



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

*Regulation Gazette*

**No. 8419**

*Regulasiekoerant*

**Vol. 489**

Pretoria, 17 **March**  
**Maart** 2006

**No. 28598**



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

**CONTENTS**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>GOVERNMENT NOTICE</b>			
<b>Labour, Department of</b>			
<i>Government Notice</i>			
R. 219	Basic Conditions of Employment Act (75/1997): Sectoral Determination 12: Forestry Sector, South Africa .....	3	28598

**INHOUD**

<i>No.</i>		<i>Bladsy No.</i>	<i>Koerant No.</i>
<b>GOEWERMENTSKENNISGEWING</b>			
<b>Arbeid, Departement van</b>			
<i>Goewermentskennisgewing</i>			
R. 219	Wet op Basiese Diensvoorwaardes (75/1997): Sektorale Vaststelling 12: Bosbou Sektor, Suid-Afrika .....	3	28598

---

**GOVERNMENT NOTICE**  
**GOEWERMENTSKENNISGEWING**

---

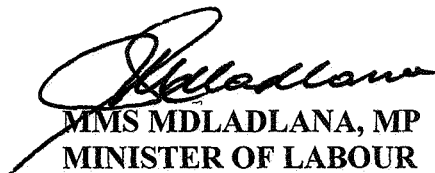
**DEPARTMENT OF LABOUR**  
**DEPARTEMENT VAN ARBEID**

No. R. 219

17 March 2006

**BASIC CONDITIONS OF EMPLOYMENT ACT, NO 75 OF 1997****SECTORAL DETERMINATION 12: FORESTRY SECTOR,**  
**SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 51(1) of the Basic Conditions of Employment Act, 1997, make a Sectoral Determination establishing conditions of employment and wages for employers and employees in the Forestry Sector, South Africa, in the schedule hereto and determine 1st April 2006 as the date from which provisions of the said Sectoral Determination shall become binding.



**MMS MDLADLANA, MP**  
**MINISTER OF LABOUR**

No. R. 219

17 Maart 2006

**WET OP BASIESE DIENSVORWAARDES, NO 75 VAN 1997****SEKTORALE VASSTELLING 12: BOSBOU SEKTOR,**  
**SUID-AFRIKA**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, maak ingevolge artikel 51(1) van die Wet op Basiese Diensvoorwaardes, No. 75 van 1997, 'n Sektorale Vasstelling met diensvoorwaardes vir werknemers en werkgewers ten opsigte van die Bosbou Sektor, Suid-Afrika wat in die bylae hier verskyn en bepaal 1ste April 2006 as die datum waarop die bepalings van die genoemde Sektorale Vasstelling bindend word.



**MMS MDLADLANA, LP**  
**MINISTER VAN ARBEID**

## PART A: APPLICATION

### 1. SCOPE OF APPLICATION

- (1) The determination applies to the employment of forestry workers in all forestry activities in the Republic of South Africa.
- (2) For the purpose of this determination Forestry Sector refers to forestry operations related to planting, growing, tending and harvesting of trees. Without limiting its meaning, 'forestry activities' includes:
  - a) commercial timber growers;
  - b) emergent timber growers;
  - c) contractors where the majority of time is spent in relation to forestry contracting activities;
  - d) all transportation within the sector not covered by the Road Freight Bargaining Council;
  - e) a domestic worker employed in a home on a plantation where forestry activities take place;
  - f) a security guard employed to guard a plantation or other premises where forestry activities are conducted, who is not employed in the private security sector.
- (3) The determination does not apply to:
  - a) mixed farming employers where majority of the time is spent in relation to farming activities;
  - b) community forestry employers and employees;
  - c) employers where the majority of the time is spent in relation to conservation forestry activities;
  - d) any person employed or engaged in forestry activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995 and includes but is not limited to:

- (i) transportation covered by the Road Freight Bargaining Council;
- (ii) the forest products sector, which includes all primary and secondary timber processing activities including the pulp and paper sector and whose operations are currently covered by bargaining council agreements.

## PART B: MINIMUM WAGES

### 2. MINIMUM WAGE LEVELS

- (1) With effect from 1 April 2006, an employer must pay the forestry worker at least the minimum wage prescribed in terms of table 1.
- (2) An employer must pay a forestry worker who works 45 ordinary hours of work per week –
  - (a) at least the weekly or monthly wage set out in Table 1; or
  - (b) by agreement between the employer and the forestry worker, at least an hourly rate set out in Table 1 for every hour or part of an hour that the forestry worker works.

<b>Table 1: Minimum wages for employees in the Forestry Sector</b>				
<b>Minimum rate for the period</b>			<b>Minimum rate for the period</b>	<b>Minimum rate for the period</b>
1 April 2006 to 31 March 2007			1 April 2007 to 31 March 2008	1 April 2008 to 31 March 2009
Monthly	Weekly	Hourly		
R836-00	R192,93	R4,28	Previous year's wage +CPIX*+2%	Previous year's wage +CPIX*+2%
*CPIX is the Consumer Price Index, excluding interest rates on mortgage bonds for metropolitan and other urban areas as reported by Statistics SA six weeks before the increases become effective.				

### **3. ANNUAL WAGE INCREASES**

- (1) The annual wage increases must be equal to the Consumer Price Index plus two percentage points at a point six weeks before the wage increase comes into effect.

### **4. MINIMUM WAGES FOR FORESTRY WORKERS UNDER 18 YEARS OF AGE.**

- (1) An employer must pay a forestry worker who is 15 years of age or older, but less than 18 and who works for 35 hours per week or less at least the hourly rate or remuneration, specified in Table 1.

### **5. TASK-BASED PAYMENT**

- (1) An employer and forestry worker may agree in writing that the forestry worker will perform task-based work on a regular basis.
- (2) An employer must pay a forestry worker who is employed on such a task-based system, remuneration at not less than the wage prescribed in clause 2 (2), plus the rates applicable under such system.
- (3) An employer shall not require or permit a forestry worker to undertake any work for him or her solely on the basis of the quantity of work done. Any amount payable to a forestry worker for task-based work in terms of sub-clause (2) shall be aside from and in addition to his or her wage, which shall not be less than the wage prescribed in clause 2 (2).
- (4) An agreement to perform task-based work in terms of this clause must be concluded before the work is commenced and must include-
  - (a) the forestry worker's wage and rate per task;
  - (b) the basis for calculating task-based payments;
  - (c) the period over which task-based payments are calculated which may not be longer than one month;

- (d) when the employer must pay task-based payments to the forestry worker which may not be longer than seven days after the end of the period in which the payment is earned; and
  - (e) the type, description, number, quantity, margin, profit, or orders (individual, weekly, monthly or otherwise) for which the forestry worker is entitled to earn wages.
- (5)
- (a) An employer must ensure that a schedule reflecting the wage and rates referred to in clause 5 (2) is accessible to the forestry workers at all times.
  - (b) The employer must supply the forestry worker with a copy of the agreement to perform task-based work.
- (6) An employer who intends to cancel or amend any task-based system in operation or the rates applicable there under shall give the affected forestry workers not less than one month notice of such intention. The parties may agree in writing on a longer notice period.
- (7) A forestry worker who performs task-based work, or otherwise, his/her ordinary hours of work may be reduced on account of short-time provided that:
- (a) A deduction made in the case of short time should not exceed one third of the forestry worker's weekly wage, irrespective of the number of hours by which the ordinary hours of work were reduced.
  - (b) Short time is applicable when unforeseen circumstances such as machinery breakdowns, weather fluctuations, and slackness of trade or shortage of raw materials exist.
  - (c) No deductions shall be made in the case of short time arising from machinery breakdowns, slackness of trade or shortage of raw materials unless the employer has given notice on the previous working day.

- (d) Whenever short time is worked due to inclement weather, forestry workers should be paid for at least four hours if work has not started for the day or was stopped within the first four hours. Should work be stopped after the first four hours forestry workers should be paid for hours worked. The one-third provision will apply if the employer has given notice the previous working day.

## 6. CALCULATION OF WAGES OR REMUNERATION

- (1) The wage or remuneration of a forestry worker is calculated by reference to the forestry worker's ordinary hours of work.
- (2) For the purposes of any calculation in terms of this determination –
- (a) the hourly wage or remuneration of a forestry worker is obtained by-
- (i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;
- (b) the daily wage or remuneration of a forestry worker is obtained by-
- (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or
- (ii) dividing the weekly wage or remuneration by the number of days worked in a week.
- (c) the weekly wage or remuneration of a forestry worker is obtained by –
- (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
- (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or



- (iii) dividing the monthly wage or remuneration by four and one-third ( $13/3$ ).
- (d) the monthly wage or remuneration of a forestry worker is obtained by multiplying the weekly wage or remuneration by four and a third ( $13/3$ ).

## **7. PAYMENT OF REMUNERATION**

- (1) An employer must pay a forestry worker –
  - (a) in South African currency;
  - (b) daily, weekly, fortnightly or monthly; and
  - (c) in cash, by cheque or by direct deposit into an account designated by the forestry worker.
- (2) Any payment in cash or by cheque must be given to each forestry worker-
  - (a) at the workplace;
  - (b) during the forestry worker's working hours; and
  - (c) in a sealed envelope which becomes the property of the forestry worker.
- (3) An employer must pay a forestry worker on the normal payday agreed to in writing by the forestry worker.

## **8. INFORMATION CONCERNING PAY**

- (1) On every pay day, the employer must give the forestry worker a statement showing –
  - (a) the employer's name and address;

- (b) the forestry worker's name and occupation;
  - (c) the period in respect of which payment is made;
  - (d) the forestry worker's wage rate and overtime rate;
  - (e) the number of ordinary hours worked by a forestry worker during that period;
  - (f) the number of overtime hours worked by the forestry worker during that period;
  - (g) the number of hours worked by the forestry worker on a paid holiday or on a Sunday;
  - (h) the forestry worker's wage;
  - (i) details of any other pay arising out of the forestry worker's employment;
  - (j) details of any deductions made;
  - (k) the employer's registration number with the Unemployment Insurance Fund and the employer's contribution to the Fund; and
  - (l) the actual amount paid to the forestry worker.
- (2) An employer must retain a copy or record of each statement for three years.

## 9. PROHIBITED ACTS CONCERNING PAY

- (1) An employer may not withhold any payment from a forestry worker or require a forestry worker to pay the employer or any other person in respect of –
- (a) the employment or training of that forestry worker;
  - (b) the supply of any work equipment or tools; or
  - (c) the supply of any work clothing.<sup>1</sup>

---

<sup>1</sup> An employer may not make any deduction from remuneration or require or permit a forestry worker to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of a forestry worker (section 23 of the Occupational Health and Safety Act, No: 85 of 1993).

- (2) An employer may not require a forestry worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.
- (3) An employer may not levy a fine against a forestry worker.
- (4) An employer may not require or permit a forestry worker to –
  - (a) repay any amount paid except for overpayments previously made by the employer resulting from an error in calculating the forestry worker's pay; or
  - (b) acknowledge receipt of an amount greater than the pay actually received.

#### **10. DEDUCTIONS AND OTHER ACTS CONCERNING REMUNERATION**

- (1) An employer may not make any deduction from a forestry worker's remuneration except –
  - (a) a deduction not exceeding 10 percent of the forestry worker's wage for accommodation in which the forestry worker ordinarily resides;
  - (b) a deduction not exceeding 10 percent of the forestry worker's wages made in accordance with clause 10(1)(a) for food supplied to the forestry worker "on a payment in kind" basis except where a written agreement has been signed as contemplated in clause (10) (1) (d);
  - (c) at the written request of a forestry worker, a deduction of an amount which the employer has paid or undertaken to pay to a third party contemplated by sub-clause (7);
  - (d) where a written agreement has been signed by the employer and forestry worker in respect of the repayment of monies owed to the employer by the forestry worker in respect of:

- (i) loans;
    - (ii) the provision of food over and above the 10% allowable deduction requested by the forestry worker;
    - or
    - (iii) credit extended to the forestry worker in respect of purchases freely made by the forestry worker;
  
  - (e) the deduction is required or permitted in terms of a law, collective agreement, Court order or arbitration award;
  
  - (f) a deduction of any amount which the employer is required to make by law or in terms of a Court order or arbitration award.
- (2) An employer may only make a deduction in respect of accommodation or food in terms of clause 10(1)(a) or (b) respectively if –
- (a) the food or accommodation is provided free of charge by the employer to the forestry worker at the employer's cost;
  
  - (b) the food or accommodation is provided on a consistent and regular basis as a condition of employment;
  
  - (c) no additional deduction is made from the forestry worker's remuneration for food or accommodation except in the case of a written agreement in respect of food as is contemplated in clause 10(1)d;
  
  - (d) in the case of accommodation, no deduction is made by the employer for electricity, water or other services; and
  
  - (e) the deduction does not exceed the cost to the employer of supplying food or accommodation, as the case may be.

- 
- (3) A deduction in terms of clause 10(1)(a) may only be made for a house that meets the following requirements:
- (a) the house has a roof that is durable and waterproof;
  - (b) the house has glass windows that can be opened;
  - (c) safe water is available inside the house, or in close proximity which is not more than 100m from the house;
  - (d) electricity, if the infrastructure exists on the farm or plantation;
  - (e) a flush toilet or pit latrine is available in, or in close proximity to the house; and
  - (f) the house is not less than 30 square metres in size.
- (4) An employer may not make any deduction for accommodation in terms of sub-clause (1) (a) in respect of a forestry worker who is under 18 years of age.
- (5) An employer may only make a deduction in terms of sub clause (1)(a) in respect of one forestry worker residing in any house.
- (6) (a) Subject to clause 10(1)(a) where more than two forestry workers reside in communal accommodation, the maximum deduction that the employer may make in total in respect of all the forestry workers who reside in that accommodation is 25% of the applicable minimum wage payable to an individual forestry worker.
- (b) An equal amount must be deducted in respect of each of the forestry workers residing in accommodation contemplated by paragraph (a).

- (7) A deduction may only be made in respect of clause 10(1)(c) in respect of a payment made or to be made to –
- (a) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the forestry worker is a member,
  - (b) any registered trade union in respect of subscriptions;
  - (c) any bank, building society, insurance business, registered financial institution, local authority in respect of a payment on a loan granted to the forestry worker to acquire a dwelling;
  - (d) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the forestry worker.

#### **PART C: PARTICULARS OF EMPLOYMENT**

##### **11. WRITTEN PARTICULARS OF EMPLOYMENT**

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

- 
- (f) the forestry worker's wage or the rate and method of payment;
  - (g) the rate of pay for overtime work;
  - (h) any other cash payments that the forestry worker is entitled to;
  - (i) any food or accommodation payment that the forestry worker is entitled to and the value of the food or accommodation calculated in accordance;
  - (j) any other payment in kind received by the employer;
  - (k) how frequently wages will be paid;
  - (l) any deductions to be made from the forestry worker's wages;
  - (m) the leave to which the forestry worker is entitled to;
  - (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.
- (2) If a forestry worker is not able to understand the written particulars, the employer must ensure that they are explained to the forestry worker in a language and in a manner that the forestry worker understands.
- (3) The employer must revise the written particulars if there is any change in the forestry worker's terms of employment.
- (4) An employer must retain a copy of the written particulars while the forestry worker is employed and for three years thereafter.

**PART D: HOURS OF WORK****12. EMERGENCY WORK**

- (1) Clauses 13, 15(1), 18(1), 19(1), 21(1) and 22(1) do not apply to 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 forestry workers during their ordinary hours of work
- (2) Sub-clause (1) does not affect the obligation of an employer to pay a forestry worker for any work performed at the forestry worker's ordinary rate of pay or overtime rate, as the case may be.

**13. ORDINARY HOURS OF WORK**

- (1) An employer may not require or permit a forestry worker to work more than –
  - (a) 45 hours in any week<sup>2</sup>; and
  - (b) nine hours on any day if the forestry worker works for five days or less in a week; or
  - (c) eight hours in any day if the forestry worker works for more than five days in any week.

**14. EXTENSION OF ORDINARY HOURS OF WORK FOR FORESTRY WORKERS**

- (1) A forestry worker and an employer may conclude a written agreement in terms of which the forestry worker's ordinary hours of work–

---

<sup>2</sup> A forestry worker who is under 18 years of age may not work more than 35 hours in any week.



- 
- (a) are extended by not more than five hours per week for a period of not more than four months in any continuous period of twelve months; and
    - (b) are reduced by the same number of hours during a period of the same duration in the same twelve-month period.
  - (2) An agreement in terms of sub-clause (1) may not extend the forestry worker's ordinary hours of work to more than ten hours on any day.
  - (3) During any period of extended or reduced ordinary hours of work in terms of sub-clause (1), the employer must pay the forestry worker the wage the forestry worker would have received for the forestry worker's normal ordinary hours of work.
  - (4) If a forestry worker's employment terminates for any reason at a time when the forestry worker has worked a greater number of extended ordinary hours than reduced ordinary hours, the employer must pay the forestry worker for the extended ordinary hours worked at the overtime rate in terms of clause 15.
  - (5) An employer who concludes a contract in terms of this clause must-
    - (a) supply the forestry worker with a copy of the contract; and
    - (b) record any extended or reduced hours worked in terms of the contract on the statement supplied to the forestry worker in terms of clause 5.

**15. OVERTIME**

- (1). An employer may not require or permit a forestry worker -
  - (a) to work overtime except in accordance with an agreement concluded by the employer and the forestry worker;
  - (b) to work more than 15 hours' overtime a week; or
  - (c) to work more than 12 hours, including overtime, on any day.
- (2) An agreement concluded in terms of sub-clause (1) (a) with a forestry worker when the forestry worker commences employment, or during the first three months of employment, is only valid for one year.

**16. PAYMENT OF OVERTIME**

- (1) An employer must pay a forestry worker at least one and one-half times the forestry worker's wage for overtime worked.
- (2) Despite sub-clause (1), an agreement may provide for an employer to -
  - (a) pay a forestry worker not less than the forestry worker's ordinary wage for overtime worked and grant the forestry worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
  - (b) grant a forestry worker at least 90 minutes' paid time off for each hour of overtime worked.
- (3) An employer must grant paid time off in terms of sub-clause (2) within one month of the forestry worker becoming entitled to it.
- (4) An agreement in writing may increase the period contemplated by sub-clause (3) to twelve months.

- (5) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 18 and 23.

## 17. COMPRESSED WORKING WEEK

- (1) An agreement in writing may require or permit a forestry worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 21, without receiving overtime pay.
- (2) An agreement in terms of sub-clause (1) may not require or permit a forestry worker 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.

## 18. WORK ON SUNDAYS

- (1) An employer must pay a forestry worker who works on a Sunday in accordance with the following table:

<b>Time worked on a Sunday</b>	<b>Payment</b>
One hour or less	Double the wage for one hour
More than one hour but not more than two hours	Double the ordinary wage for time worked
More than two hours but not more than five hours	The ordinary daily wage.

More than five hours	The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage.
----------------------	--

- (2) Any time worked on a Sunday by a forestry worker is not taken into account in calculating a forestry worker's ordinary hours of work in terms of clause 12, but is taken into account in calculating the overtime worked by the forestry worker in terms of clause 14.
- (3) If a shift worked by a forestry worker 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.

## 19. NIGHT WORK

- (1) In this clause, "night work" means work performed after 18:00 and before 06:00 the next day.
- (2) An employer may only require or permit a forestry worker to perform night work if so agreed and if -
- (a) the employer pays the forestry worker an allowance of at least 10% of the forestry worker's ordinary daily wage; and
  - (b) transportation is available between the forestry worker's place of residence and the workplace at the commencement and conclusion of the forestry worker's shift.