

NEWSLETTER

The Official Newsletter of SEENA Legal
Consult.



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Voorwoord

Noudat ons weer in 'n groot mate normaal kan funksioneer, is dit belangrik om skouer aan die wiel te sit. Ons is reeds in die tweede helfde van die jaar en dit is nou die tyd om planne te maak om die jaar op 'n hoogtepunt af te sluit.

There is an interesting article in this edition about the Employment Equity Commission's (EEC) new approach to annual reporting. It is however, still compulsory to comply with the Affirmative Action Act if a business employs 25 (twenty five) or more employees per year.

It is also that time of the year where we give all our clients notice of our annual increase in our monthly premium. This is unfortunately a reality, considering the increment in fuel prices.

As besigheidsmense bly dit vir ons belangrik om te besef dat ons werknemers 'n bate is wat opgepas en bestuur moet word. SEENA Labour is hier 'n belangrike instrument om u daarmee te help. Onthou om ons dadelik betrokke te kry, eerder as om 'n arbeidsprobleem self aan te pak.

SEENA groete,

Koos Barkhuizen

FAQ'S REGARDING PAYSLIPS

On a daily basis, SEENA Payroll receives questions relating to payslips, salary advices. It is clear that there is uncertainty amongst business owners, and employees alike, about whether the Labour Act obligates an Employer to provide their Employees with payslips and if so, what information the document should contain. In some cases, employers are of the opinion that their workforce is simply too small to hand out payslips, especially when they only employ a small number, often opting to keep the relationship with their workers "informal".

As Employers are obligated to provide employees with payslips, we answer some of the most frequently asked questions here below:

1. What is the purpose of a payslip?

In short, a payslip is a written statement which gives a detailed breakdown of the Employee's salary and deductions for a given period. The purpose of this document is to inform the Employee what their earnings for the period was and what amounts were deducted from their earnings. Payslips are often used by employees seeking loans from financial institutions.

2. How often must an employee receive a payslip?

The Employee is entitled to a payslip following every payrun and the employer must make the payslip available to the Employee on or about the same day the Employee is being paid.

3. What particulars must be indicated on a payslip?

In terms of Section 11(3) Regulation 3 of the Labour Act, 11 of 2007, the particulars that must accompany remuneration paid to an employee are as follows:

- (a) the name and identity number (if any) of employee;
- (b) the name postal and business address of employer;
- (c) ordinary hourly, daily, weekly, fortnightly or monthly basic wage of employee of employee;
- (d) the period in respect of which payment of

- such basic wage is payable;
- (e) the number of hours worked (by category) and the amount paid to the employee in respect of-
 - (i) his or her basic wage;
 - (ii) overtime;
 - (iii) night work;
 - (iv) work on Sundays;
 - (v) work on public holidays; and
 - (vi) any other remuneration or allowances;
- (f) amount due for each part of remuneration in addition to basic wage (for example, pension contribution, medical insurance);
- (g) the gross amount of remuneration payable to the employee;
- (h) the particulars and amount of any deductions from the amount referred to in paragraph (g); and
- (i) the nett amount of remuneration payable to the employee.

For more information regarding payroll or payslips, please contact our offices at the numbers listed on page 4 below.



AM I OBLIGATED TO DEDUCT MONTHLY UNION DUES?

Unions have the habit of forwarding signed union membership forms to Employers, insisting that deduction of union dues be made on their behalf. We find that this often frustrates Employers for various reasons, chief of which are:

- I. The request to deduct is regularly phrased as a command and frequently comes from a Union Official with whom the Employer has no prior working relationship;
- II. Some Union Officials misrepresent the law, insisting that it is their legal right to receive these deductions, despite not meeting the legal requirements to do so;
- III. Union membership may be insignificant in numbers when compared to the larger workforce, which creates an unnecessary administrative burden on Employers; and
- IV. Union membership may be fragmented, with more than one Union insisting on deductions on their behalf, further adding to the administrative load.

The reality of the matter is that in practice individual Union members are unlikely to diligently pay their Union dues on a monthly basis. Unions are therefore, to a large extent, dependent on the deduction of union dues by Employers in order to ensure the efficient collection of membership dues. Businesses do however, have some leeway:

By law no business is obligated to deduct Union dues, unless the Union enjoys the status of exclusive bargaining agent. This status is reserved for Unions that have acquired majority representation amongst the workforce, and who have followed the requisite administrative process in order to be so recognised. In all other cases the deduction of Unions dues on behalf of any Union is at the discretion of the Employer.

In the case of Unions that are not recognised, it is our advice that business owners be guided by the manner in which they are approached, the level of professionalism shown by the Union Official and their own administrative capabilities.

When electing to deduct in favour of the Union, and in the absence of an agreement between the Employer and the Union stating otherwise, all deductions are subject to a 5% collection commission in favour of the Employer.

For ease of reference the, section 66 of the Labour Act is quoted here-below:

- (1) *An employer must deduct a fee due to a registered trade union for an employee's remuneration if the trade unions is recognised as an exclusive bargaining agent by the employer, an if –*
 - (a) *the employee has authorised the deduction in writing; or*
 - (b) *subject to subsection (4) and (5), a provision in a collective agreement has authorised the deduction.*
- (2) *An employer may deduct a fee due to any other registered trade union from an employee's remuneration if the employee-*
 - (a) *is a member of the registered trade union; and*
 - (b) *has authorised the deduction in writing.*

By: Nicky Smit

ANNUAL INCREASE

All members are advised that an annual premium increase of 6% (six percent) will take effect on the 1st of November 2022. Members who signed up with SEENA during August, September and October of 2022 will not be affected by this increase.



NEW EMPLOYMENT EQUITY DEVELOPMENTS

As most of you are aware businesses employing 25 (twenty five) or more employees are deemed to be relevant employers and must comply with the Affirmative Action Act (AA Act).

The Employment Equity Commission (herein later referred to as the EEC) is the administrative body responsible for regulating compliance with AA- Act. In recent times the EEC made a number of changes, mainly to the format required of future reports, but also to the manner in which they function, the most noteworthy of which are the following:

1. At least three Employment Equity meetings per annum shall be a pre-requisite for compliance and approval of future reports, with additional meetings regarding Affirmative Action awareness welcomed.
2. In going forward all EEC-committee meetings require that both a Chairperson and a Secretary be formally appointed and that the minutes of all such meetings have to be signed off by both these individuals.
3. As of 2021 a Senior Employee has to be designated to see to the implementation of a business's AA Report and its goals. This member of staff is expected to sign off on final AA reports, along with the CEO / Owner / Member.
4. A new understudy Training program format (Table 4) was introduced and each Non-Namibian and his/her appointed understudy is required to complete this from.
5. Due dates of individual Employers are being reviewed in conjunction with the business's reporting period. Therefore future due dates will be amended to be more closely in line with the reporting period relevant to the business.
6. There is enhanced co-operation between the Social Security Commission and the EEC with regard to the verification of Employee numbers.

Businesses employing fewer than twenty five employees, and who seek to obtain a certificate exempting them from compliance with the Act, are required to provide a Social Security Certificate of Good Standing on submission of application. The same applies to Employers who previously employed more than twenty five employees seeking a change of status.

7. The EEC now maintains a list of prospective employees who suffer from some form of disability and encourages Employers to take these candidates/job seekers into account when vacant positions arise.

Should you have any queries, or be in need of assistance, please do not hesitate to call our Regional Manager: BEE/Employment Equity, **Izanne van Deventer** at 064 416 100, or send an e-mail to izanne@seenalegal.com.

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