

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.
- Date of payment.
- Remuneration in money and rate of remuneration if applicable.
- Ordinary hours and overtime worked during the same period of payment.
- Deductions, if any were made.

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

Set out how many days or how much time is provided for each of the following types of leave—

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

NOTICE

- The notice period must be stated, for example, a year = four weeks' notice.
- A fixed-term contract must be clearly stated, for example 1 January to 31 January ----.

OTHER

Describe any bargaining or statutory council or sectoral determination made by the Minister (if any), which may apply to the nature of the work that the employee does.

State if the period that the employee worked for a previous employer counts as part of the employee's period of service with the current employer, for example, where a company was sold as a going concern and employment contracts were transferred.

A list of other documents that are part of the contract, 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 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.

RELEVANT LEGISLATION

- Basic Conditions of Employment Act 75 of 1997 as amended