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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 306

30 March 2001

BASIC CONDITIONS OF EMPLOYMENT ACT, NO 75 OF 1997**AMENDMENT OF SECTORAL DETERMINATION 3: PRIVATE SECURITY SECTOR,
SOUTH AFRICA**

I, Mernbathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 56(1) of the Basic Conditions of Employment Act, No. 75 of 1997, amend Sectoral Determination 3: Private Security Sector, South Africa, published under Government Notice R.196 of 25 February 2000, in accordance with the schedule hereto and fix the second Monday after the date of publication of this notice as the date from which the said amendment shall be binding.

**M M S MDLADLANA, MP
MINISTER OF LABOUR**

SCHEDULE

1. Clause 2 -

Delete the numbering of the definitions, (1) to (53), and insert the following definitions alphabetically in the appropriate places:

"actuary" means the actuary to the fund appointed by the administrators in terms of the rules;

"administrators" means Fedsure Life Assurance Limited and such other administrator of the fund's investments or the disposition of its benefits as may be appointed by the board from time to time in accordance with the Retirement Funds Act and the rules;

"board" means the fund's board of management in accordance with its rules and the Retirement Funds Act;

"contribution" means the amount payable monthly to the fund by each employer in the Sector in respect of each of his/her employees whose conditions of employment are governed by Sectoral Determination 3: Private Security Sector, South Africa.

"fund" means The Private Security Sector Provident Fund;

"Retirement Funds Act" means the Pension Funds Act, 1956 (Act No. 24 of 1956), and the regulations thereunder;

"rules" means the rules of the fund agreed between the board and the administrators in accordance with the Retirement Funds Act.

2. Insert the following after clause 22 -

23. PRIVATE SECURITY SECTOR PROVIDENT FUND

- (1) The fund is bona fide permanently established to provide, in accordance with the rules, pension and/or lump sum benefits on the retirement of its members and upon any other termination of their employment in the Sector, including benefits for members' dependants and/or nominated beneficiaries upon a member's death before the normal retirement age as specified in the rules. The board shall, in the name of the fund, insure lump sum death and disability benefits with an insurer registered in accordance with the Long-Term Insurance Act, 1998 (Act No. 52 of 1998).

- (2) **Contributions:** Each employer shall, within 7 days of the end of each month, pay to the administrators the sum of the contributions due in respect of all his/her employees in terms of the rules:
- (a) in South African currency;
 - (b) in cash, by cheque or by direct deposit in an account designated by the administrators, and
 - (c) together with such particulars as are required in terms of the Retirement Funds Act and/or by the board;
 - (d) The contribution payable shall constitute an amount calculated at a rate of not less than 10% of the employee's wage or as amended by the Board of Management from time to time; and
 - (e) Such amount as referred to in paragraph (d) shall constitute an equal contribution by an employer and employee.
- (3) **Membership:**
- (a) Each employee shall, upon payment of the first contribution by his or her employer in his or her respect in accordance with the rules become a member of the fund with effect from the beginning of the period in respect of which said first contribution is paid.
 - (b) A former employee's membership of the fund shall terminate upon payment of the benefit due in terms of the rules.
- (4) **Administration of the Fund:**
- (a) The board shall direct, control and oversee the operation of the fund in accordance with the rules and the Retirement Funds Act.
 - (b) The board may delegate such functions as the administrators agree to perform in respect of the fund.
- (5) **Exemptions:**
- (a) Any application by an employer for exemption hereunder shall in no way whatsoever affect the employer's obligations, nor his/her employees' rights, with regard to the payment of all contributions and benefits in terms of the rules of that employer's fund and/or his/her employees' conditions of employment.
 - (b) An employer who, in respect of all his/her employees [other than as described in clause 1.(3)] at the date of publication of this amendment, already participates in a retirement fund that -

- (aa) complies with the requirements of the Retirement Funds Act;
- (ab) is approved by the Commissioner for the South African Revenue Service;
and
- (ac) provides benefits comparable to those provided by the fund;

may, with the agreement of a majority of his employees as aforesaid, in writing apply to the board for exemption from contributing to the fund in accordance with the rules, provided that -

- (i) the board may only grant such exemption if, after consultation with the actuary and due consideration of such documents and information in respect of that employer's fund as it requires, it is of the opinion that the benefits provided by that employer's fund are overall more favourable than those provided by the fund;
 - (ii) the board may grant exemption on such terms and conditions, and for such duration, as it may determine and, upon expiry of the period of exemption or, if sooner, non-compliance with any of the terms or conditions of exemption, the employer concerned shall forthwith commence contributing to the fund in respect of his employees subject to a new application for exemption as aforesaid.
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