

GEO NEWSLETTER



October 2022

MINIMUM WAGE

Increased on 1 March 2022 to R23,19 per hour (increased by 6,9%)

THRESHOLD OF EARNINGS

R224080,30 per annum (R18 673 p.m.)

Employees earning over the threshold of earnings are excluded from certain provisions such as maximum working hours as prescribed in the BCEA.

FALSE MEDICAL CERTIFICATES (SICK NOTES)

With the pervasiveness of corruption, dishonesty and moral decline in our society, it comes as no surprise that the unscrupulous in our midst will seize upon any opportunity to make money.

Medical certificates or sick notes are no exception. Falsifying these documents and selling them to employees is more prevalent than one might think.

In August this year, an employee was arrested for presenting a fraudulent medical certificate to his employer after being absent from work for a few days.

The Health Professions Council of South Africa (HPCSA), Germiston Flying Squad and Ekhureleni East Crime Intelligence arrested “Dr” IK Mukhere for contravening the Health Professions Act of 1974.

“One of the most critical tenets of the employment relationship is that an employer must be able to trust its employees.”

A certain Mr Kutoka was also arrested in September 2021. He was caught red-handed issuing negative COVID-19 certificates and fraudulent medical certificates. It was later established that nineteen Checkers employees submitted a total of forty-one fraudulent medical certificates obtained from Mr Kutoka. When he was arrested, he had thirty-eight blank medical certificates, a stamp and COVID-19 declaration forms. Seven employees were arrested the day after Mr Kutoka was arrested.

Unfortunately, there are so many unscrupulous “doctors” out there that it forces the employer to question each medical certificate submitted and waste time checking whether the medical certificate is valid.

One of the most critical tenets of the employment relationship is that an employer must be able to trust its employees. Knowingly submitting altered or fraudulent medical certificates is not only a criminal offence, it is also misconduct that justifies the summary dismissal of an employee after a disciplinary enquiry.





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In the Labour Court case, *BP SA v The National Council for the Chemical Industry & Others JR2000/12* an employee submitted three medical certificates from three different doctors. Each medical certificate covered different days of his absence.

The company, suspecting that something was afoot, decided to investigate. The In-house Occupational Health consultant contacted the medical practices concerned. The first doctor stated that the employee did not visit his practice. The 2nd ‘doctor’ became abusive and uncooperative and the 3rd doctor said the employee had an alcohol problem. All three medical certificates described different medical conditions.

A disciplinary enquiry was held and the employee was dismissed.

The arbitration ruling went against the company because the commissioner (panellist) found that the employee should have received assistance due to his alcoholism instead of being dismissed for misconduct.

The company took the ruling on review to the Labour Court. The court found that the commissioner had committed an irregularity and gone on a ‘frolic’ of his own. The commissioner had missed the point that the employee had been dismissed for dishonesty. The court ruled that the dismissal was an appropriate sanction for submitting fraudulent sick notes.

What information must be on a medical certificate?

For a medical certificate to be considered valid, it must contain the following information:

- It must be issued by a registered medical practitioner;
- The medical practitioner’s name, practice number, qualification, telephone number and address must appear on the certificate;
- The certificate must state that the employee cannot perform work due to illness and injury;
- It must specify the date that the employee is unfit to work and the date of return.
- It can also not be issued in arrears.


The employer is entitled to contact the medical practitioner on the medical certificate and establish whether he or she consulted the employee and the validity of the medical certificate.

A medical practitioner is not obliged to disclose the nature of the employee’s condition unless the employee gives the medical practitioner permission to do so.

Are you required to accept a traditional healer’s certificate?

Traditional Healers Practitioners Act 22 of 1977 established the Traditional Health Practitioners Council. Section 23 and 23(2) of the Basic Conditions of Employment Act provide that for an employee to qualify for paid sick leave, he or she must submit a medical certificate from a registered medical practitioner belonging to a professional medical council.

The Traditional Health Practitioners Council is regarded as a professional body and as such, traditional healers registered with this body may issue medical certificates.



The medical certificates issued by these registered traditional healers must also comply with the information required on a medical certificate issued by a medical practitioner registered with the HPCSA.

Please contact any of our officials should you need any advice or assistance.

Kind regards

Andre Rabe (Chairman)

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