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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 149

17 February 2006

BASIC CONDITIONS OF EMPLOYMENT ACT No. 75 OF 1997**SECTORAL DETERMINATION 13: FARM WORKER SECTOR, SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of Section 51(1) of the Basic Conditions of Employment Act, No. 75 of 1997, make a Sectoral Determination establishing conditions of employment for employees in the Farm Worker Sector, South Africa, which appears in the schedule hereto and fix 1 March 2006 as the date from which the provisions of the said Sectoral Determination shall become binding.

All the provisions of the Sectoral Determination 8: Farm Worker Sector, South Africa published under Government Notice No. 24114 of 2 December 2002 and the clarification notice published under Government Notice No 25657 of 31 October 2003, will be superseded by this determination with effect from 1 March 2006



**M.M.S. MDLADLANA, MP
MINISTER OF LABOUR**

PART A: APPLICATION

1. SCOPE OF APPLICATION

- (1) The determination applies to the employment of farm workers in all farming activities in the Republic of South Africa.
- (2) Without limiting its meaning, 'farming activities' includes primary and secondary agriculture, mixed farming, horticulture, aqua farming and the farming of animal products or field crops excluding the Forestry Sector.
- (3) For the purposes of this determination, a farm worker includes –
 - (a) a domestic worker employed in a home on a farm;
 - (b) a security guard employed to guard a farm or other premises where farming activities are conducted, who is not employed in the private security industry; and
- (4) Subject to clause (3), this determination does not apply to any person employed in activities covered by another sectoral determination or by a bargaining council agreement in terms of the Labour Relations Act, 1995.
- (5) The provisions of the Basic Conditions of Employment Act apply to all farm workers covered by this determination and their employers in respect of any matter that is not regulated by this sectoral determination.

PART B: MINIMUM WAGES

2. MINIMUM WAGE LEVELS

- (1) With effect from 1 March 2006 an employer must pay a farm worker at least the minimum wage prescribed in clause 3.
- (2) An employer must pay a farm worker –
 - (a) who works less than 45 ordinary hours of work per week at least the hourly rate as set out in Table 1;

3. MINIMUM WAGES FOR FARM WORKERS UNDER 18 YEARS OF AGE

- (1) An employer must pay a farm worker who is 15 years of age or older, but less than 18 and who works for 35 hours per week or less at least the hourly rate, specified in Table 1

Table 1 Minimum wages for farm workers					
AREA A					
Bergrivier Local Municipality, Breede Valley Local Municipality, Cape Agulhas Local Municipality, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane Metropolitan Municipality, Drakenstein Local Municipality, Ekurhuleni Metropolitan Municipality, Emfuleni Local Municipality, Ethekewini Metropolitan Municipality, Gamagara Local Municipality, Kgatelopele Local Municipality, Knysna Local Municipality, Kungwini Local Municipality, Kouga Local Municipality, Langeberg Local Municipality, Lesedi Local Municipality, Makana Local Municipality, Mangaung Local Municipality, Matzikama Local Municipality, Metsimaholo Local Municipality, Midvaal Local Municipality, Mngeni Local Municipality, Mogale Local Municipality, Mosselbaai Local Municipality, Msunduzi Local Municipality, Nelson Mandela, Nokeng tsa Taemane Local Municipality, Oudtshoorn Local Municipality, Overstrand Local Municipality, Plettenbergbaai Local Municipality, Randfontein Local Municipality, Richtersveld Local Municipality, Saldanha Bay Local Municipality, Sol Plaatjie Local Municipality, Stellenbosch Local Municipality, Swartland Local Municipality, Swellendam Local Municipality, Theewaterskloof Local Municipality, and Witzenberg Local Municipality.					
1 March 2006 to 28 February 2007	Hourly rate	1 March 2007 to 29 February 2008	Hourly rate	1 March 2008 to 28 February 2009	Hourly rate
R994,00	R5,10	R1041,00	R5,34	R1090,00	R5,59
AREA B (Areas not mentioned in Area A)					
R885,00	R4,54	R989,00	R5,07	R1090,00	R5,59

4. CALCULATION OF WAGES OR REMUNERATION

- (1) The wage or remuneration of a farm worker is calculated by reference to the farm worker's ordinary hours of work.
- (2) For the purposes of any calculation in terms of this determination –
 - (a) the hourly wage or remuneration of a farm worker is obtained by –
 - (i) dividing the weekly wage or remuneration by the ordinary number of hours worked in a week;
 - (b) the daily wage or remuneration of a farm worker is obtained by–
 - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day; or
 - (ii) dividing the weekly wage or remuneration by the number of days worked in a week.
 - (c) the weekly wage or remuneration of a farm worker is obtained by –
 - (i) multiplying the hourly wage or remuneration by the number of ordinary hours worked in a day multiplied by the number of days worked in a week; or
 - (ii) multiplying the daily wage or remuneration by the number of days worked in a week; or
 - (iii) dividing the monthly wage or remuneration by four and one-third ($13/3$)
 - (d) the monthly wage or remuneration of a farm worker is obtained by multiplying the weekly wage or remuneration by four and a third ($13/3$)

5. PAYMENT OF REMUNERATION

- (1) An employer must pay a farm worker –
 - (a) in South African currency;
 - (b) daily, weekly, fortnightly or monthly; and
 - (c) in cash, by cheque or by direct deposit into an account designated by the farm worker.
- (2) Any payment in cash or by cheque must be given to each farm worker-
 - (a) at the workplace;
 - (b) during the farm worker's working hours; and
 - (c) in a sealed envelope which becomes the property of the farm worker.
- (3) An employer must pay a farm worker on the normal payday agreed to in writing by the farm worker.

6. INFORMATION CONCERNING PAY

- (1) On every pay day, the employer must give the farm worker a statement showing –
 - (a) the employer's name and address;
 - (b) the farm worker's name and occupation;
 - (c) the period in respect of which payment is made;
 - (d) the farm worker's wage rate and overtime rate;
 - (e) the number of ordinary hours worked by a farm worker during that period;
 - (f) the number of overtime hours worked by the farm worker during that period;
 - (g) the number of hours worked by the farm worker on a paid holiday or on a Sunday;
 - (h) the farm worker's wage;

- (i) details of any other pay arising out of the farm worker's employment;
 - (j) details of any deductions made;
 - (k) the employer's registration number with the Unemployment Insurance Fund and the employee's contribution to the Fund; and
 - (l) the actual amount paid to the farm worker.
- (2) An employer must retain a copy or record of each statement for three years.

7. PROHIBITED ACTS CONCERNING PAY

- (1) An employer may not withhold any payment from a farm worker or require a farm worker to pay the farmer or any other person in respect of –
- (a) the employment or training of that farm worker;
 - (b) the supply of any work equipment or tools; or
 - (c) the supply of any work clothing.¹
- (2) An employer may not require a farm worker to purchase any goods from the employer or from any person, shop or other business nominated by the employer.
- (3) An employer may not levy a fine against a farm worker.
- (4) An employer may not require or permit a farm worker to –
- (a) repay any amount or remuneration paid except for overpayments previously made by the employer resulting from an error in calculating the farm worker's wage; or
 - (b) acknowledge receipt of an amount greater than the wage or remuneration actually received.

¹ An employer may not make any deduction from remuneration or require or permit a farm worker to make any payment to the employer or any other person in respect of anything that the employer is required to do in the interests of the health and safety of a farm worker (section 23 of the Occupational Health and Safety Act, 85 of 1993).

8. DEDUCTIONS

- (1) An employer may not make any deduction from a farm worker's wage except –
 - (a) a deduction not exceeding 10 percent of the farm worker's wage made in accordance with sub-clause (2) for food supplied to the farm worker;
 - (b) a deduction not exceeding 10 percent of the farm worker's wage made in accordance with sub-clause (4) for accommodation in which the farm worker ordinarily resides;
 - (c) at the written request of a farm worker, a deduction of an amount which the employer has paid or undertaken to pay to a third party contemplated by sub-clause (7);
 - (d) a deduction, not exceeding one-tenth of the wage due to the farm worker on the pay-day concerned, towards the repayment of any amount loaned or advanced to the farm worker by the employer; and
 - (e) a deduction of any amount which the employer is required to make by law or in terms of a court order or arbitration award.
- (2) An employer may only make a deduction in respect of accommodation and/ or food in terms of sub-clause (2)(a) or (2)(b) respectively if –
 - (a) the food or accommodation is provided free of charge by the employer to the farm worker at the employer's cost;
 - (b) the food or accommodation is provided on a consistent and regular basis as a condition of employment;
 - (c) no additional deduction is made from the farm worker's remuneration for food or accommodation;
 - (d) in the case of accommodation, no deduction is made by the employer for electricity, water or other services; and
 - (e) the deduction does not exceed the cost to the employer of supplying food or accommodation, as the case may be.

- (3) A deduction in terms of sub-clause (1)(b) may only be made for a house that meets the following requirements:
- (a) the house has a roof that is durable and waterproof;
 - (b) the house has glass windows that can be opened;
 - (c) electricity is available inside the house if the infrastructure exists on the farm;
 - (d) safe water is available inside the house or in close proximity, which is not more than 100m, from the house;
 - (e) a flush toilet or pit latrine is available in, or in close proximity, to the house; and
 - (f) the house is not less than 30 square meters in size.
- (4) An employer may not make any deduction for accommodation in terms of sub-clause (1)(b) in respect of a farm worker who is under 18 years of age.
- (5) An employer may only make a deduction in terms of sub-clause (1)(b) in respect of one farm worker residing in any house.
- (6) (a) Subject to sub-clause (1)(b) where more than two farm workers reside in communal accommodation, the maximum deduction that the employer may make in total in respect of all the farm workers who reside in that accommodation is 25% of the applicable minimum wage payable to an individual farm worker.²
- (b) An equal amount must be deducted in respect of each of the farm workers residing in accommodation contemplated by paragraph (a).
- (7) A deduction may only be made in respect of clause 8(1)(c) in respect of a payment made or to be made to –
- (a) any holiday, sick, medical, insurance, savings, provident fund or pension fund of which the farm worker is a member,
 - (b) any registered trade union in respect of subscriptions;

² If the applicable minimum wage is R994.00 per month, the maximum deduction that may be made in total from the workers living in communal accommodation as a whole is R248.50 per month. The deduction to be made from an individual farm worker may not exceed 10% of that workers wage.

-
- (c) any bank, building society, insurance business, registered financing institution, local authority in respect of a payment on a loan granted to the farm worker to acquire a dwelling;
 - (d) the owner or agent in respect of the rent of a dwelling or accommodation occupied by the farm worker.
 - (8) An employer may not make any deduction in respect of the grazing of a farm worker's livestock;
 - (9) A deduction may be made to reimburse an employer for loss or damage only if—
 - (a) the loss or damage occurred in the course of employment and was due to the fault of the farm worker;
 - (b) the employer has followed a fair procedure and has given the farm worker a reasonable opportunity to show why the deductions should not be made;
 - (c) the total amount of the debt does not exceed the actual amount of the loss or damage; and
 - (d) the total deductions from the farm worker's remuneration in terms of this subsection do not exceed one-quarter of the employee's remuneration in money.
 - (10) A deduction of any goods purchased by the employee must specify the nature and quantity of the goods and the amount that correlates with a proof of purchase.
 - (11) An employer who deducts an amount from an employee's remuneration for payment to a third party must pay the amount to that party in accordance with the time period and other requirements specified in the deed of purchase agreement, law, court order or arbitration award.
 - (12) An employer may not require or permit an employee to—

- (a) repay any remuneration except for overpayments previously made by the employer resulting from an error in calculating the employee's remuneration; or
- (b) acknowledge receipt of an amount greater than the remuneration actually received.

PART C: PARTICULARS OF EMPLOYMENT

9. WRITTEN PARTICULARS OF EMPLOYMENT

- (1) An employer must supply a farm worker, when the farm worker starts work with the following particulars in writing-
 - (a) the full name and address of the employer;
 - (b) the name and occupation of the farm worker, or a brief description of the work for which the farm worker is employed;
 - (c) the place of work, and where the farm worker is required or permitted to work at various places, an indication of this;
 - (d) the date on which employment began;
 - (e) the farm worker's ordinary hours of work and days of work;
 - (f) the farm worker's wage or the rate and method of payment;
 - (g) the rate of pay for overtime work;
 - (h) any other cash payments that the farm worker is entitled to;
 - (i) any food or accommodation payment that the farm worker is entitled to and the value of the food or accommodation calculated in accordance with clause 8;
 - (j) any other payment in kind received by the farm worker;
 - (k) how frequently wages will be paid;
 - (l) any deductions to be made from the farm worker's wages;
 - (m) the leave to which the farm worker is entitled to; and

- (n) the period of notice required to terminate employment, or if employment is for a specific period, the date when employment is to terminate.
- (2) If a farm worker is not able to understand the written particulars, the employer must ensure that they are explained to the farm worker in a language and in a manner that the farm worker understands.
- (3) The employer must revise the written particulars if there is any change in the farm worker's terms of employment.
- (4) An employer must retain a copy of the written particulars while the farm worker is employed and for three years thereafter.

PART D: HOURS OF WORK

10. EMERGENCY WORK

- (1) Clauses 11, 13, 16(1), 17(1), 18(1) and 19(1) do not apply to work which is required to be done without delay owing to circumstances for which the employer could not reasonably have been expected to make provision and which cannot be performed by farm workers during their ordinary hours of work.³
- (2) Sub-clause (1) does not affect the obligation of an employer to pay a farm worker for any work performed at the farm worker's ordinary rate of pay or overtime rate, as the case may be.

11. ORDINARY HOURS OF WORK

- (1) An employer may not require or permit a farm worker to work more than –
 - (a) 45 hours in any week⁴; and
 - (b) nine hours on any day if the farm worker works for five days or less in a week; or
 - (c) eight hours in any day if the farm worker works for more than five days in any week.

³ Where an 'emergency' situation such as a veld-fire or the outbreak of a disease among livestock persists, it will be reasonable to expect the employer to rotate work or to obtain additional temporary workers to assist to deal with the emergency.

⁴ A farm worker who is under 18 years of age may not work more than 35 hours in any week.

12. EXTENSION OF ORDINARY HOURS OF WORK FOR FARM WORKERS

- (1) A worker and an employer may conclude a written agreement in terms of which the farm worker's ordinary hours of work—
 - (a) are extended by not more than five hours per week for a period of not more than four months in any continuous period of twelve months; and
 - (b) are reduced by the same number of hours during a period of the same duration in the same twelve month period.
- (2) An agreement in terms of sub-clause (1) may not extend the farm worker's ordinary hours of work to more than ten hours on any day.
- (3) During any period of extended or reduced ordinary hours of work in terms of sub-clause (1), the employer must pay the farm worker the wage the farm worker would have received for the farm worker's normal ordinary hours of work.
- (4) If a farm worker's employment terminates for any reason at a time when the farm worker has worked a great number of extended ordinary hours than reduced ordinary hours, the employer must pay the worker for the extended ordinary hours worked at the overtime rate in terms of clause 13.
- (5) An employer who concludes a contract in terms of this clause must—
 - (a) supply the farm worker with a copy of the contract; and
 - (b) record any extended or reduced hours work in terms of the contract on the statement supplied to the worker in terms of clause 6.

13. OVERTIME

- (1) An employer may not require or permit a farm worker—
 - (a) to work overtime except in accordance with an agreement concluded by the employer and the farm worker;
 - (b) to work more than 15 hours' overtime a week; or
 - (c) to work more than 12 hours, including overtime, on any day.

14. PAYMENT OF OVERTIME

- (1) An employer must pay a farm worker at least one and one-half times the farm worker's wage for overtime worked.
- (2) Despite sub-clause (1), an agreement may provide for an employer to -
 - (i) pay a farm worker not less than the farm worker's ordinary wage for overtime worked and grant the farm worker at least 30 minutes' time off on full pay for every hour of overtime worked; or
 - (ii) grant a farm worker at least 90 minutes' paid time off for each hour of overtime worked.
- (3)
 - (a) An employer must grant paid time off in terms of sub-clause (2) within one month of the farm worker becoming entitled to it.
 - (b) An agreement in writing may increase the period contemplated by paragraph (a) to twelve months.
 - (c) An agreement concluded in terms of paragraph (b) with a farm worker when the farm worker commences employment, or during the first three months of employment, is only valid for one year.
- (4) Any overtime worked on a Sunday or public holiday must be paid in accordance with the provisions for Sundays and public holidays in clauses 16 and 20.

15. COMPRESSED WORKING WEEK

- (1) An agreement in writing may require or permit a farm worker to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 18, without receiving overtime pay.
- (2) An agreement in terms of sub-clause (1) may not require or permit an farm worker to work -
 - (a) more than 45 ordinary hours of work in any week;
 - (b) more than ten hours' overtime in any week; or
 - (c) on more than five days in any week.

16. WORK ON SUNDAYS

- (1) An employer must pay a farm worker who works on a Sunday in accordance with the following table:

Time worked on a Sunday	Payment
One hour or less	Double the wage for one hour
More than one hour but not more than two hours	Double the ordinary wage for time worked
More than two hours but not more than five hours	The ordinary daily wage.
More than five hours	The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage.

- (2) For the purposes of sub-clause (1), a farm worker who does not reside on the employer's farm who works on a Sunday must be regarded as having worked at least two hours on that day.
- (3) Any time worked on a Sunday by a farm worker is not taken into account in calculating a farm worker's ordinary hours of work in terms of clause 11, but is taken into account in calculating the overtime worked by the farm worker in terms of clause 13.
- (4) If a shift worked by a farm worker falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day.

17. NIGHT WORK

- (1) In section, "night work" means work performed after 20:00 and before 04:00 the next day.
- (2) An employer may only require or permit a farm worker to perform night work, if so agreed, and if -
- (a) the employer pays the farm worker an allowance of at least 10% of the farm worker's ordinary daily wage; and
 - (b) transportation is available between the farm worker's place of residence and the workplace at the commencement and conclusion of the farm worker's shift.

- (3) An employer who requires a farm worker to perform work on a regular basis after 20:00 and before 04:00 the next day must –
- (a) inform the farm worker in writing, or orally if the farm worker is not able to understand a written communication, in a language that the farm worker understands-
 - (i) of any health and safety hazards associated with the work that the farm worker is required to perform; and
 - (ii) of the farm worker's rights to undergo a medical examination in terms of paragraph (b).
 - (b) at the request of the farm worker, enable the farm worker to undergo a medical examination, for the account of the employer, concerning those hazards-
 - (i) before the farm worker starts, or within a reasonable period of the farm worker starting, such work;
 - (ii) at appropriate intervals while the farm worker continues to perform such work; and
 - (c) transfer the farm worker to suitable day work within a reasonable time if-
 - (i) the farm worker suffers from a health condition associated with the performance of night work; and
 - (ii) it is practicable for the employer to do so.
- (4) Sub-clause (3) applies to farm workers who work after 20:00 and before 04:00 at least five times per month or 50 times per year.

18. MEAL INTERVALS

- (1) An employer must give a farm worker who works continuously for more than five hours, a meal interval of at least one continuous hour.
- (2) During a meal interval, a farm worker may be required or permitted to perform only duties that cannot be left unattended and cannot be performed by another farm worker.
- (3) A farm worker must be paid -

- (a) for a meal interval in which the farm worker is required to be available for work; and
 - (b) for any portion of a meal interval that is in excess of 75 minutes, unless the farm worker lives on the farm or at the workplace.
- (4) For the purpose of sub-clause (1), work is continuous unless it is interrupted by a meal interval in accordance with this clause.
- (5) An agreement in writing may-
- (a) reduce the meal interval to not less than 30 minutes; and
 - (b) dispense with a meal interval for a farm worker who works fewer than six hours on a day.
- (6) Whenever an employer is required to give a farm worker a second meal interval because of overtime worked, that interval may be reduced to not less than 15 minutes.

19. REST PERIOD

- (1) An employer must grant a farm worker –
- (a) a daily rest period of at least twelve consecutive hours between ending work and starting work the next day;
 - (b) weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday.
- (2) A daily rest period in terms of sub-clause (1)(a) may, by written agreement, be reduced to 10 hours for a farm worker -
- (a) who lives where the workplace is situated; and
 - (b) whose meal interval lasts for at least three hours.
- (3) despite sub-clause (1)(b), an agreement in writing may provide for a rest period of at least sixty consecutive hours every second week.

20. PUBLIC HOLIDAYS

- (1) An employer may not require a farm worker to work on a public holiday, except in accordance with an agreement.

- (2) If a public holiday falls on a day on which a farm worker would ordinarily work, an employer must pay-
 - (a) a farm worker who does not work on the public holiday, at least the wage that the farm worker would ordinarily have received for work on that day;
 - (b) a farm worker who does work on the public holiday-
 - (i) at least double the daily wage; or
 - (ii) if it is greater, the amount referred to in sub-clause(2)(a) plus the amount earned by the employee for the time worked on that day.
- (3) If a farm worker who works on a public holiday on which the farm worker would not normally work, the employer must pay that farm worker an amount equal to -
 - (a) the farm worker's daily wage; plus
 - (b) the farm worker's hourly wage for each hour worked on the public holiday.
- (4) An employer must pay a farm worker for a public holiday on the farm worker's normal payday.
- (5) If a shift worked by a farm worker falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

PART E: LEAVE

21. ANNUAL LEAVE

- (1) An employer must grant a farm worker--
 - (a) at least three weeks leave on full pay in respect of each twelve months of employment (the 'annual leave cycle');
 - (b) by agreement, at least one day of annual leave on full pay for every 17 days on which the farm worker worked or was entitled to be paid; or
 - (c) by agreement, one hour of annual leave on full pay for every 17 hours on which the farm worker worked or was entitled to be paid.

- (2) An employer must grant a farm worker an additional day of paid leave if a public holiday falls on a day during a farm worker's annual leave on which the farm worker would otherwise have worked.
- (3) An employer may reduce a farm worker's entitlement to annual leave by the number of days of occasional on full pay granted to the farm worker at the farm worker's request in that annual leave cycle.
- (4) An employer must grant -
 - (a) at least three weeks annual leave on full pay in respect of each 12 months of employment (the 'annual leave cycle') not later than six months after the end of the annual leave cycle or the year in which leave was earned.
 - (b) The leave earned in one year over a continuous period, if requested by the farm worker.
- (5) Annual leave must be taken -
 - (a) in accordance with an agreement between the employer and the farm worker; or
 - (b) if there is no agreement in terms of paragraph (a), at a time determined by the employer in accordance with this sub-clause.
- (6) An employer may not require or permit a farm worker to take annual leave during -
 - (a) any other period of leave to which the farm worker is entitled in terms of this chapter; or
 - (b) any period of notice of termination of employment.
- (7) An employer may not require or permit a farm worker to work for the employer during any period of annual leave.
- (8) An employer may not pay a farm worker instead of granting paid leave in terms of the clause except on termination of employment in terms of clause 26.
- (9) An employer must pay a farm worker leave pay at least equivalent to the remuneration the farm worker would have received for working for a period equal to the period of leave, calculated at the farm worker's rate of remuneration immediately before the beginning of the period of leave.

- (10) An employer must pay a farm worker leave pay before the beginning of the period of leave.

22. SICK LEAVE

- (1) For the purpose of this clause “sick leave cycle” means the period of 36 months employment with the same employer immediately following –
- (a) when the farm worker commenced work; or
 - (b) the end of the farm worker’s prior sick leave cycle.
- (2) During every sick leave cycle, the farm worker is entitled to an amount of paid sick leave equal to the number of days the farm worker would normally work during a period of six weeks.
- (3) Despite sub-clause (2) during the first six months of work, the farm worker is entitled to one day’s sick leave for every 26 days worked.
- (4) An employer may, during the farm worker’s first leave cycle, reduce the farm worker’s entitlement to sick leave in terms of sub-clause (2) by the number of days’ sick leave taken in terms of sub-clause (3).
- (5) Where an employer, at the request of the farm worker, pays fees for a farm worker’s hospital or medical treatment, the fees paid may be set off against the worker’s pay.
- (6) An employer is not required to pay the farm worker in terms of this clause if the farm worker has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a medical certificate stating that the farm worker was unable to work for the duration’s absence on account of sickness or injury.
- (7) Within the scope of their professional expertise, a medical certificate in terms of sub-clause (6) may be provided by -
- (a) a medical practitioner;
 - (b) a clinic nurse practitioner;
 - (c) a traditional healer;
 - (d) a community health worker;
 - (e) a psychologist;

- (f) any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament; or
 - (g) any other health professional authorized to diagnose medical conditions.
- (8) If it is not reasonably practicable for a farm worker who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (1) unless the employer provides reasonable assistance to the farm worker to obtain the certificate.

23. FAMILY RESPONSIBILITY LEAVE

- (1) This clause applies to a farm worker –
- (a) who has been employed by an employer for longer than four months; and
 - (b) who works on at least four days a week for that employer.
- (2) An employer must grant a farm worker, during each 12 months of employment, at the request of the farm worker, three days' paid leave, which the farm worker is entitled to take –
- (a) when the farm worker's child is born;
 - (b) when the farm worker's child is sick; or
 - (c) in the event of the death of –
 - (i) the farm worker's spouse or life partner; or
 - (ii) the farm worker's parent, adoptive parent, grandparent, child, adopted child, grandchildren or sibling.
- (3) A farm worker may take family responsibility leave in respect of the whole or part of the day.
- (4) Subject to sub-clause (5), an employer must pay a farm worker for a day's family responsibility leave–
- (a) the wage the farm worker would normally have received for work on that day; and
 - (b) on the farm worker's usual payday.