

South Africa

Basic Conditions of Employment Act, 1997

## General Administrative Regulations, 1998

Government Notice R1438 of 1998

Legislation as at 25 July 2002

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General Administrative Regulations, 1998  
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## South Africa

### Basic Conditions of Employment Act, 1997

## General Administrative Regulations, 1998

### Government Notice R1438 of 1998

Published in Government Gazette 19453 on 13 November 1998

**Commenced on 13 November 1998**

*[This is the version of this document as it was from 25 July 2002 to 11 March 2010.]*

*[Amended by [General Administrative Regulations: Amendment \(Government Notice R319 of 2002\)](#) on 22 March 2002]*

*[Amended by [General Administrative Regulations: Amendment \(Government Notice R936 of 2002\)](#) on 25 July 2002]*

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.

### 1. Definitions

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

“**the Act**” means the Basic Conditions of Employment Act ([Act no. 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 "Provincial Executive Manager" appears in the Act or in these regulations, it means—
- (a) in the province of KwaZulu/Natal, the "Provincial Executive Manager", Department of Labour, P O Box 940, Durban, 4000;
  - (b) in the province of Northern Cape, the "Provincial Executive Manager", Department of Labour, Private Bag X5012, Kimberley, 8300;
  - (c) in the Northern Province, the "Provincial Executive Manager", Department of Labour, Private Bag X9368, Pietersburg, 0700;
  - (d) in the province of North-West, the "Provincial Executive Manager", Department of Labour, Private Bag X2040, Mmabatho, 8681;
  - (e) in the province of Eastern Cape, the "Provincial Executive Manager", Department of Labour, Private Bag X9005, East London, 5200;
  - (f) in the province of Mpumalanga, the "Provincial Executive Manager", Department of Labour, Private Bag X7263, Witbank, 1035;
  - (g) in the province of the Free State, the "Provincial Executive Manager", Department of Labour, P O Box 522, Bloemfontein, 9300;
  - (h) in the province of Gauteng:
    - Gauteng-South: - in the Magisterial Districts of Alberton, Boksburg, Brakpan, Germiston, Heidelberg, Johannesburg, Kempton Park, Oberholzer, Randburg, Roodepoort, Vanderbijlpark, Vereeniging and Westonaria, The "Provincial Executive Manager", Department of Labour, P O Box 4560, Johannesburg, 2000;

Gauteng North: - in the Magisterial Districts of Benoni, Bronkhorstspuit, Cullinan, Krugersdorp, Nigel, Pretoria, Randfontein, Soshanguve 1, Soshanguve 2, Springs and Wonderboom, the "Provincial Executive Manager", Department of Labour, P O Box 393, Pretoria, 0001; and

- (i) in the Province of the Western Cape, the "Provincial Executive Manager", Department of Labour, P O Box 872, Cape Town, 8000.

*[subregulation (2) substituted by [Government Notice R319 of 2002](#)]*

## 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	<i>isiZulu</i>

## 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.

#### 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.

#### 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.

#### 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.

#### 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 7, or contain the information required by that form.

#### 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 sub-regulation (1) must be made in the form of BCEA 8.
- (3) A subpoena issued for any purpose in terms of sub-regulation (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.

## 9. Securing an undertaking

- (1) Any request in writing to comply with an undertaking in terms of section 68(1A)(b) must be in the form of BCEA 8A or contain the information required by that form.
- (2) 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.
- (3) 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.
- (4) 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.

*[regulation 9 substituted by [Government Notice R936 of 2002](#)]*

## 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.

## 11. Objections to compliance order

- (1) An objection lodged by an employer in terms of Section [71](#) of the Act must be in the form of BCEA 13 or contain the information set out in that form.
- (2) The objection must be lodged at any office of the Department of Labour listed in regulation [1\(2\)](#).

## 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.

## 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.

*[regulation [13](#) added by [Government Notice R319 of 2002](#)]*

## **Schedule**

### **Forms**

*[Editorial note: The forms have not been reproduced.]*

*[Schedule amended by [Government Notice R319 of 2002](#) and by [Government Notice R936 of 2002](#)]*