

Unemployment Insurance Act, 2001

(English text signed by the President.)
(Assented to 13 January 2002.)

Amended up to and including the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003).

ACT

To establish the Unemployment Insurance Fund; to provide for the payment from the Fund of unemployment benefits to certain employees, and for the payment of illness, maternity, adoption and dependant's benefits related to the unemployment of such employees; to provide for the establishment of the Unemployment Insurance Board, the functions of the Board and the designation of the Unemployment Insurance Commissioner; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows :-

Unemployment Insurance Act, 2001

Chapter 1 : Introductory Provisions

1. Definitions

1) In this Act unless the context indicates otherwise -

"actuary"

means a person appointed in terms of section 9(1);

"agent"

means any person appointed under section 58(9);

"benefits"

means benefits contemplated in section 12;

"Board"

means the Unemployment Insurance Board established in terms of section 47;

"CCMA"

~~[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)];~~

"claims officer"

means any claims officer appointed in terms of section 46;

"child"

means a person as contemplated in section 30(2) who is under the age of 21 years and includes any person under the age of 25 who is a learner and who is wholly or mainly dependent on the deceased;

"Commissioner"

means the Unemployment Insurance Commissioner designated as such under section 43;

"contribution"

means the amount payable by the employer or a contributor in terms of the Unemployment Insurance Contributions Act;

"contributor"

means a natural person -

- a) who is or was employed;
- b) to whom this Act, in terms of section 3, applies; and
- c) who can satisfy the Commissioner that he or she has made contributions for purposes of this Act;

"Director-General"

means the Director-General of the Department of Labour and any officer in the Department of Labour to whom the Director-General has delegated any function in terms of section 58(3);

"domestic worker"

means an employee who performs domestic work in the home of his or her employer, and includes a -

- a) gardener;
- b) person employed by a household as a driver of a motor vehicle; and
- c) person who takes care of any person in that home, but does not include a farm worker.

"employee"

means any natural person who receives remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person, but excludes any independent contractor;

"employee's contribution"

means the amount prescribed in terms of the Unemployment Insurance Contributions Act;

"employer"

means any person, including a person acting in a fiduciary capacity, who pays or is liable to pay to any person any amount by way of remuneration, and any person responsible for the payment of any amount by way of remuneration to any person under the provisions of any law or out of public funds, excluding any person who is not acting as a principal;

"employment office"

means any office of the Department of Labour or any agency designated for this purpose by the Director-General in terms of section 58(9);

"financial year"

means the period between the first day of April in any year and the thirty-first day of March in the next year, both dates included;

"Fund"

means the Unemployment Insurance Fund established by section 4;

"labour inspector"

means -

- a) an inspector appointed under section 63 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997); or
- b) any person designated by the Minister under that section to perform any function of a labour inspector;

"Minister"

means the Minister of Labour;

"month"

means the period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days included;

"National Appeals Committee"

means the appeals committee contemplated in section 50(2)(a)(i);

"NEDLAC"

means the National Economic, Development and Labour Council established by section 2 of the National Economic, Development and Labour Council Act, 1994 (Act No. 35 of 1994);

"officer"

means an officer as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

"prescribed"

means prescribed by regulation;

"public service"

means the public service as contemplated in section 197 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"regional appeals committee"

means a regional appeals committee established in terms of section 36A;

"regulation"

means a regulation made under this Act;

"remuneration"

means "remuneration" as defined in section 1 of the Unemployment Insurance Contributions Act;

"seasonal worker"

[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)]

"this Act"

includes any regulation;

"Unemployment Insurance Contribution Act"

means the Unemployment Insurance Contribution Act, 2002 (Act No. 4 of 2002);

"week"

means any period of seven consecutive days.

Unemployment Insurance Act, 2001

Chapter 1 : Introductory Provisions

2. Purpose of this Act

The purpose of this Act is to establish an unemployment insurance fund to which employers and employees contribute and from which employees who become unemployed or their beneficiaries, as the case may be, are entitled to benefits and in so doing to alleviate the harmful economic and social effects of unemployment.

Unemployment Insurance Act, 2001

Chapter 1 : Introductory Provisions

3. Application of this Act

referenced by :

- 1) This Act applies to all employers and employees, other than –
 - a) employees employed for less than 24 hours a month with a particular
 - b) employees under a contract of employment contemplated in section 18(2) of the Skills Development Act, 1998 (Act NO. 97 of 1998), and employer, and their employers; their employers;
 - c) employees in the national and provincial spheres of government who are officers or employees as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and their employers;
 - d) persons who enter the Republic for the purpose of carrying out a contract of service, apprenticeship or learnership within the Republic if upon the termination thereof the employer is required by law or by the contract of service, apprenticeship or learnership, as the case may be, or by any other agreement or undertaking, to repatriate that person, or that person is so required to leave the Republic, and their employers; and
 - e) persons who receive a monthly pension as contemplated in section 14(a)(i) and their employers.
- 2) ~~[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)].~~
- 3) ~~[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)].~~

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

4. Establishment of Unemployment Insurance Fund

referenced by :

- 1) The Unemployment Insurance Fund is hereby established.

- 2) The Fund consists of –
 - a) the contributions made by employers and employees and collected by the Commissioner of the South African Revenue Service in terms of the Unemployment Insurance Contributions Act;
 - b) the contributions made by employers and employees and collected by the Commissioner in terms of the Unemployment Insurance Contributions Act;
 - c) money appropriated by Parliament;
 - d) any penalties and fines imposed in terms of this Act other than by a court of law;
 - e) any interest or return on investment made by the Fund;
 - f) any money paid erroneously to the Fund which: in the opinion of the Director-General, cannot be refunded;
 - g) any bequest or donation received by the Fund;
 - h) any movable or immovable property purchased or otherwise acquired by the Fund; and
 - i) any other money to which the Fund may become entitled.

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

5. Application of Fund

- 1) The Fund must be used for the –
 - a) payment of benefits in terms of this Act;
 - b) reimbursement of excess contributions to employers;
 - c) payment of –
 - i) remuneration and allowances to members of the Unemployment
 - ii) any other expenditure reasonably incurred and relating to the application Insurance Board and its committees; and of this Act.

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

6. Raising of funds, loans and obtaining bank overdraft facilities

The raising of funds by way of loans and bank overdraft facilities in respect of the Fund must be done in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

7. Investment of money of Fund

- 1) The money of the Fund other than money required to meet the current expenditure of the Fund may be deposited on behalf of the Fund by the Director-General with the Public Investment Commissioners to be invested in terms of the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984).
- 2) Any profit on investments accrues to the Fund and any loss must be borne by the Fund

Unemployment Insurance Act, 2001
Chapter 2 : Unemployment Insurance Fund
8. Donations and bequests to Fund

- 1) Any person body, corporation, organisation or financial or other institution may make a donation or bequest to the fund.
- 2) The Director-General may accept donations or bequests for and on behalf of the fund.

Unemployment Insurance Act, 2001
Chapter 2 : Unemployment Insurance Fund
9. Appointment of and annual review by actuary

referenced by :

- 1) The Director-General must appoint an actuary who is a member of the Actuarial Society of South Africa or who is supervised by a member of that Society to perform the functions assigned to the actuary in this Act.
- 2) Within two months after the end of each financial year, the actuary must review the financial soundness of the Fund for that financial year, and provide an actuarial valuation report to the Director-General.
- 3) The actuarial valuation report must contain -
 - a) a statement –
 - i) reflecting the actuarial value of the assets and liabilities of the Fund;
 - ii) on the financial soundness of the Fund; and
 - iii) on whether or not there was a surplus or deficit in the Fund in the financial year in question;
 - b) an indication of –
 - i) the basis and method used to value the assets and liabilities of the Fund;
 - ii) any changes to the basis and method used to value the Fund as compared with the actuarial valuation report of the previous year; and
 - iii) any special consideration or restriction that the Director-General brought to the attention of or made applicable to the actuary in performing the functions in terms of this section;
 - c) an explanatory note on any matter relevant to obtaining a true and meaningful position of the Fund;
 - d) recommendations for the maintenance or improvement of the financial statement of the financial soundness of the Fund.

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

10. Surplus and deficit in Fund

referenced by :

- 1) Subject to subsection (2), the Director-General must report and make recommendations to the Minister if the difference between income and expenditure of the Fund is –
 - a) greater than is required to meet payments for benefits; or
 - b) insufficient or not increasing at a sufficient rate to meet payments for benefits that may reasonably be anticipated.
- 2) The Director-General may only submit the report contemplated in subsection (1) after having consulted with the Board and the actuary on the contents of the report.
- 3) In respect of a report contemplated in subsection (1)(a), the Minister, after consultation with the Board, may utilise the surplus to give effect to the purposes of this Act, including –
 - a) improving the administrative efficiency and capacity of the Board and Fund; and
 - b) establishing a reserve fund.
- 4) In respect of a report contemplated in subsection (1)(b), the Minister may request the Minister of Finance to adjust the national budget in the manner contemplated in sections 16 and 30 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), in order to cover any deficit in the Fund.

Unemployment Insurance Act, 2001

Chapter 2 : Unemployment Insurance Fund

11. Accounting, auditing and financial reporting

referenced by :

- 1) Despite section 49(2) to (5) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Director-General is the accounting authority for the Fund.
- 2)
 - a) At the beginning of each financial year, the Director-General must file a business plan, approved by the Minister, with the National Treasury.
 - b) The Commissioner must compile the business plan with the assistance of the actuary and the Board.
- 3) In addition to the matters which must be included in the annual report and financial statements referred to in section 55 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the annual report must set out and contain a statement showing –
 - a) the total number of persons who received benefits in terms of this Act;
 - b) the total number of employers who paid contributions in terms of the Unemployment Insurance Contributions Act;
 - c) the total number of contributors who paid contributions in terms of the Unemployment Insurance Contributions Act;
 - d) the total number of persons deemed to be contributors under section 45;
 - e) the total monetary value of benefits provided in respect of each category of benefit;
 - f) a statement setting out the loans, overdrafts, advances and financial commitments of the Fund;
 - g) the particulars of all donations and bequests received by the Fund;
 - h) the actuarial valuation report contemplated in section 9;

- i) particulars of the use of all immovable and movable property acquired by the Fund for purposes contemplated in section 58(6) and (7);
- j) any amount written off in terms of section 58(8); and
- k) any other matter determined by the Minister.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part A: Right to benefits

12. Right to benefits

referenced by :

- 1) Subject to the provisions of this Act, a contributor or a dependant, as the case may be, is entitled to the following benefits :
 - a) Unemployment benefits contemplated in Part B of this Chapter;
 - b) illness benefits contemplated in Part C of this Chapter;
 - c) maternity benefits contemplated in Part D of this Chapter;
 - d) adoption benefits contemplated in Part E of this Chapter; and
 - e) dependant's benefits contemplated in Part F of this Chapter.

- 1A) A contributor who is employed as a domestic worker by more than one employer and whose employment is terminated by one or more employers is, despite still being employed, entitled to benefits in terms of this Act if the contributor's total income falls below the benefit level that the contributor would have received if he or she had become wholly unemployed.

- 2) An example of the scale of benefits to which a contributor is entitled is contained in Schedule 3, as calculated from Schedule 2.

- 3)
 - a) The Minister may, with the concurrence of the Minister of Finance, by notice in the Gazette and subject to subsection (4), amend the scale of benefits contained in Schedule 3 in accordance with a maximum monthly rate of remuneration of a skilled manual labourer as determined by the Social Security (Minimum Standards) Convention, 1953 (Convention No. 102), of the International Labour Organisation.
 - b) The scale of benefits contemplated in paragraph (a) may vary between a maximum rate of 60% of remuneration for lower income contributors and a lower rate of remuneration for higher income contributors as will be determined by thresholds as set out in Schedule 3.

- 4) When acting in accordance with subsection (3), the Minister must –
 - a) consult with the Board and must have regard to budgeted -
 - i) contribution and investment income from the Fund;
 - ii) payment of benefits;
 - iii) provision to meet expenses related to administering this Act; and
 - iv) provision for contingency reserves; and
 - b) comply with the procedure set out in section 55, with the changes required by the context.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part A: Right to benefits
13. Calculation of benefits

referenced by :

- 1) Subject to subsection (2), for purposes of calculating the benefits payable to a contributor, the daily rate of remuneration of a contributor, subject to the prescribed maximum, must be determined –
 - a) if paid monthly, by multiplying the monthly remuneration by 12 and dividing it by 365;
 - b) if paid weekly, by multiplying the weekly remuneration by 52 and dividing it by 365.
- 2) If the contributor's remuneration fluctuates significantly from period to period, the calculation must be based on the average remuneration of that contributor over the previous six months.
- 3) Subject to subsection (5) , a contributor's entitlement to benefits in terms of this Chapter accrues at a rate of one day's benefit for every completed six days of employment as a contributor subject to a maximum accrual of 238 days benefit in the four year period immediately preceding the date of application for benefits in terms of this Chapter, less any days of benefit received by the contributor during this period.
- 4) For purposes of determining completed days of employment as contemplated in subsection (3), the period includes –
 - a) the day that a contributor commenced employment and runs up to and including the day on which employment was terminated; and
 - b) any period in respect of which -
 - i) an employee was paid remuneration in lieu of notice;
 - ii) a merchant seaman received remuneration in terms of section 140 of the Merchant Shipping Act, 1951 (Act NO. 57 of 1951).
- 5) The days of benefits that a contributor is entitled to in terms of subsection (3) may not be reduced by the payment of maternity benefits in terms of Part D of this Chapter.
- 6) For the purposes of calculating the benefits of a contributor contemplated in section 12(1A), the total income derived from continued employment plus the amount of benefits calculated may not exceed the benefits that would have been paid if the contributor had become wholly unemployed.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part A: Right to benefits
14. Contributor not entitled to benefits under certain circumstances

referenced by :

- 1) A contributor is not entitled to benefits for any period that the contributor –
 - a) was in receipt of –
 - i) a monthly pension from the State;

- ii) any benefit from the Compensation Fund established under the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), as a result of an occupational injury or disease, which injury or disease caused the total or temporary unemployment of that contributor;
- iii) benefits from any unemployment fund or scheme established by a council under section 28(g) or 43(1)(c) of the Labour Relations Act, 1995 (Act No. 66 of 1995);
- b) fails to comply with any provision of this Act or any other law relating to unemployment; or
- c) is suspended from receiving benefits in terms of section 36(1).

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part B: Unemployment benefits

15. Calculation of period of unemployment under this Part

- 1) For purposes of this Part, any period of unemployment must be calculated from the date of unemployment.
- 2) The date contemplated in subsection (1) may be moved to a date prior to the application if the claims officer is satisfied that any delay in making the application was caused by circumstances beyond the control of the contributor.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part B: Unemployment benefits

16. Right to unemployment benefits

- 1) Subject to section 14, an unemployed contributor is entitled to unemployment benefits contemplated in this Part for any period of unemployment lasting more than 14 days, if –
 - a) the reason for the unemployment is –
 - i) the termination of the contributor's contract of employment by the employer of that contributor or the ending of a fixed term contract,
 - ii) the dismissal of the contributor, as defined by section 186 of the Labour Relations Act, 1995 (Act No. 66 of 1995),
 - iii) insolvency in terms of the provisions of the Insolvency Act, 1936 (Act No. 24 of 1936); or
 - iv) in the case of a domestic worker, the termination of the contributor's contract of employment by the death of the employer of that contributor.
 - b) application is made in accordance with the prescribed requirements and the provisions of this Part;
 - c) the contributor is registered as a work-seeker with a labour centre established under the Skills Development Act, 1998 (Act No. 97 of 1998); and
 - d) subject to subsection (3), the contributor is capable of and available for work.
- 2) An unemployed contributor is not entitled to the benefits referred to in subsection (1) if –
 - a) the contributor fails to report at the times and dates stipulated by the claims officer in terms of section 17(4)(d); or

- b) the contributor refuses without just reason to undergo training and vocational counseling for employment under any scheme approved by the Director-General in terms of this Act or any other law.
- 3) Despite subsection (1)(d) and subject to section 20(1)(a), a contributor who becomes ill while in receipt of unemployment benefits, remains entitled to unemployment benefits if the claims officer is satisfied that the illness is not likely to prejudice the contributor's chance of securing employment.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part B: Unemployment benefits

17. Application for unemployment benefits

- 1) Application for unemployment benefits must be made in the prescribed form at an employment office.
- 2) The application must be made within six months of the termination of the contract of employment, but the Commissioner may accept an application made after the six-month time limit has expired on just cause shown.
- 3) The claims officer must investigate the application and, if necessary, request further information regarding the applicant's continued unemployment.
- 4) If the application complies with the provisions of this Chapter, the claims officer must –
 - a) approve the application;
 - b) determine –
 - i) the amount of benefits for purposes of section 13(3);
 - ii) the benefits the applicant is entitled to in terms of section 13(4);
 - c) authorise the payment of the benefits; and
 - d) stipulate when the applicant must report to the employment office for purposes of confirming that the contributor –
 - i) has been unemployed for the period in respect of which the unemployment benefit has been claimed; and
 - ii) is capable of and available for work.
- 5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons it is defective.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part B: Unemployment benefits

18. Payment of unemployment benefits

- 1) The Director-General must pay the unemployment benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.
- 2) If the contributor receives unemployment benefits and without just reason refuses to accept appropriate, available work, or to undergo appropriate training or vocational counseling, the claims officer may impose a penalty of up to a maximum of thirteen weeks during which no benefits may be paid to the contributor

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part C: Illness benefits

19. Determination of period of illness under this Part

referenced by :

- 1) For purposes of this Part, the period of illness must be determined from the date the contributor ceases to work as a result of the illness.
- 2) Subsection (1) applies with the necessary changes in respect of the determination of the periods of maternity and adoption benefits contemplated in sections 24(2) and 27(3), respectively.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part C: Illness benefits

20. Right to illness benefits

referenced by :

- 1) Subject to section 14, a contributor is entitled to the illness benefits contemplated in this Part for any period of illness if –
 - a) the contributor is unable to perform work on account of illness;
 - b) the contributor fulfils any prescribed requirements in respect of any specified illness: and
 - c) application is made for illness benefits in accordance with the prescribed requirements and the of this Part.
- 2) A contributor is not entitled to illness benefits –
 - a) if the period of illness is less than 14 days; and
 - b) for any period during which the contributor –
 - i) is entitled to unemployment benefits in terms of Part B of this Chapter or adoption benefits in terms of Part E of this Chapter; or
 - ii) without just reason, refuses or fails to undergo medical treatment or to carry out the instructions of a medical practitioner, chiropractor or homeopath.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part C: Illness benefits

21. Calculation of illness benefits

- 1) **[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)].**
- 2) When taking into account any sick leave paid to the contributor in terms of any other law, or any collective agreement or contract of employment, the illness benefit may not be more than the remuneration the contributor would have received if the contributor had not been ill.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part C: Illness benefits
22. Application for illness benefits

- 1)
 - a) Application for illness benefits must be made personally in the prescribed form at an employment office.
 - b) If the contributor cannot lodge the application personally, the claims officer may authorise any other person to lodge the application on behalf of the applicant.
- 2) The application for illness benefits must be made within six months of the commencement of the period of illness, but the Commissioner may accept an application made after the six-month time limit has expired on good cause shown.
- 3) The claims officer must investigate the application and, if necessary, request any further information regarding the period that the applicant was not working or received reduced remuneration as a result of the illness.
- 4) If the application complies with the provisions of this Chapter, the claims officer must –
 - a) approve the application;
 - b) determine –
 - i) the amount of benefits for purposes of section 13(3);
 - ii) the benefits the applicant is entitled to in terms of section 13(4);
 - c) authorise the payment of the benefits; and
 - d) stipulate how the benefits are to be paid.
- 5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part C: Illness benefits
23. Payment of illness benefits

- 1) The Director-General must pay the illness benefits –
 - a) at the employment office at which the application was made or any other employment office determined by the applicant at the time of application; and
 - b) to the contributor or any other person authorised by the contributor who is accepted by the claims officer to be so authorised.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part D: Maternity benefits
24. Right to maternity benefits

referenced by :

- 1) Subject to section 14, a contributor who is pregnant is entitled to the maternity benefits contemplated in this Part for any period of pregnancy or delivery and the period thereafter, if application is made in accordance with prescribed requirements and the provisions of this Part.
- 2) **[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)].**
- 3) When taking into account any maternity leave paid to the contributor in terms of any other law or any collective agreement or contract of employment, the maternity benefit may not be more than the remuneration the contributor would have received if the contributor had not been on maternity leave.
- 4) For purposes of this section the maximum period of maternity leave is 17,32 weeks.
- 5) A contributor who has a miscarriage during the third trimester or bears a still-born child is entitled to a maximum maternity benefit of six weeks after the miscarriage or stillbirth.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part D: Maternity benefits
25. Application for maternity benefits

- 1) An application for maternity benefits must be made in the prescribed form at an employment office at least eight weeks before childbirth.
- 2) The Commissioner may on good cause shown –
 - a) accept an application after the period of eight weeks referred to in subsection (1);
 - b) extend the period of submission of the application up to a period of six months after the date of childbirth.
- 3) The claims officer must investigate the application and, if necessary, request further information.
- 4) If the application complies with the provisions of this Chapter, the claims officer must –
 - a) approve the application;
 - b) determine –
 - i) the amount of the benefits for purposes of section 13(3);
 - ii) the benefits the applicant is entitled to in terms of section 13(4); and
 - c) stipulate how the benefits are to be paid.
- 5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part D: Maternity benefits
26. Payment of maternity benefits

The Director-General must pay the maternity benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part E: Adoption benefits
27. Right to adoption benefits

referenced by :

- 1) Subject to section 14, only one contributor of the adopting parties is entitled to the adoption benefits contemplated in this Part in respect of each adopted child and only if –
 - a) the child has been adopted in terms of the Child Care Act, 1983 (Act No. 74 of 1983)
 - b) the period that the contributor was not working was spent caring for the child;
 - c) the adopted child is below the age of two; and
 - d) the application is made in accordance with the prescribed requirements and the provisions of this Part.
- 2) The entitlement contemplated in subsection (1) commences on the date that a competent court grants an order for adoption in terms of the Child Care Act, 1983 (Act No. 74 of 1983).
- 3) **[deleted by the Unemployment Insurance Amendment Act, 2003 (No. 32 of 2003)].**
- 4) When taking into account any leave paid to the contributor in terms of any other law or any collective agreement or contract of employment, the benefit may not be more than the remuneration the employer would have paid the contributor if the contributor had been at work.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part E: Adoption benefits
28. Application for adoption benefits

- 1) An application for adoption benefits must be made in the prescribed form at an employment office.
- 2) The application must be made within six months after the date of the order for adoption. but the Commissioner may accept an application after the six-month period on good cause shown.
- 3) The claims officer must investigate the application and, if necessary, request further information regarding the period the applicant was not working in order to care for child.

- 4) If the application complies with the provisions of this Chapter, the claims officer must –
 - a) approve the application;
 - b) determine –
 - i) the amount of the benefits for purposes of section 13(3);
 - ii) the benefits the applicant is entitled to in terms of section 13(4);
 - c) authorise the payment of the benefits; and
 - d) stipulate how the benefits are to be paid.
- 5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part E: Adoption benefits

29. Payment of adoption benefits

The Director-General must pay the adoption benefits to the contributor at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part F: Dependant's benefits

30. Right to dependants benefits

referenced by :

- 1) The surviving spouse or a life partner of a deceased contributor is entitled to benefits contemplated in this Part if application is made -
 - a) in accordance with prescribed requirements and the provisions of this Part; and
 - b) within six months of the death of the contributor except that, on just cause shown, the Commissioner may accept an application after the six-month period.
- 2) Any dependent child of a deceased contributor is entitled to the dependant's the dependant's benefits contemplated in this Part, if application is made in accordance with the provisions of this Part and-
 - a) there is no surviving spouse or life partner; or
 - b) the surviving spouse or life partner has not made application for the benefits within six months of the contributor's death.
- 3) The benefit payable to the dependant is the unemployment benefit referred to in Part B of this Chapter that would have been payable to the deceased contributor if the contributor had been alive.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part E: Adoption benefits

31. Application for dependants benefits

- 1) An application for dependant's benefits must be made in the prescribed form at an employment office.
- 2) The application must be made within the period referred to in section 30(1)(b) or within 14 days after the period referred to in section 30(2)(b), as the case may be.
- 3) The claims officer must investigate the application and, if necessary, request further information relevant to processing the application.
- 4) If the application complies with the provisions of this Chapter, the claims officer must-
 - a) approve the application;
 - b) determine –
 - i) the amount of the benefits for purposes of section 13(3);
 - ii) the benefits the applicant is entitled to in terms of section 13(4); and
 - iii) to whom it must be paid;
 - c) authorise the payment of the benefits; and
 - d) stipulate how the benefits are to be paid.
- 5) If the application does not comply with the provisions of this Chapter, the claims officer must advise the applicant in writing that the application is defective and of the reasons why it is defective.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part E: Adoption benefits

32. Payment of dependants benefits

The Director-General must pay the dependant's benefits to the dependant at the employment office at which the application was made or any other employment office determined by the applicant at the time of application.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part G: General provisions relating to claiming benefits

33. Benefits not to be assigned, attached or set off

- 1) Benefits may not be –
 - a) assigned;
 - b) attached by the order of any court, except by any court order relating to maintenance of the dependants, including a former spouse, of that contributor; or
 - c) set off against any debt;
- 2) For purposes of subsection (1), "debt" does not include a debt arising from benefits paid in error under the provisions of this Act.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part G: General provisions relating to claiming benefits
34. Benefits not subject to taxation

Benefits payable to contributors and dependants in terms of this Act are not subject to taxation in terms of the Income Tax Act, 1962 (Act No. 58 of 1962).

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part G: General provisions relating to claiming benefits
35. Recovery of benefits paid in error

referenced by :

- 1) Contributors or dependants who have been paid benefits that they are not entitled to in terms of this Act or paid benefits in excess of their entitlement must repay such benefits to the Fund.
- 2) If the Commissioner determines that a person contemplated in subsection (1) has been paid benefits in error or in excess of the person's entitlement, the Commissioner must, within eighteen months of the date of the determination, make a written demand for repayment from that person.
- 3) A written demand contemplated in subsection (2) must include –
 - a) a statement of the amount paid in error;
 - b) an explanation as to why that person was ineligible to receive the funds; and
 - c) evidence that the person to whom the demand is addressed actually received the funds.
- 4) The persons contemplated in subsection (1) must refund the amount within 90 days of the written demand.

Unemployment Insurance Act, 2001
Chapter 3 : Claiming Benefits
Part G: General provisions relating to claiming benefits
36. Suspension of contributors right to benefits

referenced by :

- 1) After giving a contributor or a dependant an opportunity to make written representations, the Commissioner may, on written notice with reasons provided, suspend a contributor or dependant for a period of up to five years from receiving benefits in terms of this Act if the contributor or dependant –
 - a) made a false statement in an application for benefits;
 - b) submitted a fraudulent application for benefits;
 - c) failed to inform a claims officer of the resumption of work during the period
 - d) failed to comply with a written demand issued in terms of section 35(2).
- 2) The period of suspension may be imposed irrespective of whether or not actual in respect of which benefits were being paid; or payment was made to the contributor or dependant.

- 3) The decision to suspend a contributor from receiving payments does not –
 - a) absolve an employer from that employer's duty to contribute to the Fund; or
 - b) limit an employer's right to be reimbursed for any contribution paid on behalf of the suspended contributor.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part G: General provisions relating to claiming benefits

36A. Establishment of regional appeals committees

- 1) The Minister must, after consultation with the Board, appoint a regional appeals committee for each region determined by the Minister.
- 2) A regional appeals committee must be composed of at least-
 - a) one member and an alternate member to represent organised labour;
 - b) one member and an alternate member to represent organised business;
 - c) one member and an alternate member to represent organisations of community and development interests; and
 - d) one officer.
- 3) Any person appointed to a regional appeals committee who is not in the full-time employment of the State must be paid remuneration and allowances determined by the Minister in terms of the Treasury Instructions issued by the National Treasury.

Unemployment Insurance Act, 2001

Chapter 3 : Claiming Benefits

Part G: General provisions relating to claiming benefits

37. Disputes relating to payment or non-payment of benefits

- 1) A person who is entitled to benefits in terms of this Act may appeal to a regional appeals committee if that person is aggrieved by a decision of –
 - a) the Commissioner to suspend such person's right to benefits; or
 - b) a claims officer relating to the payment or non-payment of benefits.
- 2) A person who is dissatisfied with the decision of a regional appeals committee may refer the matter to the National Appeals Committee for a decision.
- 3) A decision by the National Appeals Committee is final, subject to judicial review.
- 4) For the purposes of an appeal in terms of this section-
 - a) The decisions of a regional appeals committee and those of the National Appeals Committee are determined by majority vote; and
 - b) A regional appeals committee or the National Appeals Committee, as the case may be, may, after considering an appeal, confirm or vary the decision in question, or rescind it and substitute the decision of the relevant regional appeals committee or the National Appeals Committee, as the case may be.

Unemployment Insurance Act, 2001
Chapter 4 : Enforcement
38. Securing undertakings

referenced by :

- 1) A labour inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act or has committed an offence in terms of this Act, must endeavour to secure a written undertaking by the employer to comply with the relevant provision.
- 2) In endeavoring to secure the undertaking, the labour inspector –
 - a) may seek to obtain an agreement from the employer as to any step that the employer must take in terms of this Act;
 - b) may seek to obtain an agreement from the employer as to any amount owed to the Fund in terms of the Unemployment Insurance Contributions Act; and
 - c) must provide a receipt for any payment received.

Unemployment Insurance Act, 2001
Chapter 4 : Enforcement
39. Compliance order

- 1) A labour inspector may issue a compliance order if the labour inspector has reasonable grounds to believe that an employer has not complied with –
 - a) an undertaking obtained in terms of section 38;
 - b) an order given in terms of subsection (2); or
 - c) any provision of this Act.
- 2) A compliance order must set out -
 - a) the name of the employer, and the location of every workplace to which the compliance order applies;
 - b) any provision of this Act that the employer has not complied with and details of the conduct constituting;
 - c) any amount that the employer is required to pay to the Fund in terms of the Unemployment Insurance Contributions Act;
 - d) any written undertaking by the employer in terms of section 38 and any failure by the employer to comply with a written undertaking;
 - e) any steps that the employer is required to take including, if necessary, the cessation of the contravention in question and the period within which those steps must be taken; and
 - f) the maximum fine that may be imposed upon the employer for a failure to comply with a provision of this Act.
- 3) A labour inspector must deliver a copy of the compliance order to the employer.
- 4) An employer must comply with the compliance order within the period stated in the order unless the employer objects in terms of section 40.

Unemployment Insurance Act, 2001
Chapter 4 : Enforcement
40. Objections to compliance order

referenced by :

An employer may object to a compliance order by referring the dispute for resolution to the Director-General in the prescribed manner.

Unemployment Insurance Act, 2001
Chapter 4 : Enforcement
41. Compliance order may be made an order of Labour Court

The Director-General may apply to the Labour Court for a compliance order to be made an order of the Labour Court if the employer has not complied with the order.

Unemployment Insurance Act, 2001
Chapter 4 : Enforcement
42. Duty of employer

An employer must ensure that every statement or other information which must be kept and submitted in terms of this Act is correct.

Unemployment Insurance Act, 2001
Chapter 5 : Commissioner and Claims Officers
43. Designation of Unemployment Insurance Commissioner

referenced by :

The Minister must designate an employee of the Department of Labour as the Unemployment Insurance Commissioner.

Unemployment Insurance Act, 2001
Chapter 5 : Commissioner and Claims Officers
44. Report of Commissioner, and delegation and assignment of powers and duties

- 1) The Commissioner must furnish the Director-General with a report on the activities of the Fund during the preceding financial year within six months of the end of each financial year or as soon as it is practical thereafter.
- 2) The Commissioner may not delegate any power or assign any duty conferred or imposed on the Commissioner in terms of this Act, unless the Director-General consents to the delegation or assignment.

- 3) Any power exercised or duty performed by or under a delegation or in terms of an assignment contemplated in subsection (1) must be regarded as having been exercised or performed by the Commissioner.
- 4) A delegation or assignment in terms of this section does not limit the Commissioner's authority to exercise or perform the delegated power or assigned duty.

Unemployment Insurance Act, 2001
Chapter 5 : Commissioner and Claims Officers
45. Commissioner may deem person to be contributor

referenced by :

The Commissioner may deem a person to be a contributor for purposes of this Act if it appears that the person should have received benefits in terms of this Act but, because of circumstances beyond the control of that person, is not entitled to benefits.

Unemployment Insurance Act, 2001
Chapter 5 : Commissioner and Claims Officers
46. Appointment of claims officers

referenced by :

Subject to the laws governing the Public Service, the Director-General must appoint claims officers to assist the Commissioner to process applications of claims made in terms of this Act.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
47. Establishment of Unemployment Insurance Board

referenced by :

The Minister must establish the Unemployment Insurance Board.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
48. Powers and duties of Unemployment Insurance Board

referenced by :

- 1) The Board must -
 - a) advise the Minister on –
 - i) unemployment insurance policy; and
 - ii) policies arising out of the application of this Act;
 - iii) policies for minimising unemployment; and

- iv) the creation of schemes to alleviate the effects of unemployment;
 - b) make recommendations to the Minister on changes to legislation in so far as it impacts on policy on unemployment or policy on unemployment insurance; and
 - c) perform any other function which may be requested by the Minister for purposes of giving effect to this Act.
- 2) The powers and duties of the Board must be exercised and performed subject to –
- a) the provisions of this Act and its constitution contemplated in section 50;
 - b) any directions issued by the Minister; and
 - c) any guidelines determined by the Director-General.

Unemployment Insurance Act, 2001

Chapter 6 : Unemployment Insurance Board

49. Composition of Unemployment Insurance Board

referenced by :

- 1) The Unemployment Insurance Board consists of –
 - a) a chairperson, who has a deliberative vote in addition to a casting vote and is appointed by the Minister;
 - b) twelve voting members appointed by the Minister; and
 - c) the Commissioner, who has a vote.
- 2) Of the members referred to in subsection (1)(b) –
 - a) three members must be nominated by NEDLAC to represent organised labour;
 - b) three members must be nominated by NEDLAC to represent organised business;
 - c) three members must be nominated by NEDLAC to represent organisations of community and development interests; and
 - d) three members must be appointed by the Minister to represent the interests of the State.
- 3) A member of the Board contemplated in –
 - a) subsection (1)(a) and (b) holds office for a period of three years and is eligible for reappointment; and
 - b) subsection (1)(c) is in an official capacity a member of the Board.
- 4) A member vacates office if that member –
 - a) is removed from office by the Minister as contemplated in subsection (5); or
 - b) resigns by written notice addressed to the Minister.
- 5) The Minister may remove a member from the Board –
 - a) in the case of any member contemplated in subsection (2)(a), (b) or (c), on the request of NEDLAC;
 - b) for serious misconduct;
 - c) for permanent incapacity;
 - d) for being absent from three meetings of the Board without prior permission of the Board unless just cause is shown by the member; or
 - e) for engaging in any activity that might undermine the functions of the Board.
- 6) If a member of the Board vacates office before the expiry of his or her period of office, the Minister must fill the vacancy in accordance with subsections (1) and (2) for the unexpired portion of that period.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
50. Constitution of Unemployment Insurance Board

referenced by :

- 1) The Board must as soon as possible after the appointment of its members, prepare and adopt a constitution subject to approval by the Minister.
- 2) The constitution of the Board –
 - a) must provide for-
 - i) the establishment and functions of committees of the Board, which must include an appeals committee;
 - ii) subject to subsection (3), the rules for convening and conducting meetings of the Board and its committees, including the quorum required, and for the keeping of minutes;
 - iii) subject to section 49(1), the voting rights of the different members of, and the manner in which decisions are to be taken by, the Board and its committees;
 - iv) a code of conduct for Board members;
 - v) the determination through arbitration of any dispute concerning the interpretation and application of the constitution;
 - vi) subject to subsection (4), a procedure for amending the constitution; and
 - b) may provide for –
 - i) the delegation and assignment of powers and duties of the Board to its members, committees and employees: Provided that the Board may –
 - (aa) impose conditions for any delegation or assignment;
 - (bb) not be divested of any power or duty by virtue of the delegation of that power or assignment of that duty; and
 - (cc) may vary or set aside any decision made under any delegation or assignment; and
 - ii) any other matter necessary for the performance of the functions of the Board.
- 3) At least thirty days' notice must be given for a meeting of the Board at which a proposed amendment of the constitution is to be considered.
- 4) A supporting vote of at least two thirds of the members of the Board and the approval of the Minister is required for an amendment of the constitution.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
51. Administration and provision of resources to Unemployment Insurance Board

- 1) The Commissioner is responsible for administering the affairs of the Board.
- 2) In order to enable the Board to perform its functions effectively the Director-General must provide the Board with the necessary financial and administrative resources and, subject to the laws governing the Public Service, with the necessary personnel.
- 3) As soon as it is practicable after the end of every month, the Commissioner must, after consultation with the Board –
 - a) determine the value of the service and resources provided by the Unemployment Insurance Fund to the Board; and

- b) pay for the utilisation of these services and resources out of the Unemployment Insurance Fund.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
52. Remuneration and allowances to members of Unemployment Insurance Board

referenced by :

A member of the Board or its committees who is not in the full-time employment of the State must be paid remuneration and allowances determined by the Minister in terms of the Treasury Instructions issued by the National Treasury.

Unemployment Insurance Act, 2001
Chapter 6 : Unemployment Insurance Board
53. Indemnification of members of Unemployment Insurance Board

A member of the Board is indemnified in respect of all proceedings, costs and expenses incurred by such member when defending or opposing legal proceedings arising out of bona fide acts of such member in terms of this Act.

Unemployment Insurance Act, 2001
Chapter 7 : Regulations
54. Regulations

- 1) The Minister, after consultation with the Board, may make regulations regarding any matter –
 - a) arising from, or consequential to, the transitional provisions contemplated in Schedule 1; or
 - b) which it is necessary or expedient to prescribe in order to give effect to the purpose and provisions of this Act.

Unemployment Insurance Act, 2001
Chapter 7 : Regulations
55. Procedure when issuing regulations

referenced by :

- 1) Unless public interest requires a regulation to be issued without delay, the Minister must comply with the following procedure when intending to issue regulations :
 - a) The intention to issue the regulation must be announced by notice in the Gazette and at least one other means of communication circulated throughout the Republic;

- b) the notice must state –
 - i) that a draft regulation has been developed for comment;
 - ii) the nature of the draft regulation;
 - iii) where a copy of the draft regulation may be obtained; and
 - iv) where comments are to be returned to :
 - c) a period of at least one month from the date of the announcement must be allowed for interested parties to comment on the regulation; and
 - d) the comments received and the content of all discussions and consultations must be considered before issuing or amending the regulation.
- 2) Subsection (1) does not apply –
 - a) to any regulation correcting a textual error; or
 - b) when the Minister withdraws any regulation or notice made or issued under the Unemployment Insurance Act, 1966 (Act No. 30 of 1966), as contemplated in item 2 of Schedule 1.
 - 3) Any regulation affecting State revenue or expenditure may only be issued or amended with the concurrence of the Minister of Finance.

Unemployment Insurance Act, 2001

Chapter 8 : General

56. Information to be supplied by employer

referenced by :

- 1) Every employer must, as soon as it commences activities as an employer, provide the information referred to in subsection (2) regarding its employees to the Commissioner, irrespective of the earnings of such employees.
- 2) The information contemplated in subsection (1) must –
 - a) include the street address of the business, and any of its branches, of the employer;
 - b) if the employer is not resident in the Republic, or is a body corporate not registered in the Republic, include the particulars of the authorised person who is required to carry out the duties of the employer in terms of this Act; and
 - c) include the names, identification numbers and monthly remuneration of each of its employees, and must state the address at which the employee is employed.
- 3) Every employer must, before the seventh day of each month, inform the Commissioner of any change during the previous month in any information furnished in terms of subsection (1).
- 4) The Commissioner may request the employer to provide such additional particulars as may reasonably be required to give effect to the purpose of this Act within 30 days of the request, or within such extended period as the Commissioner may allow.

Unemployment Insurance Act, 2001

Chapter 8 : General

57. Creation and maintenance of database

- 1) The Commissioner must create and maintain a database of contributors beneficiaries and employers.

- 2) Payment of any benefit in terms of this Act must be based on the information contained in the database and provided –
 - a) by the contributor or dependant;
 - b) in terms of section 56 of this Act; and
 - c) in terms of the Unemployment Insurance Contributions Act.
- 3)
 - a) In order to determine the payment of benefits in terms of this Act, the Commissioner may access any information on a database of the State that contains information regarding social security.
 - b) For purposes of paragraph (a) the Commissioner must co-operate with other State institutions to link their respective databases.

Unemployment Insurance Act, 2001

Chapter 8 : General

58. Powers and duties of Director-General

referenced by :

- 1) The powers and duties conferred or imposed on the Director-General in terms of this Act are in addition to the powers and duties conferred or imposed on the Director-General as head of the Department of Labour.
- 2) The Director-General must perform the fiduciary duties in respect of the Fund in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 3) Subject to such conditions as the Director-General may determine, the Director-General may delegate any power or assign any duty conferred or imposed on the Director-General in terms of this Act to any officer of the Fund.
- 4) Any power exercised or duty performed under a delegation or assignment in terms of this section must be regarded as having been exercised or performed by the Director-General.
- 5) A delegation or assignment in terms of this section does not limit the Director-General's authority to exercise the delegated power or perform the assigned duty.
- 6) The Director-General may, after consultation with the Board-
 - a) purchase or otherwise acquire immovable property required for purposes of this Act;
 - b) alienate or let any immovable property so acquired; or
 - c) permit the use of any immovable property so acquired to give effect to any other law on such terms as the Director-General may determine.
- 7) The Director-General may purchase or otherwise acquire any movable property required for purposes of giving effect to this Act, and may –
 - a) sell or otherwise write off losses and deficiencies in respect of this property; or
 - b) permit the use of any movable property so acquired to give effect to any other law on such terms as the Director-General may determine.
- 8) Whenever the Director-General is of the opinion that any amount due to the Fund, or any amount paid by the Fund including moneys obtained fraudulently from the Fund, cannot or should not be recovered, the Director-General may direct that such amount be written off.
- 9) The Director-General may –
 - a) appoint agents or designate agency offices to serve as employment offices as may be necessary to assist the Director-General, Commissioner, Board or Fund in properly administering this Act; and
 - b) confer on the agents or the officers of such offices such functions as may be necessary to give effect to this objective.

- 10) Notwithstanding section 10(1), if the Director-General is of the opinion that the income of the Fund is insufficient or is not increasing at the rate required to meet the expenditure of the Fund or to meet reasonably anticipated future applications for benefits, the Director-General must –
 - a) inform the Minister, the actuary and the Board of this fact; and
 - b) after consulting with the Board make recommendations to the Minister on this matter.
- 11) The Director-General may borrow money on behalf of the Fund in terms of section 66(3)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- 12) Notwithstanding section 11, the Director-General must within six months of the end of each financial year or as soon as practicable thereafter, submit a written report to the regarding –
 - a) the manner in which the Board and the committees are performing their functions;
 - b) the number of unemployed contributors to whom benefits have been paid and the total amount of such benefits;
 - c) the number of contributors to whom illness, maternity and adoption benefits, respectively, have been paid and the total amount of such payments; and
 - d) the number of deceased contributors in respect of whom dependant's benefits were paid and the total amount of such payments.
- 13) The report contemplated in subsection (12) together with the statement of income and expenditure and the balance sheet of the Fund, must be tabled in the National Assembly within 30 days after its receipt by the Minister if Parliament is then sitting and, if Parliament is not sitting, within fourteen days of the commencement of the next sitting.

Unemployment Insurance Act, 2001

Chapter 8 : General

59. Certain instruments exempt from stamp duty

Any instrument issued in terms of this Act is exempt from stamp duty, if that duty is legally payable by the Fund.

Unemployment Insurance Act, 2001

Chapter 8 : General

60. Recovery of losses caused by employees of Fund

- 1) For purposes of this section, causing loss or damage to the Fund includes –
 - a) the making or authorising of –
 - i) an irregular payment of Fund moneys;
 - ii) a payment without a proper supporting voucher;
 - b) the failure to carry out a duty leading to a fruitless expenditure of Fund moneys;
 - c) a deficiency in any Fund moneys, stamps, securities, documents with face or potential value, or Fund property;
 - d) damage to any Fund property; and
 - e) an act or omission leading to a court claim against the Fund.
- 2) If an employee of the Fund causes any loss or damage to the Fund, the Director-General may –
 - a) institute an enquiry into the loss or damage;
 - b) determine whether the employee is liable for the loss or damage;

- c) if the employee is found to be liable for the loss or damage, determine –
 - i) the amount of the loss or damage; and
 - ii) how and when the amount is to be paid by the employee; and
 - d) notify the employee in writing of any determination made in terms of this subsection.
- 3) If, at the termination of an employee's employment, there remains any amount outstanding in respect of a determination made in terms of subsection (2), that outstanding amount may be deducted from any moneys due to the employee.
 - 4) Any employee who is aggrieved by a determination made by the Director-General may, within 30 days of the date of notification in terms of subsection (2)(d), appeal to the Minister in accordance with the grievance procedure applicable to state employees.
 - 5) Nothing in this section prevents the Director-General from –
 - a) instituting proceedings in a competent court to recover any loss or damage caused by an employee who is or was in the public service; or
 - b) instituting disciplinary proceedings against an employee contemplated in paragraph (a); or
 - c) instituting proceedings contemplated in both paragraphs (a) and (b).

Unemployment Insurance Act, 2001

Chapter 8 : General

61. Recovery of loss generally

- 1) For purposes of this section, loss or damage to the Fund means –
 - a) an employer's irregular payment or failure to pay moneys due to the Commissioner in terms of this Act or the Unemployment Insurance Contributions Act;
 - b) a contributor's failure to inform the claims officer of the resumption of work during the period in respect of which benefits were being paid;
 - c) payment of Fund moneys as a result of a false statement or fraudulent claim;
 - d) any failure to comply with a duty imposed by the provisions of this Act leading to loss or damage to the Fund.
- 2) Any person who causes any loss or damage to the Fund, is guilty of an offence.
- 3) A court may, on convicting a person for the commission of an offence contemplated in subsection (2), determine the amount of the loss or damage caused to the Fund.
- 4) Any person found guilty of an offence as contemplated in subsection (2) must refund the loss to the Fund on such terms and conditions as the Director-General may determine.
- 5) The Director-General may permit payment of the amount in instalments.
- 6) If the loss to the Fund is due to a fraudulent benefit claim, the loss may be recovered from any outstanding benefit payments due to be made to the contributor or dependant under the provisions of this Act.
- 7) Nothing in this section prevents the Director-General from instituting legal proceedings in any competent court to recover any loss or damage caused to the Fund by any person.

Unemployment Insurance Act, 2001
Chapter 8 : General
62. Evidence

- 1) If any of the following documents are produced in a court of law, they are presumed to be certified by their author without proof of the author's signature unless evidence is led to the contrary
 - a) A record of a decision made by the Director-General, the Board or any committee;
 - b) a copy of or extract from an entry in any book or record kept by the Director-General, the Board or any committee; or
 - c) any document filed with the Director-General, the Board or any committee.
- 2) In any proceedings under this Act, an affidavit purporting to be made by the Director-General is evidence of any of the following facts stated in the affidavit :
 - a) That any person or body of persons is an employer or a contributor under this Act;
 - b) that any person is or was lawfully required under this Act to pay any amount to the Director-General; or
 - c) that any amount referred to in paragraph (b) or any portion thereof had or had not been paid on a date specified in the affidavit.
- 3)
 - a) A presiding officer at the proceedings in which any affidavit referred to in subsection (2) is presented in evidence, may of his or her own accord, or must at the request of any party to the proceedings, require the deponent under subpoena to give oral evidence, or answer any written question submitted to the presiding officer under oath.
 - b) Any question and answer from that deponent is admissible as evidence in the proceedings.
- 4) A contributor is presumed, unless the contrary is proved, to remain in the employ of an employer until that employer has notified the Director-General that the contributor is no longer employed with that employer.
- 5) In any proceedings under this Act, any of the following documents are admissible in evidence against an employer and constitute an admission of the facts contained in the document unless it is proved that the statement was not made by the employer :
 - a) A statement or entry contained in any book, record or document kept by any employer;
 - b) any such statement or entry found on any premises occupied by the employer;
 - c) any such statement or entry found on any vehicle used in the business of the employer; and
 - d) any copy or reproduction of any such statement or entry, certified by a commissioner of oath to be a true copy or reproduction of the original statement.
- 6) No answer to any question put by a person in the course of an enquiry in terms of section 60(2)(a) or by a labour inspector may be used against that person in any criminal proceedings except proceedings in respect of a charge of perjury or making a false statement.

Unemployment Insurance Act, 2001
Chapter 8 : General
63. Disclosure of information

referenced by :

- 1) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), no person may disclose any information obtained by that person in the performance of functions contemplated in this Act, except –
 - a) to the extent to which it may be necessary for the proper administration of a provision of this Act;
 - b) for purposes of the administration of justice; or
 - c) at the request of the Minister, the Director-General or any other person entitled to the information.
- 2) Any person who contravenes subsection (1) is guilty of an offence.

Unemployment Insurance Act, 2001
Chapter 8 : General
64. General prohibited conduct

- 1) No person may –
 - a) knowingly make a statement or cause a statement to be made which is materially false or which results in an incorrect payment of benefits in an application for benefits in terms of this Act;
 - b) wilfully make any false entry on a contributor's record card or any other book, record or document relating to either a contributor's employment history or to a contributor's claim for benefits; or
 - c) contravene, or refuse or fail to fully comply with any provision of this Act or of any regulation or notice issued in terms of this Act.
- 2) Any person who contravenes subsection (1)(a), (b) or (c) is guilty of an offence.

Unemployment Insurance Act, 2001
Chapter 8 : General
65. Penalties

Any person convicted of an offence in terms of this Act is liable to a fine or to imprisonment, or to both a fine and imprisonment.

Unemployment Insurance Act, 2001
Chapter 8 : General
66. Jurisdiction of Labour Court

referenced by :

Unless this Act provides otherwise, the Labour Court has jurisdiction in respect of all matters in terms of this Act, except in respect of an offence in terms of this Act.

Unemployment Insurance Act, 2001

Chapter 8 : General

67. Stating of case to Labour Court

- 1) If any question of law arises concerning the application of this Act, the Director-General may of his or her own initiative, or at the request of a party with sufficient interest in this matter, state a case for decision by the Labour Court.
- 2) The Director-General must set out in the stated case –
 - a) the facts that were found to be proved; and
 - b) the view of the law which was adopted in relation to those facts.
- 3) If the Director-General has any doubt as to the correctness of a decision given by the Labour Court regarding a question of law concerning the application of this Act, the Director-General may submit such decision to the Labour Appeal Court.

Unemployment Insurance Act, 2001

Chapter 8 : General

68. Delegation and assignment by Minister

- 1) The Minister may in writing delegate or assign to the Director-General or any employee in the public service, any power or duty conferred or imposed upon the Minister in terms of this Act, except the Minister's powers in terms of sections 43, 47, 48(2)(b), 50(1) and (4), 52, this section, section 69 and the Minister's power to make regulations or to issue notices.
- 2) A delegation or assignment in terms of subsection (1) does not limit or restrict the Minister's authority to exercise or perform the delegated power or assigned duty.
- 3) Any person to whom a power is delegated or a duty is assigned in terms of subsection (1) must exercise or perform that power or duty subject to the direction of the Minister.
- 4) The Minister may at any time –
 - a) withdraw a delegation or assignment made in terms of subsection (1); and
 - b) withdraw or amend any decision made by a person exercising or performing a power or duty delegated or assigned in terms of subsection (1).

Unemployment Insurance Act, 2001

Chapter 8 : General

69. Persons regarded as contributors for purposes of Act

referenced by :

- 1) The Minister may, after receipt of an application in a prescribed form and with the concurrence of the Board, by notice in the Gazette, declare that as from a date specified in the notice any specified class of persons, or any person employed in any specified business or section of a business or in any specified area, must be regarded as contributors for purposes of this Act.
- 2) The procedure referred to in section 55(1) applies with the necessary changes to a notice issued under subsection (1).

Unemployment Insurance Act, 2001
Chapter 8 : General
70. Repeal of laws

The Unemployment Insurance Act, 1966 (Act No. 30 of 1966), is hereby repealed except to the extent mentioned in Schedule 1.

Unemployment Insurance Act, 2001
Chapter 8 : General
71. Transitional arrangements

The provisions of Schedule 1 apply to the transition from other laws to this Act.

Unemployment Insurance Act, 2001
Chapter 8 : General
72. Act binds State

This Act binds the State.

Unemployment Insurance Act, 2001
Chapter 8 : General
73. Short title and commencement

- 1) This Act is called the Unemployment Insurance Act, 2001, and takes effect on a date to be fixed by the President by proclamation in the Gazette.
- 2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Schedule 1 : Transitional Arrangements
1. Definitions

referenced by :

In this Schedule "**Unemployment Insurance Act, 1966**" means the Unemployment Insurance Act, No. 30 of 1966).

Schedule 1 : Transitional Arrangements
2. Regulations

Any regulation made under the Unemployment Insurance Act, 1966, which is in force immediately before the commencement of this item, remains in force until withdrawn by the Minister by notice in the Gazette.

Schedule 1 : Transitional Arrangements

3. Transferal of assets, liabilities, rights and obligations of Unemployment Insurance Fund

All assets, liabilities, rights and obligations of the Unemployment Insurance Fund established under the Unemployment Insurance Act, 1966, are hereby transferred to the Fund established by section 4.

Schedule 1 : Transitional Arrangements

4. Continuity of Unemployment Insurance Board

- 1) The Board and its subcommittees, established under the Unemployment Insurance Act, 1966, continue to exist until the Minister establishes the Board in terms of section 47.
- 2) The members of the Board appointed under the Unemployment Insurance Act, 1966, remain in office until the Minister has appointed the members of the Board in terms of section 49.

Schedule 1 : Transitional Arrangements

5. Claims against Unemployment Insurance Fund

All claims against the Fund made under the Unemployment Insurance Act, 1966, remain in force and must be finalised in terms of that Act.

Schedule 1 : Transitional Arrangements

6. Appeals against of claims officers

- 1) Any appeal in terms of the Unemployment Insurance Act, 1966, against a decision of claims officers remains in force and must be finalised in terms of that Act.
- 2) For purposes of subitem (1), the Benefit Appeals Committees established under the Unemployment Insurance Act, 1966, continue to exist until all appeals have been dealt with.

Schedule 1 : Transitional Arrangements

7. Investigations and prosecutions

- 1) Any investigation undertaken in terms of the Unemployment Insurance Act, 1966, which is not completed at the commencement of this Act, must be finalised in terms of that Act.
- 2) Any prosecution instituted in terms of the Unemployment Insurance Act, 1966, which is not completed at the commencement of this Act, must be finalised in terms of that Act.

Schedule 1 : Transitional Arrangements

8. Duty of employer to provide particulars of employees at commencement of this item

- 1) Within seven days after the commencement of this item, every employer must provide the information specified in section 56(2) of all employees employed with it to the Commissioner, irrespective of the earnings of such employees.
- 2) The Commissioner may request the employer to provide, within 30 days of the request, or within an extended period as the Commissioner may allow, such additional particulars as may be reasonably required to give effect to the purpose of this Act.

Schedule 2 : Mathematical calculation of Contributor's Entitlement

referenced by :

The benefit to which a contributor is entitled is calculated in one of two ways, depending on a contributor's income prior to becoming unemployed :

- 1) Contributors who earned less than a particular amount (known as the "benefit transition income level") are entitled to a percentage of their previous pay.
- 2) Contributors who earned more than the benefit transition income level are entitled to a flat benefit, equal to the entitlement of a contributor who was previously paid at the benefit transition income level.

The benefit level

The 1953 International Labour Organisation Convention (Convention No. 102) stipulates that the wage of a skilled manual worker should determine the appropriate income level at which to set a ceiling for membership of a social insurance scheme. Over the years, South Africa's Unemployment Insurance scheme has roughly kept pace with this guideline. The benefit transition income level is therefore linked to this rate. The current income ceiling is R8 099 per month. This will become the initial benefit transition income level for the purposes of this Act. However, in terms of section 12(3)(a), the Minister may change the benefit transition income level from time to time to reflect changing patterns of income.

Contributors who previously earned less than the benefit transition income level

For contributors who earned less than the benefit transition income level, entitlement to benefit is earnings-related. A contributor's entitlement is calculated according to the following formula :

$$\text{Benefit} = \text{Daily Income} * \text{IRR}$$

where IRR is the Income Replacement Rate corresponding to the contributor's daily income.

Daily Income

If a contributor was paid weekly, daily income is the weekly rate of pay divided by 7.

If a contributor was paid fortnightly, daily income is the fortnightly rate of pay divided by 14.

If a contributor was paid monthly, daily income is the monthly rate of pay multiplied by 12, then divided by 365.

Income Replacement Rate

The Income Replacement Rate (IRR) determines the percentage of a contributor's previous income to which the contributor is entitled in the form of benefits. The IRR is a variable, so it defines a sliding scale. A contributor who previously earned a low wage is entitled to receive benefits representing a larger proportion of her or his previous income than a contributor who previously earned a higher wage.

The IRR is at its maximum when income equals zero, and it reaches its minimum where income is equal to the benefit transition income level. The maximum IRR is fixed at 60%. The minimum IRR is currently set at 38%. However, the Minister may vary the minimum IRR in terms of section 12(3)(b).

Using current values, the IRR can be calculated according to the following formula :

$$\text{IRR} = 29.2 + (99779.68 / (3239.6 + Y_1))$$

where Y_i represents a contributor's monthly rate of income. (Consistency of units is essential. To calculate IRR from daily or weekly rates of pay, please refer to the more detailed explanation of the IRR formula in the technical note below.)

Contributors who previously earned more than the benefit transition income level

Contributors who earned more than the benefit transition income level are entitled to a flat benefit equal to the benefit transition income level multiplied by the minimum IRR.

At the current benefit transition income level of R8 099 per month, this works out to R101.18 per day :

$$\text{Daily income} = (8099 * 12) / 365 = 266.2685$$

$$\text{IRR} = 38\% \text{ or } 0.38$$

$$\text{Benefit} = 266.2685 * 0.38 = 101.18$$

Duration of benefits

In terms of section 13(3), a contributor is eligible to receive one day's benefit for every six completed days of employment, up to a maximum of 238 days (34 weeks). A contributor will therefore be eligible to claim benefits for the maximum duration after being continuously employed for four years. If a contributor has already drawn benefits (other than maternity benefits) in terms of this Act in the preceding four years, the number of days for which the contributor is eligible to claim benefits will be reduced accordingly.

To calculate the number of days of benefits to which a contributor is entitled :

- 1) Determine the total number of days that the contributor was employed (and contributing) in the four-year period immediately preceding the date of application for benefits.
- 2) Divide the total number of days by 6, disregarding any remainder or fractional portion of the result.
- 3) Subtract the number of days (if any) for which the contributor claimed benefits (other than maternity benefits) in terms of this Act during the preceding four years.

Amount of benefit payment

The benefit payment to which a contributor is entitled in any given period shall be the amount of the benefit entitlement multiplied by the number of days for which the contributor is eligible to receive benefits during the payment period.

Technical note on the Calculation of IRR

The sliding scale for the Income Replacement Rate (IRR) is represented by a portion of the curve (rectangular hyperbola) produced by a graph of the function $y = 1/x$, where the y axis represents the IRR and the x axis represents income. However, in order to associate this curve with values that are meaningful for this purpose, it is necessary to apply adjusting formulae.

Calculating the IRR associated with any given level of income below the benefit transition income level can be done in three steps :

- 1) the rate of income is transformed into a corresponding value on the x axis (xi). The formula for this is:

$$Y_1 (X_1 - X_1) Y_{LRR} / (x_2 - X_1)(1)$$
 Where :
 Y_1 is the contributor's rate of income;
 Y_{LRR} is the benefit transition income level; and
 x_1 and x_2 are constants that determine the portion of the curve that is used to calculate IRR.

The current values of the parameters Y_{LRR} , x_1 and x_2 are :

$$Y_{LRR} = R8\ 099 \text{ per month}$$

$$x_1 = 2$$

$$x_2 = 7$$

Using these values, expression (1) can be simplified to :

$$X_1 = 2 + (Y_i/1619.8) (1a)$$

where Y_1 is expressed as a monthly rate of income. [It is important to ensure that both the contributor's rate of income (Y_i) and the benefit transition income level (Y_{LRR}) are expressed in the same units-monthly, weekly, or daily.]

- 2) The y values corresponding to the x values are calculated using the general formula :

$$y = 1 / x (2)$$

thus:

$$y_1 = 1 / x_1,$$

$$y_2 = 1 / x_2,$$

$$y_1 = 1/x_1;$$

- 3) The y_1 value is then converted to the corresponding IRR. The formula for this is :

$$IRR = LRR + (y_1 - y_2) (URR - LRR) / (y_1 - y_2) (3)$$

Where :

IRR is the income replacement rate;

LRR is the lower (minimum) income replacement rate; and

URR is the upper (maximum) income replacement rate.

The current values of the parameters LRR, URR, y_1 and y_2 are :

$$LRR = 38\%$$

$$URR = 60\%$$

$$y_2 = 1/7$$

$$y_1 = 1/2$$

Using these values, expression (3) can be simplified to :

$$IRR = 61.6y_1; + 29.2 (3a)$$

Schedule 3 : Scale of Contributor's entitlement to Benefits

referenced by :

(Section 12(2))

- 1) Table One is the scale of benefits to which a contributor may be entitled. A contributor's monthly rate of remuneration is set out in column 1. The percentage of the contributor's monthly income that will be paid as a benefit is set out in column 2. The actual benefit payable in Rand terms is set out in column 3.
- 2) Benefits below the transitional income level are earnings-related and fall as a proportion of income as income rises.
- 3) Contributors and employers of contributors earning above the income threshold of R97 188 per annum shall contribute 1 % of the threshold and such income contributors shall receive benefits payable at this threshold level.

Tables to illustrate benefits at various earnings levels

Based on a transition income of R97 188 per annum

The various amounts on these tables are calculated in terms of the equation in Schedule 2

IRR = Income replacement rate

Approximate benefits payable on monthly basis

Income IRR = UI benefit

150.00	58.64	87.96
300.00	57.39	172.17
500.00	55.88	279.41
700.00	54.53	381.69
1 000.00	52.74	527.35
1 500.00	50.25	753.79
2 000.00	48.24	964.87
3 000.00	45.19	1 355.74
3 075.57	45.00	1 384.01
4 000.00	42.98	1 719.30
5 000.00	41.31	2 065.49
6 000.00	40.00	2 399.95
7 410.00	38.57	2 857.99
8 099.00	38.00	3 077.62
10 000.00	30.78	3 077.62

Approximate benefits payable on weekly basis

Income IRR = UI benefit

34.62	58.64	20.30
69.23	57.39	39.73
115.38	55.88	64.48
161.54	54.53	88.08
230.77	52.74	121.70
346.15	50.25	173.95
461.54	48.24	222.66
692.31	45.19	312.86
709.75	45.00	319.39
923.08	42.98	396.76
1153.85	41.31	476.65
1384.62	40.00	553.83
1710.00	38.57	659.54
1869.00	38.00	710.22
2307.69	30.78	710.22

Approximate benefits payable on daily basis

Income IRR = UI benefit

4.93	58.64	2.89
9.86	57.39	5.66
16.44	55.88	9.19
23.01	54.53	12.55
32.88	52.74	17.34
49.32	50.25	24.78
65.75	48.24	31.72
98.63	45.19	44.57
101.11	45.00	45.50
131.51	42.98	56.52
164.38	41.31	67.91
197.26	40.00	78.90
243.62	38.57	93.96
266.27	38.00	101.18
328.77	30.78	101.18

The UI benefits payable in the tables will be paid for the duration of benefit days that have been accrued by a contributor.

Unemployment Insurance Act, 2001 Regulations in terms of section 54

1. Definitions

In these Regulations, unless the context otherwise indicates -

"Act"

means the Unemployment Insurance Act, 2001 and any word or expression to which a meaning has been assigned in the Act, has that meaning;

"Annexure"

means an Annexure to these Regulations;

"Certificate of service"

means a certificate of service in terms of section 42 of the Basic Conditions of Employment Act, 1997 (Act no. 75 of 1997);

"identity document"

means a 13-digit bar-coded RSA identity card or a RSA bar-coded passport; and

"official"

means a claims officer or an agent or official appointed in terms of section 58(9) of the Act to assist in administering the Act.

Unemployment Insurance Act, 2001 Regulations in terms of section 54

2. Proof of identity

- 1) An official must require an applicant for benefits or for the payment of any amount in terms of the Act to produce an identity document, but may not retain the document.
- 2) No claim for benefits may be processed and no benefits may be paid, unless the applicant has produced an identity document in terms of sub-regulation (1).

Unemployment Insurance Act, 2001 Regulations in terms of section 54

3. Unemployment benefits in terms of section 17 of the Act

- 1) A contributor who applies for unemployment benefits in terms of section 17 of the Act must apply personally at an employment office by submitting a completed UI 2.1.
- 2) A contributor must, when applying for benefits or as soon thereafter as possible, submit –
 - a) an identity document;
 - b) if the applicant's services have been terminated, a certificate of service;
 - c) details of a valid bank account.
- 3) An applicant for unemployment benefits, when reporting to an employment office in terms of section 17(4)(d) of the Act, must sign an unemployment register containing the particulars set out in UI 1.

Unemployment Insurance Act, 2001 Regulations in terms of section 54

4. Illness benefits in terms of section 22 of the Act

- 1) An application for illness benefits in terms of section 22 of the Act must be made at an employment office by submitting a completed UI 2.2.
- 2) A contributor must, when applying for benefits or as soon thereafter as possible, submit –
 - a) an identity document;
 - b) if the applicant's employment has been terminated, a certificate of service;
 - c) details of a valid bank account.
- 3) An official may authorise any person to submit a claim on behalf of an applicant for illness benefits who is unable to apply personally. The official must require that person to submit satisfactory proof of their identity and that they have been authorised to apply on behalf of the applicant.
- 4) A contributor who has applied for illness benefits in terms of section 22 must complete a declaration in the form of UI 3 covering each period for which benefits are claimed.
- 5) An application for illness benefits in terms of section 22 of the Act must be accompanied by medical certificates on UI 2.2, completed and signed by a medical practitioner, chiropractor or homeopath who has treated the applicant.
- 6)
 - a) An official may require an applicant to be examined by a medical practitioner, chiropractor or homeopath nominated by the official.
 - b) The Unemployment Insurance Fund must pay the costs of a medical examination in terms of paragraph (a).
- 7) Illness benefits may be paid for any medically recognisable disease, symptom or condition which prevents the applicant from working.
- 8) In terms of section 20(1)(b) of the Act, illness benefits may only be paid in cases of alcoholism or drug dependence for the period during which a person is admitted to and undergoes treatment at a registered rehabilitation centre or psychiatric hospital.
- 9) A contributor whose application for illness benefits has been approved, may be paid benefits in respect of any period approved by an official in terms of the Act.

Unemployment Insurance Act, 2001 Regulations in terms of section 54

5. Maternity benefits in terms of section 25 of the Act

- 1) An application for maternity benefits in terms of section 25 of the Act must be made at an employment office .and must be in the form of a complete UI 2.3.
- 2) An applicant for maternity benefits, when making the application or as soon thereafter as possible, must submit –
 - a) an identity document;
 - b) if the employee's services have been terminated, a certificate of service;
 - c) details of a valid bank account.
- 3) A contributor who has applied for benefits in terms of section 25 must submit a declaration in the form of UI 4 covering each period for which maternity benefits are claimed.
- 4) An application for maternity benefits must be accompanied by a medical certificate on UI 2.3 completed and signed by a medical practitioner or registered midwife who has examined the applicant.

- 5)
 - a) An official may require an applicant to be examined by a medical practitioner nominated by the official.
 - b) The Unemployment Insurance Fund must pay the costs of a medical examination required in terms of sub-section (a).
- 6) A contributor who applies for maternity benefits before the birth of her child, if required by the claims officer, must submit a notification and declaration of birth on form UI 4 completed by herself and a medical practitioner or registered midwife.
- 7) A contributor whose application for maternity benefits has been approved may be paid benefits in respect of any period approved by an official in terms of the Act.

Unemployment Insurance Act, 2001

Regulations in terms of section 54

6. Adoption benefits in terms of section 28 of the Act

- 1) An application for adoption benefits in terms of section 28 of the Act must be lodged at an employment office by submitting a completed UI 2.4.
- 2) A contributor who has applied for adoption benefits must when making the application, or as soon thereafter as possible, submit –
 - a) an identity document;
 - b) if the employee's services have been terminated, a certificate of service;
 - c) details of a valid bank account;
 - d) a certified copy of the birth certificate of the child; and
 - e) a certified copy of the order of adoption.
- 3) A contributor who has applied for adoption benefits in terms of section 28 must submit to the official a declaration in the form of UI 5 covering each period for which adoption benefits are claimed.
- 4) A contributor whose application for adoption benefits has been approved may be paid benefits in respect of any period approved by the official in terms of the Act.

Unemployment Insurance Act, 2001

Regulations in terms of section 54

7. Dependant's benefits in terms of section 31 of the Act

- 1) An application for dependant's benefits must be made at an employment office by submitting –
 - a) in the case of a surviving spouse or life partner, a completed UI 2.5, or
 - b) in the case of a child, a completed UI 2.6.
- 2) An application for dependant's benefits, when applying or as soon thereafter possible, must submit –
 - a) the identity documents of both the deceased and the applicant;
 - b) details of a valid bank account;
 - c) a certified copy of a death certificate, post-mortem certificate or burial order of the deceased contributor;
 - d) in the case of a surviving spouse, a certified copy of a marriage certificate or customary union certificate;
 - e) in the case of a surviving life partner, proof that the applicant is the surviving life partner of the deceased contributor;

- f) in the case of a child under the age of 21 years at the time of death of the deceased contributor, a certified copy of the birth certificate of the child and documentary proof of the child's relationship to the deceased;
- g) in the case of a child who was 21 years or older at the time of death of the deceased, documentary proof that the child is a learner or was wholly or mainly dependant upon the deceased.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
8. Appeals in terms of section 37(1) of the Act.

- 1) An appeal against a decision of the Commissioner or a claims officer in terms of section 37(1) must be made by submitting a completed UI 12 by hand or registered post to the Appeals Committee of the Board at 94 Church Street, Pretoria, 0001 or by telefax to 012-3371 893.
- 2) An appeal must be lodged within 90 days of the decision appealed against.
- 3) The Appeals Committee may require the appellant to submit any further information that it considers necessary to deal with the appeal.
- 4) The Appeals Committee must notify the appellant in writing within 30 days of its decision.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
9. Referral to arbitration in terms of section 37(2) of the Act

- 1) A person who is dissatisfied with the decision of the Appeals Committee may refer a dispute to the CCMA for arbitration in terms of section 37(2) by submitting a completed UI 13 to the CCMA within 30 days of receiving notice of the decision.
- 2) A referral in terms of sub-regulation (1) must be served by hand, registered post or telefax on the provincial office of the CCMA in the province in which the application for benefits was made.
- 3) The CCMA may at any time permit a person to refer a dispute after the time limit in sub-regulation (1), on good cause shown.
- 4) A person who refers a dispute to the CCMA in terms of this regulation, must satisfy the CCMA that a copy of the referral has been served on the Commissioner at 94 Church Street, Pretoria, 0001 by hand or registered post or by telefax to 012-3371 893.
- 5) Sections 136 to 138 and 142 to 146 of the Labour Relations Act, 1995 (Act No. 66 of 1995) apply, with the changes required by the context, to any matter referred to arbitration in terms of this Regulation.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
10. Securing an Undertaking

- 1) A labour inspector who secures an undertaking from an employer to comply with any provision of the Act in terms of section 38(1) of the Act must record the undertaking in the form of UI 14 or in a document containing the information set out in that form.
- 2) A labour inspector who receives a payment in terms of section 38(2)(c) of the Act must issue a receipt in the form of UI 15 or in a document containing the information set out in that form.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
11. Compliance orders

A compliance order issued in terms of section 39 must be in the form of UI 16 or contain the information set out in that form.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
12. Objection to compliance orders

An employer may object in terms of section 40 to a compliance order by lodging a completed UI 17 with the Director-General within 30 days of receiving the compliance order, by registered post or by hand at 94 Church Street, Pretoria, 0001 or by fax to (012) 337 1893.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
13. Providing information in terms of section 56

- 1) An employer must within seven days of the end of the month in which it commences activities as an employer submit a completed UI 18 to the Commissioner.
- 2) Every employer who is required to provide information to the Commissioner in terms of section 56(2) or (3) of the Act must do so by submitting a completed UI 19 to the Commissioner.
- 3) Any information submitted to the Commissioner in terms of sub-regulation (1) and (2) must be submitted to the Unemployment Insurance Fund, 94 Church Street, Pretoria, 0001.

Unemployment Insurance Act, 2001
Regulations in terms of section 54
14. Transitional Provisions

- 1) Any claim for benefits made against the Fund on or after 1 April 2002 must be dealt with in terms of the Act.
- 2) For the purposes of sub-regulation (1) –
 - a) an application for unemployment benefits is made on the day that the contributor applies for benefits at an employment office in terms of section 17(1) of the Act;
 - b) an application for illness, maternity, adoption or dependant's benefits is made on the date that application is made at an employment office or, if application is made by post, the date the application is received at an employment office.
- 3) An application for maternity benefits in respect of a childbirth that occurred on or before 31 March 2002 must be made within six months of the childbirth.
- 4) An application for dependant's benefits in respect of a contributor in terms of the Unemployment Insurance Act, 1966 who died prior to 1 April 2002 must be made within six months of the death of the contributor except that, on good cause shown, the Commissioner may accept an application after the six-month period.

- 5) Sub-regulation (4) does not apply to a claim for dependant's benefits made more than three years after the death of the contributor.
- 6) Subject to sub-regulation (7), any entitlement to benefits that accrued to a contributor in terms of the Unemployment Insurance Act, 1966 is deemed to have accrued in terms of the Act.
- 7) Any contributor who on 31 March 2002 had accrued an entitlement of more than 238 days benefits is deemed to have an entitlement of 238 days benefits with effect from 1 April 2002.
- 8) A contributor who was not a contributor in terms of the Unemployment Insurance Act, 1966 is deemed to have commenced employment as a contributor on 1 April 2001.
- 9) Sub-regulation (8) does not apply to a contributor who was not in employment as a contributor on 1 April 2002.

**Unemployment Insurance Act, 2001
Regulations in terms of section 54
15. Commencement**

These Regulations come into operation on 1 April 2002.

[UI forms 1 – 19 left out]