



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

VOL. 267

CAPE TOWN, 2 SEPTEMBER 1987

No. 10888

KAAPSTAD, 2 SEPTEMBER 1987

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1888.

2 September 1987

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

No. 35 of 1987: Workmen's Compensation Amendment Act, 1987.

No. 1888.

2 September 1987

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

No. 35 van 1987: Ongevallewysigingswet, 1987.

Act No. 35, 1987

WORKMEN'S COMPENSATION AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

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

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

ACT

To amend the Workmen's Compensation Act, 1941, so as to authorize the Minister to fix a higher earnings limit for the purposes of the definition of workman; to provide for the increase of the amounts payable to workmen in respect of disablement, and for the increase of the amounts payable to the dependants of workmen in cases where workmen die as a result of accidents as contemplated in the Act; to increase the amount which may be paid in respect of burial expenses of workmen and to provide for further increases of that amount; to increase the monthly pensions which are payable in terms of section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, 1987, or awarded subsequently, by twenty-five per cent in the case of accidents which occurred before the commencement of the Workmen's Compensation Amendment Act, 1981, and by ten per cent in the case of accidents which occurred after the last-mentioned commencement but prior to the commencement of the Workmen's Compensation Amendment Act, 1987; and to authorize the Minister to increase the said monthly pensions; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 21 August 1987.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 3 of Act 30 of 1941, as substituted by section 1 of Act 21 of 1964 and amended by section 1 of Act 58 of 1967, section 2 of Act 9 of 1970, section 2 of Act 11 of 1974, section 1 of Act 28 of 1977, section 1 of Act 24 of 1981 and section 2 of Act 29 of 1984.

Amendment of section 38 of Act 30 of 1941, as amended by section 18 of Act 27 of 1945,

1. Section 3 of the Workmen's Compensation Act, 1941 (hereinafter referred to as the principal Act), is hereby amended by the substitution of paragraph (b) of subsection (2) of the following paragraph: 5

“(b) persons whose annual earnings calculated in the manner set forth in section 41 exceed **[R18 000] R24 000** or, from a date determined by the **[State President by proclamation] Minister by notice** in the *Gazette*, such higher amount as he may so determine;” 10

2. 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 tempor- 15

ONGEVALLEWYSIGINGSWET, 1987

Wet No. 35, 1987

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Ongevallewet, 1941, ten einde die Minister te magtig om 'n hoër verdiensteperk vas te stel vir die doeleindes van die omskrywing van werksman; voorsiening te maak vir die verhoging van die bedrae wat betaalbaar is aan werksmense ten opsigte van arbeidsongeskiktheid, en vir die verhoging van die bedrae wat betaalbaar is aan die afhanklikes van werksmense in gevalle waar werksmense sterf as gevolg van ongevallen soos in die Wet beoog; die bedrag wat betaal kan word ten opsigte van die begravniskoste van werksmense te verhoog en voorsiening te maak vir verdere verhogings van daardie bedrag; die maandelikse pensioene wat kragtens artikel 39 of 40 by die inwerkingtreding van die Ongevallewysigingswet, 1987, betaalbaar is, of wat daarna toegeken word, te verhoog met vyf-en-twintig persent in die geval van ongevallen wat plaasgevind het voor die inwerkingtreding van die Ongevallewysigingswet, 1981, en met tien persent in die geval van ongevallen wat plaasgevind het na laasgenoemde inwerkingtreding maar voor die inwerkingtreding van die Ongevallewysigingswet, 1987; en om die Minister te magtig om gemelde maandelikse pensioene te verhoog; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Augustus 1987.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 3 van die Ongevallewet, 1941 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
- “(b) persone wie se jaarlikse verdienste, bereken op die wyse uiteengesit in artikel 41, **[R18 000] R24 000** of, vanaf 'n datum deur die **[Staatspresident by proklamasie] Minister by kennisgewing** in die *Staatskoerant* bepaal, die hoër bedrag wat hy aldus mag bepaal, te bowe gaan;”.
- Wysiging van artikel 3 van Wet 30 van 1941, soos vervang deur artikel 1 van Wet 21 van 1964 en gewysig deur artikel 1 van Wet 58 van 1967, artikel 2 van Wet 9 van 1970, artikel 2 van Wet 11 van 1974, artikel 1 van Wet 28 van 1977, artikel 1 van artikel 2 van Wet 29 van 1984. en
2. Artikel 38 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
- “(a) Skadeloosstelling weens tydelike algehele arbeidsongeskiktheid is periodieke uitkerings gedurende
- Wysiging van artikel 38 van Wet 30 van 1941, soos gewysig deur artikel 18 van Wet 27 van 1945,

Act No. 35, 1987

WORKMEN'S COMPENSATION AMENDMENT ACT, 1987

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, section 5 of Act 28 of 1977, section 3 of Act 24 of 1981 and section 12 of Act 29 of 1984.

ary disablement at a rate of seventy-five per cent of the monthly earnings of the workman or, as from a date fixed by the Minister by notice in the *Gazette*, such higher percentage of such earnings determined by the Minister in such notice, up to **[R600] R1 500** of such earnings or, as from a date so fixed, such higher amount of such earnings so determined **[and fifty per cent of his monthly earnings in excess of R600 up to R1 300 of such earnings]**: Provided that the periodical payment shall not be less than R13 per month or, as from a date so fixed, such higher amount as may be so determined or the rate of the workman's earnings at the time of the accident, whichever is the lesser."; and

(b) by the substitution for subsection (4) of the following subsection:

"(4) In determining the amount of any periodical payments, any excess of any monthly earnings of a workman above **[R1 300] R1 500** or, if the Minister has in terms of subsection (1) determined a higher amount of such earnings, any excess of such higher amount shall not be taken into consideration."

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, section 6 of Act 28 of 1977, section 4 of Act 24 of 1981 and section 13 of Act 29 of 1984.

3. 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 15 times the monthly earnings of the workman or, as from a date fixed by the Minister by notice in the *Gazette*, a lump sum equal to as many times the monthly earnings of the workman as the Minister may determine in such notice, up to **[R600] R840** of such earnings or, from a date so fixed, up to such higher amount of such earnings so determined.";

(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 or, as from a date fixed by the Minister by notice in the *Gazette*, such higher percentage of the monthly earnings as the Minister may determine in such notice, up to **[R600] R1 500** of such earnings or, as from a date so fixed, such higher amount of such earnings so determined **[plus fifty per cent of his monthly earnings in excess of R600 up to R1 300 of such earnings]**: Provided that the pension payable shall not be less than R13 per month or, as from a date fixed by the Minister by notice in the *Gazette*, such higher amount per month as the Minister may determine in such notice or the rate of the workman's earnings at the time of the accident, whichever is the lesser."; and

(c) by the substitution for subsection (2) of the following subsection:

ONGEVALLEWYSIGINGSWET, 1987

Wet No. 35, 1987

5 sodanige tydelike arbeidsongeskiktheid teen 'n
skaal van vyf-en-sewentig persent van die maande-
likse verdienste van die werksman of, vanaf 'n da-
tum deur die Minister by kennisgewing in die
10 *Staatskoerant* vasgestel, sodanige hoër persentasie
van sodanige verdienste as wat die Minister in so-
danige kennisgewing bepaal tot **[R600] R1 500** van
daardie verdienste of, vanaf 'n datum aldus vasge-
stel, sodanige hoër bedrag aldus bepaal: **[en vyftig
15 persent van sy maandelikse verdienste bo R600 tot
R1 300 van daardie verdienste]** Met dien verstande
dat die periodieke uitkering nie minder as R13 per
maand of, vanaf 'n datum aldus vasgestel, soda-
nige hoër bedrag aldus bepaal of die skaal van die
15 werksman se verdienste ten tyde van die ongeval,
na gelang van watter die kleinste is, mag bedra
nie.”; en

(b) deur subartikel (4) deur die volgende subartikel te ver-
vang:

20 “(4) By die bepaling van die bedrag van periodieke
uitkerings word die bedrag van maandelikse verdienste
van 'n werksman bo **[R1 300] R1 500** of, indien die
Minister ingevolge subartikel (1) 'n hoër bedrag van so-
danige verdienste bepaal het, enige oorskot van soda-
nige hoër bedrag buite rekening gelaat.”.

3. 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 der-
tig persent is, 'n enkele geldsom gelyk aan 15 maal
die maandelikse verdienste van die werksman of,
vanaf 'n datum deur die Minister by kennisgewing
in die *Staatskoerant* vasgestel, 'n enkele geldsom
35 gelyk aan soveel maal die maandelikse verdienste
van die werksman as wat die Minister in sodanige
kennisgewing bepaal tot **[R600] R840** van daardie
verdienste of, vanaf 'n datum aldus vasgestel, tot
so 'n hoër bedrag van sodanige verdienste aldus
bepaal.”;

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

45 “(c) Wanneer die graad van arbeidsongeskiktheid hon-
derd persent is, 'n maandelikse pensioen gelyk aan
vyf-en-sewentig persent van die maandelikse ver-
dienste van die werksman of, vanaf 'n datum deur
die Minister by kennisgewing in die *Staatskoerant*
vasgestel, sodanige hoër persentasie van die maan-
delikse verdienste as wat die Minister in sodanige
kennisgewing bepaal tot **[R600] R1 500** van daardie
50 verdienste of, vanaf 'n datum aldus vasgestel,
sodanige hoër bedrag van sodanige verdienste al-
dus bepaal **[plus vyftig persent van sy maandelikse
verdienste bo R600 tot R1 300 van daardie ver-
dienste]**: Met dien verstande dat die betaalbare
pensioen nie minder as R13 per maand of, vanaf 'n
55 datum deur die Minister by kennisgewing in die
Staatskoerant vasgestel, sodanige hoër bedrag per
maand as wat die Minister in sodanige kennisge-
wing bepaal of die skaal van die werksman se ver-
dienste ten tyde van die ongeval, na gelang van
60 watter die kleinste is, mag bedra nie.”; en

(c) deur subartikel (2) deur die volgende subartikel te ver-
vang:

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,
artikel 5 van
Wet 28 van 1977,
artikel 3 van
Wet 24 van 1981
en artikel 12 van
Wet 29 van 1984.

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,
artikel 6 van
Wet 28 van 1977,
artikel 4 van
Wet 24 van 1981
en artikel 13 van
Wet 29 van 1984.

Act No. 35, 1987

WORKMEN'S COMPENSATION AMENDMENT ACT, 1987

“(2) In determining the compensation under subsection (1) any excess of the monthly earnings of a workman above **[R1 300]** R1 500 or, as from a date fixed by the Minister by notice in the *Gazette*, above such higher amount as the Minister may determine in such notice, shall not be taken into consideration.”. 5

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, section 7 of Act 28 of 1977, section 5 of Act 24 of 1981 and section 14 of Act 29 of 1984.

4. Section 40 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 - “(a) If the workman leaves as a dependant a widow or 10 invalid widower and no children, a lump sum not exceeding twice the workman's monthly earnings or **[R600]** R840, whichever is the lesser, or, as from a date fixed by the Minister by notice in the *Ga-* 15 *zette*, such higher amount as the Minister may determine in such notice, but not exceeding twice the workman's monthly earnings, whichever is the lesser, and a monthly pension equal to forty per cent of the pension which would have been granted to the workman if totally and permanently dis- 20 abled, under section 39 (1) (c).”; and
 - (b) by the substitution for subsection (2) of the following subsection:
 - “(2) The commissioner may in his discretion pay out 25 of the accident fund, or, as the case may be, direct the employer individually liable to pay, an allowance not exceeding **[R650]** R900 or, as from a date fixed by the Minister by notice in the *Gazette*, such higher amount as the Minister may determine in such notice towards the 30 necessary burial expenses of the workman.”.

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, section 3 of Act 8 of 1979, section 6 of Act 24 of 1981 and section 17 of Act 29 of 1984.

5. Section 43bis of the principal Act is hereby amended by the substitution for subsection (1) of the following subsections:
- “(1) All monthly pensions payable under section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, **[1984]** 1987, or awarded subsequently, in respect of accidents which happened before **[such]** the commencement of the Workmen's Compensation Amendment Act, 1981 (Act No. 24 of 1981), shall with effect from **[such]** the commencement of the Workmen's Compensation Amendment Act, 1987, be increased by **[fifteen]** twenty-five 40 per cent or, as from a date fixed by the Minister by notice in the *Gazette*, by such percentage as the Minister may so determine.
 - (2) All monthly pensions payable under section 39 or 40 at the commencement of the Workmen's Compensation Amendment Act, 1987, or awarded subsequently, in respect of accidents which happened on or after the commencement of the Workmen's Compensation Amendment Act, 1981 (Act No. 24 of 1981), but before the commencement of the Workmen's Compensation Amendment Act, 1987, shall 50 from the commencement of the Workmen's Compensation Amendment Act, 1987, be increased by ten per cent or, as from a date fixed by the Minister by notice in the *Gazette*, by such percentage of such earnings as the Minister may determine in such notice.”. 55

ONGEVALLEWYSIGINGSWET, 1987

Wet No. 35, 1987

“(2) By die vasstelling van die skadeloosstelling ingevolge subartikel (1) word enige bedrag van die maandelikse verdienste van ’n werksman bo **[R1 300] R1 500** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, bo sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, buite rekening gelaat.”.

4. Artikel 40 van die Hoofwet word hierby gewysig—
(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) As die werksman ’n weduwee of sieklike wewenaar as nabestaande nalaat, en daar geen kinders is nie, ’n enkele geldsom van hoogstens twee maal die maandelikse verdienste van die werksman of **[R600] R840** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, maar nie meer as twee maal die werksman se maandelikse verdienste, na gelang die een of die ander minder bedra, en ’n maandelikse pensioen gelyk aan veertig persent van die pensioen wat aan die werksman toegestaan sou gewees het ingevolge artikel 39 (1) (c) as hy algeheel en blywend arbeidsongeskik was.”; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die kommissaris kan na goëddunke uit die ongevallfonds ’n toelae van hoogstens **[R650] R900** of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, sodanige hoër bedrag as wat die Minister in sodanige kennisgewing bepaal, 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, artikel 7 van Wet 28 van 1977, artikel 5 van Wet 24 van 1981 en artikel 14 van Wet 29 van 1984.

5. Artikel 43bis van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikels te vervang:

“(1) Alle maandelikse pensioene kragtens artikel 39 of 40 betaalbaar by die inwerkingtreding van die Ongevallewysigingswet, **[1984] 1987**, of daarna toegeken, ten opsigte van ongevalle wat voor **[sodanige] die inwerkingtreding van die Ongevallewysigingswet, 1981 (Wet No. 24 van 1981)**, plaasgevind het, word vanaf **[sodanige] die inwerkingtreding van die Ongevallewysigingswet, 1987**, met **[vyftien] vyf-en-twintig** persent of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, met sodanige persentasie as wat die Minister aldus bepaal, verhoog.

(2) Alle maandelikse pensioene kragtens artikel 39 of 40 betaalbaar by die inwerkingtreding van die Ongevallewysigingswet, 1987, of daarna toegeken, ten opsigte van ongevalle wat op of na die inwerkingtreding van die Ongevallewysigingswet, 1981 (Wet No. 24 van 1981), maar voor die inwerkingtreding van die Ongevallewysigingswet, 1987, plaasgevind het, word vanaf die inwerkingtreding van die Ongevallewysigingswet, 1987, met tien persent of, vanaf ’n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel, met sodanige persentasie wat hy aldus bepaal, verhoog.”.

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, artikel 3 van Wet 8 van 1979, artikel 6 van Wet 24 van 1981 en artikel 17 van Wet 29 van 1984.

Act No. 35, 1987

WORKMEN'S COMPENSATION AMENDMENT ACT, 1987

Sections 2, 3
and 4 not to
apply in respect
of certain accidents.

6. The amendments effected by sections 2, 3 and 4 shall not apply in respect of accidents which occurred prior to the commencement of this Act.

Short title and
commencement.

7. This Act shall be called the Workmen's Compensation Amendment Act, 1987, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 5

ONGEVALLEWYSIGINGSWET, 1987

Wet No. 35, 1987

6. Die wysigings deur artikels 2, 3 en 4 aangebring, is nie van toepassing ten opsigte van ongevallen wat voor die inwerkingtreding van hierdie Wet plaasgevind het nie.
- Artikels 2, 3 en 4 nie ten opsigte van sekere ongevallen van toepassing nie.
7. Hierdie Wet heet die Ongevallewysigingswet, 1987, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.
- Kort titel en inwerkingtreding.

