

# Deductions

Although an example of a payslip is available on the Department of Labour's website and information about deductions is described in both the BCEA as well as the Sectoral Termination 13, much confusion still exist about deductions.

The reason for this lies in the fact that legislation is not clear on certain aspects, and through this communication we will endeavour to clarify some of these issues.

Firstly we will look at the Basic Conditions of Employment Act vis-a-vis Sectoral Termination 13:

The BCE Act applies to all employers and employees.

Section 34 reads

**"34. Deductions and other acts concerning remuneration**

- (1) An employer may not make any deduction from an employee's remuneration unless -
  - (a) subject to subsection (2), the employee in writing agrees to the deduction in respect of a debt specified in the agreement; or
  - (b) the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award."

Section 33A also prohibits certain deductions

**"33A. Prohibited conduct by employer**

- (1) An employer must not-
  - (a) require or accept any payment by or on behalf of an employee or potential employee in respect of the employment of, or the allocation of work to, any employee; or
  - (b) require an employee or potential employee to purchase any goods, products or services from the employer or from any business or person nominated by the employer.
- (2) Subsection (1)(b) does not preclude a provision in a contract of employment or collective agreement in terms of which an employee is required to participate in a scheme involving the purchase of specific goods, products or services, if the purchase is not prohibited by any other statute and-
  - (a) the employee receives a financial benefit from participating in the scheme; or
  - (b) the price of any goods, products or services provided through the scheme is fair and reasonable."

(The OHS Act prohibits deductions for protective clothing and equipment - PPE.)

SD 13 then sets limitations on housing and the provision of food, and the employee cannot legally agree to deductions exceeding these limitations.

The SD is silent on deductions by agreement, as it does not contain a clause to this effect.

Clause 1 (5) then refers back to the Act.

"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."

Back to the Act. Section 34. (1) (a) prescribes that a deduction may be made from remuneration where the employee agrees to it in writing, and 34. (3) that a deduction in respect of any goods purchased must specify the nature and quantity of the goods.

## In practice this means the following:

- **Farm Shops**

The employee decides whether or not to purchase from the farm shop, if at all, (and irrespective of whom owns or manages the shop), and to what amount, and by agreement

gives consent for the deduction. All purchases must be specified and signed by the purchaser.

- **Protective Clothing and Equipment**

This must be supplied free of charge and deposits for possible losses are not allowed.

- **Electricity**

If usage can be proven by either a pre-paid or individual meter deductions can be made as long as the employee agrees to this arrangement and no profit is added to the costs.

- **Housing**

A maximum of 10% of the head of house's wage, if the house complies with the prescribed requirements, but electricity may also be deducted as mentioned under "Housing".

- **Communal Housing (Clause (8)(6)(a) and (b))**

25% of the minimum wage applicable to a worker divided by the number of workers who share the housing. Therefore, the more workers are living together, the lower the deduction per individual will be.

- **Fines**

Fines are not allowed (Traffic fines may be deducted, but it is advisable that this is included in your policy documents)

- **Boarders**

Although deductions from the 'head of house' for approved boarders is technically not illegal there are so many pitfalls, that producers are advised to consult with a legal expert on this issue. The main reason for this is the fact that there are no law prohibiting this (if agreed to between the parties and reduced to writing, etc.) but the Constitution and other ethical codes places emphasis on the 'right to family and cultural life', complicating these deductions on moral and other grounds.

- **Statutory payments**

All statutory payments, i.e. UIF, court order or arbitration award are mandatory. (Based on Legislation in Section 34, of the Basic Conditions of Employment Act)

- **Loans**

An employer must register as a credit provider, if they, alone or in conjunction with any associated person, are the credit provider under at least 100 employee loans. (The threshold of R500 000 is no longer applicable) Employers who don't fall into the above category and therefore don't need to register as credit providers must still comply with the provisions of the National Credit Act, where it applies to employee loans.

These include those pertaining to maximum interest, fees and charges; prevention of reckless credit, agreements in the prescribed form; statements of account; pre-agreement statements and quotations; debt recovery procedures, and the prohibition of preferential payment instructions.

The worker must also agree, in writing, to the deduction of a debt.

- **Saving Schemes**

A deduction may only be made in respect of SEC 13 clause 8(1)(c) of a payment made or to be made to a saving scheme of which the farm worker is a member and voluntary participates in.

- **Trade Unions**

Fees must be deducted if an employee belongs to any registered trade union with organisational rights in respect of subscriptions.

- **Deductions for damage or loss**

Deductions for damage or loss caused by the worker may only be made if –  
the employer has followed a fair procedure and given the worker a chance to show why the deduction should not be made,

the worker agrees in writing, and the deduction is not more than 25% of the worker's pay.

(Based on Legislation in Section 34, of the Basic Conditions of Employment Act)

- **Food**  
A maximum of 10%, if supplied on a regular basis.
- **Deductions for Benefit Funds**  
Employers must pay deductions and employer contributions to benefit funds (retirement, medical aid, etc., to the fund **within 7 days**.  
(Based on Legislation in Section 34, of the Basic Conditions of Employment Act)
- **Training**  
Employers may not deduct money for training.



*Uitvoerende Beampte* | Selfoon: 083 675 3498 | Epos: caeo@maxitec.co.za  
Kantoor | 082 698 8216 | Epos: caeo2@maxitec.co.za | Faks: 086 243 4478  
Hoofstraat 57, Posbus 2655, Paarl 7620 [www.caeo.co.za](http://www.caeo.co.za)