



labour

Department:
Labour
REPUBLIC OF SOUTH AFRICA



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Basic Guide to Termination

Certain procedures must be followed when either an employer or worker wishes to terminate employment.

Application

The Basic Conditions of Employment Act applies to all **employers** and **workers**, but not -

- members of the -
 - National Defence Force,
 - National Intelligence Agency, or
 - South African Secret Service; or
- unpaid volunteers working for charity.

The section of the Act that regulate **working hours** does not apply to:

- workers in senior management
- sales staff who travel and regulate their own working hours
- workers who work less than 24 hours in a month
 - workers who earn in excess of an amount stated in terms of section 6 (3) of the Act
 - workers engaged in emergency work are excluded from certain provisions.

See

- Basic Conditions of Employment Act

Applies to all employers and workers and regulates leave, working hours, employment contracts, deductions, pay slips, and termination

Notice of Termination

Notice must be given in writing, except when it is given by an illiterate worker.

Based on Legislation in Section 37, of the Basic Conditions of Employment Act

Notice Period

Worker employed for..	Notice Period
6 months or less	1 week
More than 6 months, but less than 1 year	2 weeks
1 year or more	4 weeks *

* A collective agreement may reduce the 4 week notice period to not less than 2 weeks.

Based on Legislation in Section 37, of the Basic Conditions of Employment Act

Pay Instead of Notice

Employers may decide to waive the notice period, but the worker must still be paid for the notice period.

Based on Legislation in Section 38, of the Basic Conditions of Employment Act

Notice and Accommodation

Workers who live on the premises of the employer may stay in the accommodation for 1 month if the employer ends the contract of employment prematurely.

Based on Legislation in Section 39, of the Basic Conditions of Employment Act

Severance Pay

Retrenched workers (dismissed due to employer's operational requirements or insolvency) are entitled to 1 week's pay for every year of service.

Based on Legislation in Section 41, of the Basic Conditions of Employment Act

Certificate of Service

On termination of employment, workers are entitled to a certificate of service.

Based on Legislation in Section 42, of the Basic Conditions of Employment Act

Unfair Dismissal

Workers who feel they have been unfairly dismissed should contact the CCMA.

Based on Legislation in Section 37, of the Basic Conditions of Employment Act

Related Links

- Basic Guide to Collective Agreements

The Labour Relations Act provides for agreements that alter conditions of employment

- **Basic Guide to Retrenchment**
Employers must follow certain procedures when retrenching workers.
- **Basic Guide to Severance Pay**
Disputes regarding severance pay may be referred to the CCMA.
- **Basic Guide to UIF Unemployment Benefits**
Workers who become unemployed have the right to claim from UIF.
- **Basic Guide to Unfair Dismissal and Unfair Labour Practices**
Every worker has the right to a fair dismissal. Any disputes regarding dismissals may be referred to the CCMA for arbitration.
- **How to Claim UIF Unemployment Benefits**
Registered work-seekers must apply for benefits at their nearest labour centre in person.
- **Form BCEA5 - Certificate of Service**
Employers must give workers a Certificate of Service when their employment is terminated to prove that they worked for the employer.
- **The Commission for Conciliation, Mediation and Arbitration (CCMA)**
Visit the website of the Commission for Conciliation, Mediation and Arbitration (CCMA)