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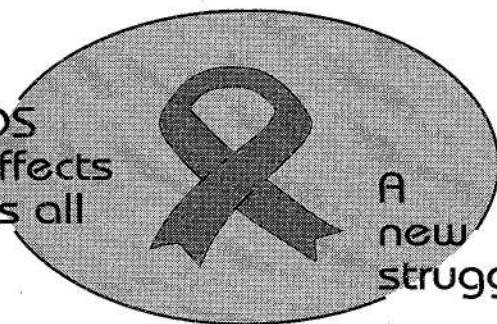
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PRETORIA, 2 MARCH
MAART 2000

No. 20952

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DEPARTMENT OF HEALTH

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No. Gazette
 No.***GENERAL NOTICE****Labour, Department of***General Notice*

943	Unemployment Insurance Bill: For public comments	3	20952
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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 943 OF 2000

DEPARTMENT OF LABOUR

CALL FOR PUBLIC COMMENTS: UNEMPLOYMENT INSURANCE BILL

I hereby announce that the investigation into the restructuring of the Unemployment Insurance Fund has been completed.

The task team completed its investigation during October 1996 and handed in a report entitled "Unemployment Insurance and Related Coverage Issues" at the end of December 1996.

I hereby call for public comments on the Unemployment Insurance Bill for a period of 30 days.

Copies of the Bill are available at the following Department of Labour offices and anyone interested can collect the Bill during the working hours (7:30 to 16:00).

1. The Provincial Director: Gauteng North
Concilium Building (Fifth Floor)
239 Skinner Street (Corner of Andries Street)
PRETORIA
2. The Provincial Director: Gauteng South
Annuity House (Sixth Floor)
18 Rissik Street
JOHANNESBURG
3. The Provincial Director: KwaZulu/Natal
Masonic Grove Government Offices (Fifth Floor)
Corner of Esplanade and Masonic Grove
DURBAN
4. The Provincial Director: Northern Province
Mondia Building (Second Floor)
Corner of Biccard and Marshall Streets
PIETERSBURG
5. The Provincial Director: North West
University Drive
Provident House (Second Floor)
MMABATHO
6. The Provincial Director: Eastern Cape
Laboria Building (Second Floor)
No. 3 Hill Street
EAST LONDON

7. The Provincial Director: Free State
Civilia Building (Second Floor)
14 Elizabeth Street
BLOEMFONTEIN
8. The Provincial Director: Western Cape
Thomas Boydell Building (Second Floor)
Parade Street
CAPE TOWN
9. The Provincial Director: Mpumalanga
Department of Labour (Third Floor)
Corner of Hofmeyer and Beatty Avenue
WITBANK
10. The Provincial Director: Northern Cape
Labora House (First Floor)
Corner of Compound and Pniel Street
KIMBERLEY

Please send your comments to:

The Chairperson
Unemployment Insurance Board
P O Box 1851
PRETORIA
0001

Tel: (012) 337-1880
Fax: (012) 325-5872

Closing date for comments is **31 March 2000**



M.M.S. MDLADLANA

Minister of Labour

21 February 2000

UNEMPLOYMENT INSURANCE BILL

To consolidate the laws on unemployment insurance, to provide for benefits for employees who are unemployed from contributions made by employees and employers, to establish the Unemployment Insurance Board, to improve the functioning of and controls over the Unemployment Insurance Fund and to provide for the expeditious resolution of disputes concerning unemployment insurance benefits; and to provide for related matters.

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CHAPTER 1**INTERPRETATION, PURPOSE AND APPLICATION OF THIS ACT****1. Definitions**

(1) In this Act unless the context indicates otherwise –

‘actuary’ means a person appointed in terms of section 60(1);

‘agent’ means a person appointed in terms of section 66(8);

‘benefits’ means the benefits referred to in section 4;

‘Board’ means the Unemployment Insurance Board established in terms of section 47;

‘calendar month’ means a period extending from the first to the last day, both days inclusive, of any one of the 12 months of a year;

‘calendar week’ means a period calculated from midnight of one Sunday to the midnight of the next Sunday;

‘CCMA’ means the Commission for Conciliation, Mediation & Arbitration established in terms of section 112 of the Labour Relations Act, 1995 (Act No 66 of 1995);

‘claims officer’ means a person appointed in terms of section 46;

‘Commissioner’ means the Unemployment Insurance Commissioner designated in terms of section 35 of this Act, unless the context indicates otherwise;

‘contribution’ means the amount payable by the employer or a contributor in terms of the Unemployment Insurance Contributions Act.

‘contributor’ means an employee² or a natural person who was employed and who can satisfy the Commissioner that the contributor has contributed for purposes of this Act;

‘Director General’ means the Director General of the Department of Labour and any officer or employee in the Department of Labour to whom the Director General has delegated any function in terms of section 66(3);

‘employment office’ means any office of the Department of Labour or any agency office designated for this purpose by the Director-General in terms of section 66(8);

‘employee’³ includes an employee as defined in the Fourth Schedule to the Income Tax Act, other than a person contemplated in paragraphs (c) or (d) of that definition;

‘employee’s contribution’ means the amount that is prescribed in terms of section 5(3)(a) the Unemployment Insurance Contributions Act;

‘employer of a contributor’ includes an employer as defined in the Fourth Schedule to the Income Tax Act

‘financial year’ means the period between the first day of April in any year and the thirty-first day of March in the next year both dates included;

‘Fund’ means the Unemployment Insurance Fund established in terms of section 38;

‘labour inspector’ means an inspector appointed in terms of section 63 of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997) and includes any person designated by the Minister in terms of that section to perform any function of a labour inspector;

² See section 3(2) which sets out the categories of employees to whom this Act does not apply.

³ This is the definition that is used in the LRA and the BCEA and accords with what is intended in the definition of contributor in section 2 under the old Act. The consolidation harmonises the definitions across the new labour statutes.

‘Minister’ means the Minister of Labour;

‘month’ means the period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days included⁴;

‘NEDLAC’ means the National Economic Development and Labour Council established by section 2 of the National Economic, Development and Labour Council Act, 1994 (Act 35 of 1994);

‘officer’ means an officer as defined in section 1 of the Public Service Act, 1994 (Act 103 of 1994);

‘prescribed’ means prescribed by regulation;

‘public service’ means the public service contemplated in section 197 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

‘this Act’ includes, the schedules and any regulations made in terms of this Act;

‘Unemployment Insurance Contributions Act’ means the Unemployment Insurance Contributions Act, 2000 (Act No. 1 of 2000);

‘week’ means any period of seven consecutive days.

2. Purpose of this Act

The purpose of this Act is to establish an unemployment insurance fund to which employers and employees contribute and from which employees who become unemployed are entitled to benefits and in so doing to alleviate the harmful economic and social effects of unemployment.

⁴ For example – 10 March to 9 April.

3. Application of this Act

- (1) This Act applies to all employers and employees, other than—
- (a) employees employed for less than twenty four (24) hours a month with that employer;
 - (b) employees who are entitled to remuneration in terms of a learnership agreement registered in terms of the Skills Development Act, 1998(Act 97 of 1998);
 - (c) employers in the National and Provincial spheres of government and its employees;
 - (d) domestic workers and their employers; provided that there shall be an investigation undertaken by an appropriate body, appointed by the Minister, to investigate methods and make recommendations to the Minister, in regard to including domestic workers under coverage of this Act, and this investigation may be concluded within eighteen months from the date of promulgation of this Act;

CHAPTER 2**CLAIMING BENEFITS*****Part A: Right To Benefits*****4. Right to benefits**

- (1) Subject to the provisions of this Act, a contributor is entitled to the following benefits -
- (a) unemployment benefits contemplated in Part B of this Chapter;
 - (b) illness benefits contemplated in Part C of this Chapter;
 - (c) maternity benefits contemplated in Part D of this Chapter;
 - (d) adoption benefits contemplated in Part E of this Chapter; and

- (e) dependant's benefits contemplated in Part F of this Chapter.
- (2) The approximate scale of benefits to which a contributor is entitled
 - (a) is contained in schedule 1⁵; and
 - (b) must be determined by the Minister –
 - (i) in accordance with a daily rate of remuneration; and
 - (ii) may vary between 60 percent for low-income contributors to some other lower rate as will be determined by thresholds as set out in terms of Schedule one

5. Calculation of benefits

- (1) For purposes of calculating the benefits payable to a contributor, the monthly rate of remuneration of a contributor, subject to the prescribed maximum in terms of section 5(3) of this Act, must be determined as follows subject to subsection (2)–
 - (a) if paid monthly, by dividing the monthly remuneration by 30.33;
 - (b) if paid weekly, by dividing the weekly remuneration by 7.
- (2) If, in the opinion of the Commissioner, the contributor's remuneration fluctuates significantly from period to period, the calculation may be based on the average remuneration of that contributor over the previous six months;
- (3) Subject to subsection (5), a contributor's entitlement to benefits in terms of this Chapter accrues at a rate of seven days benefit for every completed 42 days of employment as a contributor subject to a maximum accrual of 238 days benefit in the four year period immediately preceding the date of application for benefits in terms of this Chapter, less any days of benefit received by the contributor during this period.

⁵ See section 79 for the procedure to add to or change this Schedule.

- (4) For purposes of determining completed days of employment as contemplated in subsection (3), the period includes –
- (a) the day that a contributor commences employment up to and including the day on which employment was terminated; and
 - (b) any period in respect of which-
 - (i) an employee is paid remuneration in lieu of notice;
 - (ii) a merchant seaman receives remuneration in terms section 140 of the Merchant Shipping Act, 1951 (Act 57 of 1951).
- (5) The days of benefits that a contributor is entitled to in terms of subsection (3) is not reduced by the payment of maternity benefits in terms of Part D of this Chapter.⁶

6. When contributor not entitled to benefits

- (1) A contributor is not entitled to benefits for any period that the contributor –
- (a) is outside the Republic;
 - (b) is in receipt of
 - (i) a monthly pension or disability grant from the State,
 - (ii) a benefit from the Compensation Fund, established under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), as a result of an occupational injury or disease, which injury or disease causes the total or temporary unemployment of that contributor;

⁶ Method of calculating days of benefit that a contributor is entitled to –

Step 1 - determine total number of days that an employee was employed as a contributor in the four-year period immediately preceding the date of application for benefits in terms of this Chapter.

Step 2 - divide the total number of days by 42 and disregard any fraction of the resultant figure.

Step 3 - subtract from this amount any days of benefits (excluding maternity benefits) received in the four-year period immediately preceding the date of application for benefits in terms of this Chapter.

Step 4 - the resultant figure determines the days of benefits that a contributor is entitled to.

- (iii) benefits from any unemployment fund or scheme established by a council under section 28(g) or 43(1)(c) of the Labour Relations Act, 1995 (Act 66 of 1995);
 - (iv) any retrenchment, gratuity, severance pay or similar payment received, from whatever source, as a result of that contributor's unemployment with that employer, except that the contributor shall be entitled to receive benefits, once such retrenchment, gratuity, severance pay, or similar payment has been exhausted at a rate equal to the usual remuneration of that contributor, whilst that contributor was employed with that employer.
- (c) fails to comply with any provision of this Act or any other law relating to unemployment;⁷ or
- (d) is suspended from receiving benefits in terms of section 28(1).

Part B: Unemployment Benefits

7. Meaning of period of unemployment under this Part

For the purpose of this Part, any period of unemployment is calculated from the date of application in terms of section 9 unless the claims officer is of the opinion that any delay in making the application was caused by circumstances beyond the control of the contributor, in which case the claims officer must determine the date on which the period of unemployment must be calculated by selecting a date between the date of termination of the contract and the date of the application.

8. Right to unemployment benefits

- (1) Subject to section 6, an unemployed contributor is entitled to unemployment benefits contemplated in section 4(1)(a) for any period of unemployment if-

⁷ The statute contemplated here is the Skills Development Act, 1998.

- (a) Subject to section 6(b)(iv), the reason for the unemployment is the termination of the contributor's contract of employment by the employer of that contributor⁸
 - (b) application is made in accordance with the prescribed requirements and the provisions of this Part;
 - (c) the contributor is registered as a work-seeker with an employment office established under the Skills Development Act, 1998 (Act 97 of 1998); and
 - (d) the contributor subject to subsection (3) is capable of and available to work.
- (2) An unemployed contributor is not entitled to the benefits referred to in subsection (1)-
- (a) if the contributor fails to report at the times, dates and places stipulated by the claims officer in terms of section 9(4)(d);
 - (b) if the contributor refuses without good reason to undergo training and vocational counselling for employment under any scheme approved by the Director-General in terms of this Act or any other law;
- (3) Despite subsection (1)(d), a contributor who becomes ill while in receipt of unemployment benefits remains entitled to unemployment benefits if the claims officer is satisfied that the illness is not likely to prejudice the contributor's chance of securing employment.

9. Application for unemployment benefits

- (1) Application must be made in the prescribed form at the nearest employment office.
- (2) The application must be made within six months of the termination of the contract of employment except that on good cause shown the Commissioner may accept an application made after the six month time limit has expired.

⁸ Short time or temporary lay off is not unemployment for the purposes of claiming benefits.

- (3) The claims officer must investigate the application and, if necessary, request any further information regarding the applicant's continued unemployment.
- (4) If the claims officer is satisfied that the application complies with the provisions of this Chapter, the officer must-
 - (a) approve the application;
 - (b) determine-
 - (i) the amount of days of benefits for the purposes of section 5(3);
 - (ii) the number of days of benefits the applicant is entitled to in terms of section 5(4);
 - (c) authorise the payment of the benefits; and
 - (d) stipulate when and where the applicant must report to the employment office for purposes of confirming that the contributor –
 - (i) has been unemployed for the period in respect of which the unemployment benefit has been claimed; and
 - (ii) is capable and available for work.
- (5) If the claims officer is not satisfied that the application complies with the provisions of this Chapter, the claims officer must-
 - (a) if the defect in the application can be remedied, advise the applicant how to do so; or
 - (b) if the defect cannot be remedied, give the applicant written reasons why.

10. Payment of unemployment benefits

- (1) The Director General must pay the benefits determined by the claims officer in terms of section 9(4)(b) to the contributor at the employment office at which the

application was made or any other employment office stipulated by the claims officer.

- (2) If the contributor refuses to accept available work, or undergo training and vocational counselling the claims officer may impose a penalty up to a maximum of thirteen weeks during which no benefits may be paid to the contributor.

Part C: Illness Benefits

11. Meaning of period of unemployment under this Part

For the purposes of this Part, period of illness is determined from the date the employee no longer works as a result of the illness or receives less than the normal remuneration from the employer as a result of the illness.

12. Right to illness benefits

- (1) Subject to section 6, a contributor is entitled to the illness benefits contemplated in section 4(1)(b) for any period of illness if-
 - (a) the contributor is unable to perform work on account of illness; or
 - (b) the contributor meets with any prescribed requirements in respect of any specified illness;
 - (c) application is made in accordance with the prescribed requirements and the provisions of this Part.
- (2) A contributor is not entitled to illness benefits-
 - (a) if the contributor has not exhausted all illness benefits claimable in terms of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997);
 - (b) if the period of illness is less than 14 days.
 - (c) for any period during which the contributor-

- (i) is entitled to unemployment benefits in terms of Part B of this Chapter;
 - (ii) without good reason, refuses or fails to undergo medical treatment or to carry out the instructions of a medical practitioner, chiropractor or homeopath.
- (3) Despite section 12(2)(b), if a period of illness exceeds 14 days, a contributor is entitled to illness benefits.

13. Calculation of illness benefits

- (1) Despite section 6, and subject to subsection (2) the weekly benefit may not be more than the remuneration the employer would have paid the contributor if the contributor had not been ill, when taking into account any sick leave paid to the contributor in terms of any law, collective agreement or contract of employment.
- (2) The weekly benefit only becomes payable when the difference between the usual remuneration and any sick leave paid to that contributor in terms of any law or contract of employment, represents more than fifty percent of the usual remuneration of that contributor.

14. Application for illness benefits

- (1) Application must be made in the prescribed form at the nearest employment office. If the claims officer is satisfied that the contributor cannot lodge the application personally, the officer may authorise any other person to lodge the application on behalf of the applicant.
- (2) The application must be made within six months of the commencement of the period of illness except that on good cause shown the Commissioner may accept an application made after the six month time limit has expired.
- (3) The claims officer must investigate the application and, if necessary, request any further information regarding the period that the applicant was not working or received reduced remuneration as a result of the illness.

- (4) If the claims officer is satisfied that the application complies with the provisions of this Chapter, the officer must-
- (a) approve the application;
 - (b) determine-
 - (i) the amount of the weekly benefits for the purposes of section 5(3);
 - (ii) the number of weeks' benefits the applicant is entitled to in terms of section 5(4);
 - (c) authorise the payment of the benefits; and
 - (d) stipulate how the benefits are to be paid.
- (5) If the claims officer is not satisfied that the application complies with the provisions of this Chapter, the claims officer must-
- (a) if the defect in the application can be remedied, advise the applicant how to do so; or
 - (b) if the defect cannot be remedied, give the applicant written reasons why.

15. Payment of illness benefits

The Director General must pay the benefits determined by the claims officer in terms of section 14(4)(b) to the contributor at an employment office contemplated in section 10(1).

Part D: Maternity Benefits

16. Right to maternity benefits

- (1) Subject to section 6, a contributor who is pregnant is entitled to the maternity benefits contemplated in section 4(1)(c) for any period of pregnancy or confinement if application is made in accordance with prescribed requirements and the provisions of this Part.

- (2) Despite section 6, and subject to subsection (3) the weekly benefit may not be more than the remuneration the employer would have paid the contributor if the contributor had not been in confinement taking into account any maternity leave paid to the contributor in terms of any law, collective agreement or contract of employment.
- (3) The weekly benefit only becomes payable when the difference between the usual remuneration and any other maternity benefits paid to that contributor in terms of any law or contract of employment, represents more than fifty percent of the usual remuneration of that contributor.
- (4) For the purposes of this section the period of pregnancy or confinement is deemed to be 16 weeks.
- (5) A contributor who has a miscarriage once she has been confined or bears a still born child is entitled to a maximum maternity benefit of six weeks after the miscarriage or stillbirth.

17. Application for maternity benefits

- (1) Application must be made in the prescribed form at least eight weeks before confinement at the nearest employment office.
- (2) The application must be made within six months of the confinement except that on good cause shown the Commissioner may accept an application made after the six month time limit has expired.
- (3) The claims officer must investigate the application and, if necessary, request any further information regarding the applicant's period of confinement.
- (4) If the claims officer is satisfied that the application complies with the provisions of this Chapter, the officer must-
 - (a) approve the application;
 - (b) determine-

- (i) the amount of the weekly benefits for the purposes of section 5(3);
 - (ii) the number of weeks' benefits the applicant is entitled to in terms of section 5
 - (c) authorise the payment of the benefits within two (2) weeks from the date of confinement; and
 - (d) stipulate how the benefits are to be paid.
- (5) If the claims officer is not satisfied that the application complies with provisions of this Chapter, the claims officer must-
- (a) if the defect in the application can be remedied, advise the applicant how to do so; or
 - (b) if the defect cannot be remedied, give the applicant written reasons why.

18. Payment of maternity benefits

The Director General must pay the benefits determined by the claims officer in terms of section 17(4)(b) to the contributor at an employment office contemplated in section 10(1).

Part E: Adoption Benefits

19. Right to adoption benefits

- (1) Subject to section 6, only one contributor is entitled to the adoption benefits contemplated in section 4(1)(d) in respect of each adopted child if-
- (a) the child has been adopted in terms of the Child Care Act, 1983 (Act 74 of 1983)⁹;
 - (b) the period that the contributor was not working was spent caring for the child;
-

- (c) subject to subsection (2), the adopted child is below the age of two; and
 - (d) the application is made in accordance with prescribed requirements and the provisions of this Part.
- (2) The entitlement in subsection (1) or (2) commences on the date that a competent court grants an order for adoption in terms of the Child Care Act, 1983 (Act 74 of 1983).
 - (3) Despite section 6, and subject to subsection (4), the weekly benefit may not be more than the remuneration the employer would have paid the contributor if the contributor had been at work taking into account any leave paid to the contributor in terms of any law, collective agreement or contract of employment.
 - (4) The weekly benefit only becomes payable when the difference between the usual remuneration and any leave paid to that contributor in terms of any law or contract of employment, represents more than fifty percent of the usual remuneration of that contributor.

20. Application for adoption benefits

- (1) Application must be made in the prescribed form at the nearest employment office.
- (2) The application must be made within six months of the application for adoption except that on good cause shown the Commissioner may accept an application made after the six month time limit has expired.
- (3) The Commissioner must investigate the application and, if necessary, request any further information regarding the period the applicant was not working in order to care for the adopted child.
- (4) If the claims officer is satisfied that the application complies with the provisions of this Chapter, the officer must-
 - (a) approve the application;
 - (b) determine-

- (i) the amount of the weekly benefits for the purposes of section 5(3);
 - (ii) the number of weeks' benefits the applicant is entitled to in terms of section 5;
 - (c) authorise the payment of the benefits; and
 - (d) stipulate how the benefits are to be paid.
- (5) If the claims officer is not satisfied that the application complies with provisions of this Chapter, the claims officer must-
- (a) if the defect in the application can be remedied, advise the applicant how to do so; or
 - (b) if the defect cannot be remedied, give the applicant written reasons why.

21. Payment of adoption benefits

The Director General must pay the benefits determined by the claims officer in terms of section 20(4)(b) to the contributor at an employment office contemplated in section 10(1).

Part F: Dependant's Benefits

22. Right to dependant's benefits

- (1) The surviving spouse of a deceased contributor is entitled to the dependant's benefits contemplated in section 4(1)(e) if application is made-
 - (a) in accordance with prescribed requirements and the provisions of this Part; and
 - (b) within six months of the death of the contributor except that on good cause shown the Commissioner may accept an application made after the six month time limit has expired.
- (2) A child, including an adopted child, of a deceased contributor is entitled to the dependant's benefit contemplated in section 4(1)(e) if-

- (a) there is no surviving spouse; or
 - (b) the surviving spouse has not made application for the benefits within six months of the contributor's death; and
 - (c) application is made in accordance with the provisions of this Part.
- (3) Despite section 6 and subject to subsection 4 the weekly benefit payable to the dependant may not be more than the usual remuneration the employer would have paid the deceased contributor taking into account any monies received by the dependant from whatever source, as a result of the contributor's death.
- (4) The weekly benefit only becomes payable to the dependant when the difference between the usual remuneration of the deceased contributor and any monies received by the dependant from whatever source, as a result of the contributor's death, represents more than fifty percent of the usual remuneration of the deceased contributor.

23. Application for dependant's benefits

- (1) Application must be made in the prescribed form at the nearest employment office.
- (2) The application must be made within the periods referred to in section 22(1)(b) or 22(2) as the case may be.
- (3) The claims officer must investigate the application and, if necessary, request any further information relevant to processing the application.
- (4) If the claims officer is satisfied that the application complies with the provisions of this Chapter, the officer must-
 - (a) approve the application;
 - (b) determine-
 - (i) the amount of the weekly benefits for the purposes of section 5(3);

- (ii) the number of weeks' benefits the applicant is entitled to in terms of section 5; and
 - (iii) to whom it must be paid;
 - (c) authorise the payment of the benefits; and
 - (d) stipulate how the benefits are to be paid.
- (5) If the claims officer is not satisfied that the application complies with provisions of this Chapter, the claims officer must-
- (a) if the defect in the application can be remedied, advise the applicant how to do so; or
 - (b) if the defect cannot be remedied, give the applicant written reasons why.

24. Payment of dependants benefits

- (1) The Director General must pay the benefits determined by the claims officer in terms of section 23(4)(b) to the dependant determined by the claims officer in terms of section 23(4)(b)(iii) at the employment office contemplated in section 10(1).

Part G: General Provisions Relating To Claiming Benefits

25. Benefits may not be assigned, attached or set off

- (1) Benefits may not be –
- (a) assigned;
 - (b) attached by the order of any court; but may be attached by any court order relating to maintenance of the dependants, including ex-spouses, of that contributor
 - (c) set off against any debt;

- (2) For the purposes of subsection (1), "debt" does not include a debt arising from benefits paid in error under the provisions of this Act.

26. Benefits subject to taxation

Benefits payable to contributors and dependants in terms of this Act are subject to taxation in terms of the Income Tax Act, 1962 (Act No 58 of 1962)

27. Recovery of benefits paid in error

- (1) Persons who have been paid benefits that they are not entitled to in terms this Act or paid benefits in excess to their entitlement must repay the amount to the Fund.
- (2) The persons contemplated in subsection (1) must refund the amount erroneously paid within 30 days of written demand from the Commissioner.
- (3) Despite subsection (1), the Commissioner may –
 - (a) demand repayment in instalments;
 - (b) demand repayment of a lesser amount; or
 - (c) absolve a person from repayment of the whole amount if it would be just and equitable to do so.

28. Suspension of a contributor's right to benefits

- (1) The Commissioner may suspend a contributor for a period of up to twelve years from receiving benefits in terms of this Act if satisfied that the contributor –
 - (a) made a false statement in an application for benefits;
 - (b) submitted a fraudulent application for benefits;
 - (c) failed to inform a claims officer of the resumption of work during the period in respect of which benefits were being paid; or

- (d) failed to comply with a written demand issued in terms of section 26(2).
- (2) The period of suspension may be imposed irrespective of whether or not actual payment was made to the contributor.
- (3) The decision to suspend a contributor from receiving payments does not absolve an employer from that employer's duties in terms of section 30 nor limits an employer's right to be reimbursed in terms of section 31 for any contribution paid on behalf of the suspended employee.

29. Disputes relating to the payment or non-payment of benefits

A contributor who is aggrieved by a decision of the Commissioner to suspend such a contributor's right to benefits or a claims officer relating to the payment or non-payment of benefits may refer the dispute for resolution to the CCMA in the prescribed manner.

CHAPTER 3

ENFORCEMENT

30. Securing undertakings¹⁰

- (1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act or has committed an offence in terms of this Act, must endeavour to secure a written undertaking by the employer to comply with the relevant provision.
- (2) In endeavouring to secure the undertaking, the labour inspector –
 - (a) may seek to obtain agreement from the employer as to any step that the employer must take in terms of this Act;

¹⁰ Section 35 – 40 of this Act replaces the old section 31 (as amended) and brings the compliance and enforcement procedures in line with the BCEA.

- (b) may seek to obtain agreement from the employer as to any amount owed to the Fund in terms of the Unemployment Insurance Contributions Act; and
- (c) must provide a receipt for any payment received

31. Compliance order

- (1) A labour inspector who has reasonable grounds to believe that an employer has not complied with a notice given in terms of section 35(2), or an undertaking obtained in terms of section 39 or a provision of this Act may issue a compliance order.
- (2) A compliance order must set out –
 - (a) the name of the employer, and the location of every workplace, to which the compliance order applies;
 - (b) any provision of this Act that the employer has not complied with, and details of the conduct constituting non-compliance;
 - (c) any amount that the employer is required to pay to the Fund in terms of the Unemployment Insurance Contributions Act; ;
 - (d) any written undertaking by the employer in terms of section 39(1) and any failure by the employer to comply with a written undertaking;
 - (e) any steps that the employer is required to take including, if necessary, the cessation of the contravention in question and the period within which those steps must be taken; and
 - (f) the maximum fine that may be imposed upon the employer for a failure to comply with a provision of this Act.
- (3) A labour inspector must deliver a copy of the compliance order to the employer.
- (4) An employer must comply with the compliance order within the time period stated in the order unless the employer objects in terms of section 41.

32. Objections to compliance order

An employer may object to a compliance order by referring this dispute for resolution to the Director-General in the prescribed manner.

33. Compliance order may be made an order of Labour Court

The Director-General may apply to the Labour Court for a compliance order to be made an order of the Labour Court if the employer has not complied with the order.

34. Proof of compliance

In any proceedings concerning a contravention of this Act, the onus is on an employer to prove that a record maintained by or for that employer is valid and accurate;

CHAPTER 4:**COMMISSIONER AND CLAIM OFFICERS****35. Designation of Unemployment Insurance Commissioner**

The Minister must designate an employee of the Department of Labour as the Unemployment Insurance Commissioner.

36. Powers and duties of Unemployment Insurance Commissioner

- (1) The Commissioner must exercise the powers and perform the functions conferred on the Commissioner in terms of this Act, the Unemployment Insurance Contributions Act, or any other law.
- (2) The Commissioner may not delegate any power or function conferred on the Commissioner in terms of subsection (1) including any power or function delegated

to the Commissioner by the Director-General to any officer or employee of the Department of Labour except if the Director-General consents to the delegation.

(3) For purposes of this Act -

- (a) any power exercised or function performed by such officer or employee will be deemed to have been exercised or performed by the Commissioner; and
- (b) a delegation in terms of this section does not limit the Commissioner's authority to exercise or perform the delegated power or function.
- (c) The Board must furnish the Director-General within six (6) months of the end of each financial year or as soon as it is practical thereafter, with a report on the activities of the Fund during the preceding financial year.

(4) The Commissioner may deem an employee to be a contributor for purposes of this Act.

37. Appointment of claim officers

Subject to the laws governing the Public Service, the Director-General must appoint claim officers to assist the Commissioner to process applications or claims made in terms of this Act.

CHAPTER 5:

UNEMPLOYMENT INSURANCE BOARD

38. Establishment of Unemployment Insurance Board

The Minister must establish the Unemployment Insurance Board.

39. Powers and functions of the Unemployment Insurance Board

- (1) The Board must exercise the powers and perform the functions conferred on it in terms of this Act including –
 - (a) advising the Minister on –
 - (i) unemployment insurance policy;
 - (ii) policies for minimising unemployment;
 - (iii) policies arising out of the application of this Act; and
 - (iv) the creation of schemes to alleviate the effects of unemployment.
 - (b) making recommendations to the Minister on changes to legislation insofar as it impacts on unemployment policy or policy on unemployment insurance;
 - (c) performing any other function as may be requested by the Minister for purposes of giving effect to this Act.
- (2) The powers and functions of the Board must be exercised and performed subject to –
 - (a) the provisions of this Act and its Constitution as contemplated in section 391;
 - (b) any directions issued by the Minister; and
 - (c) any guideline determined by the Director-General.

40. Composition of the Unemployment Insurance Board

- (1) The Unemployment Insurance Board must consist of –
 - (a) a chairperson with a deliberating vote appointed by the Minister;
 - (b) twelve voting members appointed by the Minister; and
 - (c) the Commissioner designated in terms of section 35.

- (2) The members referred to in subsection (1)(b) are –
- (a) three (3) voting members nominated by NEDLAC and appointed by the Minister to represent organised labour;
 - (b) three (3) voting members nominated by NEDLAC and appointed by the Minister to represent organised business;
 - (c) three (3) voting members nominated by NEDLAC and appointed by the Minister to represent organisations of community and development interests in the Development Chamber in NEDLAC; and
 - (d) three (3) voting members appointed by the Minister to represent the interests of the state
- (3) A member of the Board holds office for a period of three (3) years and is eligible for re-appointment.
- (4) A member vacates office if that member –
- (a) is removed from office by the Minister as contemplated in subsection (6); or
 - (b) resigns by notice addressed to the Minister.
- (5) The Minister may remove a member from the Board –
- (a) on the original request of the body that nominated that member in terms of subsection (2);
 - (b) for serious misconduct;
 - (c) for permanent incapacity;
 - (d) for absence in three meetings of the Board without prior permission of the Board unless good cause is shown by the member; or
 - (e) for engaging in any activity that may undermine the functions of the Board.

- (6) If a member of the Board vacates office before the expiry of the period of office, the Minister must in terms of subsection (2), appoint a new member for the un-expired portion of that period.

41. Constitution of the Unemployment Insurance Board

- (1) The Board must as soon as possible after its appointment of its members, adopt its Constitution subject to approval by the Minister.
- (2) Subject to this Act, the Constitution of the Board –
- (a) must provide for –
- (i) the establishment and function of committees of the Board ;
 - (ii) subject to subsection (3), the rules for convening and conducting of meetings of the Board and its committees, including the quorum required and for the keeping of minutes;
 - (iii) the voting rights of the different members and the manner in which decisions are to be taken by the Board and its committees;
 - (iv) a code of conduct for Board members;
 - (v) the determination through arbitration of any dispute concerning the interpretation, application of the Constitution;
 - (vi) subject to subsections (4), a procedure for amending the Constitution; and
- (b) may provide for –
- (i) the delegation of powers and duties of the Board to its members, committees and employees provided that the Board may impose conditions for delegations and may not be divested of any power or duty by virtue of the delegation and may vary or set aside any decision made under any delegation; and

(ii) any other matter necessary for the performance of the functions of the Board.

- (3) At least thirty (30) days notice must be given for a meeting of the Board at which an amendment of the Constitution to be made is to be considered.
- (4) A supporting vote of at least two thirds of the Board's members and the approval of the Minister is required for an amendment to the Constitution.

42. Administration and provision of resources to the Unemployment Insurance Board

- (1) The Commissioner is responsible for administering the affairs of the Board.
- (2) Subject to the laws governing the Public Service, the Director-General must provide the Board with the personnel, financial and administrative infra-structural services and resources which are at the disposal of the Unemployment Insurance Fund, which the Director-General considers necessary to enable the Board to effectively perform its functions in terms of this Act.
- (3) As soon as it is practicable after the end of every month, the Commissioner, must after consultation with the Board –
 - (a) determine the value of the service and resources provided by the Unemployment Insurance Fund to the Board; and
 - (b) pay for the utilisation of these services and resources out of the Unemployment Insurance Fund.

43. Remuneration and allowances to members of the Unemployment Insurance Board

A member of the Board who is not in the full-time employment of the State may be paid remuneration and allowances determined by the Minister in terms of the Treasury Instructions issued by the Department of Finance.

44. Indemnification of members of the Unemployment Insurance Board

The members of the Board are indemnified in respect of all proceedings, costs and expenses incurred by any person when pursuing legal proceedings pursuant to bona fide actions taken by the member.

CHAPTER 6:**UNEMPLOYMENT INSURANCE FUND****45. Establishment of Unemployment Insurance Fund**

- (1) The Unemployment Insurance Fund is hereby established.
- (2) The Fund consists of –
 - (a) the contributions of employers and employees made and collected by the Commissioner of the South African Revenue Services in terms of the Unemployment Insurance Contributions Act;
 - (b) the contributions of employers and employees made and collected by the Commissioner in terms of this Act;
 - (c) contributions from the National Revenue Fund;
 - (d) any penalties and fines imposed in terms of this Act other than by a court of law;
 - (e) any interest or return on investment made by the Fund;
 - (f) any money paid erroneously in which in the opinion of the Director-General cannot be refunded;
 - (g) any bequest or donation received by the Fund;
 - (h) any movable or immovable property purchased or otherwise acquired by the Fund; and

- (i) any other money to which the Fund may become entitled.

46. Application of Unemployment Insurance Fund

The Fund will be applied for –

- (a) the payment of benefits in terms of this Act; and
- (b) the reimbursement of –
 - (i) excess contributions to employers;
 - (ii) the prescribed allowances to members of the Unemployment Insurance Board or any of its committees; and
 - (iii) the payment of any other expenditure incurred relating to the administration of this Act or for purposes of giving effect to this Act.

47. Raising of funds, loans and obtaining bank overdraft facilities

The raising of funds by way of loans and bank overdraft facilities in respect of the Fund shall be in terms of the Public Finance Management Act, 1999 (Act 1 of 1999).

48. Investment of money of the Unemployment Insurance Fund

- (1) The money of the Fund other than money required to meet the current expenditure of the Fund may be invested on behalf of the Fund by the Director-General with the Public Investment Commissioner.
- (2) Any profit on investments must accrue to the Fund and any loss must be borne by the Fund.

49. Donations and bequests to the Fund

- (1) Any person, body, corporation, organisation or financial or other institution may make a donation or bequest to the Fund.
- (2) The Director-General may accept donations or bequests for and on behalf of the Fund.

50. Financial year of the Fund

The financial year of the Fund commences on 1 April of each year and ends on 31 March of the following year.

51. Appointment of and annual review by an actuary

- (1) The Director-General must appoint an actuary who is a member of the Actuarial Society of South Africa or whose functions in terms of this Act are supervised by a member of that society.
- (2) Within two months after the end of each financial year, the actuary must review the financial soundness of the Fund and provide an actuarial valuation report.
- (3) The actuarial valuation report must contain –
 - (a) a statement –
 - (i) reflecting the actuarial value of the assets and liabilities of the Fund;
 - (ii) on the financial soundness of the Fund; and
 - (iii) on whether in the financial year concerned, a surplus or deficit was present in the Fund.
 - (b) an indication of –
 - (i) the basis and method used to value the assets and liabilities of the Fund;

- (ii) any changes to the basis and method used to value the Fund as compared with the actuarial report of the previous year; and
- (iii) any special consideration or restriction that the Director-General brought to the attention or made applicable to the actuary in performing the function in terms of this section; and
- (c) any explanatory note on any matter relevant to obtaining a true and meaningful reflection of the financial state of the Fund.

52. Surplus and deficit in the Fund

- (1) Subject to subsection (2), the Director-General must submit a report to the Minister if at any stage after having regard to the assets and liabilities of the Fund, the value of the assets of the Fund –
 - (a) is greater than is required to meet payments for benefits; or
 - (b) is insufficient or is not increasing at a sufficient rate to meet payments for benefits that may be reasonably anticipated.
- (2) The Director-General may only submit the report after having consulted with the Board and the actuary on the contents of the report.
- (3) In respect of a view contemplated in subsection (1)(a), the Minister after consultation with the Board may utilise the surplus to give effect to the purposes of this Act including –
 - (a) improving the administrative efficiency and capacity of the Board and Fund; and
 - (b) establishing a reserve fund.
- (4) In respect of a view contemplated in subsection (1)(b), the Minister may request the Minister of Finance to adjust the national budget in the manner contemplated in section 30 of the Public Finance Management Act, 1999, (Act 1 of 1999).

53. Accounting, auditing and financial reporting

- (1) Despite the provisions of sections 49(2) to (5) of the Public Finance Management Act, 1999 (Act 1 of 1999), the Director-General is deemed to be the accounting authority for the Fund for purposes of that Act.
- (2) In addition to what is provided for in sections 55(1)(d) and 55(2) of the Public Finance Management Act, 1999 (Act 1 of 1999), the annual report must set out and contain –
 - (a) the total number of persons who received benefits in terms of this Act;
 - (b) the total number of persons who received benefits in terms of section 45(4)
 - (c) the total number of employers who paid contributions in terms of the Unemployment Insurance Contributions Act;
 - (d) the total number of contributors who paid contributions in terms of the Unemployment Insurance Contributions Act;
 - (e) the total monetary value of benefits provided in respect of each category of benefit;
 - (f) a statement setting out the loans, overdrafts, advances and financial commitments of the Fund;
 - (g) the particulars of all donations and bequests received by the Fund;
 - (h) the actuarial valuation report contemplated in section 60(3);
 - (i) particulars of the use of all immovable and movable acquired by the Fund for the purposes contemplated in sections 66(5)(c) and 66(6)(b); and
 - (j) any other matter as may be determined by the Minister.

CHAPTER 7:**REGULATIONS AND NOTICES****54. Power to issue regulations and notices**

The Minister, after consultation with the Unemployment Insurance Board, may issue regulations and notices concerning any matter which is necessary or expedient to give effect to the purpose and provisions of this Act.

55. Procedure when issuing regulations

- (1) Unless public interest requires a regulation to be issued or amended without delay, the Minister must comply with the following procedure when intending to issue or amend regulations –
 - (a) the intention to issue or amend the regulation must be announced by notice in the *Gazette* and at least one other widely circulated means of communication;
 - (b) the notice must specify –
 - (i) that a draft regulation as the case may be has been developed for comment; and
 - (ii) where a copy of the draft may be obtained.
 - (c) a period of at least one month from the date of the announcement must be allowed for interested parties to comment on the regulation;
 - (d) the comments received and the content of all discussions and consultations must be considered before issuing or amending the regulation.
- (2) subsection (1) does not apply to an amendment to correct a textual error.
- (3) Any regulation affecting State revenue or expenditure may only be issued or amended with the concurrence of the Minister of Finance.

CHAPTER 8:**GENERAL****56. Creation and maintenance of the data-base**

- (1) The Commissioner must create and maintain a data-base of contributors and employers.
- (2) The Commissioner may pay a contributor a benefit in terms of the information of that contributor, as contained on the database.

57. Powers and functions of Director-General

- (1) The powers and functions conferred on the Director-General in terms of this section and this Act are in addition to the powers and functions conferred on the Director-General as head of the national department responsible for administering this Act.
- (2) The Director-General has the fiduciary duties in respect of the Fund in terms of the Public Finance Management Act, 1999 (Act 1 of 1999)
- (3) Subject to such conditions as the Director-General may determine, the Director-General may delegate any power or function conferred on the Director General in terms of this Act to any officer or employee of the Fund.
- (4) For purposes of this Act –
 - (a) any delegated power exercised or function performed by an officer or employee in the national department will be deemed to have been exercised or performed by the Director-General; and
 - (b) a delegation in terms of this section does not limit the Director-General's authority to exercise or perform the delegated power or function.
- (5) The Director-General may, after consultation with the Board –

- (a) purchase or otherwise acquire immovable property required wholly or partly for purposes of this Act;
 - (b) alienate or let any immovable property so acquired; or
 - (c) permit the use of any immovable property so acquired to give effect to any other law on such terms as the Director-General may determine.
- (6) The Director-General may purchase or otherwise acquire any movable property required wholly or partly for the purposes of giving effect to this Act, and may –
 - (a) sell or otherwise write off losses and deficiencies in respect of this property; or
 - (b) permit the use of any movable property so acquired to give effect to any other law on such terms as the Director-General may determine.
- (7) Whenever the Director-General is of the opinion that any amount due to the Fund, or any amount paid by the Fund including moneys obtained fraudulently from the Fund, cannot or should not be recovered, the Director-General may direct that such amount be written off.
- (8) The Director-General may appoint agents or designate agency offices to serve as employment offices as may be necessary to assist the Director-General, Commissioner, Board or Fund in properly administering this Act, and may confer on them such functions and duties as may be necessary to give effect to this objective.
- (9) If at any time, the Director-General is of the opinion that the assets of the Fund are insufficient or not increasing at the rate required to meet the liabilities of the Fund or to meet reasonably anticipated future applications for benefits, the Director-General must –
 - (a) inform the Minister, the actuary and the Board of this fact; and
 - (b) after consulting with the Board make recommendations to the Minister on this matter.
- (10) The Director-General may borrow money on behalf of the Fund in terms of section 66(3)(b) of the Public Finance Management Act, 1999 (Act 1 of 1999)

- (11) The Director-General must within six (6) months at the end of each financial year or as soon as practicable thereafter, submit a written report to the Minister. The report must include reference to –
- (a) the manner in which the Board and the committees are performing their functions;
 - (b) the number of unemployed contributors to whom benefits have been paid and the total amount of such benefits;
 - (c) the number of contributors to whom illness, maternity and adoption benefits respectively have been paid and the total amount of such payments; and
 - (d) the number of deceased contributors in respect of whom dependants benefits were paid and the total amount of such payments.
- (12) The report contemplated in subsection (11) together with the statement of income and expenditure and the balance sheet of the Fund must be tabled in the National Assembly within thirty days after its receipt by the Minister if Parliament is then in ordinary session or, if Parliament is not, then within fourteen days of the commencement of Parliament's next ordinary session.

58. Certain documents exempt from stamp duty

Any instrument issued in terms of this Act is exempt from stamp duty, if that duty is legally payable by the Fund.

59. Recovery of losses caused by state employees

- (1) For the purposes of this section, causing loss or damage to the Fund includes-
- (a) the making or authorising of-
 - (i) an irregular payment of fund moneys;
 - (ii) a payment without a proper supporting voucher;

- (b) the failure to carry out a duty leading to a fruitless expenditure of fund moneys;
 - (c) a deficiency in any fund moneys, stamps, securities, documents with face or potential value, or Fund property;
 - (d) the damage to any Fund property;
 - (e) an act or omission leading to a claim against the Fund.
- (2) If an employee in the public service causes any loss or damage to the Fund, the Director-General may-
- (a) institute an enquiry into the loss or damage;
 - (b) determine whether the employee is liable for the loss or damage; and
 - (c) if so, determine-
 - (i) the amount of the loss or damage; and
 - (ii) how and when the amount is to be paid by the employee; and
 - (d) notify the employee in writing of any determination made in terms of this subsection.
- (3) Subject to subsection (4), if an employee agrees to have the amount contemplated in subsection (2) deducted from the employee's monthly salary, the Director-General may permit the payment by way of deduction provided that the deduction does not exceed one fourth of the employees monthly salary.
- (4) If at the termination of an employee's contract, there remains any amount outstanding in respect of a determination made in terms of subsection (2), that outstanding amount may be deducted from any moneys due to the employee on termination of the contract.
- (5) Any employee who is aggrieved by a determination made by the Director-General under subsection (2)(d) may, within 30 days of the date of notification in terms of

paragraph (e) of that subsection, appeal to the Minister in accordance with the grievance procedure applicable to state employees.

- (6) Nothing in this section prevents the Director-General from instituting proceedings in a competent Court to recover any loss or damage caused by an employee who is or was in the public service.

60. Recovery of loss caused by non-state employees

- (1) For the purposes of this section, loss or damage to the fund means-
 - (a) an employer's irregular payment or failure to pay moneys due to the Commissioner in terms of the Unemployment Insurance Contributions Act, or the Commissioner, as the case may be;
 - (b) a contributor's failure to inform the claims officer of the resumption of work during the period in respect of which benefits were being paid;
 - (c) payment of Fund moneys as a result of a false statement or fraudulent claim;
 - (d) any failure to comply with a duty imposed by the provisions of this Act leading to loss or damage to the Fund.
- (2) Any person who by virtue of that person's office or capacity or any person who is responsible for furnishing information causes any loss or damage to the Fund, is guilty of an offence.
- (3) A court may, on convicting a person for the commission of the offence contemplated in subsection (2), determine the amount of the loss or damage caused to the Fund.
- (4) Any person found guilty of an offence as contemplated in subsection (2) must refund the loss to the Fund on terms and conditions determined by the Director-General.
- (5) The Director-General may permit payment of the amount in instalments.

- (6) If the loss to the Fund is due to a fraudulent benefit claim, the loss may be recovered from any outstanding benefit payments due to be made to the contributor under the provisions of this Act.
- (7) Nothing in this section prevents the Director-General from instituting legal proceedings in any competent Court to recover any loss or damage caused to the Fund by any person.

61. Evidence

- (1) If the following documents are produced in a court of law, they are presumed to be certified by their author without proof of the author's signature unless evidence is led to the contrary-
 - (a) a record of a decision made by the Director-General, the Board or any committee;
 - (b) a copy of or extract from an entry in any book or record kept by them; or
 - (c) any document filed with them.
- (2) In any proceedings under this Act, an affidavit purporting to be made by the Director-General is evidence of any of the following facts stated in the affidavit unless there is evidence to the contrary -
 - (a) that any person or body of persons is an employer or a contributor under this Act; or
 - (b) that any person is or was lawfully required under this Act to pay any amount to the Director-General; or
 - (c) that any amount referred to in paragraph (b) or any portion thereof had or had not been paid on a date specified in the affidavit.
- (3) A presiding officer at the proceedings in which any affidavit referred to in subsection (2) is presented in evidence, may personally, or must at the request of any party to the proceedings, require the deponent under subpoenae to give oral evidence, or

answer any written question submitted to the presiding officer under oath. Any question and answer from that deponent is admissible as evidence in the proceedings.

- (4) A contributor is presumed, unless the contrary is proved, to remain in the employ of an employer until that employer has notified the Director-General that the contributor is no longer employed with that employer.
- (5) In any proceedings under this Act, any of the following documents are admissible in evidence against an employer and constitute an admission of the facts contained in the document unless it is proved that the statement was not made by the employer -
 - (a) a statement or entry contained in any book, record or document kept by any employer;
 - (b) any such statement or entry found on any premises occupied by the employer;
 - (c) any such statement or entry found on any vehicle used in the business of the employer; and
 - (d) any copy or reproduction of any such statement or entry.
- (6) No answer to any question by a person conducting an investigation in terms of section 68(2)(a) or by a labour inspector may be used against that person in any criminal proceedings except proceedings in respect of a charge of perjury or making a false statement.

62. Disclosure of information

- (1) Subject to the provisions of the Open Democracy Act, no person may disclose any information obtained by that person in the performance of functions contemplated in this Act, except -
 - (a) to the extent to which it may be necessary for the proper administration of a provision of this Act;
 - (b) for the purposes of the administration of justice;

- (c) at the request of the Minister or any other person entitled to the information; or
- (d) at the request of the Director-General or any other person entitled to the information

(2) It is an offence for any person to contravene the provisions of subsection (1).

63. General prohibited conduct

(1) No person may -

- (a) knowingly make or cause a statement to be made which is materially false or which results in an incorrect payment of benefit in an application for benefits in terms of this Act;
- (b) wilfully make any false entry on a contributor's record card or any other book, record or document relating to either a contributor's employment history or to a contributor's claim for benefits; or
- (c) contravene, refuse or fail to fully comply with any provision of this Act or of any regulation or notice issued in terms of this Act.

(2) It is an offence for any person to contravene a provision contemplated in subsection (1).

64. Offences

Any person found to have committed an offence in terms of this Act will be liable on conviction to imprisonment for a period not exceeding two years.

65. Jurisdiction of Labour Court and other courts

- (1) Subject to the jurisdiction of the Labour Appeal Court, and except where this Act provides otherwise, the Labour Court has jurisdiction in respect of all matters in terms of this Act, except in respect of an offence specified in terms of this Act.

- (2) The Labour Court may review the performance or purported performance of any function provided for in this Act or any act or omission of any person in terms of this Act on any grounds that are permissible in law.
- (3) Despite anything to the contrary contained in any other law, any court hearing a matter in terms of this Act has jurisdiction to make any order or to impose any penalty prescribed by this Act or any other law.

66. Stating of a case to Labour Court

- (1) If any question of law arises concerning the application of this Act, the Director-General may of his or her own initiative or at the request of a party with sufficient interest in this matter, state a case for decision by the Labour Court.
- (2) The Director-General must set out in the stated case –
 - (a) the facts that were found to be proved; and
 - (b) the view of the law which was adopted in relation to those facts.
- (3) If the Director-General has any doubt as to the correctness of a decision given by the Labour Court regarding a question of law concerning the application of this Act, the Director-General may submit such decision to the Labour Appeal Court.

67. Delegation and assignment by Minister

- (1) The Minister may in writing delegate or assign to the Director-General or any employee in the public service, any power or function conferred or imposed upon the Minister in terms of this Act, except the Minister's powers in terms of section 44, 47, 48, 50, 52 and 79 and the Minister's power to make regulations.
- (2) A delegation or assignment in terms of subsection (1) does not limit or restrict the Minister's authority to exercise or perform the delegated or assigned power or function.

- (3) Any person to whom a power or function is delegated or assigned in terms of subsection (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 subsection (1); and
 - (b) withdraw or amend any decision made by a person exercising or performing a power or function delegated or assigned in terms of subsection (1).

68. Repeal of laws

The Unemployment Insurance Act, 1966 Act (Act 30 of 1966) as amended is hereby repealed.

69. Transitional arrangements

- (1) The provisions of schedule 2 apply to the transition from other laws to this Act.¹¹
- (2) For purposes of regulating the transition from any law to this Act, the Minister may add to or change schedule 2.

¹¹ This schedule will be drafted at the end of the drafting process and will deal with -

- (a) continuity of actions taken and regulations issued in terms of old Act
- (b) continuity of Board
- (c) continuity of Fund
- (d) claims
- (e) investigations
- (f) property of the fund
- (g) appointment of agents

70. Minister's power to add and change schedules or footnotes¹²

- (1) Subject to subsection (2) and (3), the Minister may, by notice in the *Gazette*, add to, change or replace any schedule or footnote to this Act.
- (2) The Minister may add to or change schedule 1, with the concurrence of the Minister of Finance, and must-
 - (a) have regard to budgeted –
 - (i) contribution and investment income for the Fund;
 - (ii) payment of benefits;
 - (iii) provision to meet expenses related to administering this Act; and
 - (iv) provision for contingency reserves.
 - (b) consult with the Board; and
- (3) When adding to or changing schedule 2, the Minister must comply with the procedure set out in section 64, with the changes required by the context.

71. This Act binds the State

This Act binds the State.

72. Short title and commencement

This is the Unemployment Insurance Act, 2000, and comes into effect on a date to be fixed by the President by proclamation in the *Gazette*, provided that, certain chapters, sections, schedules, and forms of this Act, may be brought into force at a different date.

¹² The reference in this clause to footnotes depends on whether there are footnotes in the final version of the Bill.

SCHEDULE 1**SCALE OF CONTRIBUTOR'S ENTITLEMENT TO BENEFITS**

- a) This schedule is based on the sliding scale of benefits in terms of section 4(2)(b)(ii)
- b) Table one is an example of the scale of benefits to which a contributor may be entitled. A contributor's monthly rate of remuneration is set out in column 1. The percentage of the contributor's monthly income that will be paid as a benefit is set out in column 2. The actual benefit payable in Rand terms is set out in column 3.
- c) Contributors and employers of contributors, earning above the threshold of R132 000 per annum shall contribute 1% of the threshold and such contributors shall receive benefits payable at this threshold level.

TABLE ONE

Column 1	Column 2	Column 3
If monthly		Replacement
income is		Income
R/month	IRR (%)	R/month
150	58.6	87.87
300	57.3	171.87
500	55.7	278.67
700	54.3	380.38
1000	52.5	525.05
1500	50.0	749.66
2000	47.9	958.89
3000	44.9	1346.29
4000	42.7	1706.85
5000	41.0	2050.51
6000	39.7	2382.82
7774	38.0	2954.12
10000	29.5	2954.12

SCHEDULE 2**TRANSITIONAL ARRANGEMENTS¹³****1) Duty to provide Employees particulars by an Employer**

- (1) Notwithstanding any of the provisions of the Unemployment Insurance Act 30 of 1966, relating to the exemption of an employer to provide particulars of any of its employees over the earnings threshold, upon commencement of this section, every employer must provide details of all employees employed with it to the Commissioner, irrespective of whether that employee earns over the threshold set in terms of that Act.
- (2) Subject to subsection(4) an employer must, within seven days after the commencement of this section, furnish such information relating to its employees to the Commissioner
- (3) The information contemplated in subsection (1) must include—
 - (a) particulars relating to the physical location or locations where the employer and its employees are located;
 - (b) if the employer is not resident in the Republic, or is a body corporate not registered in the Republic, the particulars of the authorised person who is required to carry out the duties of the employer in terms of this Act; and
 - (c) the names, identification numbers and monthly remuneration of each of its employees.
- (4) the employer must, before the seventh day of each month, inform the Commissioner, of any change during the previous month of any information or particulars furnished in terms of subsection (2);
- (5) the Commissioner, may request the employer to provide, within 30 days of the request, or on an extended period as the Commissioner may allow, such additional particulars as may be reasonably required to give effect to the purpose of this Act.

¹³ Instructions awaited.

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