



DOMESTIC WORKERS' RIGHTS

A Legal and Practical Guide

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SERI
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Photos by Boipelo Khunou and Edward Molopi.



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ABOUT THIS GUIDE



Domestic work is one of the largest sources of employment for black women in South Africa. Under apartheid, domestic workers were one of the most oppressed groups in society. At the time there were no laws that protected domestic workers. As a result domestic workers experienced unfair working conditions and cruel treatment. When apartheid ended in 1994, the government introduced a number of laws and policies that aim to protect and improve the working conditions of domestic workers. Even with the introduction of laws and policies to govern the sector and the collective efforts of domestic workers to fight for their rights throughout the years, domestic workers continue to be one of the most vulnerable groups in South Africa.

This is a guide about the rights and protections that domestic workers have in South Africa. It explains what the law says about domestic workers and gives practical advice on how domestic workers can work with employers. The guide has been developed in discussion with domestic workers with different employment arrangements: “live-in” domestic workers (these are workers who live on their employers’ properties) and “live-out” domestic workers (these are workers who travel to work on a daily or weekly basis). By producing this guide, the Socio-Economic Rights Institute of South Africa (SERI) hopes to raise awareness among domestic workers and employers about the rights of domestic workers and the obligations of employers in terms of the domestic employment relationship.

This guide is a resource for domestic workers; community-based paralegals and advice officers who work with domestic workers. Employers of domestic workers will also find the information in this guide useful.

WHAT IS IN THIS GUIDE?

The guide is organised so that it explains what should happen when a domestic employment relationship begins, what rights domestic workers have while employed, and what should happen when the domestic employment relationship ends.

Section 1

“What Does the Law say about Domestic Workers?”

This section explains the different laws and regulations that govern domestic workers in South Africa.

Section 2

“Starting the Domestic Employment Relationship”

This section provides practical advice on what domestic workers should discuss with employers before employment begins.

Section 3

“Navigating the Domestic Employment Relationship”

This section sets out the minimum conditions of employment for domestic workers including wages, hours of work and leave. It also discusses the challenges specific to “live-in” and “live-out” domestic workers.

Section 4

“Ending the Domestic Employment Relationship”

This section describes what should happen when the domestic employment relationship comes to an end.

Section 5

“Actions that Domestic Workers Can Take”

This section outlines what domestic workers can do to protect their rights.

Section 6

“Important Contact Details”

This section contains a list of organisations that provide legal assistance and advice to domestic workers.

KEY

- The **blue boxes** contain definitions for the words in the text in bold.
- The **red boxes** contain important additional information and warnings.
- The **green boxes** describe challenges domestic workers face.

WHAT DOES THE LAW SAY ABOUT DOMESTIC WORKERS?



In South Africa the Constitution and the law grant a number of important rights and legal protections to domestic workers. It is essential that domestic workers know and understand their rights under the law. The laws in this section have been applied in the guidance given in each section of this guide.

THE CONSTITUTION

The Constitution is the supreme law of South Africa. This means that it is the highest law in the country and that everyone must respect, protect, promote and fulfil the rights set out in it. The rights which all domestic workers have under the Constitution include:

- The right to human dignity and to have their human dignity respected and protected (section 10 of the Constitution).
- The right not to be discriminated against ... on any ground, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth (section 9 of the Constitution).
- The right of access to courts ... or another independent and impartial tribunal or forum (section 34 of the Constitution).
- The right to fair labour practices (section 23 of the Constitution).
- The right to form and join a trade union, to participate in its activities and programmes, and to strike (section 23 of the Constitution).

These rights apply to everyone, whether they are in the country lawfully or not. Domestic workers who are South African citizens have an additional labour right:

- The right to choose their trade, occupation and profession (section 22 of the Constitution).

Labour rights are carried out in practice through national laws like the Basic Conditions of Employment Act 75 of 1997 and the Labour Relations Act 66 of 1995. Domestic workers are also covered by the Employment Equity Act 55 of 1998, the Unemployment Insurance Act 63 of 2001 and the Occupational Health and Safety Act 85 of 1993. Below is a summary of each of these laws and what they mean for domestic workers:

Basic Conditions of Employment Act

The Basic Conditions of Employment Act applies to all employers and workers. It sets the basic standards for employment with respect to working hours, leave, pay and dismissal. This law also gives the Minister of Labour the power to make **sectoral determinations**. Sectoral determinations are a type of regulation that establish the basic conditions of employment for people who work in a certain sector or geographical area. There is a sectoral determination that deals with domestic workers. It is called **Sectoral Determination 7** and it will be discussed later in this guide on page 7.

DEFINITIONS

A **domestic worker** is anyone who performs domestic work in a private household and who receives or is entitled to receive pay. This includes gardeners, drivers, and people who take care of children, the aged, the sick, the frail or the disabled. It also includes domestic workers who are employed or supplied by employment services. No child under the age of 15 may be employed as a domestic worker.

A **sectoral determination** is a set of labour regulations that apply only to people who work in a particular employment sector or geographical area, usually where vulnerable workers are employed. For example, there are sectoral determinations that regulate the employment of domestic workers, farm workers and miners.

PROPOSED CHANGES TO LABOUR LAWS



In May 2018, Parliament accepted the proposed changes to various labour laws and took steps to introduce a national minimum wage. The Bills that will make changes to the existing law are the National Minimum Wage Bill, the Basic Conditions of Employment Amendment Bill and the Labour Relations Amendment Bill. The **National Minimum Wage Bill** sets the first national minimum wage at R20 per hour for all workers, excluding domestic workers and farm workers. The Bill sets the minimum wage for domestic workers at R15 per hour (this will be reviewed and changed within two years from when the law is adopted). The Bill also establishes the National Minimum Wage Commission, which will be responsible for reviewing and setting the national minimum wage each year.

For these three Bills to become part of the law, the President needs to sign them into law (as of July 2018, this has not yet happened).

Labour Relations Act

The Labour Relations Act deals with relationships between employers and employees and gives effect to the constitutional right to join a trade union and participate in its activities. It also facilitates **collective bargaining** in the workplace and for different sectors. The Act applies to domestic workers who work in a household to generate an income. It sets out **dispute resolution mechanisms** (for more information on what dispute resolution mechanisms are, see page **40**) that can be followed when an employer and employee are involved in a dispute or disagreement. The Act also provides for the creation of the **Commission for Conciliation, Mediation and Arbitration** (CCMA) (for more information on the CCMA see page **40**).

Unemployment Insurance Act

Since 2003 domestic workers have been covered by the Unemployment Insurance Act. This Act provides for the creation of the Unemployment Insurance Fund (UIF), and governs how and when employers and employees should make contributions to the UIF as well as the benefits that can be paid out to domestic workers. The purpose of the UIF is to give short-term relief to workers when they become unemployed or unable to work due to illness, maternity leave or adoption leave. It also provides support to the dependents of a contributor who has passed away. However, **workers cannot claim from UIF if they resign from their jobs**. For more information on claiming from UIF, see page **20**.

Employment Equity Act

The Employment Equity Act promotes equal opportunities and fair treatment in the workplace. It aims to eliminate unfair discrimination. According to the Act, an employer cannot deny a domestic worker a job because of his or her race, age, marital status and family responsibility. An employer also cannot deny a domestic worker a job because she is pregnant or he or she is HIV positive. If an employer has more than one domestic worker in his or her employment, the workers must be paid equal wages for work of equal value. This means that two domestic workers performing tasks that need the same amount of responsibility, skill and effort should be paid the same amount.

ONLY DOMESTIC WORKERS WHO
WORK MORE THAN 24 HOURS A
MONTH FOR AN EMPLOYER ARE
COVERED BY THE UNEMPLOYMENT
INSURANCE ACT AND CAN CLAIM
BENEFITS FROM THE UIF.

Occupational Health and Safety Act

The Occupational Health and Safety Act aims to promote health and safety at work and requires every employer to provide and keep, as far as is reasonably possible, a working environment that is safe and does not put the employee's health at risk. Employers are required to take steps to do away with actual and potential hazards to their employee's health and safety. For

example, employers will be required to remove objects which could cause their employees to slip and fall.

Employers are also required to provide protective equipment. Domestic workers may sometimes be exposed to dangerous chemicals and fumes in the household environment which can affect their lungs when inhaled or their skin when touched. Employers should provide them with masks and gloves for protection.

Domestic workers often injure themselves at work while moving heavy objects when cleaning. This law means that an employer should provide a domestic worker with the information, instruction, training and supervision necessary to ensure, as far as reasonably possible, that the workplace remains healthy and safe.

Sectoral Determination 7

Sectoral Determination 7 builds on the Basic Conditions of Employment Act and sets out the minimum standards of employment for domestic workers (or the minimum rights that domestic workers have) in an effort to improve their working conditions. It deals with wages, hours of work, leave, and when and how domestic workers' employment may be lawfully terminated or ended. Section 3 of this guide outlines what domestic workers are entitled to under Sectoral Determination 7. The sectoral determination:

- Applies to all domestic workers, including those employed by an agency and those employed independently in private households.

- Does *not* apply to domestic workers who are employed and live on farms (these domestic workers are covered by another sectoral determination, called Sectoral Determination 13, and the Extension of Security of Tenure Act 62 of 1997).

Domestic workers who work less than 24 hours per month for an employer are considered part-time workers and are only protected by the standards regarding wages in Sectoral Determination 7. This means that if a domestic worker works for less than 24 hours a month for a particular employer, for example if he or she works 2 days per month (in total 16 hours), that employer is not forced to uphold the standards of work set out in the sectoral determination regarding things like leave days and resting periods.

DEFINITIONS

Collective bargaining is the negotiation of wages and other terms and conditions of employment by trade unions on the one hand, and employers' organisations on the other.

Dispute resolution is the process of resolving disputes or disagreements between parties through methods like conciliation, mediation and arbitration.

The **CCMA** is an independent body that seeks to resolve disputes between employers and employees. The CCMA will be discussed in more detail in section 5 of this guide.

STARTING THE DOMESTIC EMPLOYMENT RELATIONSHIP



Domestic workers find employment in different ways. Some domestic workers find employment through advertisements in newspapers, social media or websites, while others find employment by placing or finding fliers or posters at shopping centres, through other domestic workers, or by approaching potential employers directly.

Usually domestic workers find themselves in desperate need of work and accept the **terms of employment** given by potential employers without asking questions or talking about their expectations. This is because the relationship between domestic workers and employers is often very unequal, with employers having considerable power over domestic workers, even at the beginning of the employment relationship. This is made worse by the widespread unemployment in South Africa. Some domestic workers are afraid that they will lose a job opportunity if they try to negotiate or make suggestions to an employer. For many domestic workers, negotiating about working conditions with a potential employer is very difficult, but it is always important to do. Although it is better to have this conversation before starting employment, discussing and agreeing on the terms of an employment arrangement can be done at any time.

WHAT SHOULD DOMESTIC WORKERS AND POTENTIAL EMPLOYERS DISCUSS?

Before starting a new job, domestic workers and employers need to agree on a number of issues regarding **working conditions** called the **terms of employment**. Domestic workers and employers are encouraged to negotiate terms that are more favourable than the **minimum standards of employment** set out in Sectoral Determination 7. At the end of the discussion, both the domestic worker and the employer should sign an employment contract.

Before starting the employment relationship, a domestic worker and an employer need to read and discuss the minimum standards of employment set out in Sectoral Determination 7 and agree on:

- What tasks the domestic worker will be expected to do.
- The number of days in a week the domestic worker will come in.
- **Wages** and when the domestic worker will be paid (e.g. weekly, monthly or fortnightly).

DEFINITIONS

Working conditions refer to the working environment of an employee. This includes the minimum rights of employees as well as the physical environment.

Terms of employment are the conditions that an employer and employee agree on for a job. These go into the job employment contract. They can include job responsibilities, work days, ordinary hours of work, meal breaks, leave, sick leave and pay. They can also include benefits.

Minimum standards of employment are the minimum rights an employee is entitled to. For example, in South Africa an employee cannot be required to work more than 45 hours in a week.

It is important that reasonable time is given to complete certain tasks. For example, it would be unreasonable for a domestic worker to be expected to clean the floors and carpet of a large house and then do laundry and ironing of a large family all in one day.

For example,
unemployment insurance
benefits or contributions to
a medical aid.

DEFINITIONS

Wages are a fixed regular payment which a person earns for work or services, usually paid on a daily, weekly or monthly basis.

Leave is a period of time when a worker has special permission to be away from a job. There are different types of leave, including annual leave, sick leave and maternity or adoption leave.

Benefits are policies or programmes by government intended to reduce risk, vulnerability and poverty amongst people and families through a variety of methods for example, unemployment benefits, pensions, child support and hospital plans.

- How many **leave** days and sick leave days the domestic worker will be entitled to.
- What **benefits** the domestic worker will receive.
- Whether the employer will provide accommodation as an employment benefit or whether the domestic worker will travel from where he or she lives.
- Whether the employer will provide work clothing or not. Employers are not required to provide work clothing, however if they choose to do this, they are not allowed to deduct the cost of the clothing from the domestic worker's pay.
- Start and end date of employment.

THE TERMS OF EMPLOYMENT
AGREED ON MUST MEET THE
MINIMUM STANDARDS OF
EMPLOYMENT SET OUT IN
SECTORAL DETERMINATION
7. SECTION 3 OF THIS GUIDE
EXPLAINS THE MINIMUM
STANDARDS IN MORE DETAIL.

Once the domestic worker and employer have discussed and agreed on the conditions of employment, the law requires the employer to offer the domestic worker an **employment contract** or a **written particulars of employment**.

WHAT IS AN EMPLOYMENT CONTRACT?

An **employment contract** is a written legal document that sets out the terms and conditions of an employment relationship between an employer and an employee.

An employment contract should contain the following information:

- Full name and address of the employer;
- Name of the domestic worker and a brief description of the work that he or she will be doing;
- Place of work;
- Date when employment started;
- Domestic worker's days of work and ordinary hours of work;
- Domestic worker's wage rate and method of payment;
- Overtime work rate;
- Other cash payments or payments in kind to be given to the domestic worker (this includes any kind of benefit, including accommodation, travel allowance, food allowance etc.);
- How often wages will be paid (e.g. once a week or once a month);
- Any deductions to be made;
- How much leave the domestic worker is entitled to;
- Period of notice needed to end the employment relationship or, if employment is for a specific period, the date when the employment relationship will come to an end.

CHALLENGES

Domestic workers do not receive the same respect for their work as other workers. This comes from the view held by many in society that domestic work is not real work. The main reason for this comes from the view that tasks like cooking, cleaning and caring for children and the elderly are tasks expected to be performed by women without pay, as a "natural" part of their role as women.

Therefore it is very important for domestic workers to have contracts, to protect themselves from unfair treatment.

Both the employer and employee should carefully read the contract and then sign it. Even though an oral or spoken contract can still be enforced, getting a written contract is much better because it could provide more protection to a domestic worker. It is also useful as proof of employment, for example when applying for a bank loan. If a domestic worker is not able to understand the employment contract, the employer must explain it in a language and manner that the domestic worker understands.

A sample of an employment contract recommended by the Department of Labour is included in section 6 of this guide on page **50**.

WHAT SHOULD HAPPEN IF AN EMPLOYER CHANGES THE TERMS OF EMPLOYMENT WITHOUT A DOMESTIC WORKER AGREEING TO THESE CHANGES?

Sometimes employers ask domestic workers to do tasks that the domestic worker did not agree to when he or she started. Depending on what the employer asks, they may be breaking the law. It is important to know which actions by employers are lawful and which ones are not.

Lawful Actions vs Unlawful Actions

Employers are allowed to change **work practices** without first speaking with their employees. This means they can change the way things are usually done so long as they don't change **terms of employment**. A term of employment is something that is clearly stated in the employment contract (written or spoken).

For example, it is reasonable for an employer to ask a domestic worker to change the time at which they start work to half an hour earlier so that they can let the domestic worker into the house in the morning before they leave for work, with the understanding that the domestic worker will be leaving work half an hour earlier as well. This is reasonable and the employer would not need to discuss it with the domestic worker first because changing the starting time is a work practice. However, if the employer decided to increase the number of hours a domestic worker works without consultation, then that would be unlawful. This is because changing

DEFINITIONS

A **work practice** can be described as “the way work is usually done” in a place of work like a company or an organisation.

the number of hours a domestic worker works changes the terms of employment.

If an employer decides that the domestic worker must work an extra day to complete his or her work, it would be unlawful because the number of working days per week is a term of employment that needs to be agreed on by both employer and domestic worker. If an employer would like to make a change to working hours or days of work, they are legally required to first approach the domestic worker with the suggested changes, and would have to get the domestic worker's agreement

before any changes are made to the terms of employment. Domestic workers are allowed to refuse the suggested changes. If the domestic worker does agree with the changes, before concluding the agreement, both parties will have to discuss the availability of the domestic worker and the increase in pay.

If, for example, the employment contract (or the verbal agreement) says that the domestic worker is

responsible for cleaning, ironing and doing the laundry, and the employer begins to expect the domestic worker to babysit his or her children when they come home from school, this is not a reasonable change because it will add more time and responsibility to the domestic worker's work. The employer would have to discuss this change with the domestic worker taking into account increase in pay and other related issues and get his or her agreement.

It is important that any changes to a domestic worker's terms of employment be discussed by both employer and domestic worker because the contract of employment, whether verbal or written, is an agreement between two people. One party to the agreement cannot make changes without the consent of the other. If an employer does this, they are placing themselves in breach of contract. This means that either one of the parties to the contract has the right to take the other party to court to have the contract enforced.

If an employer does this, a domestic worker should refer the dispute to the CCMA which may require the employer to not put into action any changes or bring back the terms and conditions of employment to what was agreed to before the change.

NAVIGATING THE DOMESTIC EMPLOYMENT RELATIONSHIP



This section provides more information about the minimum conditions of employment that domestic workers are entitled to with respect to *wages, ordinary working hours* and *leave*.

HOW MUCH SHOULD DOMESTIC WORKERS GET PAID?

How much a domestic worker should be paid is an issue of much debate. It is a question that communities and institutions struggle to answer: *How much does a family need to cover their basic needs and live a decent life?*

A LIVING WAGE

In South Africa most low-income earners including people who work on an informal or casual basis like farm workers, cleaners, gardeners, waiters and domestic workers are paid wages which are not enough to afford them a decent standard of living. Since 2002, the government set a minimum wage for domestic workers. A **minimum wage** is the lowest pay an employer can legally give to their employee. Even though the minimum wage increases each year, it is not always enough to keep domestic workers out of poverty.

The experience of low-income earners worldwide has led to a debate about whether the minimum wage is enough to ensure a living wage. A **living wage** is defined by the International Labour Organization as, “the amount necessary to meet the reasonable needs (or basic needs) of an unskilled labourer with a family of average size”.¹ Basic needs include things like adequate food, shelter and clothing, as well as household equipment and furniture.

A Living Wage for Domestic Workers

According to research conducted by a non-governmental organisation called Open Up, a living wage for domestic workers should be calculated by taking into consideration factors such as:

- **Household size**

Many domestic workers are the sole income provider for their families.

- **Food costs**

In 2017, the Pietermaritzburg Agency for Community Social Action (PACSA), estimated that the minimum nutritional food basket, that is quality, nutritionally rich foods that provide a family with a basic but nutritionally complete diet, for a family of four was R2616.70.

¹ E Cottle, “An Overview of the living wage and national minimum wage in South Africa”, Bargaining Indicators 2014, Twenty Years- A Labour Perspective (2014), p. 2.

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- **Transport costs**

Transportation is not cheap in South Africa. A one-way journey to work for most domestic workers is made up of at least two parts: a bus or taxi ride from their homes to a taxi rank or bus station close to the city centre; and then a bus or taxi ride from the city centre to the suburbs.

Employers need to think about all the above factors when setting the wage for their domestic workers, especially food costs.

Open Up has developed a Living Wage Calculator for employers to use when determining what they will pay their domestic employees. It can be found at <http://living-wage.co.za/>.

- **Housing costs**

- **Healthcare costs**

- **Education costs**

In South Africa on average families pay between R100 and R200 per month for the education of each child. Other education costs include uniforms, stationary and transport.

EVEN THOUGH THE LEGAL MINIMUM AN EMPLOYER IS REQUIRED TO PAY IS A MINIMUM WAGE, SERI ENCOURAGES EMPLOYERS WHO CAN AFFORD TO DO SO TO PAY THEIR DOMESTIC EMPLOYEES A LIVING WAGE, WHICH IS FAIRER.

- **Communication costs**

- **Recreation costs**

- **Household costs**

Household costs include things like clothing for children, household items and emergency expenses.

MINIMUM WAGE

Strictly speaking, employers must pay domestic workers at least the **minimum wage**.

IT IS UNLAWFUL FOR EMPLOYERS TO PAY LESS THAN THE MINIMUM WAGE. IF AN EMPLOYER DOES THIS, A DOMESTIC WORKER CAN LAY A COMPLAINT AGAINST THEM WITH THE DEPARTMENT OF LABOUR OR TAKE THE ISSUE TO THE CCMA.

TAKE NOTE:

The information on the minimum wage on pages 17 and 18 may be subject to change if the National Minimum Wage Bill comes into effect. See page 5 for more information.

How is the minimum wage calculated?

In South Africa, there is not just one single minimum wage for domestic workers. What minimum wage a domestic worker is entitled to depends on whether they work more or less than 27 hours a week, and whether they are employed in a large municipality like Johannesburg and Pretoria (which fall under Area A) or smaller municipalities like Rustenburg (which fall under Area B). The list of municipalities under Area A and B can be found on page **55**.

The minimum wage for domestic workers is reviewed every November by the Department of Labour, and increases by about 7% each year. The latest information on minimum wage changes can be found on the Department of Labour’s website. See page **49**.

Domestic Worker Minimum Wage Schedule for Period 1 January 2018 to 30 November 2018

Area A:

MORE THAN 27 ORDINARY HOURS PER WEEK		27 ORDINARY HOURS PER WEEK OR LESS	
Hourly rate	R13.05	Hourly rate	R15.28
Weekly rate	R587.40	Weekly rate	R412.60
Monthly rate	R2545.22	Monthly rate	R1787.80

Area B:

MORE 27 ORDINARY HOURS PER WEEK		27 ORDINARY HOURS PER WEEK OR LESS	
Hourly rate	R11.89	Hourly rate	R14.03
Weekly rate	R534.91	Weekly rate	R378.83
Monthly rate	R2317.75	Monthly rate	R1641.48

CALCULATION OF WAGES

Wages are calculated using ordinary hours of work.

Monthly wage divided by 4.333 = weekly wage

Weekly wage divided by number of ordinary hours worked in a week = daily wage

Daily wage divided by ordinary hours worked in a day = hourly wage

EXAMPLES FOR CALCULATING MINIMUM WAGE

PLEASE NOTE THAT THE EXAMPLES GIVEN HERE ARE NOT AN INDICATION OF WHAT WAGES FOR DOMESTIC WORKERS SHOULD BE; THEY ARE SIMPLY EXAMPLES THAT REFLECT THE REALITY OF SOUTH AFRICAN DOMESTIC WORKERS.

If Nelisiwe works for her employer who lives in Area A from 7:30am until 3:30pm from Monday until Thursday each week, then:

- In total she works 32 hours each week (more than 27 hours per week).
- Therefore Nelisiwe is entitled to a minimum wage of R2545.22 from her employer each month.

If Rebecca works two days a week for her employer who lives in Area B, for 8 hours each day, then:

- In total she works 16 hours each week (less than 27 hours per week).
- Therefore she would be entitled to a minimum of R378.83 per week, if she asks to get paid weekly.
- She would be entitled to a minimum of R1641.48 if she is paid monthly.
- If she worked less than 4 hours each day then she would be paid R56.12 each day ($R14.03 \times 4 = R56.12$).

IF THE NATIONAL MINIMUM WAGE BILL COMES INTO EFFECT:

If the National Minimum Wage Bill is passed into law, domestic workers' wages will be calculated at R15 per hour for the first two years. For example, if Aphiwe works 8 hours a day 5 days a week, then he should receive a minimum monthly wage of R2400 ($R15 \times 8 \text{ hours} \times 5 \text{ days} \times 4 \text{ weeks}$) or R600 per week. See page 5 for more information.

IMPORTANT INFORMATION ABOUT WAGES



Wages can be paid daily, weekly, fortnightly or monthly on the pay day agreed to by both the employer and domestic worker. An employer can pay in cash at the workplace, during working hours in a sealed envelope including the pay slip, or by depositing the pay in the domestic worker's bank account on the pay day.

Employers **must** give domestic workers a payslip every payday with key information. An example of a pay slip with all the important information can be found on page **54**.

REMEMBER:

If a domestic worker receives payment in cash, he or she should ask for a payslip which he or she can use if they ever need to claim from UIF.

ALSO

It is good practice for employers to provide domestic workers with a wage increase each year, even if they earn above minimum wage.

CAN AN EMPLOYER DEDUCT ANYTHING FROM A DOMESTIC WORKER'S PAY?

An employer may make deductions from a domestic workers wages. However, there are various types of deductions that an employer is not allowed to make. These are unlawful deductions. Below is a list of lawful deductions and unlawful deductions:

LAWFUL DEDUCTIONS	UNLAWFUL DEDUCTIONS
• Deductions equal to the amount of time a domestic worker was away on unpaid leave. • 10% or less of a domestic worker's wages for a room or other accommodation. • Deductions towards any medical insurance, savings, provident or pension fund of which the domestic worker is a member; trade union subscriptions; loans and rental. Employers may make payments to the relevant institution. • Deductions towards loans that an employer gave to a domestic worker. The deduction cannot exceed 10% of the wages due on the pay day concerned.	• Hiring the domestic worker. • Training the domestic worker. • Work equipment or tools like cleaning supplies. • Any clothing or uniform. • Food given to the domestic worker while working. • Breakages for example dishes and electrical appliances.

NOTE:

Domestic workers who work less than 24 hours per month for their employer are only covered by the standards concerning wages in Sectoral Determination 7 and a national minimum wage (if it comes into effect). The standards in the sectoral determination concerning hours of work, annual leave and the like, **do not** apply to domestic workers who work less than 24 hours per month for a specific employer.

Employers may not ask domestic workers to buy any goods from them or any particular person or shop. They also cannot fine domestic workers for anything, for example if the domestic worker accidentally damages an item of clothing while ironing or arrives late for work. Employers are also not allowed to ask for repayments except for overpayments made by mistake.

HOW DOES UIF WORK?

Domestic workers and employers are required to contribute towards the Unemployment Insurance Fund (UIF). The purpose of the UIF is to give short-term financial relief to workers when they become unemployed or are not able to work because of illness, maternity or adoption leave. It also provides support to the dependents of a contributor who

has died. In the case of adoption leave, a worker can only claim adoption benefits if they legally adopt a child younger than two years old and take time off from work to look after the child. However, only one of the adoptive parents can apply for benefits.

How to register for UIF

Employers must register both themselves and their domestic workers for the UIF. This can be done online on the Department of Labour's website, in person at the nearest Labour Centre, through the post or via fax. They simply have to fill in the relevant forms which will include information about both the employer and employee. They will then be given an employer's reference number.

Once registered, each month the employer will contribute 1% of the domestic worker's wages to the Fund. Likewise, the domestic worker will also contribute 1% of their wages to the Fund. This is done by depositing the required amount into the Fund's bank account. A link to the Department of Labour's website, which explains this process and has the information regarding bank details and other contact details can be found on page **49** of this guide.

Domestic workers who are employed by multiple employers on different days are allowed to be registered for each of the jobs they do.

How to claim from UIF

The UIF will give out unemployment benefits, illness benefits, maternity benefits and death benefits. Illness benefits can only be claimed if a worker is ill for two weeks or longer. Maternity benefits can be claimed if a worker is pregnant or has given birth and is taking maternity leave.

Workers have to claim **within six months** from the date they stopped working. Workers can start claiming from UIF from the last day of employment until the UIF benefits are used up.

WORKERS CANNOT CLAIM FROM UIF IF THEY RESIGN FROM THEIR JOB.

A WORKER CAN PUT IN A UIF CLAIM IF THEIR EMPLOYER GOES BANKRUPT, THE CONTRACT ENDS, OR THEY ARE FIRED OR RETRENCHED.

STEPS TO CLAIM FROM UIF

Step one: Go to a Labour Centre to sign an unemployment register. You are then required to return every four weeks to sign the register again and show that you still need unemployment benefits. The forms you need to fill in are available directly from the Labour Centre or you can download them from its website: <http://www.labour.gov.za>.

Step two: Put in your UIF claim at a Labour Centre in person. You will need the following documents:

- Your ID or passport;
- Proof of your registration as someone who is seeking work (See step one);
- A certificate of service from your employer (this is a written document given by an employer to an employee after termination of employment. It provides proof of the employee's experience and can be used as a reference - more about this on page 37);
- A copy of your last six pay slips or proof of payment;
- A form filled in with your banking details (called form UI-2.8);
- A form that shows that you are no longer employed (called form UI-19).

You may only start receiving your benefits up to eight weeks after registering. This is the maximum amount of time it should take for payments to start coming through, and you will receive payments every four weeks until your benefits are exhausted.

However, if you have put in an application and have not received any funds after eight weeks, you are advised to find all your supporting documents and return to the Labour Centre where you put in your claim.

Details on finding your nearest Labour Centre can be found on page 49 of this guide.

HOW MANY HOURS IS A DOMESTIC WORKER ALLOWED TO WORK?

Sectoral Determination 7 states that domestic workers must be paid for all work, including 1) ordinary hours of work, 2) overtime work, 3) work performed at night, 4) work performed on Sundays and 5) work performed on public holidays.

ORDINARY HOURS OF WORK

Ordinary hours of work are an employee's normal hours of work. Domestic workers and employers need to agree on what the ordinary hours of work will be.

Sectoral Determination 7 states that domestic workers may not be required to work more than:

- 45 hours in any week;
- 9 hours in a day (if the domestic worker works for 5 days or less in a week);
- 8 hours in any day (if the domestic worker works for more than 5 days a week).

Overtime work

Overtime is time worked in addition to one's ordinary hours of work, for example, if a domestic worker's ordinary hours of work are 4 hours, from 8am until 12pm, and her employer asks her to work until 2pm, then he or she will have worked 2 hours overtime. Sectoral Determination 7 says that:

Overtime pay should be at least one and a half times the normal wage. For example, if a domestic worker's wage per hour is R25 and he or she works 2 hours overtime, the overtime wage per

hour will be R37.5 (R25 x 1.5) which means he or she would receive R75 extra that day.

CHALLENGES

Many employers are either not aware of the laws that apply to domestic workers or do not try to comply with the basic conditions set out in the labour laws that apply to domestic workers and Sectoral Determination 7. Many of those who are aware that such laws exist are unaware of specific provisions. Domestic workers often fear that by challenging their employers or simply making them aware of the minimum standards set in Sectoral Determination 7 they would be dismissed.

IMPORTANT INFORMATION ABOUT OVERTIME:



- If an employer wants a domestic worker to work overtime, they first need their agreement. Domestic workers can refuse to work overtime and the employer would have to accept the refusal.
- Domestic workers may not be required to work more than 12 hours, including overtime, on any day or work more than 15 hours overtime a week.
- Domestic workers can also choose to exchange a lower overtime rate (but not anything less than the ordinary wage) for 30 minutes time off for every hour of overtime worked. This will be paid time off.

For example, if a domestic worker works 2 hours overtime, he or she would receive the normal wage per hour plus 1 hour time off with full pay.

- Domestic workers can also give up overtime cash payment in exchange for at least 90 minutes off for each hour of overtime worked. This time off must be given to him or her within a month of being entitled to it. If both employer and employee agree for the domestic worker to take that time off at a later stage, it needs to be put in writing. This will only be valid for a year.

For example, if a domestic worker works 2 hours overtime one day, he or she would then get at least 3 hours off sometime during that month.

IMPORTANT INFORMATION

Meal intervals: If a domestic worker works continuously for more than 5 hours, they need a meal interval of at least one continuous (full) hour. If they want to reduce the meal interval to anything less than an hour, but still more than 30 minutes, this must be done in writing. A domestic worker who works fewer than 6 hours a day is not entitled to a meal break, but the employer can provide it.

Rest period: A domestic worker must be given a daily rest period of at least 12 back-to-back hours between ending work and starting work the next day.

Domestic workers must also be given a weekly rest period of at least 36 back-to-back hours which, unless otherwise agreed, must include a Sunday.

Night work

Night work is work done after 6pm and before 6am the next day. Night work, for example, includes taking care of children at night or cleaning up after a party or gathering hosted by an employer. Any night work needs to be agreed to in writing.

Night work is only allowed:

- If the domestic worker is paid an allowance. The amount of the allowance must be agreed on.
- If the domestic worker lives at the employer's home or if transport is available between the domestic worker's place of residence and the employer's home at the beginning and the end of the shift.

When an employer asks a domestic worker to work for a period of longer than 1 hour between 10pm and 6am the next day, and this happens at least five times per month or 50 times per year, then the employer is required to comply with sections 17(3) and (4) of Basic Conditions of Employment Act (BCEA). Sections 17(3) and (4) deal with night work. These sections say that an employer needs to inform a domestic worker in writing or verbally about any arrangement in terms of which night work will be required and take care to inform them of any health and safety hazards associated with such an arrangement.

For example, if a domestic worker is employed to take care of a baby or young child on Friday nights, the employer should inform the domestic worker that this will be part of their contract, and the hours in the evening (so long as they do not exceed 9 hours) will form part of the ordinary hours of work.

Sunday work

If Sundays are not part of ordinary working hours, then the wage must be doubled for the hours worked on Sundays.

For example, if the normal hourly wage is R20, then a domestic worker performing Sunday work should be paid R40 for every hour worked. This would mean that if he or she works for 8 hours of Sunday, he or she is entitled to R320 that day.

If Sunday work is part of a domestic worker's ordinary hours of work then the wage must be multiplied by 1.5 for each hour worked.

Public holidays

An employer may not require a domestic worker to work on a public holiday unless otherwise agreed to by both. If a domestic worker agrees to work on a public holiday then they are entitled to double the daily wage. Any worker who does not work on the public holiday is still entitled to their full pay on the normal pay day.

CHALLENGES

A domestic worker and employer usually form a personal, familiar relationship because the workplace is in the private home. This level of intimacy sometimes introduces certain practices like handing down old clothes or giving gifts that can cause confusion in the employment relationship and can sometimes lead to exploitation. For example, after receiving a gift or a favour, a domestic worker might feel obligated to work longer hours or accept a cut to their wages or receive payment at irregular times.

The unequal relationship between a domestic worker and employer is made worse by differences in race, class and gender which can result in exploitative and sometimes abusive working conditions for domestic workers. Many domestic workers experience verbal, physical and sexual abuse at the hands of employers and agents. Undocumented migrant workers are even more vulnerable to abuse and exploitation

If you've experienced physical or sexual violence either from your employer or anyone else, you can contact Lawyers against Abuse (LvA) for more information about your available legal rights and remedies. Lawyers Against Abuse is based in Diepsloot, Johannesburg, and can be contacted at: 087 150 7235 or visit their website at <http://www.lva.org.za/>

HOW MUCH LEAVE ARE DOMESTIC WORKERS ENTITLED TO?

Domestic workers have the right to different types of leave, including *annual leave*, *sick leave*, *family responsibility leave* and *maternity leave*.

Annual leave

Annual leave is paid time off work that employees are entitled to. In South Africa, domestic workers have the right to:

- 21 back-to-back days of leave per year on full pay for each year of employment; or
- 1 day of leave for every 17 days worked; or
- 1 hour for every 17 hours worked.



IMPORTANT INFORMATION ABOUT ANNUAL LEAVE:

- Domestic workers and employers need to agree when leave will be taken. If they cannot agree, it is up to the employer to decide.
- Employers may not allow domestic workers to work during their leave.
- If a year passes and a domestic worker has not yet taken leave, the employer must give the domestic worker leave within the 6 months that follow.
- Employers must give domestic workers their leave pay before they go on leave.
- If a public holiday falls on a day during a domestic worker's annual leave on which the domestic worker would otherwise have worked, the employer must give them an extra day.

- Employers may not give annual leave at the same time as sick leave or during a notice period if a contract is terminated (ended).
- Employers may not pay a domestic worker instead of granting paid leave (except in cases where a domestic worker is dismissed, see pages **32-37**).

Sick leave

Sick leave is time allowed away from work because of illness. In South Africa, sick leave is not calculated per year, instead it is calculated for every 3 year period:

For every 3 years a domestic worker is employed with the same employer, they have a right to an amount of paid sick leave equal to the days they would normally work during a period of six weeks.

For example, if a domestic worker works 5 days per week for an employer, he or she is entitled to 30 days sick leave over the three years of his or her employment (5 days per week x 6 weeks).

Another example is if a domestic worker works 3 days per week for an employer, then in each 3 year period cycle when he or she begins working, he or she is entitled to 18 days of sick leave (3 days per week x 6 weeks).



IMPORTANT INFORMATION ABOUT SICK LEAVE:

- During the first six months of employment, domestic workers are entitled to only one day's paid sick leave for every 26 days worked.
- If a domestic worker has been off sick for more than 2 days or on more than 2 occasions within 8 weeks, then an employer can ask for a medical certificate or sick note. A medical certificate may be provided by a medical practitioner, a clinic nurse, traditional healer, community health worker or psychologist. They must be registered with a professional council.
- Sick leave is in addition to annual leave, however it is not extra leave. It should not be taken unless in times of illness.

Family responsibility leave

Family responsibility leave is a period of time off a worker has the right to when their child is born, when their child is sick and in the event of death of a spouse or life partner, parent or adoptive parent, grandparent, child or adoptive child, grandchild or sibling.

Workers have the right to 5 days family responsibility leave during each 12 months of employment. Workers are paid their normal wage during this period, on the usual payday.

This only applies to domestic workers who have been employed for longer than 4 months and work at least 4 days a week for that employer.

Maternity leave

Maternity leave is a period of time that women are allowed away from work when they are pregnant and after they have given birth. In South Africa, domestic workers who are women have the right to at least 4 back-to-back months of unpaid maternity leave, beginning at any time from 4 weeks before the expected date of birth, unless otherwise agreed.



IMPORTANT INFORMATION ABOUT MATERNITY LEAVE:

- Domestic workers should inform employers in writing (if they are able to) when they want to start the maternity leave and when they intend to return to work.
- Domestic workers may not be required to work for 6 weeks after the birth of the child.
- A domestic worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth, whether or not she had commenced maternity leave at the time of the miscarriage or stillbirth.
- Domestic workers on maternity leave can claim maternity benefits from UIF for up to 17 weeks. They need to go to their nearest Labour Centre in person or organise for someone to go in their place. They will need to provide their 13 digit bar coded ID or passport; a medical certificate from a doctor or the birth certificate of the baby; their banking details and fill in the required forms. Workers who miscarry in the third trimester or have a stillborn child can claim for 6 weeks.

OTHER ISSUES NOT COVERED IN SECTORAL DETERMINATION 7

There are many issues that concern the relationship between an employer and domestic worker which are not covered in Sectoral Determination 7, like:

- Probation periods;
- The right of entry to the employers premises;
- Afternoons or weekends off;
- Contributions to pension schemes, medical aid schemes, training or school fees, funeral benefits or savings accounts;
- Meals provided or not;
- Other benefits like access to Wi-Fi.

These issues and others may be negotiated between the domestic worker and employer and included in the contract of employment. Below are a few things to consider about some of these issues:

- **Probation periods:** The purpose of probation periods are to find out whether a potential employee's performance is of an acceptable standard before permanently employing them. An employer is allowed to do this so long as the probation period is reasonable. The nature of domestic work is such that about a month's probation period is reasonable. The probation period should be stated in writing as part of the employment contract. During the probation period a domestic worker should receive the ordinary wage and constant guidance, instruction and training from the employer. The employer should also provide the domestic worker with regular feedback during that time.

- **Right of entry:** The domestic worker and employer should agree on how the domestic worker will access the property.
- **Afternoons and weekends off:** It is important for employers and domestic workers to agree on whether domestic workers can have afternoons and weekends off, especially for live-in domestic workers.
- **Pension schemes, medical aid and funeral benefits:** There are a number of affordable insurance policies designed to insure and protect low-income workers like domestic workers, which cover pension, medical aid and funeral benefits. Domestic workers and employers should have a discussion about preparation for retirement and other protections like medical aid for the domestic worker. Both parties can agree to a deduction from the domestic worker's wages to cover any medical, insurance, savings, provident or pension fund of which the domestic worker is a member.

REMEMBER:

Domestic workers who work less than 24 hours per month for their employer are only covered by the standards concerning wages in Sectoral Determination 7 and a national minimum wage (if it comes into effect). The above standards concerning hours of work, annual leave and the like, do not apply to domestic workers who work less than 24 hours per month for a specific employer.

ISSUES FOR LIVE-IN WORKERS

Many domestic workers live on their employers' properties. This practice comes from the apartheid period when domestic workers lived in what were then called "servant's quarters". Because their accommodation is tied to their work, live-in domestic workers are more vulnerable to unfair treatment. Live-in workers work very long hours without overtime pay and are responsible for a wide range of tasks. Some live-in workers do not have access to a private bedroom or bathroom and often have to share with the children or elderly person they take care of.

Unfair rules

Domestic workers employed and living in apartment blocks face unique challenges. They not only have to follow the rules of their employers but the rules of the Body Corporate too. Some of these rules are unfair towards domestic workers, and in many cases the rules about domestic workers have not been changed since apartheid, still referring to domestic workers as "servants". In these buildings rules that apply to domestic workers usually do not apply to owners and tenants of the apartments.

Some examples of unfair rules that were found in real body corporate conduct rules include:

- "The flat owners washing takes priority over the servants' private washing";
- "Residents should ensure that their domestic staff do not store liquor on the property or in a section in excessive

quantities; or behave in a drunken or disorderly manner, or allow the property or a section to be over-crowded with visitors...";

- "If visitors are found to be sharing the accommodation of the domestic worker, the owner of that unit will be contacted. The owner will then have to evict the illegal occupant of the room. If the owner fails to evict the illegal occupant then a charge of R400 per month will be made against the owner's levy until the illegal visitor is evicted";
- "All residents must apply to the manager for identity badges for their permanently employed domestic workers and ensure that this badge is prominently displayed while the worker is in the Village";
- "Residents must ensure that their servants do not loiter on the common property";
- "Residents must ensure that their servants do not cause undue noise on the common property or elsewhere";
- "All visitors to any staff quarter shall leave the confines of the complex by 11pm".

Although these rules are very clearly unfair and unfairly discriminate against domestic workers, domestic workers often follow them because, in many cases, their employer, as an owner or tenant living in the building, has signed a lease agreeing to the **conduct rules** set by the body corporate. Challenging these unfair rules would have to involve the domestic workers, the employers and the Board of Trustees who manage and make decisions regarding the day-to-day running of the building or complex.

However unfair rules can be challenged in court. The courts can find that these rules or rules that are similar to these are unlawful or discriminatory and have them set aside. This is what happened in the case *Singh v Mount Edgecombe Country Club Estate Management Association Two*.

DEFINITIONS

Apartment buildings have what are called **conduct rules**, which determine the behaviour of people living in the building.

SINGH V MOUNT EDGECOMBE COUNTRY CLUB ESTATE MANAGEMENT ASSOCIATION TWO

In November 2017 the Pietermaritzburg High Court delivered a judgment in favour of Niemesh Singh, a resident at Mount Edgecombe Estate, who challenged the road rules of the Estate and the Estate's domestic worker rules. The estate's rules for domestic workers stated that:

- "Domestic employees must make use of designated bus stop points throughout the Estate. When the bus service is unavailable, domestic employees may walk on the estate between the residence where they were working that day and their gate of exit.
- All domestic employees must be registered on an annual basis from the date of their first registration and are to obtain an access card for entry to Estate 2. Access cards will be validated only for recognised normal business hours unless authorised differently for Mount Edgecombe Country Club Estate Management Association Two.
- Domestic Employees may have access to Estate 2 from Mondays to Sundays but only during the hours 06h00 and 18h00.
- Temporary domestic workers must be picked up and dropped off at a gatehouse by the employer."

The judges commented that the management of the estate seemed to label domestic workers as a group of people who were a threat to residents of the estate. Domestic workers' position within the estate is similar to domestic workers' position during apartheid: workers are good enough to work for employers but are excluded from exercising any rights derived from public law and the Constitution.

The judges concluded that the rules at Mount Edgecombe Estate affect the basic rights of domestic workers such as their "rights to human dignity, equality, freedom of association, freedom of movement, freedom of occupation and fair labour practices". The Court therefore concluded that the rules were unlawful and invalid.

ACCOMMODATION ISSUES

Some domestic workers are allowed by their employers to live on their property as an employment benefit. A benefit is something extra, in addition to wages and it is often a term or condition of employment. A travel allowance and medical aid are examples of other benefits. When an employer provides accommodation as a benefit, it should go into the employment contract. If the employer provides accommodation as a benefit, then they cannot deduct more than 10% from the domestic worker's wages for this purpose.

There are many domestic workers who pay rent for their accommodation or have a set amount deducted from their wages. In cases like this the relationship between a domestic worker and his or her employer is similar to the relationship between a tenant and a landlord. In some cases the laws that protect tenants will apply to live-in domestic workers. The rights of tenants are protected by the Rental Housing Act 50 of 1999, which sets out the law between landlords and tenants.

What determines whether a domestic worker's relationship with an employer can be considered a tenant and landlord relationship is whether there is a **lease agreement**, where the rent and the rented property are identified in an agreement between the domestic worker and the employer. It does not have to be a written agreement.

This means that if, at the beginning of the employment relationship, the employer stated that they would need the domestic worker to pay rent or that they will deduct a specific amount each month from your wages for living on their property while under their employment, then the domestic worker's rights are protected by the Rental Housing Act.

To find out more about domestic workers' rights as tenants under the Rental Housing Act, please download SERI and Centre for Urbanism and Built Environment Studies' rental housing guide. A link to the guide can be found on page **49**.

DEFINITIONS

A **lease agreement** is a contract between two parties, where the lessee (the user) is required to pay the lessor (the owner) for use of a property.

WHAT SHOULD HAPPEN TO A DOMESTIC WORKER'S ACCOMMODATION WHEN THE DOMESTIC EMPLOYMENT RELATIONSHIP ENDS?

If an employer (who provided accommodation as a benefit) dismisses the domestic worker before the agreed on date in the employment contract (written or spoken), they are required to provide the domestic worker with accommodation for a period of at least one month or until the date that the contract of employment would have come to an end, depending on which one is longer. For example, if both parties agreed that employment ends in December of a particular year, and the employer ends the relationship in October, then the domestic worker can choose to live in the employer's property until December.

Under no circumstances can the employer or anyone interfere with the domestic worker's use of the property or make him or her leave the property during this period. Forcing the domestic worker out of the property will mean that the employer is evicting the domestic worker illegally. An **illegal eviction** is any action taken to remove someone from a property without following the proper process. For an eviction to be legal, a court needs to grant an eviction order after considering all the facts of the case.

ISSUES FOR LIVE-OUT WORKERS

Live-out work has its advantages because it provides workers with greater personal freedom and less separation from friends and family. It allows them to gain some control over their working conditions and allows domestic workers to interact with each other frequently in spaces such as taxis and buses, taxi ranks and street corners as they go about travelling to and from work every day.

One of the biggest challenges for live-out domestic workers is transport costs. Usually their wages do not increase every year and as a result, transport costs, which increase every year become a huge expense. Sectoral Determination 7 does not talk about transport allowances however it is included by the Department of Labour in their example of an employment contract. Domestic workers and employers are encouraged to include it in their contract of employment.

ENDING THE DOMESTIC EMPLOYMENT RELATIONSHIP



There are different ways in which the employment relationship between a domestic worker and employer can come to an end. The employment relationship could end when 1) a domestic worker resigns; 2) when an employer retrenches his or her domestic worker or 3) when an employer dismisses his or her domestic worker.

WHAT SHOULD HAPPEN WHEN A DOMESTIC WORKER RESIGNS?

Domestic workers may resign from their jobs for a number of different reasons. For example, a domestic worker may find more favourable employment somewhere else, may relocate with his or her family or may resign due to personal circumstances.

When resigning, a domestic worker needs to give his or her employer **notice** of at least 1 week if he or she has been employed for 6 months or less, and notice of at least 4 weeks if he or she has been employed for more than 6 months.

REMEMBER, A DOMESTIC WORKER CANNOT CLAIM FROM UIF IF HE OR SHE RESIGNS.

WHAT SHOULD HAPPEN WHEN A DOMESTIC WORKER GETS RETRENCHED?

Retrenching means that the employer ends employment for operational reasons. Operational reasons include:

- If the employer moves to another city or country;
- If the employer can no longer afford to pay for a domestic worker, or if a child no longer needs a child minder;
- If the employer moves to a smaller house and as a result no longer needs a domestic worker.

If an employer retrenches their worker for operational reasons then he or she should give the domestic worker **severance pay** equal to at least one week's full pay for each completed year of continuous service with that employer. Severance pay must be paid on top of any other money owed, such as leave pay and outstanding wages. Severance pay is calculated using the most recent wage rate.

DEFINITIONS

A **notice period** is the time period between the day an employer dismisses the worker (or the day the worker resigns) and the end of the worker's last working day.

Retrenchment is when an employer dismisses a worker due to no fault of theirs but because of operational reasons.

For example, if a domestic worker was employed for 5 years and received R3000 per month (R3000 divided by 4.333 is R692.36 per week) at the time they were retrenched, then the domestic worker has the right to R3461.80 severance pay ($R692.36 \times 5$ years) in addition to the wage owed to him or her in their last month of work as well as any leave pay he or she was entitled to.

WHAT SHOULD HAPPEN WHEN A DOMESTIC WORKER GETS DISMISSED?

When an employer dismisses or fires his or her domestic worker it means that employment is terminated or ended against the domestic worker's will, with or without notice.

There are other ways that employers dismiss domestic workers. The Department of Labour considers the following as "dismissal":

- When an employer does not renew the job contract as agreed, or offers to renew it on less favourable terms.
- When an employer does not allow the domestic worker to return to work when they return from maternity leave.
- When a domestic worker resigns with or without notice because the employer made working circumstances difficult. This is called a **constructive dismissal**.

Examples of constructive dismissal include an employer creating a hostile working environment for their domestic worker by being unfriendly and aggressive, or making dramatic changes to their workload or even delaying pay, all with the purpose of pushing the domestic worker to resign.

Unfair Dismissal

Dismissal can be **fair** or **unfair**. A dismissal is **fair** when a domestic worker is not meeting specific needs of his or her work - for example if the domestic worker fails to show up for work regularly even when not on leave, or fails to fulfil reasonable tasks that are part of his or her job description like ironing when given the time and equipment.

Dismissal is also fair when a domestic worker has reached retirement age. At what age a domestic worker should retire needs to be agreed upon by the domestic worker and employer. The Basic Conditions of Employment Act does not require the payment of severance pay in cases of retirement.

A dismissal is **unfair** if a domestic worker is dismissed because:

- He or she planned to, or took part in or supported a strike or protest;
- He or she refused to do the work of a striking or locked out co-worker (unless his or her refusal endangered her life or health);
- He or she refused to accept a demand on matters concerned with the terms of employment (e.g. if an employee is dismissed because the employer demanded - and the employee refused - a wage cut or for the employee to work on Christmas day, and the purpose of

the dismissal is to *force the employee to accept the demand*);

- He or she planned to or took action against the employer by exercising a right, such as embarking on mediation, conciliation or arbitration proceedings at the CCMA or representing a fellow employee in a disciplinary enquiry;
- She is pregnant or intends on getting pregnant;
- Of his or her race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, marital status or family responsibility;
- The employer doesn't like him or her or there is a difficult relationship between employer and domestic worker.

Dismissal is also unfair if the employer did not follow the proper procedure of dismissal.

Dismissal is also unfair if the employer cannot prove any wrongdoing or inability to work by the domestic worker, or that their operational needs are valid.

CHALLENGES

Unfortunately, domestic workers are often fired when employers learn that they are pregnant. In some cases a domestic worker on maternity leave finds that she has been replaced when she tries to return to work.

It is illegal for an employer to dismiss a domestic worker because she is pregnant or intends on getting pregnant. A domestic worker who finds herself in this situation, should take her employer to the CCMA for unfair dismissal.

Notice Periods

In the situation where an employer wants to end the employment relationship, the domestic worker needs to be given:

- At least 1 weeks' notice (if he or she has been employed for 6 months or less).
- At least 4 weeks' notice (if he or she has been employed for 6 months or more).

An employer cannot give notice of termination while the domestic worker is on leave. The notice period cannot overlap with any leave the domestic worker is entitled to except sick leave.

Notice of termination of contract of employment must be given in writing except when it is given by a domestic worker who cannot read or write, in which case it must be explained verbally in a language the domestic worker understands.

Instead of giving notice, an employer can give the domestic worker the full pay that would have been received if the domestic worker worked during the notice period.

On termination of employment, an employer should also pay for any time off the domestic worker is entitled to that he or she did not take like Sunday work and overtime exchanged for time off (this only

REMEMBER, LIVE-IN DOMESTIC WORKERS HAVE THE RIGHT TO STAY IN THE PROVIDED ACCOMMODATION FOR AT LEAST 1 MONTH AFTER RECEIVING NOTICE OR UNTIL THE DATE THE EMPLOYMENT CONTRACT ENDS, WHICHEVER IS LONGER.

applies to workers who were employed for four months or more).

Certificate of Service

A domestic worker must be provided with a **certificate of service** when he or she leaves. The certificate of service should include:

- Domestic workers full name;
- Name and address of the employer;
- The date of commencement and date of termination of employment;
- The title of the job or brief job description;
- Any relevant training received by the domestic worker;
- The pay at date of termination and;
- Only if the domestic worker requests it, the reason for termination of employment, however the employer may not say on the certificate that the domestic worker was dismissed for misconduct or provide an unfavourable reference.

If a domestic worker is unfairly dismissed, he or she can take the dispute to the CCMA. This is discussed in section 5 below.

DEFINITIONS

Severance pay is the compensation an employer provides to an employee who has been retrenched. It is equal to at least one week's full pay for every year of completed continuous employment with the same employer.

A **certificate of service** is given by an employer to an employee after the end of employment. It provides proof of the employee's experience and can be used as a reference.

ACTIONS THAT DOMESTIC WORKERS CAN TAKE



What are some actions domestic workers can take to empower themselves?

The lack of awareness of domestic workers rights and the isolated nature of domestic work means that domestic workers may need to work harder to organise in order to defend their rights and pursue their interests. Domestic workers can take the following actions to empower themselves:

- Form neighbourhood groups;
- Join a domestic workers' organisation;
- Go to the CCMA;
- Lay a complaint with the Department of Labour;
- Go to the Labour Court.

FORM NEIGHBOURHOOD GROUPS

Domestic workers employed in the same neighbourhoods are increasingly starting to form informal groups. These domestic worker groups meet regularly in places like parks, street corners and taxi stops to share their problems, give each other practical advice about their work and to support each other. In many cases, women in these groups are able to give practical support such as accompanying members of the group to advice offices or the CCMA.

Although these groups are informal, they help domestic workers feel less isolated and have the potential to develop and formalise in a way that organised action can follow.

CHALLENGES

Unlike other workers, domestic workers are isolated from one another, scattered in separate employer households. One of the biggest challenges facing domestic workers is that they do not work together in a communal space, the way other workers, like factory workers do. This means that they are not able to interact, build solidarity and organise collectively. As a result domestic workers are largely unorganised.

JOIN A DOMESTIC WORKERS' ORGANISATION

Over the years domestic workers have organised themselves into groups and associations, with the most successful organising effort being the **South African Domestic Workers Union** (SADWU). SADWU was followed by the South African Domestic Service and Allied Workers' Union (SADSAWU) which organises, mobilises, and educates domestic workers in South Africa, and strives towards national and world-wide recognition as domestic workers who contribute toward building the global economy. The union played a huge role in securing domestic workers' access to the national Unemployment Insurance Fund.

SADSAWU aims to:

- Ensure that domestic workers are aware of the minimum wage prescribed in national legislation;
- Educate domestic workers and their employers on labour legislation;
- Fight against domestic violence and child abuse through rights education for domestic workers.

IMPORTANT INFORMATION

Even with the challenges related to organising domestic workers, the domestic workers of South Africa have a strong history of organising. The **South African Domestic Workers Union** (SADWU) was started in 1986 and was described as "vibrant". The union launched a campaign demanding that the Department of Manpower provide protective labour legislation for domestic workers and a national minimum wage. The union supported its demands through marches, petitions and protests.

The support of a union is important for vulnerable workers like domestic workers. By joining SADSAWU domestic workers stand to get the following benefits:

- Job training and workshops on subjects like leadership, communication and information technology;
- Assistance with labour related matters like unfair dismissals, UIF, payment;
- Support with CCMA matters.

Participation in a union has some costs. Domestic workers are expected to pay a membership fee of R70 each year. Domestic workers will also need to sacrifice some time on the weekends to participate in union activities.

GO TO THE CCMA

Domestic workers can go to the CCMA when they have a **dispute** with employers over their working conditions. First the domestic worker must try and do everything they can to fix the situation. However, if after all efforts to resolve the dispute an employer refuses to follow the law and give the domestic worker the minimum conditions of employment set out in Sectoral Determination 7, then a domestic worker can approach the CCMA to resolve the dispute. A domestic worker does not need to inform their employer when taking a dispute to the CCMA.

There are different ways to solve disputes. These are called **dispute resolution mechanisms** and include negotiation, mediation and arbitration.

The CCMA uses these dispute resolution mechanisms to solve problems between domestic workers and employers.

DEFINITIONS

A **dispute** is a disagreement between an employee and his or her employer regarding his or her working conditions or employment benefits. For example they may disagree on the wages being paid to the employee, or if an employee is dismissed, they may disagree on whether the dismissal was fair.

DISPUTE RESOLUTION MECHANISMS

Negotiation is a form of dispute resolution that happens between the parties involved in the disagreement. When negotiating the parties sit down with each other and try to come to an agreement that works for everybody. This sometimes means that the parties might have to compromise on some issues.

Mediation is a form of dispute resolution where a neutral third party helps the parties to reach agreement or negotiate a settlement without going to court. Mediation is usually not legally binding, but it is a good idea for the parties to put the mediated agreement in writing and sign it.

Arbitration is a form of dispute resolution where parties to a dispute refer it to one or more persons to look at the evidence and make a decision that could be made legally binding and enforceable. Anyone can ask for a dispute to be arbitrated instead of having to go to court. Arbitration could take different forms ranging from informal to formal.

TIPS FOR GOING TO THE CCMA

Taking a dispute to the CCMA can be scary. But domestic workers can win at the CCMA.

It is important to take steps as soon as possible. If it is a case of unfair dismissal, workers only have 30 days from the day they were dismissed to open a case. If it is a case of unfair treatment, for example if an employer does not grant the domestic worker the leave they are entitled to, workers have 90 days, and if it's a case of discrimination, they have 6 months.

If a worker misses one of the deadlines to open a case, they can apply for a “condonation” by signing an affidavit available at the CCMA. A condonation is an application to the CCMA to explain the reasons why he or she was not able to open a case on time. When deciding whether to allow the worker to open a case, the commissioner will think about how late the application came in; the reason for the lateness; whether the case is potentially successful and how important the matter is to both parties.

Seek advice: The first step when a domestic worker is thinking about taking a dispute to the CCMA is to seek advice from those with experience. Domestic workers who are part of the union should approach the union for advice. Other workers can go to their nearest **advice office**. Advice offices are organisations that promote human rights and offer legal advice to communities. There domestic workers can get legal and practical advice about how to prepare for the CCMA and what to expect. The contact details for advice offices can be found on

page **49**. Domestic workers who have gone through the CCMA process are also a source of advice and information.

Domestic workers can get help and get guidance **at the CCMA** from the assistants who work there. For example, in cases of unfair dismissal the worker will have write in their form whether the dismissal was “substantively” unfair or “procedurally” unfair.

Substantive fairness has to do with the reason for dismissal, for example if an employer dismissed a domestic worker for “theft” and yet cannot prove that the domestic worker stole, then this is substantively unfair. Procedural fairness has to do with the way the dismissal was carried out, for example if an employer retrenches a domestic worker but does not provide a month's notice but instead asks them to leave immediately. The employer may have had a good reason to dismiss the domestic worker, but the way they did it was unfair.

**DOMESTIC WORKERS SHOULD
FEEL FREE TO ASK THE CCMA
ASSISTANTS FOR ADVICE WHEN
FILLING OUT THE FORMS.**

IMPORTANT INFORMATION ABOUT GOING TO THE CCMA:



- Domestic workers who are not part of a union or have legal representation can request for representation by another party like a paralegal, someone from an advice office or another trusted individual. This is not yet part of the official process at the CCMA but commissioners have been given permission to allow workers to be accompanied by another party other than a lawyer or union.
- Domestic workers should ask for help from CCMA assistants when filling in the forms.
- Workers can request to have someone present at the hearing who can translate the discussion into a language they understand.
- The CCMA does not charge money for approaching them with a dispute.
- Workers do not need a lawyer or anybody to refer a dispute.

STEPS FOR GOING TO THE CCMA

PHASE 1: APPLICATION

Step 1: At the CCMA offices you will be asked to fill in a form called the CCMA case referral form. This form is also found online on the CCMA website.

Step 2: Once you have completed the form you need to share it with your employer and you must be able to prove that a copy was sent. You can fax your employer a copy (making sure you keep the fax slip) or post it (making sure you keep the postal receipt) or you can deliver it to your employer in person and asking him or her to sign for it.

Step 3: Once you have filled it in you do not have to bring the form to the CCMA in person. You may fax the form or post it to the CCMA. Make sure that a copy of the proof that the form had been given to the other party is with the form.

Step 4: The CCMA will inform both parties as to the date, time and venue of the first hearing.

PHASE 2: THE HEARING

Step 5: The first hearing is called conciliation and only you (and a person from an advice office or another trusted individual) and your employer (and their employer's organisation) and the CCMA commissioner are allowed to attend. Legal representation is not allowed. The purpose of the hearing is to reach an agreement which both you and your employer agree with.

Step 6: If you do not reach an agreement, the commissioner will issue a certificate. Depending on the nature of the dispute, the case may be referred to the CCMA for arbitration or the Labour Court as the next step.

PHASE 3: ARBITRATION

Step 7: In order to have an arbitration hearing, you have to fill in another form called a request for arbitration form. Same as in step 3, you need to send a copy to your employer and be able to prove that you have done so. Arbitration should be applied for within three months from the date on which the commissioner issued the certificate.

Step 8: Arbitration is a more formal process. You may need to produce evidence, including witnesses and documents to prove your case. Your employer (or his or her representatives) may be allowed to cross examine you, which means they ask questions to check or discredit your testimony. Legal representation may be allowed. The commissioner will make a final and binding decision, called an arbitration award, within 14 days.

Step 9: If you or your employer do not obey with the arbitration award, it may be made an order of the Labour Court.

This information was obtained from the CCMA website: www.ccma.org.za

LAY A COMPLAINT WITH THE DEPARTMENT OF LABOUR

Domestic workers who are unhappy about a part of their working conditions can lay a complaint with a labour inspector at the nearest Labour Centre. The Department of Labour deals with issues related to pay,

for example, underpayment, unpaid leave, overtime work without compensation, Sunday work without double payment and illegal deductions.

If you want to lay a complaint with the Department of Labour, follow these steps:

Step 1: Find the nearest Labour Centre to lay a labour complaint. Say specifically that you want to lay a labour complaint.

Step 2: Complete the forms which will be given to you.

Step 3: An inspector will be assigned to your case, who will be responsible for investigating your case.

Step 4: The inspector may visit your place of work to gather information about your case (they might look at things like payslips and talk to people you work with, e.g. the gardener)

Step 5: If your employer is found guilty, a compliance order will be issued to him or her, which forces them to pay you.

Step 6: If your employer refuses to pay you, the matter may be taken to the Labour Court.

Information obtained from People Against Suffering Oppression and Poverty (PASSOP).

GO TO THE LABOUR COURT

The Labour Court deals with cases involving disputes between an employer, employee and a trade union. It handles cases arising from the Labour Relations Act, the Basic Conditions of Employment Act and the Unemployment Insurance Act which together cover a range of issues like unfair dismissal, unfair labour practices, working hours, leave and wages and others.

If a matter is not resolved through the CCMA process, then it can be referred to the Labour Court. Disputes must be referred to the Labour Court within 90 days of the CCMA confirming that the dispute is unresolved.

What happens at the Labour Court?

- The judge at the Labour Court will hear the evidence of the matter between the domestic worker and employer and issue a judgement based on the evidence.
- Any decision of the Labour Court may be referred to the Labour Appeal Court and could be referred even higher to the Supreme Court of Appeal and to the Constitutional Court.

IMPORTANT CONTACT DETAILS



Casual Workers Advice Office

Germiston

Telephone: 011 873 0903

082 012 1934

076 551 7112

Email: info@cwao.org.za

Website: <http://www.cwao.org.za/index.asp>

YouTube Channel: <https://www.youtube.com/channel/UCiBP7Ap2WTg3TtUwBzJuMaw>

Lawyers for Human Rights (LHR)

Johannesburg, Cape Town, Durban, Musina,
Pretoria and Upington

Website: <http://www.lhr.org.za/>

Telephone: 011 339 1960

Twitter: @LHR_SA

Facebook: <https://www.facebook.com/LawyersForHumanRights/>

Legal Aid South Africa

National

Telephone: 0800 110 110

Send a Call Back to 079 8357179

Website: <http://www.legal-aid.co.za>

Twitter: @LegalAidSA1

Facebook: <https://www.facebook.com/LegalAidSA1/>

Legal Resources Centre (LRC)

Johannesburg, Cape Town, Durban and Grahamstown

Telephone: 031 301 7572 (Durban)

011 836 9831 (Johannesburg)

021 481 3000 (Cape Town)

027 46 622 9230 (Grahamstown)

Website: <http://www.lrc.org.za>

Twitter: @LRC_SouthAfrica

Facebook: <https://www.facebook.com/LRCSouthAfrica/>

Probono.Org

Johannesburg, Durban and Cape Town

Telephone: 011 339 6080 (Johannesburg)

031 301 6178 (Durban)

087 806 6070/1/2 (Cape Town)

Website: <http://www.probono.org.za>

Twitter: @ProBono_Org

Facebook: <https://www.facebook.com/ProBono.Org/>

Socio-Economic Rights Institute of South Africa (SERI)

Johannesburg

Telephone: 011 356 5860

Website: <http://www.seri-sa.org>

Twitter: @SERI_RightsSA

Facebook: <https://www.facebook.com/SocioEconomicRightsInstitute/>

South African Human Rights Commission

Johannesburg

Telephone: 011 877 3600

Website: <https://www.sahrc.org.za/>

Twitter: SAHRCommission

Facebook: <https://www.facebook.com/SAHumanRightsCommission/>

Women's Legal Centre

Cape Town Office

Telephone: 021 424 5660

Johannesburg Office

Telephone: 0 11 339 1099

Website: <http://www.wlce.co.za/>

Twitter: @WLCCapeTown

Facebook: <https://www.facebook.com/WLCCapeTown/>

Government and Government Agents

CCMA National Office

Johannesburg

Telephone: 011-377-6650/01/00

Email: ho@ccma.org.za

Website: <https://www.ccma.org.za/>

Twitter: @CCMAofficial

Facebook: <https://af-za.facebook.com/groups/ccma1/>

Labour and Labour Appeal Court:

Johannesburg

Telephone: 011 359 5700

Website: <http://www.justice.gov.za/labourcourt/contacts.html>

Union

South African Domestic Service and Allied Workers Union

Johannesburg and Cape Town

Telephone: 021 447 3607

Website: www.sadsawu.org

Facebook: <https://www.facebook.com/South-African-Domestic-Service-and-Allied-Workers-Union-SADSAWU-141576362528490/>

Other Useful Resources

All about Domestic Workers

<http://www.labour.gov.za/DOL/find-more-info/all-about-domestic-workers>

Department of Labour Minimum Wage Amendments:

<http://www.labour.gov.za/DOL/legislation/sectoral-determinations/sectoral-determination-7-domestic-workers>

Department of Labour Online UIF registration:

<http://www.labour.gov.za/DOL/services/online-services>

Department of Labour- How to pay UIF (Banking details):

<http://www.labour.gov.za/DOL/legislation/acts/how-tos/unemployment-insurance-fund-uif/how-to-pay-the-uif>

Find a CCMA Office near you:

<http://www.cwao.org.za/downloads/List%20of%20CCMA%20National%20Offices.pdf>

Find a community advice office:

<http://nadcao.org.za/advice-office/>

Find the nearest Department of Labour Centre:

<http://www.labour.gov.za/DOL/contacts/>

Living Wage Calculator for employers

<http://living-wage.co.za/>

Rental Housing Guide

<http://seri-sa.org/images/SERI%20Tenants%20FINAL%20TO%20PRINT%20res.pdf>

Workers' Rights Manual from CWAO

<http://www.cwao.org.za/downloads/CWAO-Workers-Rights-Manual-2015.pdf>

APPENDIX A: SAMPLE OF EMPLOYMENT CONTRACT

WRITTEN PARTICULARS OF EMPLOYMENT

(DOMESTIC WORKER)

Given by:

(Herein after referred to as "the employer")

Address of employer:

to

(Herein after referred to as "the employee")

1. Commencement

Employment will begin on _____ and continue until terminated as set out in clause 6 of the guidelines.

2. Place of work

3. Job description

Job Title

(E.g. Domestic worker, child minder, gardener, etc.)

4. Duties

(See job description attached to the guidelines)

5. Hours of work (See Guideline 5)

5.1 Normal working hours will be _____ hours per week, made up as follows:

		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start Time								
Meal Interval	Start							
	End							
End Time								
Other Breaks								

5.2 Overtime will only be worked as agreed from time to time and will be paid at the rate of one and a half times of the total wage as set out in clause 5.2 of the guidelines.

5.3 Standby will only be done if agreed from time to time whereby an allowance will be paid of at least R20, 00 per standby shift.

6. Wages (See Guidelines 4 and 5)

6.1	The employees wage shall be paid in cash on the last working day of every week/month and shall be	R
6.2	The employee shall be entitled to the following allowances/other cash payments/payment in kind:	
6.2.1	A weekly/monthly transport allowance of	R
6.2.2	Meals per week/month to the value of	R
6.2.3	Accommodation per week/month to the value of	R
6.3	The following deductions are agreed upon:	
		R
		R
		R
6.4	The total value of the above remuneration shall be	R

6.5 The employer shall review the employee's salary/wage on or before 1 November of every year.

7. Termination of employment

Either party can terminate this agreement with one week's notice during the first six months of employment and with four weeks' notice thereafter. Notice must be given in writing except when it is given by an illiterate domestic worker. In the case where the domestic worker is illiterate notice must be explained orally by or on behalf of the employer.

8. Sunday work

Any work on Sundays will be by agreement between parties and will be paid according to clause 7 of the guidelines.

9. Public Holidays

Any work on holidays will be by agreement and will be paid according to clause 8 of the guidelines.

10. Annual Leave

The employee is entitled to three weeks paid leave after every 12 months of continuous service. Such leave is to be taken at times convenient to the employer and the employer may require the employee to take his/her leave at such times as coincide with that of the employer.

11. Sick leave

11.1 During every sick leave cycle of 36 months the employee will be entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.

11.2 During the first six months of employment the employee will be entitled to one day's paid sick leave for every 26 days worked.

11.3 The employee is to notify the employer as soon as possible in case of his/her absence from work through illness.

11.4 A medical certificate may be required if absent for more than 2 consecutive days or has been absent on more than two occasions during an eight-week period.

12. Maternity leave

(Tick the applicable clauses in the space provided).

12.1 The employee will be entitled to _____month's maternity leave without pay;
Or

12.2 The employee will be entitled to _____months maternity leave on _____pay

13. Family responsibility leave

The employee will be entitled to five days family responsibility leave during each leave cycle if he or she works on at least four days a week.

14. Accommodation

(Tick the applicable boxes).

14.1 The employee will be provided with accommodation for as long as the employee is in the service of the employer, and which shall form part of his/her remuneration package

14.2 The accommodation may only be occupied by the worker, unless prior arrangement with the employer

14.3 Prior permission should be obtained for visitors who wish to stay the night. However where members of the employees direct family are visiting, such permission will not be necessary.

15. Clothing (Delete this clause if not applicable)

_____ sets of uniforms will be supplied to the employee free of charge by the employer and will remain the property of the employer.

16. Other conditions of employment or benefits

17. General

Any changes to the written particulars will only be valid if agreed to by both parties.

EMPLOYER

Acknowledgement of receipt by employee:

Date: _____

APPENDIX B: SAMPLE OF PAYSリップ

Pay slip			
Name of Employer			
Address			
Name of Employee			
ID Number			
Basic Wage			
Manner of Payment	Per Hour Per Week Per Month	Per Day Per Fortnight	
	Rate	Number of Hours	Rand earned
Ordinary hours worked	R		R
Overtime worked	R		R
Sundays worked	R		R
Public Holiday time worked	R		R
Payment in kind	R		R
Standby	R		R
Allowances			R
			R
Subtotal:			R
Deductions:	e.g Union		R
	UIF		R
	Pension		R
Total Amount Due			R

APPENDIX C: MUNICIPALITIES IN AREA A AND B

Area A includes the following municipalities:

Bergervier Local Municipality, Breederivier Local Municipality, Buffalo City Local Municipality, Cape Agulhas Local Municipality, Cederberg Local Municipality, City of Cape Town, City of Johannesburg Metropolitan Municipality, City of Tshwane Metropolitan Municipality, Drakenstein Local Municipality, Ekurhuleni Metropolitan Municipality, Emalahleni Local Municipality, Emfuleni Local Municipality, Ethekwini Metropolitan Municipality, Gamagara Local Municipality, George Local Municipality, Hibiscus Coast Local Municipality, Karoo Hoogland Local Municipality, Kgatelopele Local Municipality, Khara Hais 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, Middleburg Local Municipality, Midvaal Local Municipality, Mngeni Local Municipality, Mogale Local Municipality, Mosselbaai Local Municipality, Msunduzi Local Municipality, Mtubatuba Local Municipality, Nama Khoi Local Municipality, Nelson Mandela Municipality, Nokeng tsa Taemane Local Municipality, Oudtshoorn Local Municipality, Overstrand Local Municipality, Plettenbergbaai Local Municipality, Potchefstroom Local Municipality, Randfontein Local Municipality, Richtersveld Local Municipality, Saldanha Bay Local Municipality, Sol Plaatje Local Municipality, Stellenbosch Local Municipality, Swartland Local Municipality, Swellendam Local Municipality, Theewaterskloof Local Municipality, Umdoni Local Municipality, uMhlathuze Local Municipality and Witzenberg Local Municipality.

Municipalities not listed above fall under Area B.

References

Eddie Cottle, "An Overview of the living wage and national minimum wage in South Africa", Bargaining Indicators 2014, Twenty Years- A Labour Perspective (2014).

6th floor Aspern House
54 De Korte Street
Braamfontein 2001
Johannesburg
South Africa

Reception: +27 11 356 5860
Fax: +27 11 339 5950
Email: info@seri-sa.org

SERI
socio-economic rights institute
of south africa