

Namibia

Social Security Act, 1994

General Regulations, 1995

Government Notice 198 of 1995

Legislation as at 15 November 2017

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General Regulations, 1995

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General Regulations, 1995

Government Notice 198 of 1995

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as amended by

Government Notice 31 of 1996 (GG 1258) came into force on date of publication: 31 January 1996

Government Notice 80 of 1996 (GG 1291) came into force on date of publication: 15 April 1996

Government Notice 244 of 1997 (GG 1741) came into force on date of publication: 1 December 1997

Government Notice 235 of 1998 (GG 1952) came into force on date of publication: 16 September 1998

Government Notice 101 of 2001 (GG 2544) came into force on date of publication: 1 June 2001

The Government Notice which publishes these regulations notes that they were made on the recommendation of the Social Security Commission.

Government Notice 227 of 2003 (GG 3092) came into force on date of publication: 15 November 2003

The Government Notice which publishes these regulations notes that they were made on the recommendation of the Social Security Commission.

Government Notice 53 of 2008 (GG 4002) came into force on date of publication: 29 February 1998

Government Notice 49 of 2009 (GG 4236) came into force on date of publication: 1 April 2009

The Government Notice which publishes these regulations notes that they were made on the recommendation of the Social Security Commission.

Government Notice 147 of 2010 (GG 4530) came into force on date of publication: 30 July 2010

This Government Notice states that the regulations were previously amended by Government Notice 101 of 11 May 2001, but this is an error; there is no such Government Notice.

This Government Notice also lists Government Notice 101 of 1 June 2001, which is correct.

Government Notice 69 of 2011 (GG 4725) came into force on date of publication: 1 June 2011

The Government Notice which publishes these regulations notes that they were made on the recommendation of the Social Security Commission.

Government Notice 129 of 2011 (GG 4767) came into force on date of publication: 1 August 2011

The Government Notice which publishes these regulations notes that they were made on the recommendation of the Social Security Commission.

This Government Notice states that the regulations were previously amended by Government Notice 101 of 11 May 2001; the correct date for this Government Notice is 1 June 2001.

This Government Notice also lists GN 5 of 2 January 2009 as a previous amendment to these regulations, but this is an error as [GN 5/2009](#) is actually an announcement of members of the Social Security Commission. [Government Notice 97 of 2012](#) (GG 4919) came into force on date of publication: 2 April 2012. This Government Notice states that the regulations were previously amended by Government Notice 101 of 11 May 2001, but this is an error; there is no such Government Notice. This Government Notice also lists Government Notice 101 of 1 June 2001, which is correct. [Government Notice 301 of 2012](#) (GG 5101) came into force on 1 March 2013 ([GN 301/2012](#)). [Government Notice 44 of 2016](#) (GG 5967) came into force on 1 January 2013 ([GN 44/2016](#)); as corrected by [GN 51/2016](#) (GG 5971).

[\[GN 49/2009 amends the regulations throughout to substitute “basic wage” for “remuneration”\]](#)

1. Definitions

In these regulations and in the forms in the Annexure, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Social Security Act, 1994 (Act [34 of 1994](#)), shall have the same meaning and-

“**basic wage**” means that part of an employee’s remuneration in money including the cash equivalent of payment in kind, if any, paid in respect of work done during the hours ordinarily worked, but does not include-

- (a) allowances, including travel and subsistence, housing, motor vehicle, transport, and professional allowances, whether or not based on the employee’s basic wage;
- (b) pay for overtime, as defined in section 8(g) of the Labour Act, 2007 (Act [No. 11 of 2007](#));
- (c) additional pay for work on Sunday or a public holiday;
- (d) additional pay for night work, as required in terms of section 19(1) of the Labour Act, 2007 (Act [No. 11 of 2007](#));
- (e) payment in respect of pension, annuity or medical benefits or insurance,

Provided that, for the purpose of these regulations, an employee shall be deemed to have been paid a basic wage of not less than N\$300 and not more than N\$9 000 in any month, as the case may be; and

[\[definition of “basic wage” inserted by GN 49/2009 and amended by GN 301/2012\]](#)

[\[definition of “remuneration” amended by GN 53/2008 and deleted by GN 49/2009\]](#)

“**the Act**” means the Social Security Act, 1994 (Act [34 of 1994](#)).

Chapter I Registration

2. Application for registration as employer or employee

- (1) Every person who-
 - (a) is an employer on the date of commencement of these regulations, shall on or before 29 February 1996, or within such further period as the Commission may determine; or
[\[paragraph \(a\) substituted by GN 31/1996\]](#)
 - (b) becomes an employer after such date of commencement, shall within 30 days of the date on which he or she so becomes an employer,

apply to the Commission for his or her registration as an employer and for the registration of every employee employed by him or her, as an employee.

- (2) An application in terms of subregulation (1) shall in the case of an application for the registration of-
- (a) an employer other than the employer of a domestic employee;
 - (b) an employer of a domestic employee;
 - (c) an employee,
- be made in the form of Forms 1, 2 and 3, respectively.
- (3) Every employer already registered in terms of section 20 of the Act shall within 30 days of the date on which he or she employs an employee, apply to the Commission in the form of Form 3 for the registration of such employee as an employee.
- (4) Every person who wishes to register himself or herself as a self-employed person, may apply to the Commission in the form of Form 4 for his or her registration as an employer and employee.
- (5) **[subregulation (5) amended by [GN 80/1996](#) and deleted by [GN 53/2008](#)]**
- (5a) If the periods in subregulation (1) or (3) has lapsed, the employer concerned shall upon submission of the application pay to the Commission, in addition to the application fee referred to in subregulation (5)(a), and without prejudice to the provisions of section 20(4) of the Act, a late fee of N\$2 or such other amount as may be fixed by the Commission by notice in the *Gazette*.
- [Subregulation (5a) is inserted by [GN 80/1996](#). The verb “has” should be “have” to be grammatically correct.]**
- (6) The Commission shall record the name and other relevant particulars of every employer and employee registered in terms of section 20 of the Act in a register in the form of Form 5.
- (7) If the Commission is satisfied that any person who is registered as contemplated in this regulation has ceased to be-
- (a) an employer, the Commission shall cancel his or her registration as an employer;
 - (b) a self-employed person, the Commission shall cancel his or her registration as an employer and employee or, in the case of any such person who employs an employee, only such self-employed person's registration as an employee;
 - (c) an employee who enters into a contract of employment with another employer, the Commission shall cancel his or her registration as an employee.

3. Certificate of registration

- (1) The Commission shall, upon registration of a person in terms of section 20 of the Act, issue-
- (a) every employer so registered with a certificate of registration in the form of Form 6;
 - (b) every employee so registered with a Social Security Card in the form of Form 7;
 - (c) every self-employed person so registered with both such certificate of registration and such Social Security Card.
- (2) Any person issued with a certificate of registration or a Social Security Card contemplated in subregulation (1) shall, if such certificate or card has been lost, destroyed or has for any reason become illegible, apply to the Commission in the form of Form 8 for a duplicate of such certificate or card, as the case may be.
- (3) If an application is made under subregulation (2) by reason of the illegibility of the certificate of registration or Social Security Card in question, the Commission shall not consider it unless such certificate of registration or Social Security Card is surrendered to the Commission for cancellation.

- (4) No application for a replacement of a social security card or certificate of registration shall be submitted to the Commission, unless an application fee of N\$15 or such other payment as may be fixed by the Commission has been paid to the Commission.

[Subregulation (4) is deleted by GN 53/2008. It is then “substituted” by GN 129/2011, which has been treated here as a re-insertion.]

4. Contractor's certificate

A certificate relating to the registration of a contractor issued under section 27(4) of the Act shall be in the form of Form 9.

Chapter II CONTRIBUTIONS

5. Payment of contributions

- (1) Every employer and employee shall, with effect from the first day of the month during which such employee has been registered in terms of section 20 of the Act, become liable in respect of the contributions payable by every registered employer and registered employee to every fund of which such employee is a member.

[subregulation (1) substituted by GN 53/2008 (GG 4005)]

- (2) Subject to the other provisions of this regulations, the contributions contemplated in subregulation (1) shall be paid by the employer concerned within 30 days, or such further period as the Commission may allow, after the end of every month during which basic wage is paid or becomes payable by such employer to any employee in his or her employment.
- (3) Notwithstanding subregulation (2), the Commission may, subject to such conditions as it may determine, allow the payment of contributions in advance.
- (4) Every payment of contributions shall be accompanied by a return in the form of Form 10, or by any other document which substantially contains the information required by that Form.
- (5) The contributions payable by an employer and employee shall, in the case of an employee-
- (a) registered as an employee of more than one employer, be payable in accordance with the ratio which the basic wage paid to such employee by each employer, bears to the sum of the basic wage so paid to such employee;
 - (b) who is only required to work for any particular period in each year, be calculated by spreading the total basic wage paid to such employee during that period over the whole of the year in question as if an equal amount was paid to such employee during each month of that year, and which amount shall, for the purposes of subregulation (2), be deemed to be the basic wage which was paid or becomes payable to such employee during each such month.
- (6) If any person who-
- (a) ceased to be a member of a fund by reason of the termination of his or her employment; and
 - (b) at the time of such termination, did not comply with section 21(6) of the Act,
- resumes his or her membership of the fund concerned at any time thereafter, the Commission may, with due consideration to the amount of any contributions paid on his or her behalf before such termination, grant remission to him or her in respect of any such contributions which may become payable after he or she so resumes his or her membership and for any such period such as the Commission may determine.

6. Interest

The rate of interest contemplated in section 24 of the Act shall be 20 per cent per annum, calculated from the first day after the period for payment of contributions contemplated in regulation 5(2) has expired.

7. Statement of outstanding contributions and interest

- (1) A statement of outstanding contributions and interest filed in accordance with section 25(2)(a) of the Act shall be in the form of Form 11.
- (2) A notice of outstanding contributions and interest served in accordance with section 25(2)(b) of the Act shall be in the form of Form 12.

Chapter III Maternity Leave, Sick Leave, and Death Benefit Fund

8. Contributions payable in respect of Maternity Leave, Sick Leave and Death Benefit Fund

The contributions payable in respect of the Maternity Leave, Sick Leave and Death Benefit Fund shall-

- (a) in the case of an employee, be equal to 0,9 per cent of his or her basic wage;
- (b) in the case of the employer of such employee, be equal to the contribution contemplated in paragraph (a);
- (c) in the case of a self-employed person, be equal to both contributions contemplated in paragraphs (a) and (b).

9. Maternity leave benefits

- (1) Maternity leave benefits shall be equal to 100 per cent of the basic wage of the female employee concerned, up to a maximum amount of N\$13 000 per month, payable for a maximum of 12 weeks.

[subregulation (1) substituted by [GN 53/2008](#), [GN 49/2009](#), [GN 147/2010](#),
[GG 69/2011](#), [GN 97/2012](#) and [GN 44/2016](#) (as corrected by [GN 51/2016](#))

- (2) Subject to section 21(7)(c) of the Act, a claim for maternity leave benefits shall be submitted to the Commission not later than 7 days before the expected date of confinement, or within such period as the Commission may on good cause shown allow, and shall be in the form of Form 13.

[subregulation (2) amended by [GN 244/1997](#)]

- (3) The Commission shall not pay any benefits in respect of the period after the actual date of confinement unless the birth certificate of the child concerned or, if the child was stillborn or has died within two weeks after that date, a death certificate is submitted to the Commission under cover of Form 14 within 45 days after the actual date of confinement or such further period as the Commission may on good cause shown allow.
- (4) The Commission shall not pay the final maternity leave benefits due to a member unless she submits a declaration on Form 15 that she has not done any paid work since her confinement.

[subregulation (4) substituted by [GN 244/1997](#)]

10. Sick leave benefits

- (1) Sick leave benefits shall be equal to 75 per cent of the basic wage of the employee concerned up to a maximum amount of N\$9 750 per month for the first period of 12 months of sick leave and

thereafter be reduced to 65 per cent of such basic wage up to a maximum amount of N\$8 450 per month.

[subregulation (1) substituted by [GN 53/2008](#), [GN 49/2009](#), [GN 147/2010](#), [GN 97/2012](#) and [GN 44/2016](#)]

- (2) A claim for sick leave benefits shall be submitted to the Commission not later than 30 days after the date on which the sick leave granted to an employee in terms of section 40 of the Labour Act, 1992 (Act 6 of 1992), expires, or within such further period as the Commission may on good cause shown allow, and shall be in the form of Form 16.
- (3) The Commission shall not pay the final sick leave benefits due to a member unless he or she submits a declaration on Form 15A that he or she has not done any paid work during the period of sick leave.

[subregulation (3) substituted by [GN 244/1997](#)]

11. Death benefits

- (1) The death benefit shall amount to a single lump sum amount of N\$8 475.

[subregulation (1) amended by [GN 101/2001](#) and [GN 227/2003](#), and substituted by [GN 53/2008](#), [GN 49/2009](#), [GN 147/2010](#), [GN 97/2012](#) and [GN 44/2016](#)]

- (2) A claim for a death benefit shall be submitted to the Commission not later than 30 days after the date on which the employee concerned has died or retired or became disabled, as the case may be, or within such further period as the Commission may on good cause shown allow, and shall, in the case of-
 - (a) the death of that employee, be in the form of Form 17 and shall, if the claimant is not the spouse of the deceased employee, be accompanied by an affidavit in the form of Form 18;
 - (b) the retirement or disablement of that employee, be in the form of Form 19.

Chapter IV General and Supplementary Provisions

12. Termination of, and interruption in, service

The period following upon the termination of, and an interruption in, employment as contemplated in subsections (8) and (9) of section 21 of the Act, respectively, shall in each case be six months in every cycle of five years commencing on the date on which the employee concerned is first registered as an employee as contemplated in regulation 2.

13. Income account

- (1) The Commission may, for the purpose of the more efficient handling of contributions paid in respect of the various funds administered by the Commission, open a current account with a banking institution contemplated in section 16(2)(a) of the Act, and deposit all such contributions upon receipt into that account before its transfer to the respective banking accounts of the funds concerned.
- (2) Section 16(2)(b) of the Act shall apply *mutatis mutandis* in respect of the banking account contemplated in subregulation (1).

14. Certificate of authorization

- (1) A certificate of authorization issued to an authorized person in terms of section 38(3) of the Act, shall be in the form of Form 20.

- (2) A certificate of authorization shall remain the property of the Commission.

15. Forms prescribed in connection with inquiries

- (1) A notice to attend an inquiry delivered under section 39(4) of the Act shall be in the form of Form 21.
- (2) A summons served on a witness under section 39(10) of the Act shall be in the form of Form 22.
- (3) An oath or affirmation to be taken or made by a witness in terms of section 39(11)(b) of the Act, shall be taken or made *mutatis mutandis* in the form of the oath and affirmation prescribed by sections 162 and 163 of the Criminal Procedure Act, 1977 (Act [51 of 1977](#)), respectively.

16. Notices of appeal

A notice of appeal noted under section 45(1) of the Act shall be in the form of Form 23.

17. Penalties

Any person who contravenes or fails to comply with the provisions of any regulation shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

ANNEXURE

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ANNEXURE

Forms

[Editorial note: The forms have not been reproduced]