

**GOVERNMENT NOTICE**  
**DEPARTMENT OF LABOUR**

**No. 622**

**14 May 1999**

**BASIC CONDITIONS OF EMPLOYMENT ACT, NO 75 OF 1997**

**SECTORAL DETERMINATION 1: CONTRACT CLEANING SECTOR, SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of section 51 (1) of the Basic Conditions of Employment Act, 1997 make a sectoral determination establishing conditions of employment for employees in the Contract Cleaning Sector, South Africa in the schedule hereto and determine the second Monday after the date of publication of this notice as the date from which the provisions of the said Sectoral Determination shall become binding.

**M M S MDLADLANA**  
Minister of Labour

**SCHEDULE**

**1. AREA AND SCOPE OF APPLICATION**

- (1) This determination shall apply in the Republic of South Africa to every employer in the Contract Cleaning Sector and to all employees in that trade, except
  - (a) a manager;
  - (b) administrative personnel;
  - (c) any employer or employee who is subject to a bargaining council agreement in terms the Labour Relations Act, 1995; or
  - (d) employees who work less than 24 hours a month for an employee
- (2) For the purposes of determining the wage rate applicable to an employee, the area where the employee performed that work shall be the area contemplated in clause 3 irrespective of whether or not the employer has an establishment in that area.

## **2. DEFINITIONS**

Unless the context indicates otherwise, any expression used in this determination and which is defined in the Basic Conditions of Employment Act, 1997, has the same meaning as in that Act, further, unless inconsistent with the context -

"administrative personnel" means employees who are charged by the employer with the performance of work entailing responsibility for taking decisions of an administrative nature in the conduct of any activity;

"annual leave cycle" means the period of 12 months employment with the same employee

"agreement" includes a collective agreement.

"CCMA" means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the Labour Relations Act, 1995;

"cleaner"; means a person employed to clean office, school, business, factory, residential or any other premises, or any airplanes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned on a contractual basis and/or to clean the furniture and any other object(s) in such premises and vehicles, and/or to perform any work incidental thereto;

"Contract Cleaning Sector" means the sector in which employers and employees are associated on a fixed-term or fixed-project contract for the purpose of cleaning or washing by hand or machine, of furniture, windows, carpets, doors, floors, tools, machinery, under supervision at industrial and commercial premises, buildings, and flats that are let commercially or any airplanes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned

"day " means a period of 24 hours measured from the time when the employee normally commences work.

"emergency work" means work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by employees during their ordinary hours of work.

"employee" means any person excluding an independent contractor, who works for another person for more than 24 hours per month in the Contract Cleaning Sector and who receives, or is entitled to receive, any remuneration;

"establishment" means any premises or part thereof, on or in connection with which one or more employees are employed in the Contract Cleaning Sector;

"hourly-rated employee" means an employee whose wage is calculated on an hourly basis notwithstanding the frequency of the payment thereof;

"incapacity" means inability to work owing to any sickness or injury other than sickness or injury caused by an employee's own misconduct: Provided that any such inability to work, caused by an accident or scheduled disease for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act, 1993, shall only be regarded as incapacity during any period in respect of which no disablement payment is payable in terms of that Act.

"law" includes the common law;

"manager" means an employee who is charged by his/her employer with the overall supervision over, responsibility for, and direction of the activities of and establishment and the employees engaged therein;

"medical practitioner" means

- (a) a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No 50 of 1974); or
- (b) a traditional healer;

"midwife" means a person registered or enrolled to practice as a midwife in terms of section 16 of the Nursing Act, 1978 (Act No. 50 of 1978);

"Month" means a calendar month.

"night work" means work performed after 18:00 and before 06:00 the next day;

"ordinary hours of work" means the hours of work prescribed in clause 8 but if by agreement between an employer and the employee the latter works a lesser number of ordinary hours, it means such shorter hours;

"overtime" means the time that an employee works during a day or a week in excess of ordinary hours of work;

"paid public holiday" means all public holidays declared as such in terms of the Public Holidays Act, 1994

"remuneration" means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State, and "remunerate" has a corresponding meaning;

"shift worker" means an employee who is engaged in shift work in a workplace in which two or three consecutive shifts per day are worked on not more than six day per week;

"short time" means a temporary reduction in the number of ordinary hours of work owing to slackness of trade, shortage of raw materials, vagaries of the weather, a breakdown of plant or machinery or buildings that are unfit for use or is in danger of becoming unfit for use.

"the Act" means the Basic Conditions of Employment Act ,1997;

"Trade" means an industry or a service or a part of an industry or a service;

"wage" means that amount of money payable to an employee in terms of clause 3 read with clause 11 in respect of his/her ordinary hours of work: Provided that if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in clause 3, it means such higher amount, and "weekly wage" has a corresponding meaning;

"weekly wage" see "wage";

"week" in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;

"work place" means any place where employees work;

### **3. REMUNERATION**

Hourly-rated employee: An employer shall pay an employee in respect of each hour or part there of (excluding overtime) worked by the employee on any day other than a paid holiday or a Sunday, not less than the hourly wage prescribed in schedule below:

### **4. CALCULATION OF REMUNERATION AND WAGES**

- (1) The wage of an employee shall be calculated as set out hereunder:
  - (a) The daily wage of an employee shall be the employee's hourly wage multiplied by the number of ordinary hours worked for that day by such employee as stipulated in clause 3 (a), (b) and (c) and an employee shall be paid accordingly.
  - (b) The weekly wage of an employee shall be the hourly wage multiplied by the number of ordinary hours work prescribed for such employee in any week as stipulated in Clause 8 and an employee shall be paid accordingly.
  - (c) The monthly wage of an employee shall be the weekly wage multiplied by four and one-third.

## **5. PAYMENT OF REMUNERATION**

- (1) For employees, save as provided in clauses 10 (1) and 15 (1), an employer must pay to an employee any remuneration that is paid in money
  - (a) daily, weekly, fortnightly or monthly; and
  - (b) in cash, by cheque or by direct deposit in an account designated by the employee.
- (2) Any remuneration paid by cash or by cheque must be given to each employee
  - (a) at the workplace or at a place agreed to by the employer;
  - (b) during the employee's working hours or within 15 minutes of the commencement or conclusion of those hours; and
  - (c) in a sealed envelope which becomes the property of the employee.
- (3) An employer must pay remuneration
  - (a) not later than seven days after the completion of the period for which the remuneration is payable; or
  - (b) at the termination of the contract of employment.
- (4) Clause 5(3)(b) does not apply to any pension or provident fund payment to an employee that is made in terms of the rules of the fund.

## **6. INFORMATION ABOUT REMUNERATION**

- (1) An employer must give an employee the following information in writing on each day the employee is paid:
  - (a) the employer's name and address;
  - (b) the employee's name or number on the payroll, and workplace;
  - (c) the employee's occupation;
  - (d) the period for which payment is made;

- (e) the amount and purpose of any deductions made from the remuneration;
- (f) the nett amount paid to the employee;
- (g) if relevant to the calculation of that employee's remuneration
  - (i) the employee's rate of remuneration and overtime rate;
  - (ii) the employee's allowance rate;
  - (iii) the number of ordinary hours worked by the employee;
  - (iv) involving 5 ECC members and 3 officials the number of overtime hours worked by the employee;
  - (v) the number of hours worked by the employee on a Sunday or a public holiday during that period, and
  - (vi) The written information required in terms of subclause (1) must be given to each employee:
- (h) at the workplace or at a place agreed to by the employee;
- (i) and such envelope or container on which these particulars are recorded or such statement shall become the property of the employee: Provided that
  - (i) the particulars prescribed above may be recorded on such envelope or in such statement in code which shall be fully set out and explained in an accompanying notice or in a notice kept posted in some conspicuous place in the establishment, accessible to all employees affected thereby;
  - (ii) the amount due to the employee may be paid into the employee's nominated building society or bank account, by manual or electronic funds transfer, by the employer, who shall, however, hand to the employee the aforementioned statement.

## 7. DEDUCTIONS AND OTHER ACTS CONCERNING REMUNERATION

- (1) An employer may not make any deductions from an employee's remuneration other than the following:
  - (a) an employee agrees in writing to deduction in respect of any accommodation, holiday, sick, medical, insurance, savings, provident or pension fund, trade union subscriptions or debt specified in the agreement.
  - (b) If an employee agrees in writing to deductions which the employer has paid or undertaken to pay to –
    - (i) any banking institution, building society, insurance business, registered financial institution, local authority, in respect of a payment on a loan granted to such an employee to acquire a dwelling;
    - (ii) any other organisation or body in respect of a dwelling or accommodation in a hostel occupied by such employee if such dwelling or hostel is provided through the instrumentality of such organisation or body wholly or partially from funds advanced for the that purpose by the state, a building society or a local authority
  - (c) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award.
- (2) An employer who deducts an amount from an employee's remuneration in terms of subclause (1) for payment to another person must pay the amount to the person in accordance with the time period and other requirements specified in the agreement, law, court order or arbitration award.
- (3) Training fee: Subject to the provisions of any other act, no payment by or on behalf of an employee shall be accepted by an employer, either directly or indirectly, in respect of the employment or training of that employee.
- (4) Purchase of goods: An employer shall not require an employee to purchase any goods from the employer or from any shop, place or persons nominated by the employer

- (5) Accommodation, meals and rations and payment in nature An employer shall not as a condition of employment require the employee to accept accommodation, meals or rations from the employer or from any person or at any place nominated by the employee An employer shall not as a condition of employment require an employee to receive any in nature form of payment in lieu of wages or a part of the employee's wages.
- (6) A deduction in terms of subclause (1) may be made to reimburse an employer for loss or damage only if-
- (a) the loss or damage occurred in the course of employment and was due to the fault of the employee;
  - (b) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
  - (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
  - (d) the total deductions from the employee's remuneration in terms of this subsection do not exceed one-tenth of the employee's remuneration in money.
- (7) An employer may not require or permit an employee to-
- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
  - (b) acknowledge receipt of an amount greater than the remuneration actually received.
- (8) Except where otherwise provided in this determination, whenever an employee is absent from work other than on the instructions of the employer, a deduction proportionate to the period of such absence and calculated on the basis of the wage which such employee was receiving in respect of the employee's ordinary hours of work at the time of such absence
- (9) Short time: Whenever the ordinary hours of work specified in the Act are reduced on account of short time, a deduction not exceeding the amount of the employee's hourly wage in respect of each hour of such reduction; Provided that

- (i) such deduction shall not exceed one third of the employee's weekly wage, irrespective of the number of hours by which the ordinary hours of work were reduced;
- (ii) no deduction shall be made in the case of short time arising out of slackness of trade or shortage of raw materials, unless the employer has given the employee notice on the previous day of the intention to reduce the ordinary hours of work;
- (iii) no deduction shall be made in the case of short time owing to a breakdown of machinery or because the building was unfit for use or is in danger of becoming unfit for use, in respect of the first two hours not worked, unless the employer has given the employee notice on the previous day that no work will be available;
- (iv) if the employee has reported for work, no deductions shall be made in the case of short time owing to bad weather in respect of the first two hours not worked, unless the employer has given the employee notice on the previous working day that no work will be available due to inclement weather;
- (v) Should work be stopped due to bad weather and if an employee has reported for work, the employee will be paid for the hours worked plus two hours. Provided that no fewer than four hours and no more than the previous ordinary day's wage will be paid on such a day.

## **8. ORDINARY HOURS OF WORK**

- (1) An employer may not require or permit an employee to work more than
  - (a) 45 hours in any week; and
  - (b) nine hours in any day if the employee works for five days or fewer in a week; or
  - (c) eight hours in any day if the employee works on more than five days in a week

## **9. OVERTIME**

- (1) An employer who employes 10 or more employees may not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed -
  - (a) 3 hours overtime a day; or
  - (b) 10 hours overtime in any week.
- (2) An employer who employs less than 10 employees may not require or permit an employee to work overtime otherwise than in terms of an agreement concluded by the employer with the employee and such overtime shall not exceed -
  - (a) 15 hours overtime in any week.

## **10. PAYMENT OF OVERTIME**

- (1) An employer shall pay an employee who works overtime at a rate of not less than one and a half times the hourly wage in respect of the overtime referred to in clause 9
- (2) Any time worked on Sundays and paid public holidays shall be paid in accordance with the provisions of clauses 16 and 17.
- (3) Despite subclause (1), an agreement may provide for an employer to-
  - (a) pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes' time off on full pay for every hour of overtime worked; or
  - (b) grant an employee at least 90 minutes' paid time off for each hour of overtime worked.
- (4) An employer must grant paid time off in terms of subsection (3) within one month of the employee becoming entitled to it.
- (5) An agreement in writing may increase the period contemplated by subclause (4) to 12 months.

- (6) An agreement concluded in terms of subclause (3) with an employee when the employee commences employment, or during the first three months of employment, lapses after one year

## **11. COMPRESSED WORKING WEEK**

- (1) An agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 13, without receiving overtime pay.
- (2) An agreement in terms of subclause (1) may not require or permit an employee to work-
  - (a) more than 45 ordinary hours of work in any week;
  - (b) more than ten hours' overtime in any week; or
  - (c) on more than five days in any week.

## **12. AVERAGING OF HOURS OF WORK**

- (1) Despite clause 8 (1) and 9(1)(b), the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months in terms of a written agreement.
- (2) An employer may not require or permit an employee who is bound by a agreement in terms of subclause (1) to work more than-
  - (a) an average of 45 ordinary hours of work in a week over the agreed period;
  - (b) an average of five hours' overtime in a week over the agreed period.
- (3) An agreement in terms of subclause (1) lapses after 12 months.
- (4) Subclause (3) only applies to the first two agreements concluded in terms of subclause (1).

### **13. MEAL INTERVALS**

- (1) An employer must give an employee who works continuously for more than five hours a meal interval of at least one continuous hour
- (2) During a meal interval the employee may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another employee.
- (3) An employee must be remunerated-
  - (a) for a meal interval in which the employee is required to work or is required to be available for work; and
  - (b) for any portion of a meal interval that is in excess of 75 minutes unless the employee lives on the premises at which the workplace is situated.
- (4) For the purposes of subclause (1), work is continuous unless it is interrupted by an interval of at least 60 minutes.
- (5) An agreement in writing may-
  - (a) reduce the meal interval to not less than 30 minutes;
  - (b) dispense with a meal interval for an employee who works fewer than six hours on a day.
  - (c) when on any day by reason of overtime worked an employer is required to give an employee a second meal interval, such interval may be reduced to not less than 15 minutes.

### **14. REST PERIODS**

- (1) An employer shall grant to each of the employees a rest interval of not less than 15 minutes as near as practicable in the middle of the first and second work period of the day, and during such interval such employee shall not be required or permitted to perform any work, and such interval shall be deemed to be part of the ordinary hours of work of such employee.
- (2) An employer must allow an employee -
  - (a) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and

- (b) a weekly rest period of at least 36 consecutive hours which, unless otherwise agreed, must include Sunday.
- (3) A daily rest period in terms of subclause (1) (b) may, by written agreement, be reduced to 10 hours for an employee -
  - (a) who lives on the premises at which the workplace is situated; and
  - (b) whose meal interval lasts for at least three hours.
- (4) Despite subclause (1) (c), an agreement in writing may provide for
  - (a) a rest period of at least 60 consecutive hours every two weeks; or
  - (b) an employee's weekly rest period reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

## **15. PAYMENT FOR WORK ON A SUNDAY**

- (1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked.
- (2) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of subclause (8) is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage.
- (3) Despite subclause (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subclause (1) and (2).
- (4) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of clause 8, but is taken into account in calculating the overtime worked by the employee in terms of clause 9 (1)(b).

- (5) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.
- (6) An employer must grant paid time off in terms of subclause (3) within one month of the employee becoming entitled to it.
- (7) An agreement in writing may increase the period contemplated by subclause (6) to 12 months.

## **16. NIGHT WORK**

- (1) An employer, who requires or permits an employee to perform night work, may do so, provided that
  - (a) it is by agreement;
  - (b) the employee receives in addition to the wage, an allowance of not less than 10 per cent of the hourly wage for each hour or part of an hour worked by the employee on night work;
  - (c) transportation is available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift.
- (2) An employer who requires an employee to perform work on a regular basis after 23:00 and before 06:00 the next day must
  - (a) inform the employee in writing, or orally if the employee is not able to understand a written communication, in a language that the employee understands
    - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
    - (ii) of the employee's right to undergo a medical examination in terms of paragraph (b);
  - (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning those hazards as set out in paragraph (a)
    - (i) before the employee starts, or within a reasonable period of the employee starting, such work; and

- (ii) at appropriate intervals the employee continues to perform such work; and
- (c) transfer the employee to a suitable day work within a reasonable time if -
  - (i) the employee suffers from health conditions associated with the performance of night work; and
  - (ii) it is practicable for the employer to do so.
- (3) For the purposes of subclause (2) an employee works on a regular basis if the employee works for period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year

## **17. PUBLIC HOLIDAYS**

- (1) An employer may not require an employee to work on a public holiday except in accordance with an agreement.
- (2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay-
  - (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
  - (b) an employee who does work on the public holiday-
    - (i) at least double the amount referred to in paragraph (a);or
    - (ii) if it is greater, the amount referred to in paragraph (a) plus the amount earned by the employee for the time worked on that day.
- (3) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to-
  - (a) the employee's ordinary daily wage; plus
  - (b) the amount earned by the employee for the work performed that day, whether calculated by reference to time worked or any other method.

- (4) An employer must pay an employee for a public holiday on the employee's usual pay day.
- (5) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

## **18. ANNUAL LEAVE**

- (1) An employer must grant to an employee at least:
  - (a) 21 consecutive days' annual leave on full remuneration in respect of each annual leave cycle; or
  - (b) by agreement, one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid; or
  - (c) by agreement, one hour of annual leave on full remuneration for every 17 hours on which the employee worked or was entitled to be paid.
- (2) An employer must grant an employee an additional day of paid leave if a public holiday falls on a day during an employee's annual leave on which the employee would ordinarily have worked.
- (3) The employer shall pay an employee in respect of the leave prescribed in subclause (1) an amount not less than three times the weekly wage which the employee was receiving immediately prior to the date on which the leave commenced.
- (4) The leave prescribed in subclause (1) shall be granted and be taken at a time to be fixed by the employer: Provided that
  - (a) if such leave has not been granted earlier, it shall be granted and be taken not later than six months after the end of the annual leave cycle;
  - (b) the period of leave shall not be concurrent with any period
    - (i) during which an employee is absent on sick leave in terms of clause 19 amounting in the aggregate to not more than 10 weeks in any period of 12 months;

- (ii) during which the employee is under notice of termination of employment in terms of clause 23.
  - (c) If so requested an employer may grant an employee 12 days occasional leave on full pay in an annual leave cycle.
  - (d) An employer may reduce an employee's entitlement to annual leave by the number of days of occasional leave granted on full remuneration to the employee in a annual leave cycle.
- (5) The remuneration in respect of the leave prescribed in subclause (1), read with subclause (3), shall be paid not later than the last working day before the date of commencement of the leave.
- (6) Upon termination of employment the employer shall pay the employee the pay in respect any period of leave which has accrued to the employee but was not granted to the employee before the date of termination of the employment.
- (7) If the employee has been in employment longer than four months, in respect of the employee's annual leave entitlement during an incomplete annual leave cycle as defined in subclause (1)-
- (i) one day's remuneration in respect of every 17 days on which the employee worked or was entitled to be paid; or
  - (ii) remuneration calculated on any basis that is at least as favourable to the employee as that calculated in terms of subparagraph (i).
- (8) For the purposes of this clause the expressions "employment" and "period of employment" shall be deemed to include any time during which the employer requires an employee not perform emergency work.
- (9) Closing of establishment:
- (a) Notwithstanding anything to the contrary contained in this clause, an employer may for the purpose of annual leave at any time, but not more than once in any period of 12 months, close the establishment for 21 consecutive days, and in that case the employer shall remunerate the employee in terms of subclause (3) read with subclause (4) (d) as the case may be;
  - (b) An employee who at the date of the closing of an establishment or the portion thereof in which the employee is

employed, is not entitled to the full period of annual leave prescribed in subclause (1) shall, in respect of any leave due to the employee be paid by the employer at the employee's rate of remuneration immediately before the closing of the establishment, and for the purposes of annual leave thereafter employment shall be deemed to commence on the date of such closing of the establishment or portion of the establishment, as the case may be.

## **19. SICK LEAVE**

- (1) During every sick leave cycle of 36 consecutive months of employment with the employer an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks. Provided that -
  - (a) in the first 6 months of employment an employer shall grant an employee one-day's paid sick leave for every 26 days worked.
- (2) An employer may, as a condition prior to payment of any amount claimed in terms of this clause by an employee in respect of any absence from work
  - (a) for more than three consecutive working days; or
  - (b) on the working day immediately preceding or the working day immediately succeeding a Sunday or public holiday as defined, require the employee to produce a certificate within a reasonable period, signed by a registered medical practitioner, traditional healer or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament stating the nature and duration of the employee's incapacity;
  - (c) An employer is not required to pay an employee in terms of this clause if the employee has been absent from work for more than three consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.
- (3) For the purpose of this clause -

- (a) "employment" shall be deemed to include any period during which an employee is absent
  - (i) on leave in terms of clause 18;
  - (ii) on the instructions or at the request of the employer;
  - (iii) on sick leave in terms of subclause (1) or owing to incapacity in the circumstances set out in subclause (4);
  - (iv) for any reason not being in breach of the contract of employment amounting in the aggregate to not more than 36 work-days in a cycle of 36 consecutive months; and
  - (v) any time during which an employee is required by the employer not to do work because of bad weather, slackness of the trade or a breakdown of machinery or plant; and
  - (vi) any period of employment, which an employee has had with the same employer immediately before the date on which this determination became binding, and any sick leave on full pay granted under this determination.
  
- (4) This clause does not apply to an inability to work caused by an accident or occupational disease as defined in the Compensation for Occupational Injuries No. 130 of 1993), or except in respect of any period during which no compensation is payable in terms of those Acts.

## **20. MATERNITY LEAVE**

- (1) An employee is entitled to at least four consecutive months' maternity leave.
  
- (2) An employee may commence maternity leave
  - (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
  
  - (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.

- (3) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (4) An employee who has a miscarriage during the third semester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (5) An employee must notify an employee in writing, unless the employee is unable to do so, of the date on which the employee intends to
  - (a) commence maternity leave; and
  - (b) return to work after maternity leave.
- (6) Notification in terms of subclause 5 must be given
  - (a) at least four weeks before the employee intends to commence maternity leave; or
  - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable.

## **21 PROTECTION OF EMPLOYEE BEFORE BIRTH AND AFTER BIRTH OF A CHILD**

- (1) No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of the child.
- (2) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are not less favourable than her ordinary terms and conditions of employment, if
  - (a) the employee is required to perform night work, as defined in clause 2 or her work poses a danger to her health or safety or that of her child; and
  - (b) it is practicable for the employer to do so.

## **22. FAMILY RESPONSIBILITY LEAVE**

- (1) This clause applies to an employee

- (a) who has been in employment with an employer for longer than four months; and
  - (b) who works for at least four days a week for that employee
- (2) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days' paid leave, which the employee is entitled to take-
  - (a) when the employee's child is born;
  - (b) when the employee's child is sick; or
  - (c) in the event of the death of-
    - (i) the employee's spouse or life partner; or
    - (ii) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (3) Subject to subclause (5), an employer must pay an employee for a day's family responsibility leave
  - (a) the wage the employee would ordinarily have received for work on that day; and
  - (b) on the employee's usual payday.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day.
- (5) Before paying an employee for leave in terms of this clause, an employer may require reasonable proof of an event contemplated in subclause (2) for which the leave was required.
- (6) An employee's unused entitlement to leave in terms of this section lapses at the end of the annual leave cycle in which it accrues.
- (7) A collective agreement may vary the number of days and the circumstances under which leave is to be granted in terms of this section.

## 23. TERMINATION OF EMPLOYMENT

- (1) Subject to the provisions of the Labour Relations Act of 1995 an employer or an employee, who desires to terminate the contract of employment, shall give notice in writing, except when it is given by an illiterate employee -
  - (a) during the first four weeks of employment, not less than one working day's;
  - (b) four weeks, if the employee has been employed for more than four weeks.
  - (c) no agreement may require or permit an employee to give a period of notice longer than that required of the employee
  - (d) an employee or employer may terminate the contract without notice by paying the employee or the employer, as the case may be, in lieu of such notice not less than in the case of
    - (i) one working day's notice, the daily wage the employee is receiving at the time of such termination;
    - (ii) two weeks' notice, double the weekly wage the employee is receiving at the time of such termination. Provided that this shall not affect
      - (aa) the right of an employer or an employee to terminate the contract without notice for any cause recognised by law as sufficient;
      - (bb) provided further where the wage of an employee at the date of termination has been reduced by deductions in respect of short time, the expression "is receiving at the time of such termination" in terms of proviso (ii) of subclause (2) (d) shall, when an employer pays an employee in lieu of notice, be deemed to mean "would have received at the time of such termination

had no deduction been made in respect of short-time".

- (2) The notice prescribed in subclause (1) shall be given on any working day: Provided that
  - (a) the period of notice shall not run concurrently with, nor (a) the period of notice shall not run concurrently with, nor shall notice be hall notice be given during, an employee's absence on leave granted in terms of clause 18, or on sick leave granted in terms of clause 19, or owing to incapacity in terms of clause 19(4) where such absences amount in the aggregate to not more than 10 weeks in any period of 12 months' employment with the same employer; and

#### **24. SEVERANCE PAY**

- (1) For the purposes of this clause, "operational requirements" means requirements based on the economic, technological, structural or similar needs of an employee
- (2) An employer must pay an employee who is dismissed for reasons based on the employer's operational requirements severance pay equal to at least one week's remuneration for each completed year of continuous service with that employer, calculated in accordance with clause 4.
- (3) An employee who unreasonably refuses to accept the employer's offer of alternative employment with that employer or any other employer, is not entitled to severance pay in terms of subclause (2)
- (4) The payment of severance pay in compliance with this clause does not affect an employee's right to any other amount payable according to law.
- (5) If there is a dispute only about the entitlement to severance pay in terms of this section, the employee may refer the dispute in writing to the CCMA.

#### **25 UNIFORMS, OVERALLS, PROTECTIVE CLOTHING AND SAFETY EQUIPMENT**

- (1) An employer shall supply in serviceable condition, free of charge, any uniform, overall, gumboots or other protective clothing which the employer requires the employee to wear or which by any law the employer is required to provide for the employee, and any such

uniform, overall, gumboots or other protective clothing shall remain the property of the employee

- (2) The employer must issue articles indicted in subclause (1) within seven days after an employee has commenced work provided that
  - (i) where an employees health and safety is at risks such articles must be issued immediately
- (3) No employer shall make any deduction from the wages of any employee in regard to any article provided to that employee in terms of subclause (1) unless the loss or damage occurred in the course of employment and was due to the fault of the employee; if
- (4) the employer has followed a fair procedure and has given the employee a reasonable opportunity to show why the deductions should not be made;
- (5) the total amount of the debt does not exceed the actual amount of the loss or damage;
- (6) the total deductions from the employee's remuneration in terms of this subclause do not exceed one-tenth of the employee's weekly wage.

## **26. WRITTEN PARTICULARS OF EMPLOYMENT**

- (1) An employer must supply an employee, when the employee commences employment, with the following particulars in writing-
  - (a) the full name and address of the employer;
  - (b) the name and occupation of the employee, or a brief description of the work for which the employee is employed;
  - (c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
  - (d) the date on which the employment began;
  - (e) the employee's ordinary hours of work and days of work;
  - (f) the employee's wage or the rate and method of calculating wages;
  - (g) the rate of pay for overtime work;

- (h) any other cash payments that the employee is entitled to;
  - (i) any payment in kind that the employee is entitled to and the value of the payment in kind;
  - (j) how frequently remuneration will be paid;
  - (k) any deductions to be made from the employee's remuneration;
  - (l) the leave to which the employee is entitled;
  - (m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate;
  - (n) a description of any council or sectoral determination which covers the employer's business;
  - (o) any period of employment with a previous employer that counts towards the employee's period of employment;
  - (p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.
- (2) When any matter listed in subclause (1) changes-
- (a) the written particulars must be revised to reflect the change;  
and
  - (b) the employee must be supplied with a copy of the document reflecting the change.
- (3) If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.
- (4) The employer must keep written particulars in terms of this clause for a period of 12 months after the termination of employment.

## **27. INFORMING EMPLOYEES OF THEIR RIGHTS**

- (1) An employer must ensure that a copy of the Determination is available and accessible to the employee.

- (2) give a copy of that sectoral determination-
  - (i) to an employee who has paid the prescribed fee; and
  - (ii) free of charge, on request, to an employee who is a registered trade union representative.

## **28. CERTIFICATE OF SERVICE**

- (1) On termination of employment an employee is entitled to a certificate of service stating-
  - (a) the employee's full name;
  - (b) the name and address of the employer;
  - (c) description of any council or sectoral employment standard by which the employer's business is covered;
  - (d) the date of commencement and date of termination of employment;
  - (e) the title of the job or a brief description of the work for which the employee was employed at date of termination;
  - (f) the remuneration at date of termination; and
  - (g) if the employee so requests, the reason for termination of employment.

## **29. ATTENDANCE REGISTER**

- (1) An employer shall provide an attendance register substantially in the prescribed format, in which the employer shall record in ink or indelible pencil the name and class of each of the employees and if an employee is unable to write, the employer shall on the employee's behalf for each day worked and on that day make the necessary entries in the presence of a person nominated by the employee, and shall sign such entries.
- (2) An employer may, instead of an attendance register, provide a semi-automatic time recorder which records substantially the same information as is required to be kept in the attendance register specified in subclause (1).
- (3) Unless prevented from doing so by unavoidable causes, every employee shall, in respect of each day worked on that day
  - (a) record in ink or indelible pencil in such attendance register referred to in subclause (1)
    - (i) the day of the week;

- (ii) the time work commenced;
  - (iii) the time of commencement and termination of all meal or other intervals which are not deemed as ordinary hours of work;
  - (iv) the time of finishing work for the day;
  - (v) the time of commencement and termination of overtime worked for the day;
  - (vi) the time of commencement and termination of work on a Sundays;
  - (vii) the time of commencement and termination of work on a public holiday;
  - (viii) the total amount of hours worked for the day; and
  - (ix) the employee's signature;
- (b) in an establishment where a semi-automatic time recorder is provided, make an entry by means of such recorder to show the following:
- (i) the time work commenced;
  - (ii) the time of commencement and termination of all meal or other intervals which are not deemed as ordinary hours of work; and
  - (iii) the time of finishing work for the day
- (4) An employer shall retain such attendance register referred to in subclause (1) or the information recorded by a semi-automatic time recorder referred to in subclause (2), as the case may be, for a period of not less than three years after the date of the last entry therein or thereon.

### **30. ENFORCEMENT**

- (1) Enforcement of this determination is done in term of chapter ten of the Basic Conditions of Employment Act, no 75 of 1997.

All the provisions of Wage Determination 482, Contract Cleaning Trade, South Africa published under Government Notice No. 1484 of 20 November 1998 will be cancelled by this Determination with effect from the date of publication.