

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR

NO. 1386

07 NOVEMBER 2016

NOTICE ON REVISION OF ASSESSMENTS

Introduction

The Compensation Fund has been receiving a number of requests from employers to revise assessments.

The Compensation Fund analysed the Compensation for Occupational Injuries and Diseases Act (COID Act) and the relevant provision in the Act dealing with returns on earning, assessments provided under chapter IX of the Act, and wishes to bring the following to the employers:

A. Section 82 (Employer to furnish returns of earnings) of the Act provide as follows:

(1) Subject to subsection (1A), an employer, excluding an employer referred to in section 84 (1) (a) and (b), shall not later than the thirty-first day of March in each year furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing –

- (a) the amount of earnings up to maximum contemplated in section 83(8) paid by him, her or it to his, her or its employees during the period with effect from the first day of March of the immediately preceding year up to and includes the last day of February of the following year.
- (b) such further information as may be prescribed of as the Director-General may require.

(1A) An employer who commences business after the last day of February of a particular year shall within seven days after such commencement furnish the commissioner with a return in the prescribed form, certified by him, her or it as correct, showing the estimated earnings of his, her or its employees for the period with effect from the commencement of the business up to and including the last day of February of the following year.

(2) If an employer carries on business at more than one place or if the carries on more than once class of business, the commissioner may require a separate return for each place or class of business from him.



(3) If in a return referred to in subsection (1) the amount shown as earnings, excluding earnings exceeding the maximum contemplated in subsection 83 (8), is less than the amount actually paid, the Director-General may impose upon and recover from the employer a fine not exceeding 10 per cent of the difference between the amount shown and the actual amount.

(4) The Director-General may reduce any fine referred to in subsection (3).

(5) In an employer fails to furnish a return or if the estimate of earnings which an employer expects to pay during a particular period is in the opinion of the Director-General too low, the Director-General may himself estimate the earnings concerned.

(6) An employer who fails to comply with the provisions of this section shall be guilty of an offence.

B. Section 83 (Assessment of employer) provides as follows:-

(1) Subject to provisions of this section, an employer shall be assessed or provisionally assessed by the Director-General according to a tariff of assessment calculated on the basis of such percentage of the annual earnings of his, her or its employees as the Director-General with due regard to the requirements of the compensation fund for the year of assessment may deem necessary.

(2) Notwithstanding subsection (1), the Director-General may-

- (a) assess a particular employer of category of employers on such other basis as he may deem equitable;
- (b) levy a minimum assessment in respect of a particular employer or category of employers.

(3) In determining the tariff of assessment the Director-General shall provide for the capitalized value of pensions.

(4) For the purpose of this section earnings shall be calculated in the prescribed manner.

(5) If the earnings actually paid by an employer in respect of a particular period differ from the earnings shown in respect of that period in the return concerned, the Director-General shall adjust his assessment accordingly.

(6) If an employer fails to furnish the Director-General within the prescribed period with a return in terms of section 82 in respect of a particular period, the Director-General may-

- (a) assess the employer on the basis of the earnings estimated in accordance with section 82(5);
- (b) impose upon and recover from the employer a fine not exceeding 10 per cent of the amount so assessed;
- (c) where it later appears that the actual earnings were more than the earnings estimated under paragraph (a), recover the difference in the assessment from the employer, and




- may impose and recover a fine on such difference as contemplated in paragraph (b);
and
(d) where it later appears that the actual earnings were less than the earnings estimated under paragraph (a), make the necessary adjustment.

(7) An assessment of an employer shall be paid at such time and in such manner as the Director-General may determine.

(8) The Minister may, on the recommendation of the Director-General and after consultation with the Board, prescribe by notice in the Gazette a maximum amount of earnings on which an assessment of an employer shall be calculated by the Director-General.

As the employer has certified the information as correct, in terms of section 82(1) and 82(1A) above, the COID Act does not make provisions for request of revision of assessment after it was certified as correct. The Fund will not entertain any requests of revision submitted outside the allowable period of 30 calendar days.

Furthermore section 83(5) deals with actual earnings paid that differs to the earnings shown in the return concerned, and therefor it cannot be interpreted or construed as allowing employers the right to revise earnings after they were certified as correct by the employer.


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V Mafata
Compensation Fund: Commissioner
Date: 29/8/16
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