

**LABOUR RELATIONS AMENDMENT ACT  
NO. 127 OF 1998**

[ASSENTED TO 20 NOVEMBER, 1998]  
[DATE OF COMMENCEMENT: 1 FEBRUARY, 1999]

(Unless otherwise indicated)

*(English text signed by the President)*

**ACT**

To amend the Labour Relations Act, 1995, so as to make the establishment, after the coming into operation of this Act, of a pension, provident or medical aid scheme or fund by a bargaining council or statutory council subject to compliance with the laws relating to pension, provident or medical aid schemes or funds, and to make those laws applicable to such funds that may be so established after that point in time; to adjust the requirements for extending any collective agreement concluded in a bargaining council, to non-parties; to provide for the continuation, in certain circumstances, of a pension, provident or medical aid scheme or fund upon the winding-up of the bargaining council or statutory council which had established the scheme or fund; to empower the Minister of Labour to designate the chairperson of the essential services committee from the number of the committee members; to empower the Commission for Conciliation, Mediation and Arbitration ("the Commission") to make rules pertaining to certain proceedings and to the practice and procedure applicable in certain matters; to authorise the director of the Commission to delegate certain of the functions of that office to a commissioner; to authorise a commissioner to consolidate various conciliation proceedings between the same parties involved in two or more separate disputes before the commissioner; to impose a time limit on the referral of a matter to arbitration, or to the Labour Court; to adjust the provisions regarding objections to the commissioner appointed to conduct an arbitration, as well as those regarding the representation of parties in arbitration proceedings and in proceedings in the Labour Court; in Schedule 5 to exclude the application of the provisions of the Pension Funds Act, 1956, and the Medical Schemes Act, 1967, to the pension funds and medical schemes of bargaining councils and statutory councils only where such a fund or scheme had been established or continued in terms of a collective agreement concluded in such a council before the coming into operation of this Act, or when such a scheme or fund is so continued or further continued thereafter; in Schedule 7 to empower the Minister of Labour to transfer the functions of the industrial court to the Commission subject to certain provisions and limitations; to effect certain amendments necessary to ensure consistency with the Constitution of the Republic of South Africa, 1996, and certain other technical amendments; and to provide for incidental matters.

1. *Amends section 28 of the Labour Relations Act, No. 66 of 1995, by adding subsections (2) and (3), the existing provision becoming subsection (1).*
2. *Amends section 32 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) substitutes subsection (3) (e) and (f); and paragraph (b) deletes subsection (4).*
3. *Amends section 43 of the Labour Relations Act, No. 66 of 1995, by adding subsection (4).*
4. *Amends section 59 of the Labour Relations Act, No. 66 of 1995, by adding subsections (6), (7) and (8).*
5. *Amends section 70 of the Labour Relations Act, No. 66 of 1995, by substituting subsection (1).*
6. *Amends section 115 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) inserts subsection (2) (cA); and paragraph (b) adds subsection (6).*
7. *Amends section 118 of the Labour Relations Act, No. 66 of 1995, by adding subsection (6).*
8. *Amends section 135 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) inserts subsection (3A); and paragraph (b) substitutes subsection (4).*

9. Amends section 136 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) substitutes subsection (1) (b); and paragraph (b) substitutes subsection (3).
10. Amends section 138 of the Labour Relations Act, No. 66 of 1995, by substituting subsection (4).
11. Amends section 151 (1) of the Labour Relations Act, No. 66 of 1995, by the addition of the words "and equity".
12. Amends section 153 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) (i) substitutes subsection (1) (a); paragraph (a) (ii) deletes the words "as defined in section 105 of the Constitution" in subsection (1) (b); paragraph (b) deletes the words "as defined in section 105 of the Constitution" in subsection (4); and paragraph (c) substitutes the words "High Court" for the words "Supreme Court" in subsection (6) (a) (i).
13. Amends section 154 of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court" wherever they occur in subsections (3), (4), (5), (6) and (7).
14. Amends section 157 of the Labour Relations Act, No. 66 of 1995, by substituting subsection (2).
15. Amends section 159 of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court" wherever they occur in subsections (7) and (8).
16. Substitutes section 161 of the Labour Relations Act, No. 66 of 1995.
17. Amends section 163 of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court".
18. Amends section 167 (3) of the Labour Relations Act, No. 66 of 1995, by substituting the words "Supreme Court of Appeal" for the words "Appellate Division of the Supreme Court".
19. Amends section 168 (1) (c) of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court".
20. Amends section 169 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) deletes the expression "as defined in section 105 of the Constitution" in subsection (1); and paragraph (b) substitutes the words "High Court" for the words "Supreme Court" in subsection (2).
21. Amends section 170 of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court" wherever they occur in subsections (3), (4) and (5).
22. Amends section 173 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) deletes subsection (2); and paragraph (b) substitutes the words "Supreme Court of Appeal" for the words "Appellate Division of the Supreme Court" in subsection (3).
23. Amends section 177 (2) of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "court of a provincial division of the Supreme Court".
24. Amends section 180 of the Labour Relations Act, No. 66 of 1995, by substituting the words "High Court" for the words "Supreme Court".
25. Amends section 191 of the Labour Relations Act, No. 66 of 1995, by adding subsection (11).
26. Amends section 207 of the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) substitutes subsection (1); and paragraph (b) deletes subsections (2) and (6).
27. Amends Schedule 5 to the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) substitutes items 3 and 4; and paragraph (b) adds items 5, 6 and 7.
28. Amendment of Schedule 7 to Act 66 of 1995, as amended by section 56 of Act 42 of 1996.--
  - (1) Schedule 7 to the principal Act is deemed to have been amended--
    - a. with effect from 11 November 1996, as set out in Schedule 1 to this Act;
    - b. with effect from 6 December 1996, as set out in Schedule 2 to this Act; and
    - c. with effect from 9 May 1997, as set out in Schedule 3 to this Act.
  - (2) Amends Schedule 7 to the Labour Relations Act, No. 66 of 1995, by inserting item 22A.
  - (3) The provisions of subsection (1) (a), (1) (b) and (1) (c) will be deemed to have come into operation on 11 November 1996, 6 December 1996 and 9 May 1997, respectively.
29. **Adjustment of table of contents of Act 66 of 1995.**--The table of contents of the principal Act under the general heading "CONTENTS OF ACT", is hereby adjusted--
  - a. in the portion under the heading "CHAPTER VII", by the substitution for the entry relating

to section 169, of the following entry:

"169. Appointment of other judges of Labour Appeal Court";

- b. in the portion under the heading "CHAPTER IX", by the insertion after the entry relating to section 208, of the following entry:

"208A. Delegations";

- c. in the portion under the heading "SCHEDULE 5", by the addition after the entry relating to item 2, of the following entries:

- "3. Amendment of section 2 of Pension Funds Act, 1956
4. Amendment of section 2 of Medical Schemes Act, 1967
5. Amendment of section 1 of Insurance Act, 1943
6. Amendment of section 2 of Friendly Societies Act, 1956
7. Amendment of section 3 of Friendly Societies Act, 1956";

- d. in the portion under the heading "SCHEDULE 7"--

- i. by the insertion after the entry relating to item 8, of the following entry:

"8A. Pending enquiries by industrial registrar";

- ii. by the insertion after the entry relating to item 12, of the following entry:

"12A. Designated agents";

- iii. by the substitution for the entry relating to item 19, of the following entry:

"19. Collective agreements in South African Police Service";

- iv. by the insertion after the entry relating to item 21, of the following entry:

"21A. *Dispute* resolution by councils before their accreditation"; and

- v. by the addition after the entry relating to item 23, of the following:

**"PART G -- ESSENTIAL SERVICES**

24. Essential services in the public service
25. Essential services provided for in Labour Relations Act"; and

- e. in the portion under the heading "SCHEDULE 8", by the substitution for the entry relating to item 3 of the following entry:

"3. Disciplinary measures short of dismissal".

30. **Short title and commencement.**--This Act is called the Labour Relations Amendment Act, 1998, and will come into operation on a date to be determined by the President by proclamation in the Gazette.

### Schedule 1

(Section 28 (1) (a))

(Date of commencement of Schedule 1: 11 November, 1996.)

#### AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995

LABOUR RELATIONS ACT, NO. 66 OF 1995:

1. *Amends item 5 of Schedule 7 to the Labour Relations Act, No. 66 of 1995, by substituting subitem (1).*
2. *Amends item 7 of Schedule 7 to the Labour Relations Act, No. 66 of 1995, by substituting subitem (1).*
3. *Inserts item 8A in Schedule 7 to the Labour Relations Act, No. 66 of 1995.*
4. *Amends item 12 of Schedule 7 to the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) substitutes subitem (1); paragraph (b) inserts subitem (1A); paragraph (c) inserts subitems (5A) and (5B); paragraph (d) substitutes subitem (6); and paragraph (e) adds subitem (8).*
5. **and**
6. *Insert respectively items 12A and 21A in Schedule 7 to the Labour Relations Act, No. 66 of 1995.*
7. *Amends item 22 of Schedule 7 to the Labour Relations Act, No. 66 of 1995, as follows:--paragraph (a) inserts subitems (2A) and (2B); and paragraph (b) adds subitem (6).*
8. *Inserts Part G (items 24 and 25) in Schedule 7 to the Labour Relations Act, No. 66 of 1995.*

### Schedule 2

(Section 28 (1) (b))

(Date of commencement of Schedule 2: 6 December, 1996.)

#### AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995

LABOUR RELATIONS ACT, NO. 66 OF 1995:

*Amends Item 12 (1) (b) of Schedule 7 to the Labour Relations Act, No. 66 of 1995, by substituting subparagraph (i).*

### Schedule 3

(Section 28 (1) (c))

(Date of commencement of Schedule 3: 9 May, 1997.)

#### AMENDMENT OF SCHEDULE 7 TO THE LABOUR RELATIONS ACT, 1995

LABOUR RELATIONS ACT, NO. 66 OF 1995:

*Substitutes items 24 and 25 in Schedule 7 to the Labour Relations Act, No. 66 of 1995.*