be, may, after considering an appeal, confirm or vary the decision in question, or rescind it and substitute the decision of the relevant regional appeals committee or the National Appeals Committee, as the case may be.”

Short title

12. This Act is called the Unemployment Insurance Amendment Act, 2003.

Khwiniso ya khethekanyo 24 ya Mulayo 63 wa 2001

8. Khethekanyo 24 ya Mulayo muhulwane i khwinisiwa nga u thuthiwa ha khethekanyo thukhu (2).

Khwiniso ya khethekanyo 27 ya Mulayo 63 wa 2001

9. Khethekanyo 27 ya Mulayo muhulwane i khwinisiwa nga u thuthiwa ha khethekanyo thukhu (3). 5

Udzheniswa ha khethekanyo 36A kha Mulayo 63 wa 2001

10. Khethekanyo i tevhelaho i dzheniswa kha Mulayo muhulwane murahu ha khethekanyo 36:

“U thomiwa ha komiti ya dzimbilaelo ya dzingu 10

36A. (1) Minisita u fanela, muso o no kwamana na Bodo, u thola komiti ya dzimbilaelo ya dzingu kha dzingu jinwe na jinwe lo vthoniwaho nga Minisita.

(2) Komiti ya dzingu ya dzimbilaelo i fanela u itwa nga—

- (a) muraḡo muthihi na muḡwe muthu ane a bva kha vhaimeleli vha vhashumi; 15
(b) muraḡo muthihi na muimeleli wa mabindu;
(c) muraḡo muthihi na muḡwe muthu ane a a madzangano azwitshavha;
(d) muofisiri muthihi.

(3) Muthu muḡwe na muḡwe o tholiwaho kha komiti ya dzimbilaelo ya dzingu ane a si vhe mushumi wa tshoḡhe wa muvhuso u tea u wana malamba zwi tshi bva kha Minisita u ya nga Ndela ya Gwama yo bvisiwaho nga Muhasho wa zwa Gwama.” 20

Khakhululo ya khethekanyo 37 ya Mulayo 63 wa 2001

11. Khethekanyo i tevhelaho i dzheniswa vhudzuloni ha khethekanyo thukhu ya 37 ya Mulayo muhulwane: 25

“Phambano dzi bvaho kha mbadelo kana u sa wana mbadelo dza malamba

37. (1) Muthu ane avha na ndugelo dza malamba u ya nga ha uyu Mulayo a nga isa mbilaelo dzawe [kha] komiti ya dzingu ya dzimbilaelo [ya Bodo] arali hoyo muthuo diniwa nga tsho yo dzhiiwaho nga— 30

- (a) Khomishinari o imisa ndugelo dza malamba a uyo muthu; kana
(b) muofisiri wa zwa mbadelo zwi tshi ya nga u badelwa kana nga u sa badelwa malamba.

(2) Muthu ane ha ngo fushea nga tsho ya komiti ya dzingu ya dzimbilaelo a nga isa mafhungo kha Komiti ya Lushaka ya Dzimbilaelo. 35

(3) Tsho ya Komiti ya Lushaka ya Dzimbilaelo ndi ya u fhedzisela, zwi tshi bva kha ndugelo dza u sedzulusisa kutshimbizelwe kwa maitete.

(4) U itela dzimbilaelo u ya nga khethekanyo iyi—

- (a) tsho ya komiti ya dzingu ya dzimbilaelo kana Komiti ya Lushaka ya Dzimbilaelo, i ḡo vha nga madenwe a vhunzhi; kana 40
(b) komiti ya dzingu ya dzimbilaelo na Komiti ya Lushaka ya Dzimbilaelo, muso yo no sedzulusa mbilaelo, ya khwathisa kana u shandukisa tsho yo dzhiiwaho, nga komiti thukhu ya dzimbilaelo kana Komiti ya Lushaka ya Dzimbilaelo ya dzimbilaelo u ya nga u 45
ralo.”

Thoho thukhu

12. Hoyu Mulayo u pfi Mulayo wa Khwiniso wa Zwibviswa zwa Ndindakhombo ya u Shaya Mushumo, 2003.

