

WRITTEN PARTICULARS OF EMPLOYMENT

WHAT IS MEANT BY 'WRITTEN PARTICULARS OF EMPLOYMENT'

It is a requirement of the Basic Conditions of Employment Act 75 of 1997 (BCEA) for an employer, except an employer who employs fewer than five employees, to provide an employee with written particulars of employment. This does not apply where an employee works for less than 24 hours a month. This information may also form part of a written contract of employment. The employer needs to ensure that the employee understands the contents of the document, and where necessary obtain the assistance of someone to explain the contents in a form and language that the employee will understand.

Should any details change, the written particulars of employment document should be amended accordingly.

INFORMATION THAT MUST BE INCLUDED IN THE WRITTEN PARTICULARS OF EMPLOYMENT DOCUMENT

The following information must be included:

- Full name and address of employer;
- Name of employee;
- The employee's job or a short job description;
- The place of work (if more than one, name them all);
- Date on which the employee started work;
- Days and hours of work, for example Monday to Friday 08h00-16h30 or Wednesday and Saturday 09h00-18h00.

Particulars must be revised if the terms or conditions of employment change.

REMUNERATION

Wages, for example R3500 per month, or rate / method of payment, for example R100 for each dress made. Payment for overtime, if there is any / conditions for working overtime. State if any other cash will be paid, for example an annual bonus. State any payments in kind and the value thereof, for example accommodation provided valued at Rx per month, or one meal provided on every day worked valued at Rx per meal.

When the employee will be paid, for example: monthly on the last day of the month or weekly on Fridays. Any deductions, for example UIF, medical aid, provident fund, company loan or personal income tax.

The following particulars of payment must be given in writing when the employee is paid:

- Employer's name and address;
- Employee's name and occupation;
- The period for which payment is made;
- Remuneration in money;
- The amount and purpose of any deduction made from the remuneration.
- The actual amount paid to the employee;
- Ordinary hours and overtime worked during the same period of payment.

The employer must keep records of this information. While the provision of a 'payslip' does not apply to employers who employ fewer than five employees or where an employee works less than 24 hours per month for the same employer, it is still advisable for such information to be given to the employees in writing.

LEAVE

The leave to which the employee is entitled:

- Annual leave (holiday);
- Sick leave;
- Family responsibility leave;
- Maternity leave; and
- Study leave (where applicable).

NOTICE

The period of notice required to terminate employment, for example, a year = four weeks' notice.

Or if employment is for a specified period, the date when the employment is to terminate. A fixed-term contract must be clearly stated, for example 1 January to 31 January.

OTHER

A description of any council or sectoral determination which covers the employer's business.

Any period of employment with a previous employer that counts towards the employee's period of employment, for example, where a company was sold as a going concern and employment contracts were transferred.

A list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained, for example medical aid rules, company policies or performance criteria.

APPLICATION

Employees, except those excluded by the BCEA, should have written particulars of employment. It is the role of the Department of Employment and Labour to monitor compliance with this requirement.

An employer must keep such records for a period of three years after the termination of an employee's employment. A labour inspector has the power, without warrant or notice, to enter any workplace (excluding a domestic household) at any reasonable time in order to monitor and enforce compliance with the BCEA. The inspector may question a person on any employment law matter and require disclosure of information, as well as inspect certain documents or records.

However, when a fixed-term contract is entered into and the employee will earn below the BCEA threshold, legislation requires this contract of employment to be in writing.

RELEVANT LEGISLATION

- Basic Conditions of Employment Act 75 of 1997 as amended.