



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 7259

Regulasiekoerant

Vol. 439

Pretoria, 25 January 2002
Januarie

No. 23045



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

CONTENTS • INHOUD

No.	Page No.	Gazette No.
-----	-------------	----------------

GOVERNMENT NOTICES**Labour, Department of***Government Notices*

R. 63 Basic Conditions of Employment Act, 1997: Ministerial Determination: Special Public Works Programme	3	23045
R. 64 do.: Code of Groot Practice for employment and conditions of work for Special Public Works Programmes	15	23045

GOVERNMENT NOTICES

DEPARTMENT OF LABOUR**No. R. 63****25 January 2002****BASIC CONDITIONS OF EMPLOYMENT ACT, 1997****MINISTERIAL DETERMINATION: SPECIAL PUBLIC WORKS PROGRAMMES**

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**MINISTERIAL DETERMINATION NO: 3 : SPECIAL 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 –**

“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:

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.

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Code of Good Practice for employment and conditions of work for Special Public Works Programmes

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 conditions of work for Special Public Works Programmes as set out in the Schedule.

SCHEDULE

Code of Good Practice for employment and conditions of work for Special Public Works Programmes

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 & 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.

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 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 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 an worker if –
 - (a) there is a good reason for the dismissal; and
 - (b) the employer has followed a fair procedure.
- 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

Contractors	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:

Dog ate your Gazette? ... read it online



www.SA Gazettes.co.za

A new information Portal keeping you up to date with news, legislation, the Parliamentary programme and which is the largest pool of SA Gazette information available on the Web.

- Easily accessible through the www!
 - Government Gazettes - from January 1994
 - Compilations of all Indexes pertaining to the past week's Government Gazettes
 - All Provincial Gazettes - from September 1995
 - Parliamentary Bills - as of January 1999
- Available in full-text, with keyword searching
- Sabinet Online scans, formats, edits and organize information for you. Diagrams and forms included as images.
- No stacks of printed gazettes - all on computer. Think of the storage space you save.
- Offer Bill Tracker - complementing the SA Gazettes products.

For easy electronic access to full-text gazette info, subscribe to the SA Gazettes from Sabinet Online. Please visit us at www.sagazettes.co.za





*Looking for back copies and out of print issues of
the Government Gazette and Provincial Gazettes?*

The National Library of SA has them!

Let us make your day with the information you need ...

National Library of SA, Pretoria Division

PO Box 397

0001 PRETORIA

Tel.:(012) 321-8931, Fax: (012) 325-5984

E-mail: infodesk@nlsa.ac.za



*Soek u ou kopieë en uit druk uitgawes van die
Staatshoerant en Provinsiale Koerante?*

Die Nasionale Biblioteek van SA het hulle!

Met ons hoef u nie te sukkel om inligting te bekom nie ...

Nasionale Biblioteek van SA, Pretoria Divisie

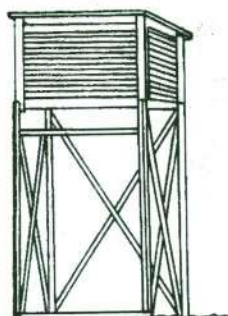
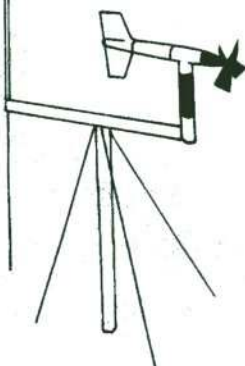
Posbus 397

0001 PRETORIA

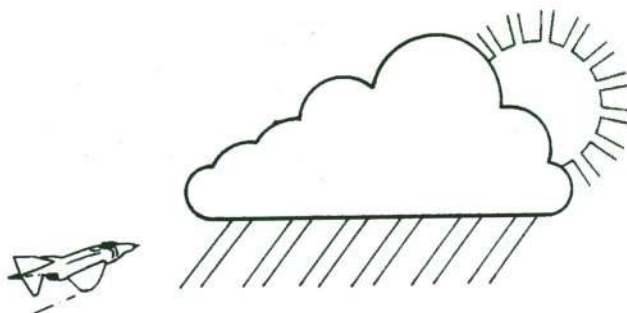
Tel.:(012) 321-8931, Faks: (012) 325-5984

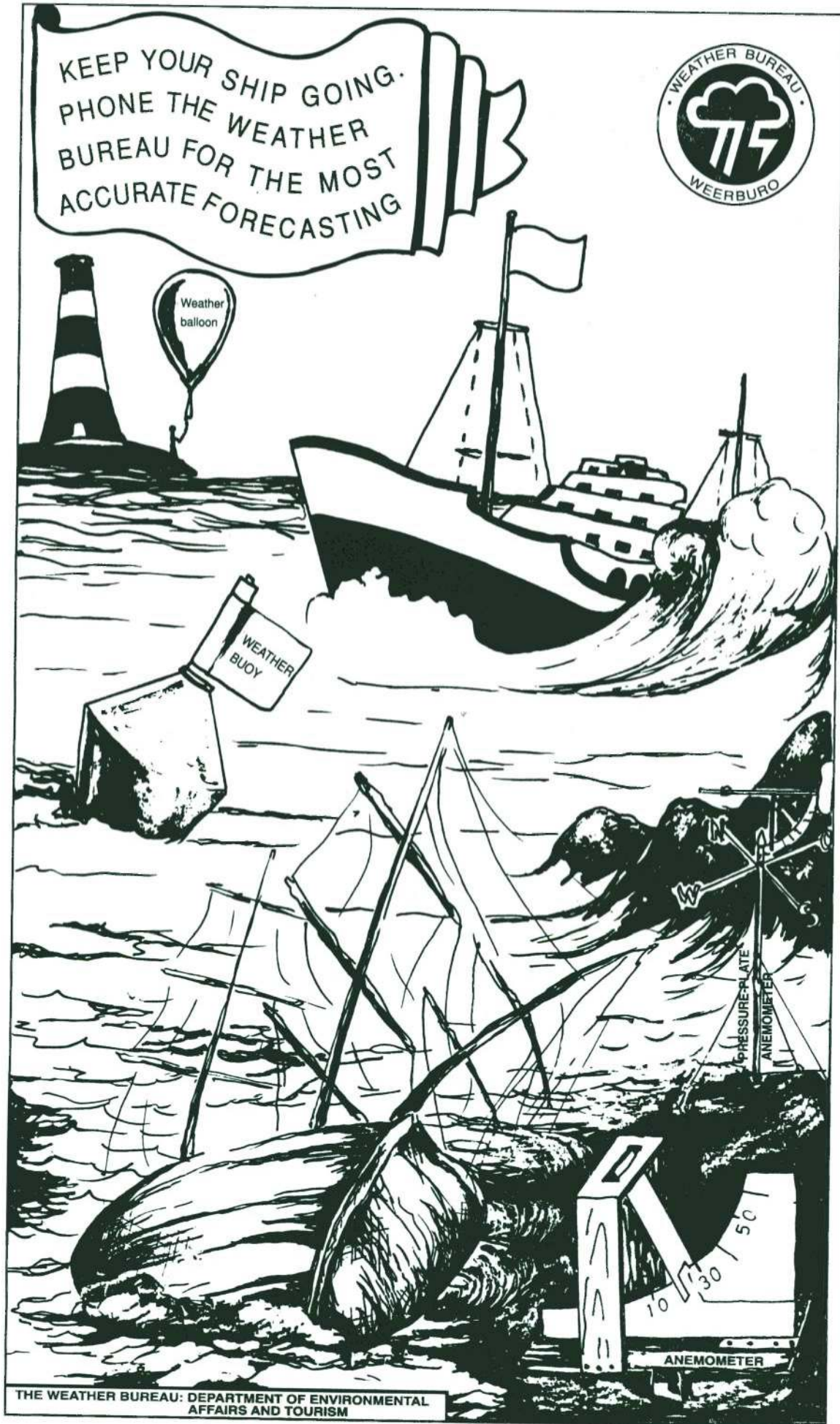
E-pos: infodesk@nlsa.ac.za

SA WEATHER BUREAU SA WEERBURO



**W
E
A
T
H
E
R
·
S
E
R
V
I
C
E
S
·
W
E
E
R
D
I
E
N
S
T
E**





Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531