



# EMPLOYMENT IN SOUTH AFRICA



South Africa, officially known as the Republic of South Africa, is the southernmost country in Africa. The most populous country located entirely south of the equator, South Africa has three capital cities: Cape Town (legislative), Pretoria (executive), and Bloemfontein (judicial). South Africa's economy is largely based on mining, as it is rich in gold, platinum, vanadium, and zirconium.

Employment regulations are covered by the Labour Code. Below is some key information regarding employment in South Africa, intended to provide a brief overview of employment law in South Africa. It is not intended as substitute for professional legal advice and counsel.



### WORKING TIME AND OVERTIME

The maximum permissible working week is 45 hours – 9 hours per day over a 5-day week, or 8 hours over a longer week, excluding lunch breaks. Employees may work a maximum of 3 hours' overtime per day, up to a maximum of 10 hours per week. Overtime is paid at 1.5x normal rate, and 2x normal rate for Sundays and public holidays.

### ANNUAL LEAVE

Every employee is entitled to 21 consecutive days' annual leave on full pay in every leave cycle. This equates to 15 working days per annum if the employee works a five-day week, and 18 working days per annum if the employee works a six-day week.

### TRIAL PERIOD

There is no set limit for probation periods in South Africa, but they must be deemed reasonable in accordance with the circumstances of the role.

### RESIGNATION AND DISMISSAL

Employees or employers may give notice to terminate the employment relationship according to the following schedule:

- Under 6 months' employment: 1 weeks' notice
- 6 months- 1 year's employment: 2 weeks' notice
- 1+ year's employment: 4 weeks' notice

These are the minimum time periods allowed by law and the consent of both parties is required to agree to a shorter notice period. In terms of severance, an employee who is made redundant must be paid at least 1 week's pay for each completed year of continuous service.

### RESTRICTIVE COVENANTS

Restrictive covenants are enforceable under South African law in principle, assuming that there is a demonstrable proprietary interest, and that the limitations to competition do not go beyond what is reasonably necessary to protect legitimate business interests. The restraint must be reasonable in nature, duration, and the geographical area in which the restraint applies. A restraint period of 12 months is generally regarded as reasonable. Employee and customer non-solicitation clauses are also permissible.

### CONTRACT OF EMPLOYMENT

In South Africa, employment contracts can be oral or written, but it is best practice to put a strong, written contract in place, in English, which spells out the terms of the employee's compensation, benefits, and termination requirements. An offer letter and employment contract in Country should always state the salary and any compensation amounts in South African Rand (ZAR) rather than a foreign currency. The general rule in South Africa is that employment contracts are executed for an indefinite duration. South African labour law prohibits the use of a fixed term hiring contract for tasks that are permanent in nature. The duration of a fixed-term contract must be clearly specified between parties if a fixed-term contract is applicable.



## **MATERNITY AND PATERNITY LEAVE**

Pregnant employees have a right to four months' maternity leave. This is not legally required to be paid. The maternity leave may begin at any time from at least four weeks before the birth of the baby. There is no specific provision for paternity leave under South African law, but any employee who is the parent of a child is entitled to 10 consecutive days of parental leave.

## **SICKNESS LEAVE**

Employees are entitled to paid sick leave during each 36-month cycle starting from the first day at work. This should be equivalent to the exact number of days that they usually work in a typical 6-week period. For example, an employee who works five days per week would be entitled to 30 days' sick leave on full pay. When distributed across the three years, employees are entitled to an average of 10-12 days' sick leave.

## **SOCIAL SECURITY**

South Africa does not have a social security system in the traditional sense; however, it does have contributions that are similar to social security. Limited unemployment insurance and accident or illness benefits are provided. The Unemployment Insurance Fund, which employers contribute to at a rate of 1%, provides benefits to unemployed people and to dependents of deceased contributors. Employers are also required to make contributions to the Compensation Fund, which was created under the Compensation for Injuries and Diseases Act to insure employees against industrial accidents or illnesses that result in death or disability, at a rate determined by the Compensation Commissioner after the employer reports the annual total remuneration of employees.

## **HEALTHCARE AND INSURANCE**

Although not compulsory, medical cover is typically paid partly by the employer.



# EMPLOYMENT OF FOREIGN NATIONALS

Most foreign nationals will need a visa to work in South Africa. Work visas fall into the following four categories.

- Critical skills work visas: (for a period not exceeding 5 years).
- General work visas: (for a period not exceeding 5 years): Can be issued in cases where a critical skills visa does not apply, providing that the employer can prove that they have conducted a diligent search and been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant.
- Intracompany transfer work visas: (for a period not exceeding 4 years). Can be issued if an employee is seconded from his or her place of employment abroad to an affiliated company or branch in South Africa if the foreigner's employment contract with the company abroad is valid for a period of not less than six months before transfer. These types of visas are non-renewable. The intent of this visa category is that the expatriate transfers his or her skills to South African employees and leave South Africa at the end of the four-year secondment.
- Corporate work visas: May be issued to a corporate applicant to employ foreigners to conduct work for the applicant in South Africa.







# SALARY AND SALARY TAXES

## MINIMUM WAGE

The minimum wage in South Africa is ZAR 23.19 for each ordinary hour worked.

## INCOME TAX

Income tax is payable in South Africa according to the following schedule:



<b>Taxable income (ZAR)</b>	<b>Tax on excess</b>
0-195,850	18%
195,850-305,850	26%
305,850-423,300	31%
423,300-555,600	36%
555,600-708,310	39%
708,310-1,500,000	41%
1,500,000+	45%



### **SALARY PAYMENTS**

In South Africa, there is no set payroll cycle. The payroll cycle is typically stipulated in the employment contract, which is to be agreed upon by the employee and employer. The payroll cycle can run monthly, weekly, or bi-weekly. Though there is no statutory requirement to pay a 13th month salary or Christmas bonus, it is widely paid in practice.

### **SOCIAL SECURITY CONTRIBUTIONS**

There is no Social Security in South Africa. The employee contributes 1% of their salary to the Unemployment Insurance Fund, in addition to 1% contributed by the employer. Both local and foreign national employees are required to contribute to this fund.



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