



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 478.

14 Maart 1984

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 27 van 1984: Wysigingswet op Basiese Diensvoorwaardes, 1984.

No. 478.

14 March 1984

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

No. 27 of 1984: Basic Conditions of Employment Amendment Act, 1984.

Wet No. 27, 1984

WYSIGINGSWET OP BASIESE DIENSVOORWAARDES, 1984

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Basiese Diensvoorwaardes, 1983, ten einde "loon" en "openbare feesdag" nader te omskryf; te bepaal dat kennis van beëindiging van diens gedurende die eerste vier weke van diens, in die geval van 'n skriftelike dienskontrak ooreenkomstig die kontrak gegee moet word; die nie-betaling of onderbetaling van lone 'n misdryf te maak; van die verbod op aftrekkings van werknemers se beloning die verrekening teen sodanige beloning van bedrae deur 'n werknemer aan sy werkgever verskuldig, uit te sluit; en sekere teksverbeterings aan te bring; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 Februarie 1984.)

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 1 van
Wet 3 van 1983.

1. Artikel 1 van die Wet op Basiese Diensvoorwaardes, 1983 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van "loon" deur 5 die volgende omskrywing te vervang:

"'loon' die bedrag geld **[betaal of betaalbaar]** aan 'n werknemer ingevolge die ooreenkoms tussen hom en sy werkgever betaal of betaalbaar ten opsigte van die gewone werkure, of, indien 'n werknemer gewoonlik minder as die gewone werkure werk, 10 die bedrag geld **[betaal of betaalbaar]** aan hom ingevolge die ooreenkoms betaal of betaalbaar ten opsigte van die ure wat aldus gewoonlik deur hom gewerk word, of, indien 'n werknemer ten opsigte 15 van die gewone werkure of, na gelang van die geval, die ure wat aldus gewoonlik deur hom gewerk word, gereeld 'n hoër bedrag geld betaal word as waartoe ooreengekom is, sodanige hoër bedrag, behalwe waar sodanige hoër bedrag foutiewelik 20 aan die werknemer betaal is;"

en

(b) deur in subartikel (1) paragraaf (a) van die omskrywing van "openbare feesdag" deur die volgende paragraaf te 25 vervang:

"(a) wanneer dit gebruik word met betrekking tot 'n werknemer wat in of in verband met 'n winkel of kantoor in diens is, of vir sover 'n bepaling waarin dit gebruik word, toegepas word met betrekking tot so 'n werknemer, 'n dag **[genoem in die Eerste Bylae by]** wat ingevolge artikel 1 van die Wet op 30 Openbare Feesdae, 1952 (Wet No. 5 van 1952) 'n openbare feesdag is of kragtens artikel 2 van daardie Wet as sodanig verklaar is;"

BASIC CONDITIONS OF EMPLOYMENT AMENDMENT ACT, 1984

Act No. 27 1984

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Basic Conditions of Employment Act, 1983, so as to further define "public holiday" and "wage"; to provide that notice of termination of service during the first four weeks of service shall in the case of a written contract of employment be given in accordance with such contract; to make the non-payment or underpayment of wages an offence; to exclude from the prohibition on deductions from employees' remuneration the setting-off against such remuneration of amounts owed by an employee to his employer; and to effect certain textual improvements; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 29 February 1984.)*

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Basic Conditions of Employment Act, 1983 (hereinafter referred to as the principal Act), is hereby
5 amended—

Amendment of
section 1 of
Act 3 of 1983.

(a) by the substitution in subsection (1) for paragraph (a) of the definition of "public holiday" of the following paragraph:

10 "(a) when it is used in relation to an employee who is employed in or in connection with a shop or an office, or in so far as a provision in which it is used is applied with respect to any such employee, means a day **[mentioned in the First Schedule to]** which is a public holiday in terms of section 1 or
15 declared as such under section 2 of the Public Holidays Act, 1952 (Act No. 5 of 1952);" and

(b) by the substitution in subsection (1) for the definition of "wage" of the following definition:

20 "‘wage’ means the amount of money paid or payable to an employee in terms of the agreement between him and his employer in respect of the ordinary working hours, or, if an employee ordinarily works less than the ordinary working hours, the amount of money paid or payable to him in terms of the agreement in respect of the hours so ordinarily
25 worked by him, or, if an employee is regularly paid a higher amount of money than the amount agreed upon in respect of the ordinary working hours or, as the case may be, the hours so ordinar-
30 ily worked by him, such higher amount, except where such higher amount was erroneously paid to the employee;"

Wet No. 27, 1984

WYSIGINGSWET OP BASIESE DIENSVoorWAARDES, 1984

Wysiging van
artikel 8 van
Wet 3 van 1983.

2. Artikel 8 van die Hoofwet word hierby gewysig deur in subartikel (1) die woord "artikel" deur die woord "subartikel" te vervang.

Wysiging van
artikel 12 van
Wet 3 van 1983.

3. Artikel 12 van die Hoofwet word hierby gewysig—
- (a) deur in die Engelse teks van subparagraaf (i) van paragraaf (a) van subartikel (1) die woord "as" deur die woord "at" te vervang;
 - (b) deur in die Engelse teks van paragraaf (b) van subartikel (1) na die woord "leave" die woorde "referred to in paragraph (a)" in te voeg;
 - (c) deur in subparagraaf (i) van paragraaf (b) van subartikel (4) die uitdrukking "paragraaf (a)" deur die uitdrukking "paragraaf (a) (i)" te vervang; en
 - (d) deur in subparagraaf (ii) van paragraaf (b) van subartikel (4) die uitdrukking "paragraaf (b)" deur die uitdrukking "paragraaf (a) (ii)" te vervang.

Wysiging van
artikel 13 van
Wet 3 van 1983.

4. Artikel 13 van die Hoofwet word hierby gewysig deur in paragraaf (b) van subartikel (1) die uitdrukking "30" deur die uitdrukking "36" te vervang.

Wysiging van
artikel 14 van
Wet 3 van 1983.

5. Artikel 14 van die Hoofwet word hierby gewysig—
- (a) deur die volgende voorbehoudsbepaling by paragraaf (a) van subartikel (1) te voeg:

"Met dien verstande dat indien 'n skriftelike dienskontrak 'n tydperk van kennisgewing van gelyke duur vir beide partye bepaal wat langer as een werksdag is, kennis ooreenkomstig sodanige kontrak oor sodanige langer tydperk gegee moet word."
 - (b) deur in paragraaf (b) van subartikel (2) die uitdrukking "or" deur die woord "of" te vervang; en
 - (c) deur in die Engelse teks van paragraaf (b) van subartikel (4) die woord "employee", waar dit die tweede maal voorkom, deur die woord "employer" te vervang.

Wysiging van
artikel 19 van
Wet 3 van 1983.

6. Artikel 19 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:
- "(2) 'n Werkgewer moet nie later nie as die dag waaroor daar tussen hom en 'n werknemer vir die betaling van die werknemer se loon ooreengekom is, die werknemer se loon op die voorgeskrewe wyse betaal."

Wysiging van
artikel 27 van
Wet 3 van 1983.

7. Artikel 27 van die Hoofwet word hierby gewysig deur in paragraaf (a) van subartikel (1) die uitdrukking "13 (1) of 14 (1) of (3) (saamgelees met artikel 14 (4) (a))" deur die uitdrukking "13 (1), 14 (1) of (3) (saamgelees met artikel 14 (4) (a)) of 19 (2)" te vervang.

Wysiging van
artikel 30 van
Wet 3 van 1983.

8. Artikel 30 van die Hoofwet word hierby gewysig deur in subartikel (3) die uitdrukking "13 (1) of 14 (1) of (3) (saamgelees met artikel 14 (4) (a))" deur die uitdrukking "13 (1), 14 (1) of (3) (saamgelees met artikel 14 (4) (a)) of 19 (2)" te vervang.

Kort titel en
inwerkingtreding.

9. Hierdie Wet heet die Wysigingswet op Basiese Diensvoorwaardes, 1984, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

BASIC CONDITIONS OF EMPLOYMENT AMENDMENT ACT, 1984

Act No. 27 1984

2. Section 8 of the principal Act is hereby amended by the substitution in the Afrikaans text of subsection (1) for the word "artikel" of the word "subartikel". Amendment of section 8 of Act 3 of 1983.
3. Section 12 of the principal Act is hereby amended— Amendment of section 12 of Act 3 of 1983.
- 5 (a) by the substitution in subparagraph (i) of paragraph (a) of subsection (1) for the word "as" of the word "at";
- (b) by the insertion in paragraph (b) of subsection (1) after the word "leave" of the words "referred to in paragraph (a)";
- 10 (c) by the substitution in subparagraph (i) of paragraph (b) of subsection (4) for the expression "paragraph (a)" of the expression "paragraph (a) (i)"; and
- 15 (d) by the substitution in subparagraph (ii) of paragraph (b) of subsection (4) for the expression "paragraph (b)" of the expression "paragraph (a) (ii)".
4. Section 13 of the principal Act is hereby amended by the substitution in the Afrikaans text of paragraph (b) of subsection (1) for the expression "30" of the expression "36". Amendment of section 13 of Act 3 of 1983.
5. Section 14 of the principal Act is hereby amended— Amendment of section 14 of Act 3 of 1983.
- 20 (a) by the addition to paragraph (a) of subsection (1) of the following proviso:
- "Provided that if any written contract of employment provides for a period of notice of equal duration for both parties which is longer than one working-day, notice shall in accordance with such contract be given over such longer period."
- 25 (b) by the substitution in the Afrikaans text of paragraph (b) of subsection (2) for the expression "or" of the word "of"; and
- 30 (c) by the substitution in paragraph (b) of subsection (4) for the word "employee", where it occurs for the second time, of the word "employer".
6. Section 19 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1): Amendment of section 19 of Act 3 of 1983.
- 35 "(2) An employer shall not later than the day agreed upon between him and an employee for the payment of the employee's wage, pay such employee his wage in the prescribed manner."
- 40 7. Section 27 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (1) for the expression "13 (1) or 14 (1) or (3) (read with section 14 (4) (a))" of the expression "13 (1), 14 (1) or (3) (read with section 14 (4) (a)) or 19 (2)". Amendment of section 27 of Act 3 of 1983.
- 45 8. Section 30 of the principal Act is hereby amended by the substitution in subsection (3) for the expression "13 (1) or 14 (1) or (3) (read with section 14 (4) (a))" of the expression "13 (1), 14 (1) or (3) (read with section 14 (4) (a)) or 19 (2)". Amendment of section 30 of Act 3 of 1983.
9. This Act shall be called the Basic Conditions of Employment Amendment Act, 1984, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.
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