

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

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GOVERNMENT GAZETTE

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CAPE TOWN, 14 MARCH 1979

DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 499.

14 Maart 1979.

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

No. 9 van 1979: Wysigingswet op Werkloosheidsversekering, 1979.

No. 499.

14 March 1979.

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

No. 9 of 1979: Unemployment Insurance Amendment Act, 1979.

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UNEMPLOYMENT INSURANCE AMENDMENT ACT, 1979

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 Unemployment Insurance Act, 1966, with regard to certain definitions; in order to provide for moneys which cannot be refunded, to be retained in the unemployment insurance fund; for moneys appropriated by Parliament to be used to make payments to certain dependants of deceased contributors; for the alteration of the area of jurisdiction of an unemployment benefit committee; for the extension of the period permitted for lodging appeals from unemployment benefit committees to the board; for a different method of appointment, and the extension of the duties and powers, of claims officers; for the extension of the period permitted for lodging appeals from claims officers to unemployment benefit committees; for the substitution and extension of the provisions relating to the payment of benefits; for the further regulation of the acquisition and disposal of movable and immovable property; for the recovery of losses or damages caused to the unemployment insurance fund; for the inclusion of additional information in the annual report of the Secretary; and for the substitution of the matters in respect of which regulations may be made; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 6 March 1979.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly 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.

1. Section 1 of the Unemployment Insurance Act, 1966 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the substitution for the definition of "actuary" of the following definition:

"'actuary' means a Fellow of **[the Institute of Actuaries (London) or of the Faculty of Actuaries in Scotland or any other person recognized 10 as such]** an institute or a faculty, society or chapter of actuaries approved by the Minister [for the purposes of this Act];";

(b) by the deletion of the definition of "Bantu";

(c) by the substitution for the definition of "benefits" of the 15 following definition:

"'benefits' means the benefits referred to in **[section] sections 34, 35, 36 or 37,** and includes, for the purposes of sections 7 (a), **[35,] 43, 44 and 61 (1) (a),** the allowances referred to in **[sections 38 20 and] section 48;**";

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- (d) by the insertion after the definition of "benefits" of the following definition:
 "Black" means any person who is a member of an aboriginal race or tribe of Africa;"
- (e) by the substitution for the definition of "officer" of the following definition:
 "officer" means [a person on the fixed establishment of the public service] an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);"; and
- (f) by the deletion of the definition of "rural area".

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, section 1 of Act 51 of 1975 and section 1 of Act 6 of 1978.

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

- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
 "(a) Persons who enter the Republic for the purpose of carrying out a contract of service, apprenticeship or learnership within the Republic if upon the termination thereof the employer is required by law or by the contract of service, apprenticeship or learnership, as the case may be, or by any other agreement or undertaking, to repatriate that person, or that person is so required to [return to the country from which he entered] leave the Republic; or";
- (b) by the deletion of paragraph (c) of subsection (2);
- (c) by the substitution for paragraph (d) of subsection (2) of the following paragraph:
 "(d) persons whose rate of earnings calculated in the manner set out in section 50 exceeds eight thousand four hundred rand a year [and, in the case of Bantu, does not exceed five hundred and forty-six rand a year], which rate of earnings may, after consultation with the board by the Minister, be altered by the State President by proclamation in the Gazette with effect from a date specified in the proclamation; or";
- (d) by the substitution for paragraphs (m) and (n) of subsection (2) of the following paragraphs respectively:
 "(m) persons employed by a provincial administration (including a school or hospital board under the control of a provincial administration) who contribute to [a pension fund administered by the province and who upon retirement are entitled to receive from such pension fund a pension payable in whole or in part in the form of an annuity, including probationer nurses so employed whether they contribute to a pension fund or not] the Government Service Pension Fund established by section 3 of the Government Service Pensions Act, 1973 (Act No. 57 of 1973);
 or
 (n) persons who in terms of section 23 of the [Vocational Education Act, 1955 (Act No. 70 of 1955)] Educational Services Act, 1967 (Act No. 41 of 1967), section 12 of the Coloured 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 [were employed in posts classified in the public service] occupied posts included in a division of the public service referred to in section 3 (1) (a) of the Public Service Act, 1957 (Act No. 54 of 1957);
 or";

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- (e) by the substitution for paragraph (p) of subsection (2) of the following paragraph:
“(p) officers on the fixed establishment of Parliament; or”; and
- (f) by the deletion of paragraph (q) of subsection (2). 5
- Amendment of section 6 of Act 30 of 1966.
3. Section 6 of the principal Act is hereby amended by the insertion of the following paragraph after paragraph (f):
“(fA) any moneys paid erroneously to the fund and which, in the opinion of the Secretary, cannot be refunded.”.
- Amendment of section 7 of Act 30 of 1966, as amended by section 1 of Act 118 of 1977.
4. Section 7 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:
“(b) the payment of any amounts payable in terms of section ~~40~~ 38.”.
- Amendment of section 9 of Act 30 of 1966.
5. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 15
“(1) The Minister may, out of moneys appropriated by Parliament for the purpose, and subject to such conditions as the Treasury may impose, including conditions as to interest and repayment, at any time advance to the fund such moneys required to defray any expenditure incurred in connection 20 with the administration of this Act, including the payment of benefits in terms thereof and amounts payable in terms of section 38, as the Minister, in consultation with the Treasury, may determine.”.
- Amendment of section 13 of Act 30 of 1966.
6. Section 13 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph: 25
“(c) it shall determine the benefits, if any, to be paid in terms of section ~~37 (3) or 38 (3)~~ 35 (14) or 36 (9).”;
- Amendment of section 16 of Act 30 of 1966.
7. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 30
“(1) The Minister shall, after consultation with the board, by notice in the *Gazette* establish one or more unemployment benefit committees having jurisdiction in an area or areas specified in such notice, and may in like manner alter the area or areas in which such a committee shall have 35 jurisdiction.”.
- Amendment of section 17 of Act 30 of 1966.
8. Section 17 of the principal Act is hereby amended by the deletion of paragraph (b).
- Amendment of section 21 of Act 30 of 1966.
9. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 40
“(1) Any person (including a claims officer) aggrieved by a decision of a committee in regard to any—
(a) application for benefits; or
(b) other matter arising under this Act,
may appeal to the board against such decision, provided such 45 appeal is lodged in writing within ~~fourteen~~ thirty days after the date on which he is notified of the decision or such further period as the board may determine.”.
- Amendment of section 26 of Act 30 of 1966.
10. Section 26 of the principal Act is hereby amended—
(a) by the substitution for subsection (1) of the following 50 subsection:
“(1) The ~~Minister~~ Secretary may ~~by notice in the Gazette~~ in writing appoint any officers or other State employees as claims officers and shall ~~in such~~

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notice] specify the area or areas in which each claims officer shall have jurisdiction, and may alter such area or areas.”;

(b) by the substitution for paragraphs (a), (b) and (c) of subsection (2) of the following paragraphs respectively: 5

“(a) receive applications for benefits made in terms of section 35, 36 or 37 and for allowances made in terms of section 48;

(b) after enquiry determine whether any application for benefits or allowances shall be granted, and if so, what benefits or allowances shall be paid;

(c) authorize the payment from the fund of the benefits or allowances granted **[by him]**.”;

(c) by the deletion of paragraph (d) of subsection (2); and

(d) by the substitution for subsection (4) of the following subsection: 15

“(4) A claims officer may delegate any power conferred upon him by this Act to any officer or employee designated to assist him in terms of subsection (3) and any decision taken by such officer or employee under the powers so delegated to him shall, for the purposes of this Act, be deemed to be the decision of the claims officer.”

Amendment of section 27 of Act 30 of 1966.

11. Section 27 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 25

“(1) Any person aggrieved by a decision of a claims officer in regard to any—

(a) application for benefits; or

(b) other matter arising under this Act,

may appeal to the committee having jurisdiction in the area wherein such matter arises, against such decision, provided such appeal is lodged in writing within **[twenty-one] thirty** days after the date on which he is notified of the decision or such further period as the committee may determine.”

Amendment of section 29 of Act 30 of 1966, as amended by section 2 of Act 51 of 1975 and section 2 of Act 29 of 1977.

12. Section 29 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (6) of the following paragraph: 35

“(b) When a contributor is for any reason absent from work during a portion of any week and is entitled to at least one day's earnings in respect of that week, that week shall for the purposes of this Act be regarded as a period of employment, and contributions for that week shall be payable at the full rate in respect of that contributor's normal weekly earnings **[for that week]**.”

Amendment of section 33 of Act 30 of 1966.

13. Section 33 of the principal Act is hereby amended by the substitution for subsections (3) and (4) of the following subsections respectively: 45

“(3) Notwithstanding the provisions of subsection (2), the employer of a contributor who is, in terms of section **[38 (4) or 39 (3)] 36 (1) or 37 (6)** deemed to be unemployed, and who has applied for **[an allowance or]** benefits, shall, at the request of a claims officer, forthwith forward to that officer the record card of that contributor, together with a statement containing such information and particulars in respect of the contributor as may be prescribed. 55

(4) A contributor shall retain his record card delivered to him in terms of subsection (2) until he is required by the claims officer to deliver it to him when applying for benefits

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in terms of section 35, 36 or 37 or an allowance under section [38 or] 48 or until he is again employed as a contributor, when he shall deliver it to his new employer."

Substitution of section 34 of Act 30 of 1966.

14. The following section is hereby substituted for section 34 of the principal Act:

"Payment of benefits to contributors.

34. (1) Whenever a contributor is or becomes unemployed, he shall, subject to the provisions of this Act, be entitled to receive out of the fund—
- (a) unemployment benefits in terms of section 35; or
 - (b) illness benefits in terms of section 36; or
 - (c) maternity benefits in terms of section 37.
- (2) (a) The benefits payable to a contributor during any period of unemployment shall be calculated at the rate of 45 per cent of the normal weekly earnings at which he was last employed as a contributor.
- (b) If a claims officer is satisfied that a contributor has been employed at different rates of earnings as a contributor and that he has not been employed for more than thirteen weeks at the rate of earnings at which he was last employed as a contributor, or whenever there is a dispute as to the normal rate of earnings at which a contributor was last employed, the claims officer may determine that benefits be paid in respect of the rate of earnings at which he considers the contributor is or was at any time normally employed, or, if in his opinion the contributor cannot be held to have been normally employed at any particular rate of earnings, then on such basis as he considers equitable in the circumstances.
- (3) The amount of any benefits to which a contributor may become entitled shall be calculated in respect of a calendar week, and the amount of the benefits in respect of any period less than one calendar week shall be calculated on the basis of seven working days in any calendar week, a short working day counting as a full working day.
- (4) Subject to the provisions of sections 47 and 49, the benefits that may be paid to a contributor shall not exceed—
- (a) one week's benefits for each completed four weeks' employment as a contributor between the first day of January 1950 and the thirtieth day of July 1962; and
 - (b) one week's benefits for each completed six weeks' employment as a contributor on or after the thirtieth day of July 1962.
- (5) Subject to the provisions of sections 35 (14) and 36 (9), a contributor shall not be entitled to receive benefits for more than twenty-six weeks in any period of fifty-two consecutive weeks.
- (6) (a) A contributor who loses his employment and who receives from his last employer wages in lieu of a period of notice, shall be deemed to have been employed during that period.
- (b) A contributor shall not be regarded as unemployed during any period in which he is undergoing training for employment under any scheme.
- (7) A person shall be deemed not to be a contributor for the purposes of section 29 or not to be in employment as a contributor for the purposes of subsection (4) of this section, during any period in respect of which he is paid benefits under this Act.
- (8) A contributor shall be deemed to have been employed during any period for which he received

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wages under section 140 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

(9) A contributor shall not be entitled to benefits in respect of any period during which he is outside the Republic." 5

Substitution of section 35 of Act 30 of 1966.

15. The following section is hereby substituted for section 35 of the principal Act:

"Conditions relating to unemployment benefits."

35. (1) Subject to the provisions of this Act, a contributor who is unemployed shall be entitled to receive out of the fund during the period of his unemployment the unemployment benefits prescribed by section 34. 10

(2) Application for unemployment benefits under this section shall be made by a contributor, in the form prescribed, to the claims officer having jurisdiction in the area in which the contributor resides or resides temporarily. 15

(3) The claims officer shall investigate the applicant's claim to unemployment benefits and, if satisfied that he is entitled thereto, admit the claim and authorize the payment of the benefits prescribed by section 34. 20

(4) The applicant shall submit to the claims officer such proof as the claims officer may require of his continuous unemployment during any period in respect of which he claims unemployment benefits. 25

(5) (a) Any person, when applying for, or when in receipt of, unemployment benefits, shall satisfy the claims officer that he is unable to obtain suitable work and shall for this purpose report and attend at such places and at such times as the claims officer may determine. 30

(b) The provisions of paragraph (a) shall apply also with reference to a contributor who is not entitled to benefits in terms of paragraph (e) or (f) of subsection (13), and the claims officer may extend the period during which the contributor shall not be entitled to receive benefits by a period equal to the period during which the contributor failed to comply with the provisions of paragraph (a). 35 40

(6) When any person applies for unemployment benefits the claims officer may require him to submit proof to the satisfaction of the claims officer that he is, or has been, actively seeking work. 45

(7) (a) A period of unemployment shall not be deemed to have commenced until the contributor has lodged an application in accordance with subsection (2) with the claims officer concerned or with an agent duly authorized to receive such application on behalf of the claims officer. 50

(b) If, in the opinion of the claims officer, any delay in lodging an application was caused by any circumstance beyond the control of the contributor, the claims officer may determine a date within the period of the delay as the date on which the period of unemployment shall be deemed to have commenced. 55

(c) If a contributor who has applied for benefits in terms of subsection (2) moves to the area of jurisdiction of another claims officer and submits a further application within fourteen days from the date on which he last reported in terms of subsection (5), the period of unemployment shall for the purposes of this subsection and subsection (13) (a) be deemed to have commenced on 60 65

the date determined in respect of the first application.

(8) Whenever in the opinion of the claims officer the number of occasions on which, or the periods during which, a contributor became or remained unemployed are excessive compared to the position obtaining with reference to other contributors performing work of a nature similar to that normally performed by such contributor, the claims officer may, in the case of such contributor and for such period as he may determine, authorize the payment of benefits at a reduced rate or refuse the payment of unemployment benefits, as he may deem fit.

(9) If in any business there is, in pursuance of any holiday scheme, a stoppage of work for any period (in this subsection referred to as the holiday period), a contributor whose last employment prior to the commencement of the holiday period was in such business, shall be regarded as not being unemployed during that period unless he satisfies the claims officer that he is not unemployed solely by reason of the holiday period.

(10) Whenever in any calendar week in respect of which unemployment benefits are payable to a contributor, that contributor undertakes remunerative work, including work done on a commission basis, of a nature not ordinarily undertaken by him, or to an extent not ordinarily undertaken by him, and which in the opinion of the claims officer reduces or is likely to reduce the work which would otherwise be available to contributors, the amount of unemployment benefits payable to that contributor in respect of such a calendar week shall be reduced by an amount equal to the amount by which the aggregate of the unemployment benefits payable to him and the remuneration received by him during that week in respect of such remunerative work, as determined by the claims officer, exceeds the normal weekly earnings received from his last employer.

(11) If a contributor who is employed by two or more employers, loses the employment in respect of which he is in terms of section 2 (3) regarded as a contributor for the purposes of this Act, he shall, notwithstanding that he continues in the employment of the other employer or employers, as the case may be, be entitled to unemployment benefits, but the amount of unemployment benefits payable to him in respect of any calendar week shall be reduced by an amount equal to the amount by which the aggregate of the unemployment benefits payable to him and the earnings received by him in respect of that week from the employer or employers by whom he continues to be employed, exceeds his normal weekly earnings in respect of his normal employment as determined by the Secretary in terms of section 2 (3).

(12) The period in respect of which unemployment benefits are paid at reduced rates in any calendar week in terms of subsection (11) shall, for the purposes of subsections (4) and (5) of section 34, be regarded as a period in that calendar week bearing the same proportion to the first-mentioned period as the total amount of unemployment benefits paid in respect of that period bears to the total amount which would have been paid had the contributor received unemployment benefits at the full rates in respect of the first-mentioned period.

(13) Subject to the provisions of this Act, a contributor shall not be entitled to unemployment benefits—

- (a) unless he has been employed as a contributor or otherwise in employment for at least thirteen weeks, whether for a continuous period or not, during the fifty-two weeks immediately preceding the date upon which a period of unemployment is deemed to have commenced: Provided that for the purposes of this paragraph such contributor shall be deemed to have been employed as a contributor during any period during which he was undergoing the continuous service contemplated in section 22 (3) of the Defence Act, 1957 (Act No. 44 of 1957);
- (b) for the first week of unemployment unless the commencement of such period of unemployment occurs within nine weeks of any previous period of unemployment: Provided that if the unemployment continues into the second week, a contributor shall in respect of the first week of unemployment, if the commencement of that period of unemployment does not occur within nine weeks of a previous period of unemployment, receive unemployment benefits in respect of the same number of days during that week as the number of days on which he is unemployed during the second week;
- (c) unless he is capable of and available for work: Provided that if he becomes ill whilst in receipt of unemployment benefits he shall be deemed to be capable of and available for work if the claims officer is satisfied that such illness is not likely to have prejudiced his chance of securing employment;
- (d) if he is unemployed by reason of a stoppage of work due to a trade dispute in the industry in which he was employed or in any other industry, so long as the stoppage of work continues, unless he has during such stoppage of work become unemployed after becoming *bona fide* employed elsewhere in suitable work, or unless he satisfies the claims officer that—
- (i) he was at no time a party to the dispute and had no direct interest in the subject-matter of the dispute;
 - (ii) no person who was employed at the contributor's place of employment in an occupation similar to the occupation in which the contributor was employed, has at any time been such a party nor so interested in the subject-matter of the dispute;
- (e) for a period of six weeks from the date upon which he became unemployed, if in the opinion of the claims officer concerned he lost his employment through his own misconduct or voluntarily left his employment without just cause: Provided that if in any particular case the claims officer considers that, owing to special circumstances, the exclusion from unemployment benefits for such period would be inequitable, he may reduce the period;
- (f) for a period of thirteen weeks, or such lesser period as the claims officer concerned may determine, from the date on which such contributor refuses to accept or to apply for suitable work notified to him or of which he may have become aware, or on which he does not comply with any specific reasonable direction given to him by or

- on behalf of the claims officer with a view to helping him to get work; or on which he presents or offers himself for work in a condition or manner which, in the opinion of the claims officer concerned, is likely to preclude him from obtaining employment; 5
- (g) if he fails to comply with any provision of any law relating to unemployment, while such default continues;
- (h) unless he complies with the provisions of subsections (4), (5) and (6); 10
- (i) if he refuses, without good cause, to undergo training for employment under any scheme approved by the Secretary;
- (j) in respect of any period during which there is for any reason a temporary reduction in the number of hours, days or weeks ordinarily worked in the business in which he is employed, unless his contract of service or apprenticeship or learnership with his employer has been terminated. 15 20
- (14) (a) Notwithstanding the provisions of section 34 (5), but subject to the provisions of subsection (13) (a) of this section, the board may at its discretion, on application in the prescribed form and manner, authorize the payment of further benefits to any contributor or any class of contributor at either full rate or such reduced rate and for such period as it may deem fit. 25
- (b) The board may, subject to such conditions and for such period as it may determine, authorize a claims officer or any officer or employee designated in terms of section 26 (3) to assist a claims officer, to exercise, perform or carry out any of its powers, functions and duties under paragraph (a). 30 35
- (15) For the purposes of this section the expression 'suitable work'—
- (a) in relation to a contributor whose normal rate of earnings does not exceed seven hundred and eighty rand a year, means any work, including work in agriculture and work as a domestic servant in a private household, which the contributor concerned is, in the opinion of the claims officer, physically capable of performing and the acceptance of which will not, in the opinion of the claims officer, cause the contributor concerned undue hardship, and in respect of which the weekly earnings are not less than the weekly unemployment benefits which would be payable to such contributor if he is unemployed; and 40 45 50
- (b) in relation to a contributor whose normal rate of earnings exceeds seven hundred and eighty rand a year, means, for the first thirteen weeks of unemployment, work which the contributor concerned is, in the opinion of the claims officer, capable of performing and the acceptance of which will not, in the opinion of the claims officer, cause the contributor concerned undue hardship; and which is, unless in the opinion of the claims officer the contributor is not capable of undertaking the work in which he has been ordinarily employed, work of a similar class and remunerated at a rate of earnings of not less than seventy-five per cent of the remuneration payable in respect of the work wherein the contributor concerned is ordinarily employed or any work remunerated at a higher rate of earnings, and 55 60 65

thereafter any work deemed suitable by the claims officer, but does not include employment in a situation which has become vacant in consequence of a stoppage of work referred to in subsection (13) (d).”

Substitution of section 36 of Act 30 of 1966, as substituted by section 3 of Act 29 of 1977.

16. The following section is hereby substituted for section 36 of the principal Act:

“Conditions relating to illness benefits.

36. (1) (a) Subject to the provisions of section 34 and of this section and of any applicable regulation made under section 62, illness benefits may be paid to a contributor who is unemployed and who is unable to perform work on account of an illness referred to in subsection (2) of this section.

(b) A contributor whose services have not been terminated but who is not in receipt of any earnings, or who receives from his employer less than one-third of his normal earnings, and who is unable, on account of the illness referred to, to perform his normal work, shall, for the purposes of paragraph (a), be deemed to be unemployed.

(2) The Minister may, after consultation with the Minister of Health and the board, by notice in the *Gazette* specify the illnesses in respect of which, and, if he deems it expedient, the circumstances under which, an illness benefit under subsection (1) may be paid, and may in like manner amend or withdraw any such notice, and may, in specifying the circumstances under which a benefit may be paid in respect of any illness, apply any method of differentiation based on the type of illness or the treatment thereof or any other method.

(3) (a) Application for illness benefits shall be made by a contributor in the form prescribed to the claims officer having jurisdiction in the area in which the contributor resides or resides temporarily.

(b) If the claims officer is satisfied that a contributor is unable to make the application personally, he may authorize such other person as he may deem fit to make the application on behalf of the contributor.

(4) The claims officer shall investigate the applicant's claim to illness benefits and, if satisfied that he is entitled thereto, admit the claim and authorize benefits as prescribed by section 34.

(5) If a contributor who has applied for illness benefits in terms of subsection (3) moves to the area of jurisdiction of another claims officer, the claims officer with whom the application was originally lodged may, subject to the provisions of this Act, authorize or continue to authorize the payment of illness benefits to which the contributor may be entitled in respect of such application.

(6) A contributor shall not be entitled to illness benefits—

(a) for the first two weeks of unemployment: Provided that if unemployment continues after the second week, the contributor may in respect of the first two weeks of unemployment be paid illness benefits in respect of the same number of days during such first two weeks as the number of days on which he is unemployed during the two weeks which immediately follow the first two weeks;

(b) for any period during which he is entitled to unemployment benefits in terms of the proviso to section 35 (13) (c);

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- (c) if in the opinion of the claims officer he is unemployed by reason of an illness arising from his own misconduct;
- (d) if the contributor, in the opinion of the claims officer, has unreasonably refused or neglected to undergo medical treatment or to carry out the instructions of a medical practitioner, for as long as such refusal or neglect continues;
- (e) unless he has been employed as a contributor for at least thirteen weeks, whether for a continuous period or not, during the fifty-two weeks immediately preceding the date upon which a period of unemployment is deemed to have commenced: Provided that for the purposes of this paragraph such contributor shall be deemed to have been employed as a contributor during any period during which he was undergoing the continuous service contemplated in section 22 (3) of the Defence Act, 1957 (Act No. 44 of 1957).

(7) For the purpose of this section a contributor, other than a contributor referred to in subsection (1) (b), shall be deemed to have become unemployed on the date upon which his contract of service or apprenticeship or learnership was terminated by reason of the illness in respect of which application is made for illness benefits: Provided that an applicant who became unemployed prior to contracting the illness in respect of which the application is made, shall be deemed to have become unemployed on the date upon which he is certified by the medical practitioner to have become incapable of performing work by reason of the said illness.

(8) A contributor, including a contributor referred to in subsection (1) (b), shall not be deemed to have become unemployed more than fifty-two weeks prior to the date upon which application is made in terms of subsection (3).

(9) (a) Notwithstanding the provisions of section 34 (5), but subject to the provisions of subsection (6) (e) of this section, the board may at its discretion, on application in the prescribed form and manner, authorize the payment of further benefits to any contributor or any class of contributor at either full rate or such reduced rate and for such period as it may deem fit.

(b) The board may, subject to such conditions and for such period as it may determine, authorize a claims officer or any officer or employee designated in terms of section 26 (3) to assist a claims officer, to exercise, perform or carry out any of its powers, functions and duties under paragraph (a)."

Substitution of section 37 of Act 30 of 1966, as amended by section 4 of Act 29 of 1977.

17. The following section is hereby substituted for section 37 of the principal Act:

37. (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 in accordance with the provisions of this Act—

- (a) in respect of her pregnancy for a period not exceeding eighteen weeks commencing not earlier than eighteen weeks prior to the expected date of her confinement or, where application for benefits is made on or after the date of birth, the date of birth, as the case may be; and

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(b) for a period not exceeding eight weeks after the birth of a live child, or four weeks after the birth of a still-born child,

whether or not she is capable of and available for work.

(2) Application for maternity benefits under subsection (1) shall be made by a contributor, in the form prescribed, to the claims officer having jurisdiction in the area in which the contributor resides or resides temporarily.

(3) If a contributor who has applied for maternity benefits in terms of subsection (2) moves to the area of jurisdiction of another claims officer, the claims officer with whom the application was originally lodged may, subject to the provisions of this Act, authorize or continue to authorize the payment of maternity benefits to which the contributor may be entitled in respect of such application.

(4) The claims officer shall investigate the applicant's claim to maternity benefits and, if satisfied that she is entitled thereto, admit the claim and authorize the payment of benefits as prescribed by section 34.

(5) A contributor shall not be entitled to benefits in terms of subsection (1) unless she was in employment as a contributor for at least eighteen weeks during the fifty-two weeks immediately preceding the expected date of her confinement or, where application for benefits is made on or after the date of birth, the date of birth, as the case may be: Provided that the board may, at its discretion, authorize the payment of such benefits to an applicant who was employed as a contributor for less than eighteen weeks during the fifty-two weeks immediately preceding the expected date of her confinement or the date of birth, as the case may be, if such applicant was employed on work connected with ionizing radiation at any time during a period of thirty-nine weeks immediately preceding such expected date or the date of birth.

(6) For the purposes of this section a female contributor shall be deemed to have become unemployed on the date upon which her contract of service or apprenticeship or learnership was terminated or, notwithstanding that her services have not been terminated, shall be deemed to be unemployed if, in respect of any period referred to in subsection (1), she is not in receipt of any earnings or receives from her employer less than one-third of her normal earnings: Provided that she shall not be deemed to have become unemployed more than twenty-six weeks prior to the date upon which application is made in terms of subsection (2).

Substitution of section 38 of Act 30 of 1966, as amended by section 5 of Act 29 of 1977.

18. The following section is hereby substituted for section 38 of the principal Act:

"Payments to dependants of deceased contributors.

38. (1) Subject to the provisions of section 34 (4) and of this section and of any applicable regulation made under section 62, the Secretary may pay from the fund to the dependants of a contributor who dies (hereinafter referred to as the deceased contributor), an amount equal to the sum of the amounts which would, but for the provisions of section 34 (5), have been payable to the deceased contributor had such contributor been capable of, and available for, work and unemployed for a period of twenty-six weeks from the date of his death.

(2) Application for payment in terms of subsection (1) shall be made in the form prescribed to the divisional inspector, 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.

(3) No payment shall be made in terms of subsection (1)—

(a) unless application is made therefor within a period of three years from the date of death of the contributor concerned; and

(b) unless the deceased contributor was in employment as a contributor for not less than thirteen weeks during the five years immediately preceding the date of his death.

(4) (a) If there is a dependant referred to in subsection (7) (a) (i) when any amount becomes payable in terms of subsection (1), the amount shall be paid to that dependant.

(b) If such a dependant does not apply for payment in terms of subsection (1) within three years from the date of death of the deceased contributor, the amount may, subject to the succeeding provisions of this section, be paid to any other person for the benefit of a dependant.

(c) If the board is satisfied that there is no dependant as is referred to in subsection (7) (a) (i), it may at its discretion authorize the payment of the amount, or any portion thereof, in instalments or otherwise, to any person or persons for the benefit of any dependant referred to in subsection (7) (a) (ii).

(d) If the board is satisfied that there are no dependants as are referred to in subsection (7) (a) (i) or (ii), it may at its discretion authorize the payment of the amount, or any portion thereof, in instalments or otherwise, to any person or persons for the benefit of any dependant referred to in subsection (7) (a) (iii).

(5) The provisions of sections 43 and 44 shall *mutatis mutandis* apply in respect of any amount paid or payable in terms of subsection (1).

(6) An amount payable in terms of subsection (1) shall not form part of the estate of the deceased contributor.

(7) For the purpose of this section—

(a) 'dependant' means—
(i) the widow or invalid widower of the deceased contributor;

(ii) any child (including an adopted child) of the deceased contributor who was under the age of seventeen years at the date of the death of the contributor and who was, in the opinion of the board, wholly or mainly dependent upon the contributor for the necessities of life; or

(iii) any other person who was, in the opinion of the board, wholly or mainly dependent upon the deceased contributor for the necessities of life;

(b) 'widow' or 'widower', in the case of a deceased contributor who was an Asiatic, means the surviving spouse of a marriage recognized as valid in terms of the Indians Laws Amendment Act, 1963 (Act No. 68 of 1963), or any other law in force in the Republic; and

(c) 'widow', in the case of a deceased contributor who was a Black, includes any woman who was associated with the contributor in a conjugal relationship according to Black law and custom, where neither the man nor the woman was a party to a subsisting marriage."

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Repeal of sections 39, 40, 41 and 42 of Act 30 of 1966.

19. Sections 39, 40, 41 and 42 of the principal Act are hereby repealed.

Amendment of section 45 of Act 30 of 1966, as amended by section 7 of Act 29 of 1977.

20. Section 45 of the principal Act is hereby amended—
 (a) by the substitution in subsection (1) for the expression “36” of the expression “34”; and
 (b) by the substitution in subsection (2) for the expression “36” of the expression “34”.

Amendment of section 47 of Act 30 of 1966.

21. Section 47 of the principal Act is hereby amended by the substitution in subsection (1) for the expression “37 (2) or (3) or 41 (1) (l) or (m)” of the expression “34 (4) or (5) or 35 (13) (a) 10 or (j)”.

Amendment of section 48 of Act 30 of 1966, as amended by section 8 of Act 29 of 1977.

22. Section 48 of the principal Act is hereby amended—
 (a) by the substitution for the words preceding the proviso to subsection (1) of the following words:
 “(1) Whenever a contributor after having become 15 unemployed accepts employment at less than half the average weekly rate of earnings received by him during the period of three months immediately prior to the date upon which he became unemployed, he shall during the period he remains so employed, be entitled to receive 20 out of the fund a special weekly allowance equal to the difference between his new weekly [rate of earnings] remuneration, including commission, and half the said average rate of earnings.”; and
 (b) by the substitution in paragraph (d) of the proviso to 25 subsection (1) for the expression “41 (1) (f)” of the expression “35 (13) (d)”.

Amendment of section 49 of Act 30 of 1966.

23. Section 49 of the principal Act is hereby amended by the substitution in subsection (3) for the expression “sections 37 (2) and (3) and 41 (1) (c)” of the expression “section 34 (4) and 30 (5)”.

Amendment of section 52 of Act 30 of 1966.

24. Section 52 of the principal Act is hereby amended—
 (a) by the substitution for subsection (1) of the following subsection:
 “(1) Subject to the approval of the Minister of 35 Finance, the Secretary may 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.”; and
 (b) by the insertion after subsection (1) of the following 40 subsection:
 “(1A) The Secretary may purchase or otherwise acquire any movable property required wholly or partly for the purposes of this Act, and may sell or otherwise dispose of such property and may write off losses and 45 deficiencies.”.

Amendment of section 53 of Act 30 of 1966.

25. Section 53 of the principal Act is hereby amended by the addition of the following paragraph to subsection (1):
 “(c) the number of deceased contributors whose dependants received payments in terms of section 38 and the total 50 amount of such payments.”.

Amendment of section 54 of Act 30 of 1966.

26. Section 54 of the principal Act is hereby amended by the deletion of the proviso to subsection (1).

Insertion of section 59 in Act 30 of 1966.

27. The following section is hereby inserted after section 58 of the principal Act: 55

“Recovery of losses and damages. 59. (1) If a person who is or was in the employ of a department of State caused the fund any loss or damage because he—

- (a) failed to collect fund moneys for the collection of which he is or was responsible;
- (b) is or was responsible for an irregular payment of fund moneys or for a payment of such moneys not supported by a proper voucher; 5
- (c) is or was responsible for fruitless expenditure of fund moneys due to an omission to carry out his duties;
- (d) is or was responsible for a deficiency in, or for the destruction of, or any damage to, fund moneys, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other fund property; 10
- (e) due to an omission to carry out his duties, is or was responsible for a claim against the fund, 15

the Secretary shall determine the amount of such loss or damage and, subject to the provisions of subsection (5), order, by notice in writing, the said person to pay to him, within thirty days from the date of such notice, the amount so determined. 20

(2) If a person who is in the employ of a department of State and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (6) and (7), be deducted from his monthly salary: Provided that such deduction shall not in any month exceed one-fourth of his monthly salary. 25

(3) If a person who was in the employ of a department of State and who has, in terms of subsection (1), been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the Secretary shall, subject to the provisions of subsections (4), (6) and (7), recover such amount from the person concerned by legal process. 30 35

(4) If a person who has been ordered to pay an amount in terms of subsection (1) makes, within the period stipulated in the notice in question, an offer to pay the amount in instalments, the Secretary may allow payment in such instalments as he may consider reasonable. 40

(5) If for any reason whatsoever, the Secretary is of the opinion that the amount of a loss or damage referred to in subsection (1) should not be recovered or should be recovered in part only from the person responsible therefor, he may exempt that person from payment of the whole or a portion of such amount. 45

(6) A person who has in terms of subsection (1) been ordered to pay an amount may, within a period of thirty days from the date of such order, appeal in writing against such order to the Minister, stating the grounds of his appeal, and the Minister may, after such investigation as he may deem necessary, dismiss the appeal, or order that the appellant be exempted either wholly or partly, according as he may consider fair and reasonable, from the payment of such amount. 50 55

(7) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the Minister under subsection (6), apply within a period of thirty days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is 60 65

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not convinced by the Secretary on the merits of the case that the order was rightly made or that that amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be. 5

(8) If an amount is reduced in terms of subsection (5), (6) or (7), the reduced amount shall *mutatis mutandis* be recovered in accordance with the provisions of subsections (1), (2), (3) and (4)."

Amendment of section 60 of Act 30 of 1966.

28. Section 60 of the principal Act is hereby amended by the deletion of subsection (5). 10

Amendment of section 61 of Act 30 of 1966.

29. Section 61 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (1) for the expression "40" of the expression "38".

Amendment of section 62 of Act 30 of 1966.

30. Section 62 of the principal Act is hereby amended— 15

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

"(1) The Minister may make regulations as to—

- (a) the procedure to be followed in an appeal under section 21 or 27 and the powers of the board or a committee, as the case may be, in respect of such appeal; 20
- (b) the records to be kept by employers in terms of section 32;
- (c) the information to be furnished by an employer in regard to an application for benefits in terms of section 35, 36 or 37 or an application for the payment of an amount in terms of section 38; 25
- (d) the medical examination of an applicant for benefits in terms of section 36 or 37, and the fees payable from the fund in respect of such an examination; 30
- (e) the documentary evidence to be furnished by an applicant for the payment of an amount in terms of section 38;
- (f) the selection of contributors to undergo training in respect of any scheme referred to in section 49 (4), the period and courses of such training, and all matters which in the opinion of the Minister are necessary for or incidental to the establishment and proper conduct of such a scheme; 35
- (g) the form and manner in which any statement required to be furnished by an employer under this Act shall be submitted; 40
- (h) the form of any other document, record or book required for the carrying out of the provisions of this Act; 45
- (i) the issue, production or disposal of record cards of contributors and the replacement of lost cards;
- (j) the method of payment of benefits;
- (k) the remuneration or allowances payable to members of the board or of any committee who are not officers; 50
- (l) any matter that may be prescribed or defined under this Act; and
- (m) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be better achieved."; and 55

(b) by the addition of the following subsection:

"(4) Any regulation made under subsection (1) before the substitution thereof by the Unemployment Insurance Amendment Act, 1979, or under section 63 before the 60

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repeal thereof by that Act, and which was of force immediately prior to the commencement of the said Act, shall be deemed to have been made under the corresponding provision of subsection (1) as substituted by the said Act." 5

Repeal of section 63 of Act 30 of 1966.

31. Section 63 of the principal Act is hereby repealed.

Amendment of section 64 of Act 30 of 1966.

32. Section 64 of the principal Act is hereby amended by the deletion of subsection (1).

Short title and commencement.

33. This Act shall be called the Unemployment Insurance Amendment Act, 1979, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.