

EXPLANATORY NOTES

WHOLESALE & RETAIL CONTRACT OF EMPLOYMENT

A comprehensive discussion of **Sectoral Determination 9: Wholesale and Retail** with practical examples can be found on www.jhg.co.za.

Wholesale and Retail Sector

This employment contract is based on **Sectoral Determination 9: Wholesale and Retail Sector**. It is meant for businesses involved in procuring or selling products on a wholesale or retail basis. This includes merchandising, warehousing and distribution, as well as other related activities in the sector. It does not apply where another sectoral determination or bargaining council agreement applies. For the more details on what the sector includes, see www.jhg.co.za : Wholesale and Retail Sector: **“Background”**.

Minimum wage

The applicable minimum wage depends on geographic area of the business, hours worked and the particular job category. The minimum wages can be found in the relevant **Wage Tables**. To calculate these wages, see the formulae provided under the heading of **“Calculation of remuneration and wages”**.

Wages - special cases

Different arrangements apply in respect of employees who work 27 hours or less per week or less than 4 hours on a day, job categories not listed in the sectoral determination, employees doing work outside their job categories and employees earning commissions - see the part on **“Prescribed minimum conditions”**.

Deductions

As a rule no deductions may be made, unless required by law (e.g. tax, UIF, court order) or if the employee has agreed to the deduction in writing. Even where there is such an agreement, there are certain limitations - see **“Deductions and other acts concerning remuneration”**.

Hours of work

The provisions pertaining to hours of work (ordinary hours of work, meal and other intervals, overtime, work on Sundays and public holidays and night work) do not apply **senior managerial employees**, employees **earning more than a certain amount** determined by the Minister of Labour and **sales staff** that travel to customers and regulate their own hours of work. There are provisions that allow for flexible hours of work, such as a compressed working week and averaging of hours of work. There are also different provisions that apply in respect of employees who work 27 hours or less per week.

Annual leave

The minimum leave entitlement is 3 calendar weeks' leave. To get clarity on when leave can or must be taken, as well as the accumulation and forfeiture of leave, see the discussion on **“Annual leave”**.

Sick leave

During the first six months of employment, an employee is entitled to 1 day's sick leave for every 26 days worked. After that it depends on how many days the employee works in the week. See the discussion on sick leave entitlement and the issues surrounding a sickness certificate under the heading "**Sick leave**".

Uniforms, overalls and protective clothing

Although not referred to in the contract of employment, there are some important provisions in this respect - see "**Uniforms, overall and protective clothing**".

Pension, Provident and Medical benefits

There is no obligation upon an employer to make provision for pension, provident or medical benefits in the Wholesale and Retail Sector.

Further points to bear in mind

The following should be borne in mind:

- (a) Every time an employee is paid certain information must be given to the employee. Furthermore, a record of certain information must be kept for at least 3 years. An **Attendance Register** and **Payslip** are available to serve these purposes.
- (b) It is a requirement that the employer and employee each has to make a contribution of 1% of the employee's earnings to the Unemployment Insurance Fund (UIF). More information can be obtained from your local office of the Department of Labour. The call centre number is 012-337-1680, or see www.uif.gov.za.
- (c) If the employer contemplates terminating an employee's services, certain guidelines as set out in the Labour Relations Act, must be followed. It is not sufficient to rely on the notice period contained in the contract of employment.
- (d) Should an employee's services be terminated for whatever reason, he/she would be entitled to leave pay. For the calculation of this amount, see discussion regarding "**Payment on termination**".
- (e) If an employee's employment is terminated, he/she may ask for a certificate of service. An example of a **Certificate of Service** is available.
- (f) Keep the Employment Contract for at least 3 years after the termination of employment.
- (g) A copy of the Sectoral Determination must be kept at the workplace in a place to which the employee has access.

For more information, visit www.jhg.co.za : Wholesale and Retail Sector

Disclaimer: Although care has been taken to cover all the most important aspects of the applicable law, the authors cannot be held liable for any act or omission on the part of the user of this contract in respect of any matter which is included in or omitted from the contract and these notes.