



IN THIS EDITION

1. Voorwoord; bladsy 1
2. Termination of Fixed Term Contracts; page 2
3. No Annual Increase in Monthly Fees; page 4
4. Covid-19 Workplace Preparedness including what to do if an employee tests positive; page 4
5. Train Your Staff To Deliver Great Customer Service; page 6
6. Contact Us; page 7



VOORWOORD

Min het ek geweet dat ons gedurende 2020 so beproef sou word op alle vlakke van die lewe. COVID-19 het ons lewens en ons besighede totaal ontwrig.

SEENA Labour het onder moeilike omstandighede tydens die eerste fase van 'lockdown' en daarna aangehou om ons kliënte te adviseer, ongeag oënskynlike ondeurdagte besluite deur die regering. Gedurende die 'lockdown' is tegnologie ingespan om verhoore en ander vergaderings te behartig. Die stryd duur egter voort.

At least we know we are not alone in this. All businesses in Namibia and the world are affected by COVID-19.

We are still assisting struggling businesses as part of our effort to reduce the impact of COVID-19. We have decided not to increase our monthly premiums during the current financial year.

SEENA is landwyd gereed om u by te staan met hulp rakende die Arbeidsreg, NEEEF, Employment Equity, Opleiding van u personeel en Payroll. Gaan kyk gerus na ons dienste en vorige nuusbriewe op ons webwerf, www.seenalegal.com.

Dit is juis in hierdie tyd nodig om goeie verhoudinge met jou kliënte te handhaaf. 'n Gelukkige kliënt is 'n lojale kliënt. SEENA Training se Customer Service produk kan u van hulp wees in hierdie opsig.

Kindly support local business.

Lekker werk.



JJ Barkhuizen
MANAGING DIRECTOR

TERMINATION OF FIXED TERM CONTRACTS

The provisions of section 128C of Act 2 of 2012, creates a presumption of indefinite employment in respect of all non-managerial employees employed in Namibia. The section reads:

“An Employee is presumed to be employed indefinitely unless the employer can establish a justification for employment on a fixed term.”

In order to be able to rebut the presumption, a clearly worded employment contract will be of great help. Such a contract, concluded at the onset of the employment relationship, must clearly set out:

- the reason why the contract is not of a permanent nature, and
- must clearly stipulate the duration of the Contract.

There can be many justifications as to why an employee cannot be employed permanently. Here-below are but a few everyday examples:

- a temporary relief worker assisting in the absence of another permanent employee who is absent on account of being on extended annual leave, sick leave or maternity leave; or
- A construction worker employed for a specific project, such as the building of a dam, road, etc.

Normally speaking a fixed term contract will come to an end when the limited need on the part of the employer, which gave rise to the employee’s employment in the first place, falls away or has been satisfied. When terminating these contracts it is important to pay attention to the manner in which the duration of employment is defined in the contract. The wording may vary and can determine that the contact will terminate on completion of a specific period or task, or after the expiration of a specific period.

1. Completion of a specific project or task

In this case, the contract is worded as being linked to the project or event which gave rise to the temporary employment contract in the first place.

Example:

“The Employee’s services is retained for the purpose of the construction of the road between the towns of Swakopmund and Walvis Bay and will cease once the project is completed or as soon as the portion of the project requiring the employee’s skills and services has reached completion, whichever occurs first”.



In the example above the termination date is not fixed and will have to be preceded by written notification informing the employee of the expected date of termination, taking into account the requisite notice period required by our Labour Act, which will vary as follows, depending on the employee's length of service preceding the letter of termination:

Duration of Employment	Notice Period
Less Than a Week	1 Day
More than a Month	1 Week
More than a Year	1 Month

2. Set for a specific period

Example: "The Employee's services are retained for the period 1 February 2020 to 31 January 2021."

In this instance the contract will lapse on 31 January 2021 and technically no notice is needed as the end date has been agreed upon from the onset. In practice however, it is still advisable to notify and remind the employee, in writing, especially in the event of the contract having been renewed or extended in the past, as the employee may have a reasonable expectation that the contract will again be so extended.

When these contracts, which span a predetermined period, run its course, the termination there-of normally does not present a problem. What can however be problematic is the termination of such a contract prior to its date of expiry.

Example: Employee X is retained for the construction of a road between Swakopmund and Usakos. The project is expected to last 24 months and therefore employee X is offered a 24-month employment contract. Shortly after signature of the employment contract however, the Employer's client cancels the main contract on account of a lack of funds. What is the Employer to do with Employee X?

The long and the short of the above scenario is that the Employer will be stuck with the employee and will have to honour the contract by paying the Employee the full 24-month period, unless his contract of employment has provided for the early termination there-of. It is important to note that in the above scenario the contract cannot simply be terminated on notice, even if the contract does provide for the early termination there-of. In order to terminate the contract prematurely the employer will have to retrench the employee and will have to adhere to the normal retrenchment process, as is provided for in terms of the provisions of section 34 of the Labour Act. Again, the Fixed Term Contract can only be terminated prematurely through retrenchment if the contract affords such a right to the Employer.

As a closing thought:

In practice the reality is that management is often so involved with the running of their business, securing of work and general survival that communication with the workforce is often lost. It should be kept in mind that employees on limited duration employment contracts are in a very uncertain position by the very nature of the contract itself. It is important to clearly communicate at all times and not to create an expectation of ongoing or permanent employment where none exist.

Compiled by: Nicky Smit

NO ANNUAL INCREASE IN MONTHLY FEES

On account of the current economic situation SEENA will not be implementing an annual increase in fees, which is normally effective as of the 1st of September.

We wish to thank all our loyal clients for their continued support during these exceptionally difficult times and look forward to be of service.



COVID-19 WORKPLACE PREPAREDNESS

The outbreak of the COVID-19 pandemic and its impact on businesses is new to business owners, who are all trying to find their footing right now. As a business owner, you are probably implementing new strategies on your business plan, organising your team and juggling your own remote working arrangements etcetera, all in an effort to secure the long term survival of the business. On ground level, you are probably also struggling to implement measures for protecting workers from exposure to, and infection with the virus, but are not sure where to start. Here are a few preventative measures you can implement to avoid the spread of COVID-19 at your workplace.

Preventative Measures for the Workplace:

1. Notify your employees that they must not report for duty, but rather consult a medical doctor without delay if they are sick or have symptoms associated with COVID-19.
2. Where possible and practicable, minimise the number of employees in the workplace at any given time through staff rotation, staggered working hours, shift systems or remote working arrangements.
3. Take measures to minimise contact between employees as well as between employees and members of the public.
4. Provide employees with information that raises awareness in any form or manner, including where reasonably practicable leaflets and notices placed in conspicuous places in the workplace informing employees of the dangers of the virus, the manner of its transmission, the measures to prevent transmission such as personal hygiene, social distancing, use of masks, cough etiquette and where to go for screening or testing if presenting symptoms.
5. Arrange the workplace and work spaces to ensure minimal contact between employees and as far as practicable ensure that there is a minimum of one and a half meters between employees while they are working.
6. Screen any worker, at the time that they report for work, to ascertain whether they have any of the observable symptoms associated with COVID-19.



7. Ensure that there are sufficient quantities of hand sanitiser based on the number of employees or other persons who access the workplace at the entrance of, and in the workplace which the employees or other persons are required to use;
8. If an employee interacts with the public, the employer must provide the worker with sufficient supplies of hand-sanitizer at that employee's workstation for both the employee and the person with whom he/she is interacting.
9. All work surfaces and equipment should be disinfected before work begins, regularly during the working period and after work ends;
10. All areas such as toilets, common areas, door handles and shared electronic equipment should be regularly cleaned and disinfected;
11. Ensure that there are adequate facilities for the washing of hands with soap and clean water.
12. Ensure that only paper towels are provided to dry hands after washing. Fabric towelling spreads germs.
13. Provide each employee, free of charge, with a suitable mask and require every employee to wear masks in the workplace.
14. Ensure that all employees are informed, educated, trained and instructed as to the correct use of cloth masks.

Steps to take when an employee tests positive for COVID-19:

What if, despite your careful planning, organisation and implementation of preventative measures, one of your employees tells you they have tested positive for COVID-19? If you haven't dealt with that already, you almost certainly will. This is a particularly complex challenge. Not only does the moment call for sensitivity and humanity, but it also requires you to act fast and effectively. The following are steps on how to approach this situation:

1. If the employee contacts you beforehand and informs you that they have tested positive, instruct them not to report for work.
2. If an employee reports for duty, but does not pass the initial screening, they must be taken to a separate screening area where a further check for COVID-19 signs and symptoms needs to be done.
3. If the person is already at the workplace, isolate him/her immediately and provide him/her with a surgical mask and arrange for the employee to be transported in a manner that does not place other employees or members of the public at risk in order to be self-isolated or for a medical examination or testing.
4. The employee should be required to leave the premises and self-isolate for 14 days.
5. If they are using public transport, this must not place the public at risk!
6. Follow-up frequently with the infected employee, record their progress and refer them to the hospital if required.
7. Keep a register of employees presenting with symptoms and who are referred for isolation.



8. Assess the risk of transmission to other staff or visitors and refer those at risk for screening and suggest self-isolation as a precautionary measure.
9. Disinfect the work area and exposed workstations.
10. Staff who test positive or show symptoms must be referred to a health professional for assessment and further diagnosis. Testing is not routinely done unless testing is indicated by a health professional therefore staff would need to be assessed by a medical practitioner in order to qualify for testing.

11. At no point may there be any discrimination against an employee for presenting with symptoms.
12. If a staff member contracted the virus as a result of occupational exposure and there is sufficient evidence, a claim can be lodged with Social Security's Workman's Compensation Fund.
13. All incidents must be reported to a Labour Inspector at the nearest office of the Ministry of Labour.
14. Investigate the cause including any control failure and review its risk assessment to ensure that the necessary controls and PPE requirements are in place.
15. The employer must place its employee on paid sick leave in terms of section 24 of the Labour Act, 11 of 2007 or if the employee's sick leave entitlement under the section is exhausted, accrued annual leave. If the employee has no sick leave entitlement and his/her annual leave has also been depleted, they may be placed on unpaid leave and a claim can be lodged with Social Security's MSD Fund.

For more information, do not hesitate to contact your closest SEENA Labour office.



TRAIN YOUR STAFF TO DELIVER GREAT CUSTOMER SERVICE

Each and every business owner will agree that customer service is and remains one of the most important core values of any business, because it creates customer loyalty and organisational growth. Yet, many employers neglect to train their staff in Customer Service.

Customer Service training is the training that employees undergo to improve customer service and satisfaction. It's a process that involves providing your employees with the necessary skills, competencies and tools needed to better serve customers so they derive more value from your business' products and services. You cannot expect your employees to perform to expectations until you have given them the knowledge and skills to do just that.

Any employee that interacts and deals with customers is eligible for customer service training. Your employees are the face of the business and how they treat customers, is ultimately how the business will be perceived. Given how your customers are your best growth opportunity, every employee should be working hard to keep them happy – whether from the position of a waiter, cashier, administrative assistant or sales representative.

Providing training in both your company's customer care philosophy and in their job-specific service skills is a huge and all-important first step. Investing in your employees means that you are investing in your business.

SEENA has developed a Customer Service Training course aimed at firstly introducing employees to essential skills, providing them with a strategic insight and understanding of their core responsibilities, and secondly empowering them with a number of



practical skills which can be used daily, on an operational level, to ensure excellent customer service.

Should you be interested in attending or sending your employees to attend our **Customer Service Training Course** please contact us today. Our contact details are as follows:

Contact Person: Sonja van der Merwe
Telephone: 061 309 260
Fax: 061 309 266
E-mail: training@seenalegal.com

Your booking will only be confirmed once payment was received.

CONTACT US

Windhoek Office

Tel: (061) 309 260
Fax: (061) 309 266
Email: windhoek@seenalegal.com

Swakopmund Office

Tel: (064) 416 100
Fax: (064) 461 000
Email: swakop@seenalegal.com

Otjiwarongo Office

Tel: (067) 304 915
Fax: (067) 304 809
Email: otjiwarongo@seenalegal.com

Keetmanshoop Office

Tel: (063) 225 931
Fax: (063) 225 932
Email: keetmans@seenalegal.com

Tsumeb Office

Tel: (067) 222 900
Fax: (067) 222 500
Email: tsumeb@seenalegal.com

Please visit our website at www.seenalegal.com if you have missed any of our previous newsletters. You can also download labour related Acts, Regulations, Collective Agreements, Frameworks and Bills directly from this site.