



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS + 1c AVB 20c PRICE + 1c GST
BUITELANDS 30c ABROAD
POSVRY · POST FREE

Vol. 189]

KAAPSTAD, 4 MAART 1981

[No. 7453

CAPE TOWN, 4 MARCH 1981

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 427. 4 Maart 1981.

No. 427. 4 March 1981.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 24 van 1981: Ongevallewysigingswet, 1981.

No. 24 of 1981: Workmen's Compensation Amendment Act, 1981.

Act No. 24, 1981

WORKMEN'S COMPENSATION AMENDMENT ACT, 1981

service on any mine, works or premises, other than his employer's, resulting in his disablement or death, such accident shall, for the purpose of this Act, be deemed to arise out of and in the course of his employment." 5

Amendment of section 38 of Act 30 of 1941, as amended by section 18 of Act 27 of 1945, section 14 of Act 36 of 1949, section 13 of Act 51 of 1956, section 4 of Act 7 of 1961, section 2 of Act 58 of 1967, section 1 of Act 60 of 1971, section 6 of Act 11 of 1974 and section 5 of Act 28 of 1977.

3. Section 38 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) Compensation for temporary total disablement shall be periodical payments during such temporary disablement at a rate of seventy-five per cent of the monthly earnings of the workman up to four hundred rand of such earnings and fifty per cent of his monthly earnings in excess of four hundred rand up to one thousand rand of such earnings: Provided that the periodical payment shall not be less than thirteen rand per month or the rate of the workman's earnings at the time of the accident, whichever is the lesser.”; and
- (b) by the substitution in subsection (4) for the words “four hundred” of the words “one thousand”.

Amendment of section 39 of Act 30 of 1941, as amended by section 19 of Act 27 of 1945, section 15 of Act 36 of 1949, section 14 of Act 51 of 1956, section 5 of Act 7 of 1961, section 3 of Act 58 of 1967, section 2 of Act 60 of 1971, section 7 of Act 11 of 1974 and section 6 of Act 28 of 1977.

4. Section 39 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) Where the degree of disablement is thirty per cent, a lump sum equal to twelve times the monthly earnings of the workman up to **[forty] five hundred rand of such earnings [together with ten times his monthly earnings in excess of forty rand up to four hundred rand]**.”; and
- (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) Where the degree of disablement is one hundred per cent, a monthly pension equal to seventy-five per cent of the monthly earnings of the workman up to four hundred rand of such earnings plus fifty per cent of his monthly earnings in excess of four hundred rand up to one thousand rand of such earnings: Provided that the pension payable shall not be less than thirteen rand per month or the rate of the workman's earnings at the time of the accident, whichever is the lesser.”; and
- (c) by the substitution in subsection (2) for the words “four hundred” of the words “one thousand”.

Amendment of section 40 of Act 30 of 1941, as amended by section 20 of Act 27 of 1945, section 16 of Act 36 of 1949, section 15 of Act 51 of 1956, section 6 of Act 7 of 1961, section 4 of Act 58 of 1967, section 8 of Act 11 of 1974 and section 7 of Act 28 of 1977.

5. Section 40 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) The commissioner may in his discretion pay out of the accident fund, or, as the case may be, direct the employer individually liable to pay, an allowance not exceeding **[two hundred and fifty] four hundred** rand towards the necessary burial expenses of the workman.”

ONGEVALLEWYSIGINGSWET, 1981

Wet No. 24, 1981

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eerstehulp-, ambulans- of reddingswerk, brandbestryding of ander nooddiens besig is, wat arbeidsongeskiktheid of dood tot gevolg het, word die ongeval vir die doeleindes van hierdie Wet geag uit sy diens te ontstaan en in die loop daarvan plaas te vind.”

3. Artikel 38 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

10 „(a) Skadeloosstelling weens tydelike algehele arbeidsongeskiktheid, is periodieke uitkerings gedurende sodanige tydelike arbeidsongeskiktheid teen 'n skaal van vyf-en-sewentig persent van die maandelikse verdienste van die werksman tot vierhonderd rand van daardie verdienste en vyftig persent van sy maandelikse verdienste bo vierhonderd rand tot eenduisend rand van daardie verdienste: Met dien verstande dat die periodieke uitkering nie minder as dertien rand per maand of die skaal van die werksman se verdienste ten tyde van die ongeval, na gelang van watter die kleinste is, mag bedra nie.”; en

(b) deur in subartikel (4) die woord „vierhonderd” deur die woord „eenduisend” te vervang.

Wysiging van artikel 38 van Wet 30 van 1941, soos gewysig deur artikel 18 van Wet 27 van 1945, artikel 14 van Wet 36 van 1949, artikel 13 van Wet 51 van 1956, artikel 4 van Wet 7 van 1961, artikel 2 van Wet 58 van 1967, artikel 1 van Wet 60 van 1971, artikel 6 van Wet 11 van 1974 en artikel 5 van Wet 28 van 1977.

25 4. Artikel 39 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

30 „(a) Wanneer die graad van arbeidsongeskiktheid dertig persent is, 'n enkele geldsom gelyk aan twaalf maal die maandelikse verdienste van die werksman tot **[veertig]** vyfhonderd rand van daardie verdienste **[benewens tien maal sy maandelikse verdienste bo veertig rand tot vierhonderd rand]**.”;

35 (b) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:

40 „(c) Wanneer die graad van arbeidsongeskiktheid honderd persent is, 'n maandelikse pensioen gelyk aan vyf-en-sewentig persent van die maandelikse verdienste van die werksman tot vierhonderd rand van daardie verdienste plus vyftig persent van sy maandelikse verdienste bo vierhonderd rand tot eenduisend rand van daardie verdienste: Met dien verstande dat die betaalbare pensioen nie minder as dertien rand per maand of die skaal van die werksman se verdienste ten tyde van die ongeval, na gelang van watter die kleinste is, mag bedra nie.”; en

45 (c) deur in subartikel (2) die woord „vierhonderd” deur die woord „eenduisend” te vervang.

Wysiging van artikel 39 van Wet 30 van 1941, soos gewysig deur artikel 19 van Wet 27 van 1945, artikel 15 van Wet 36 van 1949, artikel 14 van Wet 51 van 1956, artikel 5 van Wet 7 van 1961, artikel 3 van Wet 58 van 1967, artikel 2 van Wet 60 van 1971, artikel 7 van Wet 11 van 1974 en artikel 6 van Wet 28 van 1977.

50 5. Artikel 40 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

55 „(2) Die Kommissaris kan na goeddunke uit die ongelofonds 'n toelae van hoogstens **[tweehonderd-en-vyftig]** vierhonderd rand vir die nodige begrafniskoste van die werksman betaal of die werkgewer individueel aanspreeklik gelas om dit te betaal, na gelang van die geval.”

Wysiging van artikel 40 van Wet 30 van 1941, soos gewysig deur artikel 20 van Wet 27 van 1945, artikel 16 van Wet 36 van 1949, artikel 15 van Wet 51 van 1956, artikel 6 van Wet 7 van 1961, artikel 4 van Wet 58 van 1967, artikel 8 van Wet 11 van 1974 en artikel 7 van Wet 28 van 1977.

Act No. 24, 1981

WORKMEN'S COMPENSATION AMENDMENT ACT, 1981

Amendment of section 43bis of Act 30 of 1941, as inserted by section 17 of Act 51 of 1956 and amended by section 6 of Act 9 of 1970, section 9 of Act 11 of 1974 and section 3 of Act 8 of 1979.

6. Section 43bis of the principal Act is hereby amended—
 (a) by the substitution for subsection (1) of the following subsection:
 “(1) **[The Minister may, on the recommendation of the commissioner, by notice in the Gazette order that all] All** monthly pensions payable under section 39 or 40 of this Act at the commencement of the Workmen's Compensation Amendment Act, **[1979] 1981**, or awarded subsequently, in respect of accidents which happened before **[the commencement of the Workmen's Compensation Amendment Act, 1977 (Act No. 28 of 1977),]** such commencement, shall with effect from **[a date to be determined by the Minister] such commencement** be increased by fifteen per cent.”; and
 (b) by the deletion of subsection (2).

Amendment of section 95 of Act 30 of 1941.

7. Section 95 of the principal Act is hereby amended by the substitution in the proviso to subsection (1) for the word “him” of the words “the commissioner”.

Substitution of section 97 of Act 30 of 1941.

8. The following section is hereby substituted for section 97 of the principal Act:

“Employer to keep records. 97. (1) Every employer shall in respect of all his workmen keep records of wages paid, time worked and payment made for piece-work and overtime, and of any other particulars prescribed and he shall at all reasonable times produce such records or a microfilm or other microform reproduction thereof, on demand, to any person authorized under section 17 for his inspection.
 (2) Every employer shall retain the records or reproduction thereof referred to in subsection (1) for a period of not less than three years after the date on which such records are made.
 (3) An employer who fails to comply with any provision of this **[sub-section] section** shall be guilty of an offence.”.

Amendment of section 104 of Act 30 of 1941.

9. Section 104 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
 “(1) Every record of a decision or award made by the commissioner and every copy or reproduction (whether obtained by microfilming or any other process) of, or extract from, an entry in any book or record kept by the commissioner, and of any document filed with the commissioner, purporting to be certified by the commissioner to be a true copy or reproduction or extract shall upon production be received in any court as *prima facie* evidence of the matters so certified without proof of the commissioner's signature.”.

Short title and commencement.

10. This Act shall be called the Workmen's Compensation Amendment Act, 1981, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*: Provided that the amendments effected by sections 1, 2, 3, 4 and 5 shall not apply with reference to accidents which occurred prior to the date so fixed.

ONGEVALLEWYSIGINGSWET, 1981

Wet No. 24, 1981

6. Artikel 43bis van die Hoofwet word hierby gewysig—
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
 5 „(1) **[Die Minister kan, op aanbeveling van die kommissaris, by kennisgewing in die Staatskoerant beveel dat alle] Alle** maandelikse pensioene kragtens artikel 39 of 40 van hierdie Wet betaalbaar by die inwerkingtreding van die Ongevallewysigingswet, **[1979] 1981**, of daarna toegeken, ten opsigte van
 10 ongevalle wat voor **[die inwerkingtreding van die Ongevallewysigingswet, 1977 (Wet No. 28 van 1977),]** sodanige inwerkingtreding plaasgevind het, word vanaf **[’n datum deur die Minister bepaal] sodanige inwerkingtreding** met vyftien persent verhoog **[word].**”; en
 15 (b) deur subartikel (2) te skrap.
7. Artikel 95 van die Hoofwet word hierby gewysig deur in die voorbehoudsbepaling by subartikel (1) van die Engelse teks die woord „him” deur die woorde „the commissioner” te vervang.
8. Artikel 97 van die Hoofwet word hierby deur die volgende
 20 artikel vervang:
 „Werkgewer moet aantekeninge hou. 97. (1) Elke werkgewer moet ten opsigte van al sy werksmense aantekeninge hou van lone, werktyd en die stukwerkloon en oortydloon en van alle ander voorgeskrewe besonderhede, en hy moet daardie
 25 aantekeninge of ’n mikrofilm- of ander mikroform-reproduksie daarvan te alle redelike tye op versoek aan enige ingevolge artikel 17 gemagtigde persoon ter insae voorlê.
 (2) Elke werkgewer moet die in subartikel (1) bedoelde aantekeninge of reproduksie daarvan behou vir ’n tydperk van minstens drie jaar na die datum waarop daardie aantekeninge gemaak word.
 30 (3) ’n Werkgewer wat versuim om aan enige bepaling van hierdie [subartikel] artikel te voldoen, is aan ’n misdryf skuldig.”
9. Artikel 104 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
 40 „(1) Elke aantekening van ’n deur die kommissaris gemaakte beslissing of toewysing en elke afskrif of reproduksie (hetsy deur middel van mikroverfilming of ’n ander proses verkry) van, of uittreksel uit, ’n aantekening in ’n boek of stuk deur die Kommissaris gehou en van ’n by die kommissaris ingediende stuk, wat voorgee deur die kommissaris as ’n juiste afskrif of reproduksie of uittreksel
 45 gesertifiseer te wees, word by voorlegging in ’n hof as *prima facie*-getuienis van die aldus gesertifiseerde feite aangeneem, sonder bewys van die kommissaris se handtekening.”
10. Hierdie Wet heet die Ongevallewysigingswet, 1981, en
 50 tree in werking op ’n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal: Met dien verstande dat die wysigings wat deur artikels 1, 2, 3, 4 en 5 aangebring is, nie van toepassing is nie met betrekking tot ongevalle wat voor die aldus bepaalde datum plaasgevind het.

Wysiging van artikel 43bis van Wet 30 van 1941, soos ingevoeg deur artikel 17 van Wet 51 van 1956 en gewysig deur artikel 6 van Wet 9 van 1970, artikel 9 van Wet 11 van 1974 en artikel 3 van Wet 8 van 1979.

Wysiging van artikel 95 van Wet 30 van 1941.

Vervanging van artikel 97 van Wet 30 van 1941.

Wysiging van artikel 104 van Wet 30 van 1941.

Kort titel en inwerkingtreding.