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GOEWERMENTSKENNISGEWINGS

DEPARTEMENT VAN ARBEID

No. R. 409

9 Maart 1979

LOONWET, 1957

LOONVASSTELLING 378.—ONGESKOOLDE ARBEID, KAAP

In opdrag van die Minister van Arbeid, word hierby ingevolge artikel 14 (2) van die Loonwet, 1957, bekendgemaak dat die Minister kragtens die bevoegdheid aan hom verleen by artikel 14 (1) van genoemde Wet, die Loonvasstelling wat in die Bylae hiervan verskyn ten opsigte van Ongeskoolde Arbeid, Kaap, gemaak en die tweede Maandag na die datum van publikasie van hierdie kennisgewing bepaal het as die datum waarop die bepalinge van genoemde Loonvasstelling bindend word.

BYLAE

1. GEBIED EN OMVANG VAN DIE VASSTELLING

Hierdie Vasstelling is van toepassing op alle werknemers, uitgesonderd werknemers van plaaslike owerhede, wat in die gebied bestaande uit die landdrostdistrikte Bellville, Die Kaap, Goodwood, Kuilsrivier, Paarl, Simonstad en Wynberg, ongeskoolde arbeid in enige van ondergenoemde bedrywe verrig en op die werkgewers van sodanige werknemers:

- (1) Afleweringsdienste, met inbegrip van bodedienste (uitgesonderd aflewering met motoraangedrewe voertuie);
- (2) behandeling van timmerhout met hitte of chemikalieë;
- (3) bunkerwerk;
- (4) ghriesvervaardiging;
- (5) handel in ou metaal;
- (6) handel in tweedehandse bottels;
- (7) herwinning van afvalglas;
- (8) herwinning van afvalpapier;
- (9) klipbreek, waar dit nie gesamentlik met klipvergruising onderneem word nie;
- (10) kunsmisvervaardiging;
- (11) maal of verpakking van sout;
- (12) mark- of kommissie-agentskappe;
- (13) oprigting van voorafvervaardigde betonmure (waar dit nie saamval met die vervaardiging daarvan nie);
- (14) opwekking of verspreiding van elektrisiteit;
- (15) raffineer of skoonmaak van olie;
- (16) skeepsagentskappe;
- (17) skoonmaak van geboue (met inbegrip van vensters);

GOVERNMENT NOTICES

DEPARTMENT OF LABOUR

No. R. 409

9 March 1979

WAGE ACT, 1957

WAGE DETERMINATION 378.—UNSKILLED LABOUR, CAPE

By direction of the Minister of Labour it is hereby notified, in terms of section 14 (2) of the Wage Act, 1957, that the Minister under the powers vested in him by section 14 (1) of the said Act, has made the Wage Determination in the Schedule hereto in respect of Unskilled Labour, Cape, and has fixed the second Monday after the date of publication of this notice as the date from which the provisions of the said Wage Determination shall be binding.

SCHEDULE

1. AREA AND SCOPE OF THE DETERMINATION

This Determination shall apply to all employees, other than local authority employees, who perform unskilled labour in the area comprising the Magisterial Districts of Bellville, Goodwood, Kuils River, Paarl, Simonstown, The Cape and Wynberg in the undermentioned trades and to the employers of such employees:

- (1) Bunkering;
- (2) cleaning of buildings (including windows);
- (3) delivery services, including messenger services (except delivery by means of motor-propelled vehicles);
- (4) demolition of buildings;
- (5) erection of pre-cast concrete walls (where not undertaken in conjunction with their manufacture);
- (6) excavation, levelling or pumping of sand, soil or gravel;
- (7) fertiliser manufacture;
- (8) gardening services;
- (9) generation or distribution of electricity;
- (10) grease manufacture;
- (11) grinding or packing of salt;
- (12) letting of offices;
- (13) manufacture of lead-acid batteries;
- (14) manufacture of food for domestic animals, livestock feeds or malt where not undertaken in conjunction with the grinding, gristing or crushing of cereals or the production of any raw cereal products by grinding, gristing or crushing;

- (18) sloping van geboue;
- (19) tuinmaakdiens;e;
- (20) uitgrawe, gelykmaak of uitpomp van sand, grond of gruis;
- (21) verhuur van kantore;
- (22) verhuur van konstruksiemasjinerie;
- (23) versorging van resiesperde;
- (24) vervaardiging van glukose, dekstrose, stylsel of mielieblom;
- (25) vervaardiging of herstel van goiing-, jute- of linnesakke;
- (26) vervaardiging van loodsuurbatterye;
- (27) vervaardiging van looi-ekstrak;
- (28) vervaardiging van voedsel vir huisdiere, voedingsmiddels vir lewende hawe of mout, waar dit nie tesame met die maal, vergruis of breek van graan of die produseer van enige rougraanprodukte deur maal, vergruis of breek onderneem word nie;
- (29) vervaardiging of verspreiding van gas;
- (30) vervaardiging van walvisprodukte;
- (31) verwydering van nagvuil;
- (32) voorbereiding van terreine vir bou- of ander doeleindes.

2. WOORDOMSKRYWINGS

(1) Tensy die sinsverband anders aandui, het elke uitdrukking wat in hierdie Vasstelling gebesig en in die Loonwet, 1957, omskryf word, dieselfde betekenis as in daardie Wet en, tensy onbestaanbaar met die sinsverband, beteken—

“bedryfsinrigting” enige perseel waarop of in verband waarmee een of meer werknemers in een of meer van die bedrywe in klousule 1 genoem in diens is;

“daaglikse werknemer” ’n werknemer wat by die dag in diens is;

“dag” met betrekking tot ’n deurlopendeproseswerker, ’n skofwerker, ’n werknemer wat nagvuil verwyder of ’n werknemer wat in diens is vir die skoonmaak van persele, ’n tydperk van 24 agtereenvolgende ure beteken vanaf die tyd waarop sodanige werknemer begin werk en met betrekking tot enige ander werknemer ’n tydperk van 24 ure wat om midnag begin;

“deeltydse skoonmaakster” ’n vroulike werknemer wat per week of per maand in diens is om op hoogstens ses dae in ’n week en vir hoogstens 24 gewone werkure in enige week kantoor persele of kantoormeubels skoon te maak;

“deurlopendeproseswerker” ’n werknemer wat ’n werksaamheid verrig wat ingevolge artikel 19 (1) (a) van die Wet op Fabriek, Masjinerie en Bouwerk, 1941, verklaar is tot ’n werksaamheid waarin daar deur middel van drie skofte per dag op sewe dae van die week deurlopend gewerk moet word;

“korttyd” ’n tydelike vermindering van die getal gewone werkure weens ’n slapte in die bedryf, die wisselvalligheid van die weer, ’n tekort aan grondstowwe, ’n onklaarraking van installasie of masjinerie of weens die feit dat die gebou onbruikbaar is of dreig om dit te word;

“loon” die bedrag wat ingevolge klousule 3 (1) aan ’n werknemer betaal is ten opsigte van sy gewone werkure soos by klousule 5 voorgeskryf: Met dien verstande dat—

(a) as ’n werkgewer ’n werknemer ten opsigte van sodanige gewone werkure gereeld ’n hoër bedrag betaal as dié by klousule 3 (1) voorgeskryf, dit sodanige hoër bedrag beteken;

(b) die eerste voorbehoudsbepaling nie so uitgelê mag word nie dat dit besoldiging bedoel of omvat wat ’n werknemer wat in diens is op enige grondslag waarvoor daar in klousule 9 voorsiening gemaak word, ontvang bo en behalwe die bedrag wat hy sou ontvang het as hy nie op sodanige grondslag in diens was nie;

“noodwerk”—

(a) enige werk wat weens onvoorsiene omstandighede soos ’n brand, storm, ongeluk, gewelddaad, epidemie of diefstal, sonder versuim gedoen moet word;

(b) enige werk wat gedoen moet word vir die instandhouding of verskaffing van lig, krag of water of van telefoon-, openbare gesondheids-, sanitêre, skoonmaak-, openbare vervoer- of lughawediens, of vir die lewering van goedere aan hospitale of die polisie of militêre magte;

(c) enige werk wat noodsaak word deur ’n onklaarraking van installasie of masjinerie of weens die feit dat die gebou onbruikbaar is of dreig om dit te word;

(d) enige werk in verband met die opknapping of herstel van installasie of masjinerie wat nie gedurende die gewone werkure verrig kan word nie;

(e) enige werk in verband met die laai of aflaai van—

(aa) skepe;

(ab) spoorwaens of voertuie van die Suid-Afrikaanse Spoorweë en Hawens;

- (15) manufacture of glucose, dextrose, starch or cornflour;
- (16) manufacture or distribution of gas;
- (17) manufacture of whale products;
- (18) manufacture or mending of hessian, jute or linen bags;
- (19) manufacture of tanning extract;
- (20) market or commission agencies;
- (21) night-soil removal;
- (22) preparing sites for building or other purposes;
- (23) plant hire services;
- (24) quarrying, where not undertaken in conjunction with stone crushing;
- (25) refining or cleaning of oil;
- (26) scrapmetal dealing;
- (27) second-hand bottle dealing;
- (28) shipping agencies;
- (29) tending of racehorses;
- (30) treatment of timber with heat or chemicals;
- (31) waste glass recovery;
- (32) waste paper recovery.

2. DEFINITIONS

(1) Unless the context otherwise indicates, any expression which is used in this Determination and which is defined in the Wage Act, 1957, has the same meaning as in that Act and unless inconsistent with the context—

“continuous process worker” means an employee who is engaged in any activity which in terms of section 19 (1) (a) of the Factories, Machinery and Building Work Act, 1941, has been declared to be an activity in which continuous working by means of three shifts per day on seven days per week is necessary;

“daily employee” means an employee who is employed by the day;

“day”, in relation to a continuous process worker, a shift worker, an employee engaged in removing night-soil or an employee engaged in cleaning premises, means a period of 24 consecutive hours calculated from the time such an employee commences work, and, in relation to any other employee, a period of 24 consecutive hours commencing at midnight;

“emergency work” means—

(a) any work which, owing to unforeseen circumstances such as fire, storm, accident, act of violence, epidemic or theft, must be done without delay;

(b) any work necessary for the maintenance or provision of light, power, water, telephone, public health, sanitary, cleansing, public transport or airport services or for the supply of goods to hospitals or the police or military forces;

(c) any work necessitated by a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings;

(d) any work in connection with the overhaul or repair of plant or machinery which cannot be performed during ordinary working hours; or

(e) any work connected with the loading or unloading of—

(aa) ships;

(ab) trucks or vehicles belonging to the South African Railways and Harbours;

(ac) vehicles used by a cartage contractor in the fulfilment of his contract as such with the South African Railways and Harbours; or

(f) any work connected with the loading or unloading of perishables from vehicles with a view to preserving them in storage;

“establishment” means any premises in or in connection with which one or more employees are employed in any one or more of the trades mentioned in clause 1;

“law” includes the common law;

“local authorities” means divisional councils, city councils, administration boards established in terms of section 2 of the Black Affairs Administration Act, 1971 (Act 45 of 1971), municipal councils, village management boards, local boards, local area boards and any other similar institutions or bodies contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961);

“overtime” means that portion of any period during which an employee works for his employer during any week or on any day, as the case may be, which is in excess of the respective ordinary hours of work prescribed for such employee in clauses 5 (1), (2), (3) or (4), but does not include any period during which an employee—

(a) whose ordinary hours are prescribed in clause 5 (1) works for his employer on a Sunday;

(ac) voertuie wat deur 'n vervoerkontraakteur gebruik word in die nakoming van sy kontrak as sodanig met die Suid-Afrikaanse Spoorweë en Hawens; of

(f) enige werk in verband met die laai of aflaai van bederfbare produkte van voertuie met die doel om dit op te berg teen bederf;

"ongeskoolde arbeid", sonder om die gewone betekenis van die uitdrukking enigsins te beperk—

(1) artikels van gelyke grootte en getal verpak in houers wat spesiaal gemaak is om sodanige artikels te bevat;

(2) afval van gesmelte lood verwyder;

(3) artikels, lê bottels, sakke, pakkette of ander houers sorteër, vasbind of toedraai of ou metaal, afvalglas of afvalpapier sorteër of bymekaar maak;

(4) afval van walvisse verwyder;

(5) bakstene, klippe of beton met hamers, troffels of and nie-kragaangedrewe gereedskap skoonmaak of afvlak;

(6) boodskappe, pakkette, briewe of goedere te voet, per trapfiets, driewieler of handvoertuig aflewer of vervoer;

(7) boksele of plastiekbekleding oorgooi of afhaal;

(8) brandstoftens volmaak of oliebakke leegtap of volmaak;

(9) briewe, pakkette, bottels, vate, kiste, blikke, platkissies, kartonne, konkas, sakke, bale of enige ander houers oopmaak of toemaak, volmaak of leegmaak; spoorwegwaens of skeepsruime oopmaak of toemaak;

(10) baalperse of ander perse met die hand bedien of draad, hoepels, toue of metaalbande om kiste, sakke, vesel of bale sit of vasmaak;

(11) bottels of soortgelyke houers in kragaangedrewe masjiene plaas of daaruit neem; etikette van bottels, kiste of ander artikels met die hand verwyder of opplak; etikette aan kragaangedrewe etiketteermasjiene voer;

(12) briewe, omsendbriewe, dokumente, biljet, advertensies of ander geskrewe, gedrukte, getikte of afgerolde geskrifte in koeverte plaas of in pakkies opmaak;

(13) batterye uithaal, volmaak of terugsit;

(14) dra, opla, trek, stoot, sleep, verpak, opstapel, rol, verskuif van enige artikels, voertuie of houers, hetsy in of op die werkplek, pakkamer, skuur, perseel, voertuig of spoorwa behalwe deur die gebruik van kragtoerusting; enige artikel begrawe;

(15) draad, tou of going met die hand sny;

(16) deure of vensters oop- of toemaak;

(17) drade op- of afrol, in posisie lê, sleep of trek;

(18) etikette op artikels of houers plak of dit merk, brandmerk, stempel of sjabloneer, of etikette perforeer;

(19) enige ou metaal, masjien, wrak, voertuig of brug met hamers, sae, beitels, koevoete of skroefseutels buig of opbreek of onder toesig met 'n blaaslamp buig of sny;

(20) enige onsuiverheid uit going of jute met die hand verwyder;

(21) filterperse oop- of toemaak of filterdoeke verwyder of vervang;

(22) die massa van goedere op 'n gestelde massameter by herhaling bepaal, of goedere volgens voorafbepaalde maat by herhaling meet;

(23) groente, vrugte, pluimvee, blomme of ander plaasprodukte sorteër of verpak;

(24) gars of ander graansoorte met grawe of skopgrawe oopsprei of omkeer;

(25) going of jute met die hand pluus;

(26) handdoeke, seep of toilet papier vervang;

(27) 'n hystoestel, goederehysbak, handpomp, afrolmasjien, domkrag, windas, gangspil of naaimasjien bedien;

(28) koekepanne koppel, ontkoppel of rem; spore lê of vas- of losboud;

(29) kampongs, latrines, stalle of buitegeboue afwit, skoonmaak of ontsmet of reinigings- of ontsmettingsmiddels aan houers van nagvuil aanwend;

(30) klip, gruis, grond, klei, sand of ander grondstowwe losmaak, uithaal, breek of strooi; met 'n skopgraaf skep; slote, gate of fundamente grawe of ander uitgrawingswerk met die hand verrig; boomstompe uitgrawe;

(31) konkas verf;

(32) kruitwaens, trollies, waentjies of ander handvoertuie stoot of trek;

(33) kiste, bokke of kratte met die hand herstel;

(34) klaargemaakte karton- of veselborddose of soortgelyke houers met die hand opstel of uitmekaarhaal of papier met die hand vou;

(35) laai of aflaai;

(b) whose ordinary hours are prescribed in clause 5 (2) works for his employer during his free period;

"part-time cleaner" means a female employee who is employed by the week or month to clean office premises or office furniture on not more than six days a week and for not more than 24 ordinary hours of work in any week;

"piece-work" means any system under which an employee's remuneration is based on the quantity of work done;

"shift worker" means an employee who is engaged on shift work in an establishment in which two or three consecutive shifts per day on five or six days per week are worked;

"short-time" means any temporary reduction in the number of ordinary hours of work owing to slackness of trade, the vagaries of weather, a shortage of raw materials, a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings;

"unskilled labour" means without limiting the ordinary meaning of the expression whatsoever generality of the expression—

(1) affixing labels to or marking, branding, stamping or stencilling articles or containers or perforating labels;

(2) affixing stamps to letters, parcels or other articles;

(3) assisting an artisan, otherwise than by using the tools of his trade independently;

(4) bending or breaking up by means of hammers, saws, chisels, crowbars or spanners or bending or cutting, under supervision, by means of a blowlamp any scrap metal, machine, wreck, vehicle or bridge;

(5) carrying, lifting, pulling, pushing, hauling, packing, stacking, rolling, moving any articles, vehicles or containers, whether in or on the workshop, storeroom, shed, premises, vehicle or railway truck, otherwise than by the use of power equipment; burying any article;

(6) checking or keeping tally or stacking of bags;

(7) cleaning or levelling bricks, stones or concrete with hammers, trowels or other non-power-driven tools;

(8) cleaning or washing premises, doors, windows, equipment, tools machinery, furniture, vehicles, tanks, containers or other articles, including polishing floors, furniture or vehicles or brushing carpets;

(9) connecting or disconnecting, screwing or unscrewing pipes;

(10) cooking rations or making tea or similar beverages for or serving it to employees, or making tea or other refreshments for or serving it to the employer or his guests;

(11) coupling, uncoupling or braking cocopans; laying or bolting or unbolting tracks;

(12) covering with or removing tarpaulins;

(13) cutting wire, rope or hessian by hand;

(14) delivering or conveying messages, parcels, letters or goods on foot or by means of a bicycle, tricycle or manually propelled vehicle;

(15) drilling by hand;

(16) erecting or unrigging scaffolding under supervision;

(17) feeding or taking off from conveyor belts, machines, hoppers, platforms or tanks by hand;

(18) filling fuel tanks or draining or filling oil sumps;

(19) gardening, i.e. digging, raking, mowing, spreading, mixing, watering, trimming hedges, weeding, felling or removing trees or other vegetation, or planting under supervision;

(20) guarding premises or property;

(21) heating metal vats, tanks, pipes, drums or other containers by steam;

(22) lime-washing, cleaning or disinfecting compounds latrines, stables or outbuildings or applying cleansing or disinfecting substances to night-soil containers;

(23) loading or unloading;

(24) loosening, excavating, breaking or spreading stone, gravel, soil, clay, sand or other raw materials, shovelling, digging trenches, holes or foundations, or performing other excavation work by hand; digging out tree stumps;

(25) loosening, demolishing or breaking up walls;

(26) loosening or taking down planks, beams or other kinds of timbering, roof tiling, corrugated iron sheets, asbestos sheeting or other roofing material, or removing nails therefrom;

(27) making or maintaining fires, whether in hearths, ovens or any other fire-place removing refuse or ashes; sorting out cinders;

(28) mending, cleaning or shaking out bags, cutting bags by hand or machine; turning bags inside out;

(29) minding, driving, cleaning, feeding or in any other way tending livestock (including racehorses);

- (36) lewende hawe (ook resiesperde) oppas, aanjaag, skoonmaak, voer of op enige ander wyse versorg;
 (37) met die hand boor;
 (38) metaalvate, tenks, pype, konkas of ander houters met stoom verhit;
 (39) mure losmaak, afbreek of opbreek;
 (40) met die hand omroer, meng of uitskep;
 (41) nasien, met 'n telbord telling hou of opstapel van sakke;
 (42) nagemmers verwyder, leegmaak, skoonmaak of ver-
 vang;
 (43) onder toesig krane of kleppe oopmaak of toemaak of masjienhefboom verstel;
 (44) oorpakke, uniforms of beskermende kleres was;
 (45) posseëls op briewe, pakkette of ander artikels plak;
 (46) persele, deure, vensters, uitrusting, gereedskap, masji-
 nerie, meubels, voertuie, tenks, houters of ander artikels
 skoonmaak of was, en dit sluit in vloere, meubels of voer-
 tuie poleer of tapyte uitborsel;
 (47) pype koppel of ontkoppel, vas- of loskroef;
 (48) persele of eiendom bewaak;
 (49) planke, balke of ander soorte timmerhout, dakteëls,
 sinkplate, asbesplate of ander dakmateriaal losmaak of
 afbreek, of spykers daaruit verwyder;
 (50) pype of pale verlê, regsit, sloop, oplug, indryf of
 inplant; betonskywe tussen gleuwe inpas;
 (51) rantsone gaarmaak of tee of soortgelyke drankie vir
 werknemers maak of aan hulle bedien of tee of ander ver-
 versings vir die werkgewer of sy gaste maak of aan hulle
 bedien;
 (52) rubber- of ander stempels gebruik waar seleksie of
 diskresie nie nodig is nie;
 (53) steiers onder toesig oprig of aftakel;
 (54) sakke heelmaak, skoonmaak of uitskud; sakke met
 die hand of met 'n masjien sny; sakke omdop;
 (55) sand of gruis met die hand uitpomp; was of sif;
 (56) tuinmaak, dit wil sê spit, hark, grassny, strooi, meng,
 natmaak, heinings snoei, onkruid verwyder, bome of ander
 plantegroei afkap of verwyder of onder toesig plant;
 (57) vervoerbande, masjiene, vultregters, platforms, of
 tenks met die hand voer of daarvan afneem;
 (58) vuurmaak of vure aan die brand hou, hetsy in kag-
 gels, oonde of enige ander vuurmaakplek; afval of as ver-
 wyder; sintels uitsoek;
 (59) 'n vakman behulpsaam wees op 'n ander wyse as
 deur die gereedskap van sy vak selfstandig te gebruik;
 (60) voertuie, spore of masjinerie, uitgesonderd elektriese
 opwekkingsmasjinerie of motorvoertuie, olie of smeer;
 (61) wiele of buite- of binnebande van motorvoertuie,
 fietse of kruiwaens afhaal, terugsit, omruil of oppomp of
 binnebande herstel;

"oortyd" daardie gedeelte van enige tydperk wat 'n werk-
 nemer gedurende 'n week of op 'n dag, na gelang van die
 geval, vir sy werkgewer werk en wat langer is as die onder-
 skeie gewone werkure by klousule 5 (1), (2) (3) of (4) vir
 sodanige werknemer voorgeskryf, maar omvat dit nie 'n tyd-
 perk waarin 'n werknemer—

- (a) wie se gewone werkure by klousule 5 (1) voorgeskryf
 word, op 'n Sondag vir sy werkgewer werk nie;
 (b) wie se gewone werkure by klousule 5 (2) voorgeskryf
 word, gedurende sy vry periode vir sy werkgewer werk nie;

"plaaslike owerhede" afdelingsrade, stadsrade, administrasie-
 rade ingestel kragtens artikel 2 van die Wet op die Admini-
 strasie van Swart Sake, 1971 (Wet 45 van 1971), munisipale
 rade, dorpsbesture, plaaslike bestuursrade, plaaslike gebieds-
 rade en enige ander soortgelyke instellings of liggame wat in
 artikel 84 (1) (f) van die Grondwet van die Republiek van
 Suid-Afrika, 1961 (Wet 32 van 1961), beoog word;

"skofwerker" 'n werknemer wat skofwerk verrig in 'n
 bedryfsinrigting waarin twee of drie agtereenvolgende skofte
 per dag op vyf of ses dae per week gewerk word;

"stukwerk" 'n stelsel waarvolgens 'n werknemer se besoldi-
 ging gegrond word op die hoeveelheid werk wat verrig is;

"wag" 'n werknemer wat 'n perseel of eiendom bewaak;

"werkdag", behalwe ten opsigte van 'n wag, enige dag uit-
 gesonderd 'n Sondag of 'n openbare vakansiedag vermeld in
 klousule 8 (1) waarop 'n werknemer gewoonlik werk;

"wet" ook die gemene reg.

(2) By die toepassing van hierdie Vasstelling word 'n werk-
 nemer geag in dié klas te wees waarin hy uitsluitlik of hoof-
 saaklik werksaam is.

(30) moving, placing, dragging, lifting, driving in or plant-
 ing pipes or poles; fitting concrete slabs between slots;

(31) oiling or greasing vehicles, rails or machinery, other
 than electric generating machinery or motor vehicles;

(32) opening or closing cocks or valves or adjusting
 machine levers, under supervision;

(33) opening or closing doors or windows;

(34) opening or closing filter presses or removing or
 changing filter cloths;

(35) opening, closing, filling or emptying letters, parcels,
 bottles, casks, boxes, tins, trays, cartons, drums, bags, bales
 or any other container; opening or closing railway trucks
 or ships' holds;

(36) operating baling presses or other presses by hand or
 placing or securing wire, hoops, ropes or metal bands
 around boxes, bags, fibre or bales;

(37) operating a hoist, goods lift, hand pump, duplicating
 machine, jack, winch, capstan or sewing-machine;

(38) packing articles of uniform size and number in con-
 tainers specially made to contain such articles;

(39) painting drums;

(40) placing bottles or similar containers in power-driven
 machines or taking them therefrom; removing labels from
 bottles, boxes or other articles by hand or affixing labels
 thereto, feeding labels to power-driven labelling machines;

(41) placing letters, circulars, documents, handbills, adver-
 tisements or other written, printed, typed or mimeoed docu-
 ments in envelopes or making them up into bundles;

(42) pushing or pulling wheelbarrows, trolleys, barrows
 or other manually propelled vehicles;

(43) pumping, washing or screening sand or gravel by
 hand;

(44) removing dross from molten lead;

(45) removing any impurities from hessian or jute by hand;

(46) removing, emptying, cleaning or replacing sanitary
 pails;

(47) removing offal from whales;

(48) removing, topping up or replacing batteries;

(49) removing, replacing, changing or inflating wheels or
 tyres or tubes of motor vehicles, bicycles or wheelbarrows
 or repairing tubes;

(50) repairing boxes, trestles or crates by hand;

(51) repetitive mass-measuring of goods on a set mass-
 meter, or repetitive measuring of goods to a set gauge;

(52) replacing towels, soap or toilet paper;

(53) setting up or taking apart ready-made cardboard or
 fibreboard boxes or similar containers or folding paper by
 hand;

(54) sorting or packing vegetables, fruit, poultry, flowers
 or other farm products;

(55) sorting, tying or wrapping articles, empty bottles,
 bags, parcels or other containers or sorting or collecting
 scrap metal, waste glass or waste paper;

(56) spreading or turning over barley or other kinds of
 grain with spades or shovels;

(57) stirring, mixing or ladling by hand;

(58) teasing hessian or jute by hand;

(59) using rubber or other stamps where selection or dis-
 cretion is unnecessary;

(60) washing overalls, uniforms or protective clothing;

(61) winding or unwinding, putting into position, dragging
 or pulling wire;

"wage" means the amount of money payable to an employee
 in terms of clause 3 (1) in respect of his ordinary hours of
 work as prescribed in clause 5: Provided that—

(a) if an employer regularly pays an employee in respect
 of such ordinary hours of work an amount higher than
 that prescribed in clause 3 (1), it means such higher amount;

(b) the first proviso shall not be construed so as to refer
 to or include any remuneration which an employee, who is
 employed on any basis provided for in clause 9, received
 over and above the amount which he would have received
 if he had not been employed on such a basis;

"watchman" means an employee who is engaged in guarding
 premises or property;

"workday", except in relation to a watchman, means any day
 other than a Sunday or a public holiday referred to in clause
 8 (1) on which an employee ordinarily works.

(2) For the purposes of this Determination an employee
 shall be deemed to be in that class in which he is wholly or
 mainly engaged.

3. BESOLDIGING

(1) Die minimum loon wat 'n werkgewer aan elke lid van ondergenoemde klasse werknemers in sy diens moet betaal, is dié hieronder uiteengesit:

3. REMUNERATION

(1) The minimum wage which an employer shall pay to each member of the undermentioned classes of this employees shall be as set out hereunder:

	In die landdrosdistrikte Kuilsvier en Paarl		In alle ander gebiede	
	Gedurende die eerste jaar nadat hierdie Vasstelling bindend word	Daarna	Gedurende die eerste jaar nadat hierdie Vasstelling bindend word	Daarna
(a) Daaglikse werknemer.....	Per dag R 4,20 Per week R 23,00 9,60	Per dag R 4,50 Per week R 24,70 10,30	Per dag R 4,80 Per week R 26,50 11,00	Per dag R 5,10 Per week R 28,20 11,80
(b) Wag.....				
(c) Deeltydse skoonmaakster.....				
(d) Werknemer (uitgesonderd 'n daaglikse werknemer, 'n wag of 'n deeltydse skoonmaakster)—				
(i) vrou.....	16,00	17,20	18,40	19,60
(ii) man, 18 jaar oud of ouer.....	20,00	21,50	23,00	24,50
(iii) man, onder 18 jaar.....	15,00	16,10	17,30	18,40

	In the Magisterial Districts of Kuilsvier and Paarl		In all other areas	
	During the first year after this Determination becomes binding	Thereafter	During the first year after this Determination becomes binding	Thereafter
(a) Daily employee.....	Per day R 4,20 Per week R 23,00 9,60	Per day R 4,50 Per week R 24,70 10,30	Per day R 4,80 Per week R 26,50 11,00	Per day R 5,10 Per week R 28,20 11,80
(b) Watchman.....				
(c) Part-time cleaner.....				
(d) Employee (other than a daily employee, a watchman or a part-time cleaner)—				
(i) female.....	16,00	17,20	18,40	19,60
(ii) male, 18 years or over.....	20,00	21,50	23,00	24,50
(iii) male, under 18 years.....	15,00	16,10	17,30	18,40

(e) Ondanks andersluidende bepalings in hierdie subklousule, moet die loon van 'n werknemer wat uitsluitlik of hoofsaaklik in diens is vir die verwydering, leëmaak, skoonmaak of vervanging van nagemmers, minstens dié wees wat vir sy gebied in paragraaf (d) vir 'n manlike werknemer van 18 jaar of ouer voorgeskryf word, plus R1 per week, of, as hy 'n daaglikse werknemer is, minstens die loon in paragraaf (a) voorgeskryf, plus 20c per dag.

(f) Ondanks andersluidende bepalings in hierdie subklousule, moet die loon van 'n daaglikse werknemer, indien hy as wag in diens is, minstens dié wees wat in paragraaf (a) hiervan vir hom voorgeskryf word, plus 30c per dag: Met dien verstande dat die uitdrukking "dag" by die toepassing van hierdie paragraaf 'n tydperk van 24 agtereenvolgende ure beteken, gereken vanaf die tyd wanneer die werknemer met sy werk begin.

(g) Ondanks andersluidende bepalings in hierdie klousule, moet 'n werkgewer aan 'n daaglikse werknemer wat op enige dag gewerk het of beskikbaar was vir die werk waarvoor hy in diens geneem is maar wat hy verhoed was om te verrig weens onvoorsiene omstandighede buite sy beheer, minstens sy dagloon betaal, afgesien daarvan of hy dié dag agt en 'n half uur of minder gewerk het of aldus vir die werk beskikbaar was: Met dien verstande dat as van hom vereis was om te werk of om aldus beskikbaar te wees vir minder as vier uur op enige dag, sy loon vir dié dag met hoogstens 50 persent verminder mag word.

(2) *Kontrakgrondslag.*—By die toepassing van hierdie klousule moet die dienskontrak van 'n werknemer, uitgesonderd 'n daaglikse werknemer, op 'n weeklikse grondslag berus en, behoudens klousule 4 (6), moet 'n werknemer vir 'n week minstens die volle weekloon betaal word wat by subklousule (1) vir 'n werknemer van sy klas in die gebied waarin hy werk, voorgeskryf word, afgesien daarvan of hy in so 'n week die maksimum getal gewone werke wat ingevolge klousule 5 vir hom geld, of minder, gewerk het.

(e) Notwithstanding anything to the contrary contained in this subclause, an employee who is wholly or mainly engaged in removing, emptying, cleaning or replacing sanitary pails shall be paid a wage of not less than that prescribed for his area in paragraph (d) for a male employee of the age of 18 years or over, plus R1 per week, or, if he is a daily employee, not less than that prescribed in paragraph (a) plus 20c per day.

(f) Notwithstanding anything to the contrary contained in this subclause, if a daily employee is employed as a watchman his wage shall be not less than that prescribed for him in paragraph (a) hereof plus 30c per day: Provided that for the purpose of this paragraph the expression "day" shall mean a period of 24 consecutive hours reckoned from the time the employee commences work.

(g) Notwithstanding anything to the contrary contained in this clause, where on any day a daily employee has worked or stood by for the work for which he was engaged and which work he was precluded from doing through unforeseen circumstances beyond his control, his employer shall pay him not less than his daily wage, irrespective of whether he has on that day worked or so stood by for eight and a half hours or less: Provided that if he was required to work or so stand by for less than four hours on any day, his wage in respect of such day may be reduced by not more than 50 per cent.

(2) *Basis of contract.*—For the purpose of this clause the contract of employment of an employee, other than a daily employee, shall be on a weekly basis and, save as provided in clause 4 (6), an employee shall be paid in respect of a week not less than the full weekly wage prescribed in subclause (1) for an employee of his class and area irrespective of whether he has in that week worked the maximum number of ordinary hours of work applicable to him in terms of clause 5 or less.

(3) *Loonberekening.*—(a) Die dagloon van 'n werknemer, uitgesonderd 'n daaglikse werknemer of 'n wag, is sy weekloon gedeel deur die getal dae wat hy gewoonlik in 'n week werk.

(b) Die dagloon van 'n wag is sy weekloon gedeel deur ses.

(c) Die maandloon van 'n werknemer is vier en 'n derde maal sy weekloon.

(d) Die uurloon van 'n werknemer, uitgesonderd 'n daaglikse werknemer, is sy weekloon gedeel deur die getal gewone werkure wat hy gewoonlik in 'n week werk.

(e) Die uurloon van 'n daaglikse werknemer is sy dagloon gedeel deur die getal gewone werkure wat hy gewoonlik op 'n dag werk.

(4) *Fietstoelae.*—'n Werkgewer wat van 'n werknemer vereis om in die uitvoering van sy pligte sy eie fiets te gebruik, moet hom, benewens enige ander besoldiging aan hom verskuldig, 'n toelae van minstens 75c per week of, as hy 'n daaglikse werknemer is, minstens 15c per dag betaal.

4. BETALING VAN BESOLDIGING

(1) *Werknemers uitgesonderd daaglikse werknemers.*—Behoudens klousule 6 (4), moet elke bedrag verskuldig aan 'n werknemer, uitgesonderd 'n daaglikse werknemer, weekliks in kontant of, as die werknemer daartoe instem, maandeliks in kontant betaal word gedurende die werkure, of binne 15 minute nadat die werk gestaak is, op die gewone betaaldag van die bedryfsinrigting vir so 'n werknemer, of in die geval van 'n skofwerker of 'n deurlopende proseswerker, op 'n tyd-stip waarvoor sodanige werkgewer en sy werknemer ooreengekom het en wat gedurende die gewone kantoorure van die bedryfsinrigting moet wees, maar nie later nie as 24 uur na die gewone betaaldag of by diensbeëindiging, as dit voor die gewone betaaldag geskied, en sodanige bedrag moet in 'n koevert of houer wees waarop, of wat vergesel gaan van 'n staat waarop, gemeld word—

(a) die werkgewer se naam;

(b) die werknemer se naam of sy nommer op die betaalstaat en sy beroep;

(c) die getal gewone werkure wat die werknemer gewerk het;

(d) die getal ure wat die werknemer oortyd gewerk het;

(e) die getal ure wat die werknemer op 'n Sondag, 'n openbare vakansiedag in klousule 8 (1) bedoel, of gedurende sy vry periode gewerk het;

(f) die werknemer se loon;

(g) besonderhede van enige ander besoldiging wat uit die werknemer se diens voortspruit;

(h) besonderhede van enige bedrag wat afgetrek is;

(i) die werklike bedrag wat aan die werknemer betaal word; en

(j) die tydperk waarvoor die betaling geskied;

en sodanige koevert of houer waarop hierdie inligting aange-teken is of sodanige staat word die eiendom van die werknemer: Met dien verstande dat voornoemde inligting betreffende tyd gewerk nie verstrekkend hoeft te word aan 'n werknemer wat ingevolge klousule 5 (12) (a) van die werkurebepalings uitgesluit is nie.

(2) *Daaglikse werknemer.*—'n Werkgewer moet die besoldiging wat aan 'n daaglikse werknemer verskuldig is, in kontant aan hom betaal na afloop van elke dag se werk.

(3) *Premies.*—Geen bedrag mag regstreeks of onregstreeks vir die indiensneming van 'n werknemer aan 'n werkgewer betaal of deur hom aangeneem word nie.

(4) *Koop van goedere.*—'n Werkgewer mag nie van sy werknemer vereis om goedere van hom of van enige winkel, plek of persoon deur hom aangewys, te koop nie.

(5) *Kos en inwoning.*—Behoudens die Swartes (Stadsgebiede) Konsolidasiewet, 1945, mag 'n werkgewer nie van sy werknemer vereis om kos of inwoning of kos en inwoning van hom of van enigiemand anders of op 'n plek deur hom aangewys, aan te neem nie.

(6) *Aftekings.*—'n Werkgewer mag sy werknemer geen boetes oplê of enige bedrae van sy werknemer se besoldiging aftrek nie: Met dien verstande dat hy die volgende kan aftrek:

(a) Met die skriftelike toestemming van sy werknemer, 'n bedrag vir 'n vakansie-, siektebystands-, versekerings-, spaar-, voorsorgs- of pensioenfonds;

(b) behoudens andersluidende bepalinge in hierdie Vasstelling, telkens wanneer 'n werknemer om 'n ander rede as op las of versoek van sy werkgewer van sy werk afwesig is, 'n bedrag eweredig aan die tydperk van sy afwesigheid en bereken op die grondslag van die loon wat sodanige werknemer ten tyde van sodanige afwesigheid ten opsigte van sy gewone werkure ontvang het;

(3) *Calculation of wages.*—(a) The daily wage of an employee, other than a daily employee or a watchman, shall be his weekly wage divided by the number of days he ordinarily works in a week.

(b) The daily wage of a watchman shall be his weekly wage divided by six.

(c) The monthly wage of an employee shall be his weekly wage multiplied by four and a third.

(d) The hourly wage of an employee, other than a daily employee, shall be his weekly wage divided by the number or ordinary hours of work which he ordinarily works in a week.

(e) The hourly wage of a daily employee shall be his daily wage divided by the number of ordinary hours of work which he ordinarily works on a day.

(4) *Bicycle allowance.*—An employer who requires an employee to use his own bicycle in the performance of his duties shall pay such employee, in addition to any other remuneration due to him, an allowance of not less than 75c per week, or, if the employee is a daily employee, not less than 15c per day.

4. PAYMENT OF REMUNERATION

(1) *Employees other than daily employees.*—Save as provided in clause 6 (4), any amount due to an employee, other than a daily employee, shall be paid in cash weekly or, with the consent of the employee, monthly during the hours of work or within 15 minutes of ceasing work, on the usual pay day of the establishment for such employee or in the case of a shift worker or a continuous process worker, at a time agreed upon between such employee and his employer, which time shall be during the usual office hours of the establishment but not later than 24 hours after the usual pay-day or on termination of employment if this takes place before the usual pay-day, and such amount shall be contained in an envelope or container, on which shall be recorded, or which shall be accompanied by a statement showing—

(a) the employer's name;

(b) the employee's name or his number on the pay-roll and his occupation;

(c) the number of ordinary hours of work worked by the employee;

(d) the number of overtime hours worked by the employee;

(e) the number of hours worked by an employee on a Sunday, a public holiday referred to in clause 8 (1) or during his free period;

(f) the employee's wage;

(g) the details of any other remuneration arising out of the employee's service;

(h) the details of any deduction made;

(i) the actual amount paid to the employee; and

(j) the period in respect of which payment is made;

and such envelope or container on which these particulars are recorded or such statement shall become the property of the employee: Provided that the aforementioned information relating to time worked need not be furnished to an employee who is excluded from the hours of work provisions by virtue of clause 5 (12) (a).

(2) *Daily employee.*—An employer shall pay the remuneration due to his daily employee in cash on completion of each day's work.

(3) *Premiums.*—No payment shall be made to or accepted by an employer, either directly or indirectly, in respect of the employment of an employee.

(4) *Purchase of goods.*—An employer shall not require his employee to purchase any goods from him or from any shop, place or person nominated by him.

(5) *Board and lodging.*—Save as provided in the Blacks (Urban Areas) Consolidation Act, 1945, an employer shall not require his employee to board or lodge or board and lodge with him or with any person or at any place nominated by him.

(6) *Deductions.*—An employer shall not levy any fines against his employee nor shall he make any deductions from his employee's remuneration: Provided that he may make the following:

(a) With the written consent of his employee, a deduction for holiday, sick benefit insurance, savings, provident or pension funds;

(b) except where otherwise provided in this Determination, whenever an employee is absent from work, otherwise than on the instructions or at the request of his employer, a deduction proportionate to the period of his absence and calculated on the basis of the wage which such employee was receiving in respect of his ordinary hours of work at the time of such absence;

(c) enige bedrag wat 'n werkgewer regtens of kragtens of ingevolge 'n bevel van 'n bevoegde hof mag of moet aftrek;

(d) wanneer 'n werknemer daartoe instem of daar ingevolge die Swartes (Stadsgebiede) Konsolidasiewet, 1945, van hom vereis word om kos of inwoning of kos en inwoning van sy werkgewer aan te neem, 'n bedrag van hoogstens:

	Per week	Per maand
	R	R
(i) Kos.....	1,65	7,15
(ii) Inwoning.....	0,85	3,68
(iii) Kos en inwoning.....	2,50	10,83

(e) wanneer die gewone werkure by klousule 5 voorgeskryf weens korttyd verminder word, 'n bedrag van hoogstens die werknemer (uitgesonderd 'n daaglikse werknemer) se uurloon vir elke uur van sodanige vermindering: Met dien verstande dat—

(i) sodanige aftrekking hoogstens een derde van die werknemer se weekloon is, ongeag die getal ure waarmee die gewone werkure aldus verminder word;

(ii) geen aftrekking ten opsigte van korttyd wat deur 'n slapte in die bedryf of 'n tekort aan grondstowwe ontstaan, geskied nie tensy die werkgewer sy werknemer op die vorige werkdag kennis gegee het van sy voorneme om die gewone werkure te verminder;

(iii) geen aftrekking ten opsigte van korttyd geskied vir die eerste uur waarin daar nie gewerk word nie weens die wisselvalligheid van die weer of 'n onklaarraking van masjinerie of installasie of weens die feit dat die geboue onbruikbaar is of dreig om dit te word, tensy die werkgewer sy werknemer op die vorige dag kennis gegee het dat daar geen werk sal wees nie;

(f) met die skriftelike toestemming van 'n werknemer, 'n bedrag wat 'n werkgewer aan 'n organisasie betaal het of onderneem het om te betaal ten opsigte van—

(i) 'n paalement op 'n lening wat aan sodanige werknemer toegestaan is vir die verkryging van 'n huis; of

(ii) die huur van 'n huis of huisvesting in 'n tehuis wat sodanige werknemer bewoon;

indien die huis of tehuis voorsien is deur bemiddeling van sodanige organisasie uitsluitlik of gedeeltelik uit fondse wat vir daardie doel deur die Departement van Gemeenskapsbou, 'n plaaslike owerheid of 'n bougenootskap voorgeskiet is.

5. WERKURE, GEWONE EN OORTYD, EN BETALING VIR OORTYDWERK

(1) *Gewone werkure.*—'n Werkgewer mag nie van 'n werknemer, uitgesonderd 'n deurlopendeproseswerker, 'n daaglikse werknemer of 'n deeltydse skoonmaakster vereis of hom/haar toelaat om meer gewone werkure te werk nie as—

(a) in die geval van 'n werknemer wat ses dae per week werk—

(i) 46 in 'n week van Maandag tot en met Saterdag; en
(ii) behoudens subparagraaf (i) hiervan, agt op 'n dag, tensy die ure op een dag hoogstens vyf is, wanneer die ure op enige een van die ander dae tot agt en 'n half verleng kan word;

(b) in die geval van 'n werknemer wat vyf dae per week werk—

(i) 46 in 'n week van Maandag tot en met Vrydag; en
(ii) behoudens subparagraaf (i) hiervan, nege en 'n kwart op 'n dag.

(2) 'n Werkgewer mag nie van 'n deurlopendeproseswerker vereis of hom toelaat om—

(a) meer gewone werkure te werk nie as—

(i) 48 in 'n week van Sondag tot en met Saterdag: Met dien verstande dat 'n deurlopendeproseswerker vir elke gewone werkuur wat hy bo en behalwe 46 in 'n week werk, betaal moet word teen 'n skaal van minstens een en 'n derde maal sy gewone loon, maar hierdie voorbehoudbepaling is nie van toepassing op 'n deurlopendeproseswerker wat gewoonlik 'n werkweek van vyf dae het nie;

(ii) agt in enige skof;

(b) meer as ses skofte in enige week te werk nie: Met dien verstande dat—

(i) alle skofte wat gewerk word normaalweg deur minstens agt ure onderbreek word;

(ii) 'n werkgewer van sy deurlopendeproseswerker kan vereis of hom toelaat om hoogstens sewe skofte in enige week gedurende enige tydperk van drie agtereenvolgende weke te werk; en

(iii) die gewone werkure van 'n deurlopendeproseswerker hoogstens 144 in enige sodanige tydperk van drie agtereenvolgende weke mag wees.

(c) a deduction of any amount which an employer by law or order of any competent court is required or permitted to make;

(d) whenever an employee agrees or is required in terms of the Blacks (Urban Areas) Consolidation Act, 1945, to accept board or lodging or board and lodging with his employer, a deduction not exceeding the amounts specified hereunder:

	Per week	Per month
	R	R
(i) Board.....	1,65	7,15
(ii) Lodging.....	0,85	3,68
(iii) Board and lodging.....	2,50	10,83

(e) whenever the ordinary hours of work prescribed in clause 5 are reduced on account of short-time, a deduction not exceeding the amount of the employee's (other than a daily employee's) hourly wage in respect of each hour of such reduction: Provided that—

(i) such deduction shall not exceed one-third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work are thus reduced;

(ii) no deduction shall be made in the case of shorttime arising out of a slackness in the trade or a shortage of raw materials, unless the employer has given his employee notice on the previous workday of his intention to reduce the ordinary hours of work;

(iii) no deduction shall be made in the case of shorttime owing to the vagaries of the weather or a breakdown of plant or machinery or a breakdown or threatened breakdown of buildings in respect of the first hour not worked unless the employer has given his employee notice on the previous day that no work will be available;

(f) with the written consent of an employee, a deduction of any amount which an employer has paid or undertaken to pay to any organisation in respect of—

(i) any instalment on a loan granted to such employer for the acquisition of a house; or

(ii) the rent of any house or accommodation in any hostel occupied by such employee;

if such house or hostel was provided through the intermediary of such organisation wholly or partly with funds advanced for that purpose by the Department of Community Development, a local authority or a building society.

5. HOURS OF WORK, ORDINARY AND OVERTIME, AND PAYMENT FOR OVERTIME

(1) *Ordinary hours of work.*—An employer shall not require or permit an employee, other than a continuous process worker, a daily employee or a part-time cleaner, to work more ordinary hours of work than—

(a) in the case of an employee who works a six-day week—

(i) 46 in any week from Monday to Saturday, inclusive; and

(ii) subject to subparagraph (i) hereof, eight on any day, unless the hours on one day do not exceed five, in which case the hours on any of the other days may be extended to eight and one-half;

(b) in the case of an employee who works a five-day week—

(i) 46 in any week from Monday to Friday, inclusive; and

(ii) subject to subparagraph (i) hereof, nine and one-quarter on any day.

(2) An employer shall not require or permit a continuous process worker to—

(a) work more ordinary hours of work than—

(i) 48 in any week from Sunday to Saturday, inclusive: Provided that, for every ordinary hour of work in excess of 46 worked by a continuous process worker in any week, he shall be paid at a rate of at least one and a third times his ordinary wage, but this proviso shall not apply to a continuous process worker who ordinarily works a five-day week;

(ii) eight in any shift;

(b) work more than six shifts in any week: Provided that—

(i) there normally is a break of at least eight hours between shifts;

(ii) an employer may require or permit his continuous process worker to work not more than seven shifts in any week during any period of three consecutive weeks; and

(iii) the ordinary hours of work of a continuous process worker shall not exceed 144 in any such period of three consecutive weeks.

(3) 'n Werkgewer mag nie van 'n daaglikse werknemer vereis of hom toelaat om meer gewone werkure te werk nie as—

- (a) agt en 'n half op enige dag; en
- (b) behoudens paragraaf (a) hiervan 46 in enige week in sy diens.

(4) 'n Werkgewer mag nie van 'n deeltydse skoonmaakster vereis of haar toelaat om meer gewone werkure te werk nie as—

- (a) 24 in enige week van Maandag tot en met Saterdag; en
- (b) behoudens paragraaf (a) hiervan, vyf op 'n dag.

(5) *Etenspouses*.—'n Werkgewer mag nie van 'n werknemer vereis of hom toelaat om meer as vyf uur aaneen sonder 'n etenspouse van minstens een uur te werk nie, en gedurende sodanige pouse mag daar nie van sodanige werknemer vereis word of mag hy nie toegelaat word om enige werk te verrig nie, en sodanige pouse maak nie deel van die gewone werkure of oortydure uit nie: Met dien verstande dat—

(i) 'n werkgewer met sy werknemer ooreen kan kom om die duur van sodanige pouse tot minstens 'n halfuur te verkort, en in dié geval en nadat die werkgewer die Afdelingsinspekteur, Departement van Arbeid, Kaapstad, skriftelik in kennis gestel het van sodanige ooreenkoms, kan die pouse aldus verkort word;

(ii) werktydperke wat onderbreek word deur pouses van minder as een uur, uitgesonderd waar voorbehoedsbepaling (i) of (vi) van toepassing is, geag word aaneenlopend te wees;

(iii) as sodanige pouse langer as een uur is, behalwe waar voorbehoedsbepaling (iv) van toepassing is, enige tyd wat een en 'n kwart uur te bowe gaan, geag word werktyd te wees;

(iv) in die geval van 'n werknemer wat uitsluitlik of hoofsaaklik persele skoonmaak of lewende hawe versorg, as sodanige pouse langer as drie uur is, enige tyd wat daardie pouse te bowe gaan, geag word deel van die gewone werkure uit te maak;

(v) slegs een sodanige pouse gedurende die gewone werkure van 'n werknemer op 'n dag nie deel van die gewone werkure mag uitmaak nie;

(vi) wanneer daar, vanweë oortyd wat gewerk is, van 'n werkgewer vereis word om op 'n dag 'n tweede etenspouse aan 'n werknemer toe te staan, sodanige pouse tot uiter 15 minute verkort mag word;

(vii) sodanige pouse nie aan 'n deurlopendeproseswerker toegestaan hoef te word gedurende sy gewone werkure op enige skof nie indien aan hom gedurende sodanige ure die geleentheid verskaf word om 'n ete te nuttig terwyl hy op sy pos bly, tensy dit verbied word ooreenkomstig 'n kennisgewing wat ingevolge artikel 27 van die Wet op Fabriek, Masjinerie en Bouwerk, 1941, gepubliseer is.

(6) *Werkure moet agtereenvolgend wees*.—Behoudens subklousule (5), moet alle werkure van 'n werknemer op elke dag agtereenvolgend wees.

(7) *Beperking van oortydwerk*.—'n Werkgewer mag nie van 'n werknemer vereis of hom toelaat om langer oortyd te werk nie as—

- (a) in die geval van 'n daaglikse werknemer, twee uur op 'n dag;
- (b) in die geval van 'n ander werknemer, 10 uur in 'n week.

(8) *Vroulike werknemers*.—Ondanks andersluidende bepalinge in hierdie klousule, mag 'n werkgewer nie van 'n vroulike werknemer vereis of haar toelaat om—

- (a) tussen 18h00 en 06h00 te werk nie;
- (b) op meer as vyf dae in 'n week na 13h00 te werk nie;
- (c) meer as twee uur oortyd 'n dag te werk nie, behalwe dat 'n werknemer wat 'n werkweek van vyf dae het, op 'n Saterdag tot vier uur oortyd mag werk, maar dan sò dat die oortydwerk hoogstens 10 uur in enige week is;
- (d) op meer as drie agtereenvolgende dae in 'n week oortyd te werk nie;
- (e) op meer as 60 dae in 'n jaar oortyd te werk nie;
- (f) na voltooiing van haar gewone werkure meer as een uur op 'n dag oortyd te werk nie, tensy hy—

(i) sodanige werknemer voor die middag kennis daarvan gegee het; of

(ii) sodanige werknemer van 'n toereikende ete voorsien en haar genoeg tyd gelaat het om dit te nuttig voordat sy met die oortydwerk moet begin; of

(iii) sodanige werknemer minstens 45c betyds betaal het om haar in staat te stel om 'n ete verkry en te nuttig voordat sy met die oortydwerk moet begin.

(3) An employer shall not require or permit a daily employee to work more ordinary hours of work than—

- (a) eight and a half on any day; and
- (b) subject to paragraph (a) hereof, 46 in any week in his service.

(4) An employer shall not require or permit a part-time cleaner to work more ordinary hours of work than—

- (a) 24 in any week from Monday to Saturday, inclusive; and
- (b) subject to paragraph (a) hereof, five on any day.

(5) *Meal intervals*.—An employer shall not require to permit an employee to work continuously for more than five hours, without a meal interval of not less than one hour, during which interval such employee shall not be required or permitted to perform any work, and such interval shall not form part of the ordinary hours of work or overtime: Provided that—

(i) an employer may agree with his employee to reduce the period of such meal interval to not less than half an hour, and in that event and after the employer has informed the Divisional Inspector, Department of Labour, Cape Town, in writing, of such agreement, the interval may be so reduced;

(ii) periods of work interrupted by intervals of less than one hour, except when proviso (i) or (vi) applies, shall be deemed to be continuous;

(iii) if such interval by longer than one hour, except when proviso (iv) applies, any period in excess of one and one-quarter hours shall be deemed to be time worked;

(iv) in the case of an employee who is wholly or mainly engaged in cleaning premises or tending animals, if such interval be longer than three hours, any period in excess of three hours shall be deemed to form part of the ordinary hours of work;

(v) only one such interval during the ordinary hours of work of an employee on any day shall not form part of the ordinary hours of work;

(vi) when in any day by reason of overtime work an employer is required to give an employee a second meal interval such interval may be reduced to not less than 15 minutes.

(vii) such interval need not be granted to a continuous process worker during his ordinary hours of work on any shift if he afforded an opportunity during such hours to enjoy a meal while remaining at his post, unless this is prohibited by a notice published under section 27 of the Factories, Machinery and Building Work Act, 1941.

(6) *Hours of work to be consecutive*.—Save as provided in subclause (5), all hours of work of an employee on any day shall be consecutive.

(7) *Limitation of overtime*.—An employer shall not require or permit an employee to work overtime for more than—

- (a) in the case of a daily employee, two hours on any day;
- (b) in the case of any other employee, 10 hours in any week.

(8) *Female employees*.—Notwithstanding anything to the contrary contained in this clause, an employer shall not require or permit a female employee to work—

- (a) between 18h00 and 06h00;
- (b) after 13h00 on more than five days a week;
- (c) overtime for more than two hours on any day, except that an employee who works a five-day week may work up to four hours overtime on a Saturday but so that 10 hours are not exceeded in such week;
- (d) overtime on more than three consecutive days in any week;
- (e) overtime on more than 60 days in any year;
- (f) overtime after completion of her ordinary hours of work for more than one hour on any day unless he has—

(i) before midday given notice thereof to such employee; or

(ii) provided such employee with an adequate meal and allowed her sufficient time to have it before she has to commence overtime; or

(iii) paid such employee not less than 45c in sufficient time to enable her to obtain and have a meal before overtime is due to commence.

(9) *Betaling vir oortydwerk.*—'n Werkgewer moet 'n werknemer wat oortyd werk, betaal teen minstens—

(a) in die geval van 'n daaglikse werknemer, een en 'n derde maal sy gewone loon ten opsigte van die totale tydperk aldus deur sodanige werknemer op enige dag gewerk;

(b) in die geval van 'n ander werknemer, een en 'n derde maal sy gewone loon ten opsigte van die totale tydperk aldus deur sodanige werknemer in enige week gewerk.

(10) *Vry periode.*—(a) 'n Werkgewer moet elke week aan elkeen van sy deurlopende proseswerkers een vry periode van minstens 24 agtereenvolgende ure toestaan, maar, indien 'n werkgewer van sodanige werker vereis of hom toelaat om gedurende sy vry periode te werk, maak die ure wat gewerk is, nie deel uit van die gewone werkure by subklousule (2) voorskryf nie.

(b) 'n Werkgewer moet sy wag, uitgesonderd 'n daaglikse werknemer, in elke ses agtereenvolgende weke diens minstens ses vry periodes toestaan: Met dien verstande dat—

(i) hy ten opsigte daarvan geen bedrag van sy wag se loon aftrek nie;

(ii) die werkgewer sy wag, in plaas van hom sodanige vry periode toe te staan, vir elke sodanige vry periode wat nie toegestaan is nie, die loon betaal wat hy sou ontvang het as hy gedurende sodanige vry periode nie gewerk het nie, plus minstens dubbel sy dagloon;

(iii) indien 'n wag se dienskontrak eindig voordat al die vry periodes waartoe hy ingevolge hierdie subklousule geregtig geword het aan hom toegestaan is, sy werkgewer hom vir elke sodanige vry periode wat nie toegestaan is nie minstens sy dagloon betaal.

(11) (a) Elke werkgewer wat deurlopende proseswerkers in diens het, moet voor die aanvang van elke skofsiklus, op 'n opvallende plek in sy perseel wat hy self bepaal, 'n kennisgewing of rooster vertoon waarin die skofte wat elke sodanige werker gedurende die daaropvolgende skofsiklus sal moet werk en die vry periodes van elke sodanige werker gemeld word.

(b) Die werkgewer moet sodanige kennisgewing of rooster vir 'n tydperk van drie jaar na die datum daarvan bewaar.

(c) Indien geen sodanige kennisgewing of rooster vertoon word nie, word daar geag dat die vry periode van elke sodanige werker om middernag op Saterdag begin.

(12) *Voorbehoudsbepalings.*—(a) Behoudens subklousule (10), is hierdie klousule nie op 'n wag van toepassing nie.

(b) Subklousules (5), (6) en (7) is nie van toepassing nie op 'n werknemer onderwyl hy noodwerk verrig.

(c) Subklousule (5) is nie van toepassing nie op 'n werknemer wat in diens is uitsluitlik vir die verwydering van nagvuil.

(d) Subklousule (7) is nie van toepassing nie op 'n werknemer wat in die Bunkerbedryf werksaam is.

6. JAARLIKSE VERLOF

(1) Behoudens subklousule (2), moet 'n werkgewer aan sy werknemer, uitgesonderd 'n daaglikse werknemer, ten opsigte van elke voltooide tydperk van 12 maande diens by hom verlof verleen en moet die werknemer verlof neem van—

(a) in die geval van 'n wag, 21 agtereenvolgende dae;

(b) in die geval van enige ander werknemer, 14 agtereenvolgende dae;

en moet hy sodanige werknemer ten opsigte van sodanige verlof betaal—

(i) in die geval van 'n werknemer in paragraaf (a) vermeld, 'n bedrag van minstens drie maal die weekloon wat hy onmiddellik voor die aanvangsdatum van die verlof ontvang het;

(ii) in die geval van 'n werknemer in paragraaf (b) vermeld, 'n bedrag van minstens twee maal die weekloon wat hy onmiddellik voor die aanvangsdatum van die verlof ontvang het;

Met dien verstande dat by die toepassing van hierdie klousule die weekloon van 'n werknemer wat stukwerk verrig, bereken word op die grondslag uiteengesit in artikel 20 (5) (a) van die Wet op Fabriek, Masjinerie en Bouwerk, 1941.

(2) Die verlof by subklousule (1) voorgeskryf, moet verleen word op 'n tyd wat die werkgewer bepaal: Met dien verstande dat—

(i) as sodanige verlof nie eerder verleen is nie, dit, behoudens subklousule (3), so verleen moet word dat dit begin binne vier maande na voltooiing van die 12 maande diens waarop dit betrekking het, of as die werkgewer en sy

(9) *Payment for overtime.*—An employer shall pay an employee who works overtime at a rate of not less than—

(a) in the case of a daily employee, one and one-third times his ordinary wage in respect of the total period so worked by such employee on any day;

(b) in the case of any other employee, one and one-third times his ordinary wage in respect of the total period so worked by such employee in any week.

(10) *Free period.*—(a) An employer shall grant to each of his continuous process workers a free period of not less than 24 consecutive hours during every week, but, if an employer requires or permits such an employee to work during his free period, the hours worked shall be deemed not to be part of the ordinary hours of work prescribed in subclause (2).

(b) An employer shall grant his watchman, other than a daily employee, not less than six free periods in every six consecutive weeks of employment: Provided that—

(i) he shall make no deduction from his watchman's wage in respect thereof;

(ii) an employer may in lieu of granting his watchman any such free period pay him the wage which he would have received if he had not worked during his free period, plus an amount of not less than double his daily wage in respect of each such free period not granted;

(iii) where a watchman's contract of employment terminates before he has been granted all the free periods to which he has become entitled by virtue of this subclause, his employer shall pay him in respect of each such free period not granted an amount of not less than his daily wage.

(11) (a) Every employer employing continuous process workers shall, before the commencement of every cycle of shifts, display a notice or roster in a conspicuous place on his premises determined by him showing the shifts to be worked by every such worker during the next succeeding cycle of shifts and the free periods of every such worker.

(b) The employer shall keep such notice or roster for a period of three years after its date.

(c) If no such notice or roster is displayed, the free period of every such worker shall be deemed to begin at midnight on Saturday.

(12) *Savings.*—(a) Save as provided in subclause (10), the provisions of this clause shall not apply to a watchman.

(b) The provisions of subclauses (5), (6) and (7) shall not apply to an employee while he is engaged on emergency work.

(c) The provisions of subclause (5) shall not apply to an employee who is engaged exclusively on the removal of night soil.

(d) The provisions of subclause (7) shall not apply to an employee employed in the Bunkering Trade.

6. ANNUAL LEAVE

(1) Subject to the provisions of subclause (2), the following leave shall be granted by an employer to, and shall be taken by, his employee, other than a daily employee, in respect of each completed period of 12 months of employment in his service:

(a) In the case of a watchman, 21 consecutive days;

(b) in the case of every other employee, 14 consecutive days;

and the employer shall pay such employee in respect of such leave—

(i) in the case of an employee referred to in paragraph (a), an amount of not less than three times the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced;

(ii) in the case of an employee referred to in paragraph (b), an amount of not less than double the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced:

Provided that for the purpose of this clause the weekly wage of any employee who is engaged on piece-work shall be calculated on the basis set out in section 20 (5) (a) of the Factories, Machinery and Building Work Act, 1941.

(2) The leave prescribed in subclause (1) shall be granted at a time to be fixed by the employer: Provided that—

(i) if such leave has not been granted earlier, it shall save as provided in subclause (3), be granted so as to commence within four months after the completion of the 12 months of employment to which it relates or, if the employer and

werknemer voor die verstryking van genoemde tydperk van vier maande skriftelik daartoe ooreengekom het, die werkgever sodanige verlof aan die werknemer moet verleen met ingang van 'n datum uiterlik twee maande na die verstryking van genoemde tydperk van vier maande;

(ii) die tydperk van verlof nie met siekteverlof wat ingevolge klousule 7 verleen is of met enige tydperk van kennisgewing ingevolge klousule 12, of met enige tydperk van afwesigheid weens ongeskiktheid wat plaasvind in omstandighede soos uiteengesit in klousule 7 (1) (ii) of (iv) en wat in totaal in enige jaar, hoogstens 10 weke is, mag saamval nie;

(iii) as Nuwejaarsdag, Goeie Vrydag, Hemelvaartsdag, Republiekdag, Geloftedag of Kersdag binne die tydperk van sodanige verlof val, daar vir elke sodanige vakansiedag nog 'n werkdag by gemelde tydperk gevoeg moet word as 'n verdere tydperk van verlof en dat die werknemer vir elke sodanige dag wat bygevoeg word, 'n bedrag van minstens sy dagloon betaal moet word;

(iv) 'n werkgever al die dae geleentheidsverlof wat op die skriftelike versoek van sy werknemer met volle betaling aan hom verleen is gedurende die tydperk van 12 maande diens waarop die verloftydperk betrekking het, van sodanige verloftydperk kan aftrek.

(3) (a) Op die skriftelike versoek van sy werknemer kan 'n werkgever toelaat dat die verlof oor 'n tydperk van hoogstens 24 maande diens oloop: Met dien verstande dat—

(i) sodanige werknemer so 'n versoek doen binne vier maande na verstryking van die eerste tydperk van 12 maande diens waarop die verlof betrekking het; en

(ii) die werkgever die datum van ontvangs van sodanige versoek daarop aanbring en dit onderteken en die versoek tot minstens na verstryking van die verloftydperk bewaar.

(b) Subklousule (2) is *mutatis mutandis* van toepassing op die verlof in hierdie subklousule vermeld.

(4) Die besoldiging ten opsigte van die verlof voorgeskryf by subklousule (1), gelees met subklousule (3), moet uiterlik op die laaste werkdag voor die aanvangsdatum van die verlof betaal word.

(5) Aan 'n werknemer wie se diens gedurende enige dienstermyn van 12 maande eindig voordat die verloftydperk by subklousule (1) voorgeskryf ten opsigte van so 'n termyn opgeloopt het, moet daar by sodanige diensbeëindiging, benevens enige ander besoldiging wat aan hom verskuldig mag wees, vir elke voltooide maand van sodanige dienstermyn 'n bedrag betaal word van minstens—

(a) in die geval van 'n werknemer in subklousule (1) (a) vermeld, een vierde van die weekloon; en

(b) in die geval van 'n werknemer in subklousule (1) (b) vermeld, een sesde van die weekloon;

wat hy onmiddellik voor die datum van sodanige diensbeëindiging ontvang het: Met dien verstande dat 'n werkgever ten opsigte van 'n verloftydperk wat hy ingevolge die voorbehoudsbepaling van subklousule (2) aan 'n werknemer verleen het, 'n eweredige bedrag kan aftrek; en voorts met dien verstande dat, behoudens klousule 12 (4), 'n werknemer—

(i) wat sy diens verlaat sonder om kennis te gee en die kennisgewingstermyn uit te dien wat by klousule 12 voorgeskryf word, tensy die werkgever van sodanige kennisgewing afgesien het of tensy die werknemer sy werkgever betaal het in plaas daarvan om aldus kennis te gee; of

(ii) wat sy diens sonder 'n regsgeldige rede verlaat; of

(iii) wat sonder kennisgewing deur sy werkgever ontslaan word om 'n rede wat vir sodanige ontslag sonder kennisgewing regsgeldig is;

op geen betaling uit hoofde van hierdie subklousule geregtig is nie.

(6) 'n Werknemer wat geregtig geword het op 'n tydperk van verlof voorgeskryf by subklousule (1), gelees met subklousule (3), en wie se diens eindig voordat sodanige verlof verleen is, moet by sodanige diensbeëindiging die bedrag betaal word wat hy ten opsigte van die verlof sou ontvang het as die verlof op die datum van diensbeëindiging aan hom verleen was.

(7) By die toepassing van hierdie klousule word die uitdrukking "diens" geag te omvat—

(a) enige tydperk ten opsigte waarvan 'n werkgever 'n werknemer ingevolge klousule 12 betaal in plaas van kennis te gee;

(b) enige tydperk wat 'n werknemer afwesig is—

(i) met verlof ingevolge hierdie klousule;

employee have agreed thereto in writing before the expiration of the said period of four months, the employer shall grant such leave to the employee as from a date not later than two months after the expiration of the said period of four months;

(ii) the period of leave shall not be concurrent with sick leave granted in terms of clause 7 or with any period of notice in terms of clause 12 or with any period of absence through incapacity which occurs in the circumstances set out in clause 7 (1) (ii) or (iv) and which does not exceed 10 weeks in the aggregate in any year;

(iii) if New Year's Day, Good Friday, Ascension Day, Republic Day, the Day of the Covenant or Christmas Day falls within the period of such leave, another workday shall, for each such holiday, be added to the said period as a further period of leave and the employee shall be paid an amount of not less than his daily wage in respect of each such day added;

(iv) an employer may set off against such period of leave any days of occasional leave granted on full pay to his employee at his employee's written request during the period of 12 months of employment to which the period of leave relates.

(3) (a) At the written request of his employee, an employer may permit the leave to accumulate over a period of not more than 24 months of employment: Provided—

(i) that the request is made by such employee not later than four months after the expiration of the first period of 12 months of employment to which the leave relates; and

(ii) that the date of the receipt of the request is endorsed on the request over his signature by the employer, who shall retain the request at least until after the expiration of the period of leave.

(b) The provisions of subclause (2) shall *mutatis mutandis* apply to the leave referred to in this subclause.

(4) The remuneration in respect of the leave prescribed in subclause (1), read with subclause (3), shall be paid not later than the last workday before the date of commencement of the leave.

(5) An employee whose employment terminates during any period of 12 months of employment before the period of leave prescribed in subclause (1) in respect of that period has accrued, shall, upon such termination and in addition to any other remuneration which may be due to him, be paid in respect of each completed month of such period of employment an amount of not less than—

(a) in the case of an employee referred to in subclause (1)

(a), one-fourth; and

(b) in the case of an employee referred to in subclause (1)

(b), one-sixth;

of the weekly wage he was receiving immediately before the date of such termination: Provided that an employer may make a proportionate deduction in respect of any period of leave granted to an employee in terms of the fourth proviso to subclause (2); and provided further that, subject to clause 12 (4), an employee—

(i) who leaves his employment without having given and served the period of notice prescribed in clause 12, unless the employer has waived such notice or the employee has paid the employer in lieu of notice; or

(ii) who leaves his employment without cause recognised by law as sufficient; or

(iii) who is dismissed by his employer without notice for any cause recognised by law as sufficient for such dismissal without notice;

shall not be entitled to any payment by virtue of this subclause.

(6) An employee who has become entitled to a period of leave prescribed in subclause (1), read with subclause (3), and whose employment terminates before such leave has been granted, shall upon such termination be paid the amount he would have received in respect of the leave, had the leave been granted to him as the date of the termination.

(7) For the purpose of this clause the expression "employment" shall be deemed to include—

(a) any period in respect of which an employer, in terms of clause 12, pays an employee in lieu of notice;

(b) any period during which an employee is absent—

(i) on leave in terms of this clause;

(ii) met siekteverlof ingevolge klousule 7 of as gevolg van ongeskiktheid in die omstandighede uiteengesit in klousule 7 (1) (ii) of (iv);

(iii) op las of versoek van sy werkgever;

en wel tot 'n totaal, in enige jaar, van hoogstens 10 weke; en word diens geag te begin—

(i) in die geval van 'n werknemer wat, voordat hierdie Vasstelling bindend geword het, kragtens enige wet op 'n tydperk van jaarlikse verlof geregtig geword het, op die datum waarop sodanige werknemer laas kragtens sodanige wet op verlof geregtig geword het;

(ii) in die geval van 'n werknemer wat, voordat hierdie Vasstelling bindend geword het, in diens was en op wie enige wet wat vir jaarlikse verlof voorsiening maak, van toepassing was maar wat nog nie daarkragtens op 'n tydperk van verlof geregtig geword het nie, op die aanvangsdatum van sodanige diens;

(iii) in die geval van enige ander werknemer, op die datum waarop sodanige werknemer by sy werkgever in diens getree het of op die datum waarop hierdie Vasstelling bindend geword het, en wel op die jongste van die twee datums.

(8) (a) Ondanks andersluidende bepalings in hierdie klousule, kan 'n werkgever vir die doel van jaarlikse verlof te eniger tyd, maar hoogstens een maal in 'n tydperk van 12 maande, sy bedryfsinrigting of 'n deel daarvan sluit vir 14 agtereenvolgende dae plus alle addisionele dae wat moontlik uit hoofde van die derde voorbehoudsbepaling van subklousule (2) daarby gevoeg moet word.

(b) 'n Werknemer wat op die sluitingsdatum van 'n bedryfsinrigting of deel van 'n bedryfsinrigting ingevolge paragraaf (a) nie op die volle tydperk van die jaarlikse verlof voorgeskryf by subklousule (1) (b), geregtig is nie, moet ten opsigte van enige verlof wat aan hom verskuldig is, deur sy werkgever betaal word op die grondslag in subklousule (5) vermeld, en vir die doel van jaarlikse verlof daarna word sy diens geag te begin op die datum waarop die bedryfsinrigting of deel van die bedryfsinrigting, na gelang van die geval, aldus sluit.

7. SIEKTEVERLOF

(1) Behoudens subklousule (2), moet 'n werkgever aan sy werknemer, uitgesonderd 'n daaglikse werknemer, wat weens ongeskiktheid van die werk afwesig is, siekteverlof verleen van—

(a) in die geval van 'n werknemer wat normaalweg vyf dae per week werk, altesaam minstens 20 werkdag; en

(b) in die geval van enige ander werknemer, altesaam minstens 24 werkdag;

gedurende die tydkring van 24 agtereenvolgende maande diens by hom, en moet hy sodanige werknemer ten opsigte van enige tydperk van afwesigheid ingevolge hierdie subklousule minstens die loon betaal wat hy sou ontvang het as hy gedurende sodanige tydperk gewerk het: Met dien verstande dat—

(i) 'n werknemer gedurende die eerste 24 agtereenvolgende maande diens nie op meer siekteverlof met volle betaling geregtig is nie as, in die geval van 'n werknemer met 'n werkweek van vyf dae, een werkdag ten opsigte van elke voltooië tydperk van vyf weke diens en, in die geval van enige ander werknemer, een werkdag ten opsigte van elke voltooië maand diens;

(ii) hierdie klousule nie van toepassing is nie op 'n werknemer op wie se skriftelike versoek 'n werkgever bydraes wat minstens gelyk is aan dié wat die werknemer self bydra, aan 'n fonds of organisasie betaal wat die werknemer aanwys en wat die werknemer waarborg dat, in geval van sy ongeskiktheid in die omstandighede in hierdie klousule vermeld, altesaam minstens die ekwivalent van sy loon vir 20 of 24 werkdag, na gelang van die geval, in elke tydkring van 24 maande diens aan hom betaal sal word, behalwe dat die gewaarborgde koers gedurende die eerste 24 maande wat die werknemer bydraes betaal, verlaag kan word maar tot minstens die aanwaskoers in die eerste voorbehoudsbepaling van hierdie subklousule vermeld;

(iii) waar 'n werkgever ingevolge 'n wet gelde vir hospitaal- of mediese behandeling ten opsigte van 'n werknemer moet betaal en sodanige gelde wel betaal, die bedrag wat aldus betaal is, afgetrek kan word van die bedrag wat ingevolge hierdie klousule ten opsigte van afwesigheid weens ongeskiktheid verskuldig is;

(iv) indien daar by 'n ander wet van 'n werkgever vereis word om 'n werknemer sy volle loon te betaal ten opsigte van 'n tydperk van ongeskiktheid waarvoor hierdie klousule voorsiening maak, hierdie klousule nie van toepassing is nie;

(v) die loon van 'n werknemer wat stukwerk verrig, bereken word op die grondslag uiteengesit in artikel 20 (5) van die Wet op Fabriek, Masjinerie en Bouwerk, 1941.

(ii) on sick leave in terms of clause 7, or through incapacity in the circumstances set forth in clause 7 (1) (ii) or (iv);

(iii) on the instructions or at the request of his employer; amounting in the aggregate in any year to not more than 10 weeks; and employment shall be deemed to commence—

(i) in the case of an employee who had before the coming into force of this Determination become entitled to a period of annual leave in terms of any law, on the date on which such employee last became entitled to such leave under such law;

(ii) in the case of an employee who was in employment before the coming into force of this Determination and to whom any law providing for annual leave applied but who had not become entitled to a period of leave in terms thereof on the date on which such employment commenced;

(iii) in the case of any other employee, from the date on which such employee entered his employer's service or on the date of the coming into force of this Determination, whichever is the later.

(8) (a) Notwithstanding anything to the contrary contained in this clause, an employer may for the purpose of annual leave at any time, but not more than once in any period of 12 months, close his establishment or portion of his establishment for 14 consecutive days plus any additional days that may have to be added by virtue of the third proviso to subclause (2).

(b) An employee who at the date of the closing of an establishment or portion thereof in which he is employed in terms of paragraph (a) is not entitled to the full period of annual leave prescribed in subclause (1) (b) shall, in respect of any leave due to him, be paid by his employer on the basis set out in subclause (5), and for the purpose of annual leave thereafter his employment shall be deemed to commence on the date of such closing of the establishment or portion of the establishment, as the case may be.

7. SICK LEAVE

(1) Subject to subclause (2), an employer shall grant to his employee, other than a daily employee, who is absent from work through incapacity—

(a) in the case of an employee who normally works a five-day week, not less than 20 workdays; and

(b) in the case of every other employee, not less than 24 workdays;

sick leave in the aggregate during each cycle of 24 consecutive months of employment with him, and shall pay such employee in respect of any period of absence in terms of this subclause not less than the wage he would have received had he worked during such period: Provided that—

(i) in the first 24 consecutive months of employment an employee shall not be entitled to sick leave on full pay at a rate of more than, in the case of an employee who works a five-day week, one workday in respect of each completed period of five weeks of employment and, in the case of any other employee, one workday in respect of each completed month of employment;

(ii) this clause shall not apply to an employee at whose written request an employer makes contributions, at least equal to those made by the employee, to any fund or organisation nominated by the employee, which fund or organisation guarantees to the employee in the event of his incapacity in the circumstances set out in this clause the payment to him of not less than in the aggregate the equivalent of his wage for 20 or 24 workdays, as the case may be, in each cycle of 24 months of employment, except that during the first 24 months of the payment of contributions by the employee the guaranteed rate may be reduced but to not less than the rate of accrual set out in the first proviso to this subclause;

(iii) where an employer is by any law required to pay fees for hospital or medical treatment in respect of an employee, and pays such fees, the amount so paid may be set off against the payment due in respect of absence owing to incapacity in terms of this clause;

(iv) if in respect of any period of incapacity covered by this clause an employer is required by any other law to pay to an employee his full wages, the provisions of this clause shall not apply;

(v) the wage payable to an employee who is employed on piece-work shall be calculated on the basis set forth in section 20 (5) of the Factories, Machinery and Building Work Act, 1941.

(2) 'n Werkgewer kan, as 'n opskortende voorwaarde vir die betaling, deur hom, van 'n bedrag wat 'n werknemer kragtens hierdie klousule eis ten opsigte van enige afwesigheid van sy werk—

(a) vir 'n tydperk van langer as drie agtereenvolgende dae; of

(b) op die werkdag onmiddellik voor of die werkdag onmiddellik na 'n Sondag of Nuwejaarsdag, Goeie Vrydag, Hemelvaartsdag, Republiekdag, Geloftedag of Kersdag;

van die werknemer vereis om 'n sertifikaat voor te lê wat deur 'n geregistreerde mediese praktisyn onderteken is en waarin die aard en duur van die werknemer se ongeskiktheid vermeld word: Met dien verstande dat, wanneer 'n werknemer gedurende enige tydperk van hoogstens agt weke by twee of meer geleenthede betaling ingevolge hierdie klousule ontvang het sonder om so 'n sertifikaat voor te lê, sy werkgewer gedurende die tydperk van agt weke onmiddellik na die laaste sodanige geleentheid van hom kan vereis om so 'n sertifikaat ten opsigte van enige afwesigheid voor te lê.

(3) Wanneer 'n werknemer gedurende die eerste tydkring van 24 maande diens by dieselfde werkgewer weens ongeskiktheid vir 'n langer tydperk afwesig is as die siekteverlof wat hom ten tyde van sodanige ongeskiktheid toekom, is hy geregtig op betaling vir slegs dié siekteverlof wat hom dan toekom; maar sy werkgewer moet, as hy dit nie reeds gedoen het nie, by verstryking van gemelde tydkring of by diensbeëindiging voor sodanige verstryking, hom ten opsigte van sodanige langer tydperk van afwesigheid weens ongeskiktheid uitbetaal vir sover die siekteverlof wat hom ten tyde van sodanige verstryking of beëindiging toekom, nog nie geneem is nie.

(4) By die toepassing van hierdie klousule—

(a) word die uitdrukking "diens" geag te omvat enige tydperk wat 'n werknemer afwesig is—

(i) met verlof ingevolge klousule 6;

(ii) op las of versoek van sy werkgewer;

(iii) met siekteverlof ingevolge subklousule (1);

en wat in enige jaar altesaam hoogstens 10 weke beloop; en word enige tydperk van diens by dieselfde werkgewer onmiddellik voordat hierdie Vasstelling bindend geword het, by die toepassing van hierdie klousule geag diens ingevolge hierdie Vasstelling te wees, en word alle siekteverlof wat met volle betaling aan so 'n werknemer gedurende sodanige tydperk verleen is, geag ingevolge hierdie Vasstelling verleen te wees;

(b) beteken "ongeskiktheid" onvermoë om te werk weens siekte of besering, behalwe siekte of besering wat deur 'n werknemer se eie wangedrag veroorsaak is: Met dien verstande dat sodanige onvermoë om te werk wat veroorsaak is deur 'n ongeluk of vergoedingspligtige siekte waarvoor vergoeding kragtens die Ongevalwet, 1941, betaalbaar is, slegs as ongeskiktheid beskou word gedurende 'n tydperk ten opsigte waarvan geen ongeskiktheidsbetaling ingevolge daardie Wet betaalbaar is nie.

8. OPENBARE VAKANSIEDAE, SONDAE EN VRY PERIODES

(1) Behoudens klousules 4 (6) en 6 (2), moet 'n werkgewer aan 'n werknemer wat nie op Nuwejaarsdag, Goeie Vrydag, Hemelvaartsdag, Republiekdag, Geloftedag of Kersdag werk, nie, minstens sy weekloon betaal vir die week waarin so 'n dag val.

(2) Wanneer 'n werknemer op Nuwejaarsdag, Goeie Vrydag, Hemelvaartsdag, Republiekdag, Geloftedag of Kersdag werk, moet sy werkgewer hom, behoudens klousule 4 (6), vir die week waarin so 'n dag val, minstens sy weekloon betaal, plus sy uurloon vir elke uur of deel van 'n uur wat die werknemer altesaam op so 'n dag gewerk het: Met dien verstande dat, waar daar van sodanige werknemer vereis word of hy toegelaat word om minder as vier uur op so 'n dag te werk, hy geag word vier uur te gewerk het.

(3) Behoudens subklousule (6) wanneer 'n werknemer uitgesonderd 'n deurlopendeproseswerker, op 'n Sondag werk, moet sy werkgewer of—

(a) die werknemer—

(i) indien hy aldus vir 'n tydperk van hoogstens vier uur werk, minstens sy dagloon betaal;

(ii) indien hy aldus vir 'n tydperk van meer as vier uur werk, teen minstens dubbel sy gewone loon ten opsigte van die hele tydperk wat hy op sodanige Sondag werk, of minstens dubbel sy dagloon betaal, en wel die bedrag wat die grootste is; of

(2) An employer may, as a condition precedent to the payment by him of any amount claimed in terms of this clause by an employee in respect of any absence from work—

(a) for a period covering more than three consecutive days; or

(b) on the workday immediately preceding or the workday immediately succeeding a Sunday or New Year's Day, Good Friday, Ascension Day, Republic Day, the Day of the Covenant or Christmas Day;

require the employee to produce a certificate signed by a registered medical practitioner stating the nature and duration of the employee's incapacity: Provided that when an employee has during any period of up to eight weeks received payment in terms of this clause on two or more occasions without producing such a certificate his employer may during the period of eight weeks immediately succeeding the last such occasion require him to produce such a certificate in respect of any absence.

(3) Where, during the first cycle of 24 months of employment with the same employer, an employee is absent owing to incapacity for a period in excess of any sick leave accrued at the time of such incapacity, he shall be entitled to be paid in respect of only such leave as has so accrued; but his employer shall, if he has not previously done so, at the expiration of the said cycle of employment or on termination of employment before such expiration pay him in respect of such excess period of absence owing to incapacity to the extent to which sick leave, accrued at such expiration or termination, had not been taken.

(4) For the purpose of this clause the expression—

(a) "employment" shall be deemed to include any period during which an employee is absent—

(i) on leave in terms of clause 6;

(ii) on the instruction or at the request of his employer;

(iii) on sick leave in terms of subclause (1);

amounting in the aggregate, in any year, to not more than 10 weeks, and any period of employment which an employee has had with the same employer immediately before the date of the coming into force of this Determination shall for the purpose of this clause be deemed to be employment under this Determination, and any sick leave on full pay granted to such an employee during such period shall be deemed to have been granted under this Determination;

(b) "incapacity" means inability to work owing to any sickness or injury other than sickness or injury caused by an employee's own misconduct: Provided that any such inability to work caused by an accident or a scheduled disease for which compensation is payable under the Workmen's Compensation Act, 1941, shall only be regarded as incapacity during any period in respect of which no disablement payment is payable in terms of that Act.

8. PUBLIC HOLIDAYS, SUNDAYS AND FREE PERIODS

(a) Subject to clauses 4 (6) and 6 (2), if an employee does not work on New Year's Day, Good Friday, Ascension Day, Republic Day, the Day of the Covenant or Christmas Day, his employer shall pay him for the week in which such day falls not less than his weekly wage.

(2) Whenever an employee works on New Year's Day, Good Friday, Ascension Day, Republic Day, the Day of the Covenant or Christmas Day his employer shall, save as provided in clause 4 (6), pay him for the week in which such day falls not less than his weekly wage, plus his hourly wage for each hour or part of an hour worked by the employee in the aggregate on such day: Provided that where such an employee is required or permitted to work for less than four hours on such day, he shall be deemed to have worked for four hours.

(3) Whenever an employee, other than a continuous process worker, works on a Sunday, his employer shall, subject to subclause (6), either—

(a) pay the employee—

(i) if he so works for a period not exceeding four hours, not less than his daily wage;

(ii) if he so works for a period exceeding four hours, at a rate not less than double his ordinary wage in respect of the total period worked by him on such Sunday, or not less than double his daily wage, whichever is the greater; or

(b) die werknemer teen minstens een en 'n derde maal sy gewone loon betaal ten opsigte van die hele tydperk wat hy op sodanige Sondag werk en hom binne sewe dae vanaf sodanige Sondag een dag verlof verleen en hom ten opsigte daarvan minstens sy dagloon betaal: Met dien verstande dat, waar daar van sodanige werknemer vereis of hy toegelaat word om minder as vier uur op sodanige Sondag te werk, daar geag word dat hy vier uur gewerk het.

(4) Wanneer 'n deurlopendeproseswerker op 'n Sondag werk, moet sy werkgever hom minstens een en 'n derde maal sy gewone loon betaal ten opsigte van die hele tydperk wat hy op sodanige Sondag werk: Met dien verstande dat—

(i) as daar van sodanige werknemer vereis of hy toegelaat word om minder as vier uur op sodanige Sondag te werk, daar geag word dat hy vier uur gewerk het;

(ii) werk op 'n Sondag nie betaling vir oortyd sal meebring wat die besoldiging in hierdie subklousule voorskryf, te bowe gaan nie.

(5) Wanneer 'n deurlopendeproseswerker gedurende sy vry periode werk, moet sy werkgever hom minstens dubbel sy gewone loon betaal ten opsigte van die hele tydperk wat hy gedurende sodanige vry periode werk: Met dien verstande dat as daar van sodanige werknemer vereis of hy toegelaat word om minder as vier uur gedurende sodanige vry periode te werk, daar geag word dat hy vier uur gewerk het.

(6) Wanneer 'n deurlopendeproseswerker of 'n skofwerker 'n skof werk wat gedeeltelik op 'n opanbare vakansiedag wat in subklousule (1) genoem word, of op 'n Sondag of gedurende sy vry periode en gedeeltelik op enige ander dag val, daar geag word dat die hele skof gewerk was op die dag waarop die grootste gedeelte van sodanige skof val.

(7) Hierdie klousule is nie op 'n daaglikse werknemer of 'n wag van toepassing nie.

9. STUKWERK

(1) 'n Werkgever kan, nadat hy minstens een week vooraf kennis aan sy werknemer gegee het, 'n stukwerkstelsel invoer, en sodanige werkgever moet, behoudens klousule 4 (6), sy werknemer wat volgens sodanige stukwerkstelsel werk, besoldig teen die tariewe wat ooreenkomstig sodanige stelsel van toepassing is: Met dien verstande dat die werkgever, ongeag die hoeveelheid werk wat verrig is, die werknemer moet betaal—

(a) in die geval van 'n werknemer, uitgesonderd 'n daaglikse werknemer, vir elke week waarin stukwerk verrig word, minstens die bedrag wat hy so 'n werknemer vir daardie week sou moes betaal het as hy hom 'n tydloon betaal het;

(b) in die geval van 'n daaglikse werknemer, vir elke dag waarop stukwerk verrig word, minstens die bedrag wat hy so 'n werknemer vir daardie dag sou moes betaal het as hy hom 'n tydloon betaal het.

(2) 'n Werkgever moet 'n lys van die besoldiging in subklousule (1) bedoel, op 'n opvallende plek in sy bedryfsinrigting opgeplak hou.

(3) 'n Werkgever wat voornemens is om 'n bestaande stukwerkstelsel of die besoldiging wat daarvolgens van toepassing is, af te skaf of te wysig, moet aan sy werknemer wat volgens sodanige stelsel werk, minstens een maand kennis van sodanige voorneme gee: Met dien verstande dat 'n werkgever en sy werknemer oor 'n langer kennisgewing termyn ooreen kan kom, en in so 'n geval mag die werkgever nie vir 'n korter termyn as dié waaroor daar ooreengekom is, kennis gee nie.

(4) Ondanks andersluidende bepalinge in hierdie klousule, hoef 'n werkgever nie 'n daaglikse werknemer kennis te gee van sy voorneme om 'n stukwerkstelsel in te voer of af te skaf of te wysig nie.

10. UNIFORMS, OORPAKKE EN BESKERMENDE KLERE

'n Werkgever moet alle uniforms, oorpakke, wasjasse, voorskote, pette, stewels of ander beskermende klere wat hy van sy werknemer vereis om te dra of wat hy ingevolge enige wet verplig is om aan sy werknemer te verskaf, gratis verskaf en in 'n bruikbare en sinderlike toestand hou; en alle sodanige artikels bly die eiendom van die werkgever.

11. VERBOD OP INDIENSNEMING

'n Werkgever mag niemand onder die leeftyd van 15 jaar in diens neem nie.

12. BEEÏNDIGING VAN DIENSKONTRAK

(1) 'n Werkgever of sy werknemer, uitgesonderd 'n daaglikse werknemer, wat die dienskontrak wil beëindig, moet—

(a) gedurende die eerste vier weke diens, minstens een werkdag;

(b) pay him at a rate not less than one and one-third times his ordinary wage in respect of the total period worked by him on such Sunday, and grant him within seven days of such Sunday one day's leave and pay him in respect thereof not less than his daily wage: Provided that where such an employee is required or permitted to work for less than four hours on such Sunday, he shall be deemed to have worked for four hours.

(4) Whenever a continuous process worker works on a Sunday his employer shall pay him at a rate of not less than one and one-third times his ordinary wage in respect of the total period worked by him on such Sunday; Provided that—

(i) where such an employee is required or permitted to work for less than four hours on such Sunday he shall be deemed to have worked for four hours;

(ii) work on a Sunday shall not attract payment for overtime over and above the rate of remuneration prescribed in this subclause.

(5) Whenever a continuous process worker works during his free period his employer shall pay him at a rate of not less than double his ordinary wage in respect of the total period worked by him during such free period: Provided that where such an employee is required or permitted to work for less than four hours during such free period he shall be deemed to have worked for four hours.

(6) Whenever a continuous process worker or a shift worker works a shift which falls partly on any public holiday mentioned in subclause (1), on a Sunday or during his free period and partly on any other day, the whole shift shall be deemed to have been worked on the day on which the major portion of such shift fell.

(7) This clause shall not apply to a daily employee or a watchman.

9. PIECE-WORK

(1) An employer may, after at least one week's notice to his employee, introduce any piece-work system and, save as provided in clause 4 (6) such employer shall pay his employee, who is employed on such piece-work system, remuneration at the rates applicable under such system: Provided that, irrespective of the quantity of work done, the employer shall pay such employee not less than—

(a) in the case of an employee, other than a daily employee, in respect of each week in which piece-work is performed, not less than the amount which he would have been required to pay such employee for that week had he been remunerated on the basis of time worked;

(b) in the case of a daily employee, in respect of each day on which piece-work is performed, not less than the amount which he would have been required to pay such employee for that day had he been remunerated on the basis of time worked.

(2) An employer shall keep posted up in a conspicuous place in his establishment a schedule of the rates referred to in subclause (1).

(3) An employer who intends to cancel or amend any piece-work system in operation or the rates applicable thereunder shall give his employee employed on such system not less than one month's notice of such intention: Provided that an employer and his employee may agree on a longer period of notice, in which case the employer shall give notice for a period not shorter than that agreed upon.

(4) Notwithstanding anything to the contrary contained in this clause, an employer need not give a daily employee notice of his intention to introduce or to cancel or amend any piece-work system.

10. UNIFORMS, OVERALLS AND PROTECTIVE CLOTHING

An employer shall supply and maintain in serviceable and tidy condition, free of charge, any uniform, overall, washing coat, apron, cap, boots or protective clothing, which he requires his employee to wear or which by any law he is compelled to provide to his employee and any such article shall remain the property of the employer.

11. PROHIBITION OF EMPLOYMENT

An employer shall not employ any person under the age of 15 years.

12. TERMINATION OF CONTRACT OF EMPLOYMENT

(1) An employer or his employee, other than a daily employee, who desires to terminate the contract of employment, shall give—

(a) during the first four weeks of employment, not less than one workday's;

(b) na die eerste vier weke diens, minstens een week; vooraf kennis van die beëindiging van die kontrak gee, of 'n werkgewer of 'n werknemer kan die kontrak sonder kennisgewing beëindig deur, in plaas van sodanige kennisgewing, aan die werknemer of die werkgewer, na gelang van die geval, te betaal—

(i) in die geval van een werkdag kennisgewing, minstens die dagloon wat die werknemer ten tyde van sodanige beëindiging ontvang;

(ii) in die geval van een week kennisgewing, minstens die weekloon wat die werknemer ten tyde van sodanige beëindiging ontvang;

Met dien verstande dat—

(aa) die reg van 'n werkgewer of sy werknemer om die kontrak op 'n regsgeldige grond sonder kennisgewing te beëindig;

(ab) 'n skriftelike ooreenkoms tussen 'n werkgewer en sy werknemer waarin voorsiening gemaak word vir 'n kennisgewingstermyn wat vir beide partye ewe lank is en langer is as dié wat in hierdie klousule voorgeskryf word;

(ac) die werking van 'n verbeuring of boete wat regtens van toepassing mag wees op 'n werknemer wat dros;

nie hierdeur geraak word nie: Voorts met dien verstande dat, indien die loon van 'n werknemer op die datum van die beëindiging verminder is deur aftrekkings ten opsigte van korttyd en die werkgewer hom betaal in plaas van kennis te gee, die uitdrukking "ten tyde van sodanige beëindiging ontvang" geag word te beteken "ten tyde van sodanige beëindiging sou ontvang het as geen bedrag weens korttyd afgetrek was nie".

(2) Indien daar 'n ooreenkoms ingevolge die tweede voorbehoudsbepaling van subklousule (1) bestaan, moet die betaling in plaas van kennisgewing eweredig wees aan die kennisgewingstermyn waarvoor daar ooreengekom is.

(3) Die kennisgewing by subklousule (1) voorgeskryf, kan op enige werkdag geskied: Met dien verstande dat—

(i) die kennisgewingstermyn nie mag saamval nie met, en die kennisgewing nie mag geskied nie gedurende 'n werknemer se afwesigheid met verlof ingevolge klousule 6;

(ii) daar nie gedurende 'n werknemer se afwesigheid met siekteverlof ooreenkomstig klousule 7 of gedurende enige tydperk van afwesigheid weens ongeskiktheid wat plaasvind in omstandighede soos uiteengesit in klousule 7 (1) (ii) of (iv) en wat in totaal, in enige jaar, hoogstens 10 weke is, kennis gegee mag word nie.

(4) Ondanks andersluidende bepalings in hierdie Vasstelling mag 'n werkgewer, in die geval waar 'n werknemer sy dienskontrak beëindig deur sy diens te verlaat sonder om kennis te gee en sonder om die kennisgewingstermyn uit te dien of sonder om sy werkgewer te betaal in plaas van kennis te gee, uit enige geld wat hy sodanige werknemer uit hoofde van enige bepaling van hierdie Vasstelling skuld, aan homself 'n bedrag toeëien van hoogstens dié wat sodanige werknemer hom sou moes betaal het in plaas van kennis te gee: Met dien verstande dat wanneer 'n werkgewer 'n bedrag aldus aan homself toeëien het in plaas van kennisgewing, daar by die toepassing van klousule 6 (5) geag word dat die werknemer die werkgewer betaal het in plaas van kennis te gee.

(Kennisgewing.—Kragtens artikel 18 van die Loonwet, 1957, vervang die Loonvasstelling in die bostaande Bylae Loonvasstelling 340, gepubliseer by Goewermentskennisgewing R. 2260 van 17 Desember 1971, soos gewysig by Goewermentskennisgewing R. 1130 van 29 Junie 1973.)

No. R. 410

9 Maart 1979

WET OP FABRIEKE, MASJINERIE EN BOUWERK, 1941

ONGESKOOLDE ARBEID, KAAP

Ek, Stephanus Petrus Botha, Minister van Arbeid, verklaar hierby kragtens artikel 22 (1) van die Wet op Fabriek, Masjinerie en Bouwerk, 1941, dat die bepalings van die Loonvasstelling vir Ongeskoolde Arbeid, Kaap, gepubliseer by Goewermentskennisgewing R. 409

(b) after the first four weeks of employment, not less than one week's;

notice of termination of contract, or an employer or employee may terminate the contract without notice by paying the employee or paying the employer, as the case may be, in lieu of such notice not less than—

(i) in the case of one workday's notice, the daily wage which the employee is receiving at the time of such termination;

(ii) in the case of one week's notice, the weekly wage which the employee is receiving at the time of such termination;

Provided that this shall not affect—

(aa) the right of an employer or his employee to terminate the contract without notice for any cause recognised by law as sufficient;

(ab) any written agreement between an employer and his employee which provides for a period of notice of equal duration on both sides and for longer than that prescribed in this clause;

(ac) the operation of any forfeitures or penalties which by law may be applicable in respect of an employee who deserts;

Provided further that where the wage of an employee at the date of termination has been reduced by deductions in respect of short time, the expression "is receiving at the time of such termination" shall, when an employer pays an employee in lieu of notice, be deemed to mean "would have received at the time of such termination if no deduction had been made in respect of short-time".

(2) Where there is an agreement in terms of the second proviso to subclause (1), the payment in lieu of notice shall be commensurate with the period of notice agreed upon.

(3) The notice prescribed in subclause (1) may be given on any workday: Provided that—

(i) the period of notice shall not run concurrently with nor shall notice be given during an employee's absence on leave granted in terms of clause 6;

(ii) notice shall not be given during an employee's absence on sick leave granted in terms of clause 7 or during any period of absence through incapacity which occurs in the circumstances set out in clause 7 (1) (ii) or (iv) and which in the aggregate does not exceed 10 weeks in any year.

(4) Notwithstanding anything to the contrary contained in this Determination, where an employee terminates his contract of employment by leaving his employment without having given and served the required period of notice or without paying his employer in lieu of notice, his employer may appropriate to himself, from any moneys which he owes to such employee by virtue of any provisions of this Determination, an amount of not more than that which such employee would have had to pay him in lieu of notice: Provided that whenever an employer has thus appropriated to himself any amount in lieu of notice, the employee shall for the purposes of clause 6 (5) be deemed to have paid the employer in lieu of notice.

(Notice.—In terms of section 18 of the Wage Act, 1957, the Wage Determination in the above Schedule supersedes Determination 340, published under Government Notice R. 2260 of 17 December 1971, as amended by Government Notice R. 1130 of 29 June 1973.)

No. R. 410

9 March 1979

FACTORIES, MACHINERY AND BUILDING WORK ACT, 1941

UNSKILLED LABOUR, CAPE

I, Stephanus Petrus Botha, Minister of Labour, hereby in terms of section 22 (1) of the Factories, Machinery and Building Work Act, 1941, declare the provisions of the Wage Determination for Unskilled Labour, Cape, published under Government Notice R. 409 of

van 9 Maart 1979, oor die algemeen vir die werknemers wie se werkure en besoldiging ten opsigte van oortyd, openbare feesdae en werk op Sondag en openbare feesdae daarby gereël word, nie minder gunstig is nie as die desbetreffende bepalings van genoemde Wet.

S. P. BOTHA, Minister van Arbeid.

9 March 1979 to be, on the whole, not less favourable to the employees whose hours of work and remuneration in respect of overtime, public holidays and work on Sundays and public holidays are regulated thereby, than the relative provisions of the said Act.

S. P. BOTHA, Minister of Labour.

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