



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

R1,00 Prys • Price
R0,10 Plus 10% BTW • VAT

R1,10 Verkoopprys • Selling price
Buitelands R1,40 Other countries
Posvry • Post free

Vol. 325

KAAPSTAD, 10 JULIE 1992

CAPE TOWN, 10 JULY 1992

No. 14134

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1918.

10 Julie 1992

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

No. 130 van 1992: Wysigingswet op Werkloosheidsversekering, 1992.

No. 1918.

10 July 1992

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

No. 130 of 1992: Unemployment Insurance Amendment Act, 1992.

GENERAL EXPLANATORY NOTE:

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

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Unemployment Insurance Act, 1966, so as to define or further define certain expressions; to make the Act applicable to certain persons employed in agriculture; to make certain provision regarding seasonal workers in agriculture; to provide that the Director-General may raise loans from certain financial institutions; to make further provision in connection with the payment of contributions by employers; to increase a penalty; to make other conditions relating to the payment of adoption benefits; to provide that the Minister may pay certain moneys from the unemployment insurance fund, and that the Director-General may without the approval of the Minister of Finance acquire and alienate immovable property after consultation with the unemployment insurance board; to amend certain references; and to grant extension of time to employers in agriculture to comply with the provisions of the Act; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 2 July 1992.)

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

Amendment of section 1 of Act 30 of 1966, as amended by section 1 of Act 29 of 1977, section 1 of Act 9 of 1979, section 1 of Act 1 of 1981, section 1 of Act 1 of 1982 and
 5 section 1 of Act 27 of 1986

1. Section 1 of the Unemployment Insurance Act, 1966 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion after the definition of “business” of the following definition:

10 “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;”;

(b) by the insertion after the definition of “Minister” of the following definition:

15 “month’ means a 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 inclusive;”;

(c) by the substitution for the definition of “officer” of the following definition:

20 “officer’ means an officer as defined in section 1 of the Public Service Act, **[1957 (Act No. 54 of 1957)]** 1984 (Act No. 111 of 1984);”;

(d) by the substitution for the definition of “public service” of the following definition:

“public service’ means the public service **[according to the**

- provisions of] as contemplated in section [3] 7 of the Public Service Act, [1957 (Act No. 54 of 1957)] 1984 (Act No. 111 of 1984);” and
 (e) by the substitution for the definition of “seasonal worker” of the following definition:

- 5 “‘seasonal worker’ means any person who—
 (a) subject to the provisions of section 5(2)(a) and (4), is employed continuously for a period of less than four months by the same employer in agriculture; or
 10 (b) subject to the provisions of section 5(2)(b) and (3), [a person receiving] receives earnings in a seasonal business [who] and is not a member of the administrative, clerical, technical, office, sales or maintenance staff in that business;”.

Amendment of section 2 of Act 30 of 1966, as amended by section 1 of Act 27 of 1967, section 1 of Act 87 of 1968, section 1 of Act 61 of 1971, section 1 of Act 12 of 1974,
 15 section 1 of Act 51 of 1975, section 1 of Act 6 of 1978, section 2 of Act 9 of 1979, Proclamation 278 of 30 November 1979, Proclamation R.193 of 17 October 1980, section 2 of Act 1 of 1981, Proclamation R.202 of 15 October 1982, section 1 of Act 89 of 1982, Proclamation R.189 of 2 December 1983, Proclamation R.209 of 21 December 1984, Proclamation R.193 of 25 October 1985, sections 46 and 47 of Act
 20 97 of 1986, Government Notice 2392 of 14 November 1986, section 1 of Act 36 of 1987, Government Notice R.286 of 26 February 1988, section 36(6) of Act 9 of 1989, Government Notice R.2088 of 29 September 1989, Government Notice R.539 of 16 March 1990 and Government Notice No. R. 2858 of 7 December 1990

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

- 25 (a) by the deletion of paragraph (k) of subsection (2);
 (b) by the substitution for paragraph (l) of subsection (2) of the following paragraph:
 “(l) persons who are officers in terms of the definition of ‘officer’ in section 1 of the Public Service Act, [1957 (Act No. 54 of 1957)]
 30 1984 (Act No. 111 of 1984); or”;
 (c) by the substitution for paragraph (n) of subsection (2) of the following paragraph:
 “(n) persons who in terms of section 23 of the Educational Services Act, 1967 (Act No. 41 of 1967), section 12 of the Coloured
 35 Persons Education Act, 1963 (Act No. 47 of 1963), and section 12 of the Indians Education Act, 1965 (Act No. 61 of 1965), are for all purposes in respect of pension and retirement benefits dealt with as if they occupied posts included in a division of the public service referred to in section [3] 7(1)(a) of the Public
 40 Service Act, [1957 (Act No. 54 of 1957)] 1984 (Act No. 111 of 1984); or”; and
 (d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:
 “(5) (a) (i) The Minister may, after receipt of an application to that effect in a form prescribed, subject to the provisions of paragraphs (b) and (c) and after consultation with the board, by notice in the Gazette declare that as from a date specified in the notice any specified class of persons, or any person employed in any specified business or section of a business or in any specified area, shall not for the purposes of this Act be regarded as contributors.
 45 (ii) The purport of any such declaration shall be published in a newspaper or newspapers circulating in the area or areas concerned.”.
 50

Amendment of section 5 of Act 30 of 1966

- 55 3. Section 5 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) Any person—

5 (a) referred to in paragraph (a) of the definition of ‘seasonal worker’ and who for a continuous period of four months or such period as may be extended in terms of subsection (4);
 (b) referred to in paragraph (b) of the definition of ‘seasonal worker’ and who **[has been a seasonal worker]** for a continuous period of eight months,
 10 has been a seasonal worker in the employment of the same person, ceases to be a seasonal worker if he remains in the employment of that person after the expiry of the said period and he shall become a contributor as from the date upon which he so remains in the employment.”; and

(b) by the addition of the following subsection:

15 “(4) The Minister may, after consultation with the board and subject to such conditions as he may deem fit, by notice in the *Gazette* extend the period referred to in paragraph (a) of the definition of ‘seasonal worker’ for any business, class or category of business in agriculture to a maximum period of eight months.”.

20 **Amendment of section 7 of Act 30 of 1966, as amended by section 1 of Act 118 of 1977, section 4 of Act 9 of 1979, section 3 of Act 1 of 1982, section 2 of Act 89 of 1982 and section 3 of Act 27 of 1986**

4. Section 7 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:

25 “(g) the payment of any other expenditure incurred by the Director-General in the administration of this Act, including the expenses referred to in section **[49]** 64C, 64F or 64H.”.

Amendment of section 8 of Act 30 of 1966, as amended by section 4 of Act 1 of 1982

30 5. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

35 “(1) The moneys of the fund other than such moneys as may be required to meet the current expenditure incurred in connection with the administration of this Act shall be deposited with the Public **[Debt]** Investment Commissioners in an account to be known as the ‘unemployment insurance fund account, and such moneys shall be regarded as ‘deposits’ in terms of section **[5]** 6 of the Public **[Debt]** Investment Commissioners Act, **[1969 (Act No. 2 of 1969)]** 1984 (Act No. 45 of 1984).”.

Substitution of section 9A of Act 30 of 1966, as inserted by section 1 of Act 30 of 1986

40 6. The following section is hereby substituted for section 9A of the principal Act:

“Raising of loans from financial institutions

45 9A. If no moneys can be appropriated by Parliament for the fund for the purposes contemplated in section 9, the Director-General may, after consultation with the board and the actuary, and with the concurrence of the Minister of Finance, raise loans for the fund from **[private] financial institutions [registered with the Registrar of Financial Institutions]** as referred to in the definition of ‘financial institution’ in section 1 of the *Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984)*, on the conditions agreed upon
 50 between the parties, to enable the fund to meet the expenditure in connection with the administration of the Act.”.

Amendment of section 29 of Act 30 of 1966, as amended by section 2 of Act 51 of 1975, section 2 of Act 29 of 1977, section 12 of Act 9 of 1979, Proclamation R.193 of 25 October 1985 and Government Notice 2392 of 14 November 1986

7. Section 29 of the principal Act is hereby amended by the addition to subsection (3) of the following proviso:

“: Provided that the Director-General may allow an employer or specified class of employers to pay contributions due to the fund on such other times as the Director-General may determine in his discretion.”.

Amendment of section 31 of Act 30 of 1966

10 8. Section 31 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

15 “(1) If the amount of any contributions or any other payment is not paid by an employer at the time when it becomes payable, the Director-General may, in his discretion, impose upon and recover from the employer a penalty, determined either generally or specially, not exceeding 10 per cent of the amount unpaid, or [one rand] R20, whichever is the greater: Provided that the Director-General may waive any such penalty in whole or in part.”.

Amendment of section 34 of Act 30 of 1966, as substituted by section 14 of Act 9 of 1979 and amended by section 4 of Act 36 of 1987 and section 1 of Act 102 of 1987

20 9. Section 34 of the principal Act is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“Subject to the provisions of [sections] section 47 [and 49], the benefits that may be paid to a contributor shall not exceed—”.

25 Amendment of section 36 of Act 30 of 1966, as substituted by section 16 of Act 9 of 1979 and amended by section 3 of Act 1 of 1981, section 10 of Act 1 of 1982 and section 3 of Act 29 of 1988

10. Section 36 of the principal Act is hereby amended by the substitution in subsection (2) for the expression “Health and Welfare” of the expression “National Health”.

30 Amendment of section 37A of Act 30 of 1966, as inserted by section 6 of Act 36 of 1987

11. Section 37A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

35 “(1) Subject to the provisions of section 34 and of this section and of any applicable regulation made under section 62, a female contributor who is unemployed may be paid benefits, hereinafter in this section referred to as adoption benefits, in accordance with the provisions of this Act for a period not exceeding 26 weeks, commencing not earlier than the date [on which she legally adopts a child under the age of two years] of application to a children’s court in terms of section 18(2) of the Child Care Act, 1983 (Act No. 74 of 1983), for the adoption of a child who, at the time of the application, is under the age of two years, whether or not she is capable of and available for work: Provided that no payment of adoption benefits shall be made to such contributor before the adoption order is issued by the children’s court and submitted to the claims officer.”;

45 (b) by the substitution in paragraph (b) of subsection (5) for the words preceding the proviso, of the following words:

“unless the contributor concerned was in employment as a contributor, or was otherwise in employment, for at least **[eighteen]** 13 weeks during the period of 52 weeks immediately preceding the date of the adoption:”; and

5 (c) by the addition of the following subsection:

“(6) For the purpose of this section a female contributor shall be deemed to have become unemployed as from the date upon which—

- 10 (a) her contract of service or apprenticeship or learnership was terminated;
- (b) she has in respect of any period referred to in subsection (1), not received any earnings although her services have not been terminated; or
- 15 (c) she receives from her employer less than one third of her normal earnings.”.

Amendment of section 38 of Act 30 of 1966, as substituted by section 18 of Act 9 of 1979 and amended by section 5 of Act 1 of 1981, section 12 of Act 1 of 1982, section 7 of Act 27 of 1986 and section 7 of Act 36 of 1987

20 12. Section 38 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Application for payment in terms of subsection (1) shall be made in the form prescribed to the **[divisional inspector]** regional director, as defined by regulation, in the area in which the applicant resides or resides temporarily or, if the applicant is outside the Republic, to any such **[divisional inspector]** regional director.”.

25

Amendment of section 46 of Act 30 of 1966

13. Section 46 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
- 30 “(3) The Minister may, after consultation with the **[Minister of Finance]** board, authorize the payment from the fund of the whole or any portion of any amount which may become payable in connection with the application of the scheme, including any expenditure incurred in the administration thereof.”; and
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- 35 “(a) after consultation with the **[Minister of Finance]** board, withdraw or alter any authority granted in terms of subsection (3);”.

40 Amendment of section 50 of Act 30 of 1966, as substituted by section 9 of Act 29 of 1977 and amended by section 14 of Act 1 of 1982

14. Section 50 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

45 “(3) The value of any **[food or quarters]** remuneration in kind supplied by an employer shall, for the purposes of this section, be determined in accordance with a method prescribed by regulation.”.

Amendment of section 52 of Act 30 of 1966, as amended by section 24 of Act 9 of 1979

15. Section 52 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

50 “(1) **[Subject to the approval of the Minister of Finance, the]** The Director-General may, after consultation with the board, purchase or otherwise acquire immovable property required wholly or partly for the purposes of this Act and may alienate or let any property so acquired.”.

Amendment of section 62 of Act 30 of 1966, as amended by section 30 of Act 9 of 1979, section 17 of Act 1 of 1982, section 8 of Act 36 of 1987 and section 5 of Act 29 of 1988

16. Section 62 of the principal Act is hereby amended by the insertion after paragraph (e) of subsection (1) of the following paragraph:

“(f) the information to be furnished in any application in terms of section 2(5)(a)(i);”.

Transitional provisions

17. (1) Any employer who, owing to the commencement of this Act, has to comply with the provisions of Chapter V of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966), shall, subject to subsection (2), for a period of nine months after the date of such commencement be exempted from such compliance: Provided that nothing shall prevent any employer voluntarily to comply with the said provisions before the expiration of the said period.

15 (2) The Minister may, if he deems it necessary, after consultation with the board and by notice in the *Gazette*, shorten or from time to time extend the period referred to in subsection (1) in respect of specific categories of employers or employees or specific magisterial districts or areas.

Short title and commencement

20 18. (1) This Act shall be called the Unemployment Insurance Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of the Act.