

# REPUBLIC OF SOUTH AFRICA

## No. 32 of 2003: Unemployment Insurance Amendment Act

### GENERAL EXPLANATORY NOTE:

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

### ACT

To amend the Unemployment Insurance Act, 2001, so as to define certain expressions and to amend or delete certain definitions; to exclude persons who receive a State pension from the application of the Act; to provide anew for the compilation and filing of a business plan; to extend the right to benefits to domestic workers who are employed by more than one employer; to extend the right to unemployment benefits to a domestic worker whose contract of employment is terminated by the death of his or her employer; to adjust the benefits payable to contributors in respect of illness, maternity and adoption; to provide for the establishment of regional appeals committees; and to provide anew for the settling of disputes relating to payment or non-payment of benefits; and to provide for matters connected therewith.

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

#### Amendment of section 1 of Act 63 of 2001

1. Section 1 of the Unemployment Insurance Act, 2001 (hereinafter referred to as the principal Act) is hereby amended —

(a) by the deletion of the definition of “CCMA”;

(b) by the insertion after the definition of “month” of the following definition:

“ ‘National Appeals Committee’ means the appeals committee contemplated in section 50(2’)(n)(i);”;

(c) by the insertion after the definition of “public service” of the following definition:

“ ‘regional appeals committee’ means a regional appeals committee established in terms of section 36A;”;

(d) by the deletion of the definition of “seasonal worker”;

(e) by the substitution for the definition of “this Act” of the following definition:

“ ‘this Act’ includes any regulation [made in terms of this Act];”;

(f) by the substitution for the definition of “Unemployment Insurance Contribution Act” of the following definition: I

“ ‘Unemployment Insurance Contribution Act’ means the Unemployment insurance Contribution Act, 2002 (Act No 4 of 2002);”.

#### Amendment of section 3 of Act 63 of 2001

2. Section 3 of the principal Act is hereby amended —

(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

“(b) employees **[who receive remuneration under a learnership agreement registered in terms]** under a contract of employment contemplated in section 18(2) of the Skills Development Act, 1998 (Act No. 97 of 1998), and their employers;

(c) **[employers and]** employees in the national and provincial spheres of government who are officers or employees as defined in section 1 (1) of 10 the Public Service Act, 1994 (Proclamation No. 103 of 1994), and their employers;”;

(b) by the insertion in subsection (1) of the word “and” at the end of paragraph (a) and the addition to the said subsection of the following paragraph:

- “(e) persons who receive a monthly pension as contemplated in section 14(a)(i) and their employers.”; and  
(c) by the deletion of subsections (2) and (3).

### **Amendment of section 11 of Act 63 of 2001**

3. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 20

“(2) (a) At the beginning of each financial year, the **[Commissioner]** Director-General must file a business plan, approved by the Minister, with the National Treasury.

(b) The Commissioner **[Minister]** must compile the business plan, with the **[concurrence of the Director-General and the Commissioner, and they are to 25 be assisted by]** assistance of the actuary and the Board.”.

### **Amendment of section 12 of Act 63 of 2001**

4. Section 12 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“( 1A) A contributor who is employed as a domestic worker by more than one 30 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.”.

### **Amendment of section 13 of Act 63 of 2001 35**

5. Section 13 of the principal Act is hereby amended by the addition of the following

“(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 40 paid if the contributor had become wholly unemployed.”,  
subsection:

### **Amendment of section 16 of Act 63 of 2001**

6. Section 16 of the principal Act is hereby amended by the deletion in subsection (1) ( n ) of the word “or” at the end of subparagraph (ii), the addition of the word “or” at the end of subparagraph (iii) and the addition of the following subparagraph: 45

“(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.”.

### **Amendment of section 21 of Act 63 of 2001**

7. Section 21 of the principal Act is hereby amended by the deletion of subsection (1).  
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### **Amendment of section 24 of Act 63 of 2001**

8. Section 24 of the principal Act is hereby amended by the deletion of subsection (2).

### **Amendment of section 27 of Act 63 of 2001**

9. Section 27 of the principal Act is hereby amended by the deletion of subsection (3).

### **Insertion of section 36A in Act 63 of 2001 5**

10. The following section is hereby inserted in the principal Act after section 36:

#### **“Establishment of regional appeals committees**

**36A.** (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
- (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.”.  
community and development interests; and  
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**Substitution of section 37 of Act 63 of 2001** 20

11. The following section is hereby substituted for section 37 of the principal Act:

**“Disputes relating to payment or non-payment of benefits**

37. (1) A person who is entitled to benefits in terms of this Act may appeal to **[the]** a regional appeals committee **[of the Board]** 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 **[the]** a regional appeals committee may refer the matter **[for arbitration to the CCMA]** to the National Appeals Committee for a decision. 30

(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
- (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.”. 40

National Appeals Committee are determined by majority vote; and

**Short title**

12. This Act is called the Unemployment Insurance Amendment Act, 2003.