



whitfield fintax

ACCOUNTING

TAX

FIDUCIARY

LEGAL

WEALTH

ATTENTION EMPLOYERS: LABOUR INSPECTIONS – RATHER BE PREPARED

The labour department have stepped up their on-site compliance inspections and are currently doing the rounds in most areas of the Bay.

Here are a few tips on what to expect so that you can be prepared:

Labour Inspectors are appointed in terms of the Basic Condition of Employment Act (BCEA) to monitor and enforce the following legislation:

- Basic Conditions of Employment Act 75 of 1997;
- Compensation for Occupational Injury and Diseases Act 130 of 1993;
- Occupational Health and Safety Act 85 of 1993;
- Employment Equity Act 55 van 1998;
- Unemployment Insurance Act 30 of 1996.

Failure to comply with legislation constitutes a criminal offence.

A Labour Inspector from the Department of Labour has a right to enter a workplace to conduct these inspections which is set out in the Basic Conditions of Employment Act 75 of 1997 as follows.

“Section 65 – Powers of entry

(1) To monitor and enforce compliance with employment law, a labour inspector may, without warrant or notice, at any reasonable time, enter—

(a) any workplace or any other place where an employer carries on business or keeps employment records that is not a home;”

This means that an Inspector may enter any workplace, even without notice. However, in most cases the Inspectors normally give written notice of the inspection in order for the employer to prepare for the inspection. They usually list what documentation they will require for the inspection and the more prepared and co-operative the employer is, the smoother the process.

The Minister provides each labour inspector with a signed certificate, stating that the person is a labour inspector, under which legislation that inspector is authorised to monitor and enforce the legislation, and which of the functions of a labour inspector that person may perform.

It is essential to request these credentials from the Inspector, and to scrutinise the credentials properly so that you know exactly what powers the inspector has.

It is important to note for those who employ domestic employees at the residence, Labour Inspectors may only enter a home with the owner's consent or with a court order from the Labour Court.

Labour inspectors have the authority to advise employees and employers of their rights, conduct inspections of the records that you are obliged to keep in terms of the BCEA, investigate any complaints made by an employee, and enforce the employer to comply by securing an undertaking from the employer, or issue a compliance order.

Inspectors are empowered to copy any records/ documents on your premises in terms of the act, or to remove such documents to make copies. They can issue an order, compelling the employer to deliver any required documents to a specified place within a specified time. The Inspector must provide the employer with a receipt of anything he / she intends to remove from the workplace. Anything removed, must be returned within a reasonable time frame.

Below listed are the basic aspects that the Inspector will require, with a short description of each. Please note that this list is not exhaustive, and the Inspectors can request additional information and a time frame within which to provide it.

Posters of the Basic Conditions of Employment Act; Occupational Health and Safety Act, and the Employment Equity Act.

It is mandatory to display posters of these Acts in the workplace, where employees have easy access to read them. If you are a member of SEESA, these are available at your nearest SEESA Office at no additional charge. Alternatively, they can be purchased at most stationery suppliers.

Attendance registers

It is mandatory for employers to keep an attendance register for each employee. The register must be signed each day and indicate the working hours of each employee.

These registers will be utilised by the inspectors to determine working hours as well as possible overtime.

Employment contracts

Each employee must have a contract of employment and the signed contract/s must be available for inspection.

Leave records

An employer must keep a record of each employee's leave (annual, sick, and family responsibility) which must be available for inspection.

Registration with the Compensation Fund and proof of payments

It is mandatory for employers to be registered with the Compensation Fund to protect their employees in the event of an injury on duty. Proof of registration and/or the assigned registration/reference number, together with proof of the latest payment made to the fund must be available for inspection.

Registration with the Unemployment Fund and proof of payments

It is mandatory for employers to be registered with the Unemployment Fund.

Proof of the registration/reference number, together with proof of the latest payment made to the fund must be available for inspection.

Remuneration

The employee's salary advice/payslips will be inspected to determine if the employees are being paid the minimum wage and in accordance with the hours and overtime worked as per the attendance register. Inspectors may also interview a few employees to confirm certain aspects.

If a company is non-compliant and fails the inspection, the Inspector will issue the employer with a written compliance order that can result in a monetary penalty. However, in most cases the Inspector will simply issue the written compliance order and allow the employer a specific time frame within which to rectify the non-compliance issues.

For further information on your obligations as an employer, please visit the labour website www.labour.gov.za or consult a labour broker.

**BASIC CONDITIONS OF
EMPLOYMENT ACT, 1997****Section 31****READ THIS FIRST****WHAT IS THE PURPOSE OF
THIS FORM?**

This form is a record of the
calculation of remuneration.

WHO FILLS IN THIS FORM?

The employer.

**WHERE DOES THIS FORM
GO?**

Must be kept in employer's
possession.

INSTRUCTIONS

- Records must be kept by the employer for a period of three years from the date of the last entry [section 31(2)].
- No person may make a false entry in a record maintained in terms of subsection (1) [section 31(3)].
- An employer who keeps a record in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other law [section 31(4)].
- Every employee has the right to inspect and to request for a trade union representative or a labour inspector to inspect any record kept in terms of this Act that relates to the employment of that employee [section 78(1)(g)].

This is only a model and not a prescribed form. Completing a document in another format containing the same information is sufficient compliance with the regulation.

WAGES REGISTER

NAME OF EMPLOYEE:

IDENTITY NO: EMPLOYEE NUMBER:

PAY PERIOD: BASIC WAGE: OCCUPATION

MANNER OF PAYMENT: ☐ PER HOUR ☐ PER DAY ☐ PER WEEK
☐ PER FORTNIGHT ☐ PER MONTH

CALCULATION OF WAGES		
Ordinary hours worked	Amount due	R
Overtime worked	Amount due	R
Hours worked on Sundays	Amount due	R
Hours worked on Public holidays	Amount due	R
Allowances: Shift		
Housing		
Transport		
Medical		
Other: (specify)		
Total		R
Total		R
Authorised deductions: P.A.Y.E		
UIF		
Union		
Medical		
Retirement		
Other (Full details)		
Total		R
TOTAL AMOUNT DUE		R

SIGNATURE OF EMPLOYEE

DATE

**BASIC CONDITIONS OF
EMPLOYMENT ACT, 1997**

Section 33

PAYSLIP

READ THIS FIRST



**WHAT IS THE PURPOSE
OF THIS FORM?**

This form is a record of information about remuneration.

**WHO FILLS IN THIS
FORM?**

The employer.

**WHERE DOES THIS FORM
GO?**

To the employee.

INSTRUCTIONS

This information must be given to each employee –

- At the workplace or at a place agreed to by the employee; and
- during the employee's ordinary working hours or within 15 minutes of the commencement or conclusion of those hours.
- The full value of remuneration including payment in kind must be specified.
- *This is only a model and not a prescribed form.* Completing a document in another format containing the same information is sufficient compliance with the regulation.

NAME OF EMPLOYER:

ADDRESS:

.....

.....

NAME OF EMPLOYEE:

ID NO: EMPLOYEE NUMBER:

OCCUPATION/GRADE:

PAY PERIOD: FROM TO

BASIC WAGE:

MANNER OF PAYMENT: ☐ PER HOUR ☐ PER DAY ☐ PER WEEK

☐ PER FORTNIGHT ☐ PER MONTH

	Rate	No of hours	Rand earned
Ordinary hours worked
Overtime worked
Sundays time worked
Public holidays time worked
Payment in kind
Allowances(specify)
.....
.....
TOTAL			R
DEDUCTIONS: P.A.Y.E			R
UIF			
UNION			
OTHER (Full details)			
.....			
TOTAL			
TOTAL AMOUNT DUE			R

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

Section 31

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM

This form is a record of attendance.

WHO FILLS IN THIS FORM?

**The employee or if the employee is unable
the employer.**

**WHERE DOES THIS
FORM GO?**

Must be kept in employer's possession.

INSTRUCTIONS

- Records must be kept by the employer for a period of three years from the date of the last entry in the record [section 31(2)];
- No person may make a false entry in a record maintained in terms of subsection (1);
- An employer who keeps a record in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other employment law [section 31(4)].

NOTE

Whenever an employer has in terms of section 16 of the Act required or permitted an employee to perform work on a Sunday and grants the employee a day off in the next succeeding week [in terms of section 16(3)], the day off or day's leave must be clearly indicated in the date column on the day concerned.

This is only a model and not a prescribed form. Completing a document in another format e.g. electronic clock card, containing the same information is sufficient compliance with the regulation.

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997 ATTENDANCE REGISTER

Note – Employees must make entries only in the section of the register reserved for their use

Name of employee

.....
Employee number

[illegible]

Entries to be made by employees or if the employee is unable, the employer

[illegible]

**BASIC CONDITIONS OF
EMPLOYMENT ACT, 1997****Section 42****READ THIS FIRST****WHAT IS THE PURPOSE
OF THIS FORM?**

This form is proof of employment
with an employer.

**WHO FILLS IN THIS
FORM?**

The employer.

**WHERE DOES THIS FORM
GO?**

To the employee.

INSTRUCTIONS

This form may be issued upon ter-
mination of employment.

NOTE

In terms of section 42(g) the reason
for termination of employment
must only be given if requested by
the employee.

*This is only a model and not a
prescribed form. Completing a
document in another format
containing the same information is
sufficient compliance with the
regulation.*

CERTIFICATE OF SERVICE

I
(name and designation of person)

of

.....
(full name of employer)

address:
.....

in the (trade)

declare that

.....
(full name of employee)

.....
(I.D. no.)

was in employment

from **until**

as

.....
(type of work/occupation)

any other information.....

On termination of service this employee was earning: R.....

..... (amount in words)

☐ per hour ☐ per day ☐ per week ☐ per fortnight ☐ per month ☐ per year

.....
Employer's signature

.....
Date

Inspections by the Department of Labour

Inspectors of the Department of Labour will be visiting workplaces to check the level of compliance with labour legislation. The following are some of the aspects the inspectors will be checking.

QUESTION	YES	NO
1. Are you registered with the Compensation Fund?		
2. Are you registered with the Unemployment Insurance Fund?		
3. Do you have a copy of the Occupational Health and Safety Act and the relevant Regulations on the premises and is the Act and the Regulations available to the workers if they want to read it?		
4. Do you display the Summary of the Basic Conditions of Employment Act?		
5. Do you display the Summary of the Employment Equity Act?		
6. Have you appointed Health and Safety Representatives?		
7. Have you established Health and Safety Committees in your workplace?		
8. Are you and your workers trained to recognise health and safety problems?		
• Are moving parts like drive belts and chains guarded?		
• Are chemicals used safely and stored in a safe place?		
• Are emergency exits clearly marked and easily accessible?		
• Are fire extinguishers accessible and serviced regularly?		
• Are flammable material stored and used correctly, for instance not near fires?		
9. Do you have fully equipped first aid boxes on the premises?		
10. Are all electrical wires insulated and proper plugs used in your workplace?		
11. Do you report injuries at work to the Department of Labour?		
12. Do you have clean and hygienic toilets and washing facilities provided for males and females?		
13. Do you have an attendance register at your workplace?		

It is the employer's duty to provide a safe and healthy workplace. If you answered NO to any of the above, you have to rectify immediately. **Failure to comply with the above constitutes a criminal offense.** Workers should report unsafe or unhealthy conditions to their employer and/or the health and safety representative.

Please assist the inspectors of our Department when they visit your workplace.

Provincial Offices of the Department of Labour

Eastern Cape Tel: (043) 701 3000
 Free State Tel: (051) 505 6200
 Gauteng North Tel: (012) 309 5000
 Gauteng South Tel: (011) 497 3000
 KwaZulu-Natal Tel: (031) 336 1500

Limpopo Tel: (015) 290 1744
 Mpumalanga Tel: (013) 655 8700
 North West Tel: (018) 387 1800
 Northern Cape Tel: (053) 838 1500
 Western Cape Tel: (021) 460 5911

Website
www.labour.gov.za



labour

Department:
 Labour
 REPUBLIC OF SOUTH AFRICA